

## H-3110-1 - NONCOMPETITIVE LEASES

KeywordsIV. Lease Offer Requirements

The lease offer shall be made on the current BLM-approved form (Form 3100-11), or on unofficial copies of the current form (see Illustration 3). Copies shall be exact reproductions on one page of both sides of the official approved form, without additions, omissions, or other changes, or advertising. The original copy of each offer must be typewritten or plainly printed in ink and manually signed in ink by the offeror or the offeror's duly authorized agent. The offer shall be accompanied by the first year's advance rental and a nonrefundable filing fee of \$75.

CURRENT LEASE  
OFFER FORM

The original and two copies of each offer to lease with each copy showing evidence of having been signed shall be filed in the proper BLM State Office. Only the original of the offer must be actually signed; the other two copies may show carbon reproductions or duplications of the signature. The offer should be dated, but failure to date is not cause for rejection. The critical date of an offer is the date that it is filed in the proper BLM office.

ORIGINAL AND  
TWO COPIES  
OF LEASE FORM  
REQUIRED

The mineral status of the lands described by the offeror in Item 2 on the lease offer form will control the type of lands, either public domain minerals or acquired lands minerals, being requested. If the lands described in Item 2 all have the same mineral status, and no box is checked, both boxes are checked, or the wrong box is checked, the offer is to be viewed as acceptable with the BLM correcting the mineral status boxes. If, however, the land description in Item 2 on the form is a mix of public domain minerals and acquired lands minerals, and only one box is checked, both boxes are checked, or neither box is checked, the offer must be returned for correction with a loss of priority in accordance with 43 CFR 3110.4.

MINERAL STATUS  
BOX ON OFFER  
FORM - PUBLIC  
DOMAIN OR  
ACQUIRED LAND  
MINERALS

A lease offer may not include both public domain and acquired lands minerals. There are instances when the surface is acquired lands but contains public domain minerals. The agency from which consent to lease is required should be named by the offeror on the form (see Illustration 4, Page 1, Item 2). However, inclusion of the agency information on the lease offer form is not mandatory for a noncompetitive offer and will not result in a loss of priority. (See Manual Section 3110.43A4.)

IDENTIFICATION  
OF ACQUIRING  
AGENCY

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Curative submissions will be accepted before final action is taken on a lease offer if the offeror amends, modifies, or takes other measures to correct or complete a defective filing. For example, the offeror may discover that a typographical error was made by describing the land as the W2E2, where the only land available for lease is the E2E2. If the offer has not yet been rejected by the BLM authorized officer, the offeror may file an amendment by filing a complete new offer with the lease offer form marked "AMENDED OFFER." Priority shall be established when the amended offer is filed. No new filing fee needs to be submitted (see Departmental Decision A-30741, William A. Stevenson, May 29, 1957).

CORRECTIONS OR  
AMENDMENTS TO  
OFFER BY  
OFFEROR

As ruled by the Interior Board of Land Appeals (IBLA) in Gian R. Cassarino, 78 IBLA 242, (91 I.D. 9 (1984)), if an offer has been rejected by the BLM, an offer cannot be cured or resuscitated with a new priority by the submission of new material.

The Mineral Leasing Act authorizes the issuance of leases to citizens of the United States, associations (including partnerships and trusts) of such citizens, and corporations organized under the laws of the U.S. or any State or Territory thereof (see 43 CFR 3102.1, Manual Section 3102, and Handbook 3102-1). A lease offer may be received showing more than one name with a percentage of unequal portions, e.g., John Doe with 60 percent and Jane Doe with 40 percent interest. An offer for a lease by two or more persons is prima facie an offer by an "association" within the meaning of Section 27 of the Mineral Leasing Act (see Edward Lee, 515 I.D. 299 (1925)). Thus, the offer is acceptable and is to be treated as an association. However, both parties must sign the offer Form 3100-11 certifying as to qualifications by each to hold the lease as members of the association.

WHO MAY HOLD  
LEASES

Another means of holding a lease is by joint tenancy, whereby the offerors call themselves "John Doe and Jane Doe, Joint Tenants." In this situation, the BLM recognizes each tenant as owning a proportionate share of the lease, as if each were a co-lessee. Again, each person must sign the lease offer Form 3100-11. (See Handbook 3102-1 and Turner C. Smith, Jr., Signe Smith, 89 I.D. 386 (1982).)

JOINT TENANTS

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An offer received from an entity identified as "John Doe and Jane Doe, d/b/a Doe Enterprises" is indication of a sole proprietorship. A sole proprietorship may not hold a lease. However, in the case of "Doe Enterprises," if the lease offer Form 3100-11 was signed by both John Doe and Jane Doe, the offer is acceptable since it is possible to determine the full names of the offerors; the "Doe Enterprises" is surplusage (see McClain Hall, Arthur R. Frank, 61 IBLA 202 (1982)).

SOLE  
PROPRIETORSHIP  
MAY NOT HOLD  
A LEASE

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