

H-3110-1 - NONCOMPETITIVE LEASES

XI. Noncompetitive Combined (Presale and Postsale) Offers Filed Keywords

A. Noncompetitive Offers - Public Domain or Acquired Lands Minerals

COMBINED OFFERS
FILED UNDER
43 CFR
3110.1(a)(1)
AND 3110.1(b)

This Handbook Section provides guidelines for processing noncompetitive lease offers containing both presale lands available under 43 CFR 3110.1(a)(1) and postsale lands available under 43 CFR 3110.1(b).

Regulation 43 CFR 3110.1(b) provides that lands that have been offered competitively and that have received no bid at the oral auction, shall be available for noncompetitive lease. Such lands shall become available for a period of 2 years beginning on the first business day following the last day of the competitive oral auction, and ending on that same day 2 years later. A lease may be issued from an offer properly filed any time within this 2-year period.

Regulation 43 CFR 3110.1(a)(1) provides that after January 2, 1989, noncompetitive lease offers may be filed on unleased lands, except for those lands that are in the 1-year period commencing upon the expiration, termination, relinquishment, or cancellation of the leases containing the lands and those lands contained in an officially posted Notice of Competitive Lease Sale.

In conclusion, a lease offer may include lands from both regulation sections. However, as prescribed by regulation 43 CFR 3110.4(c), an offer must be limited to either public domain minerals or acquired lands minerals.

See also Section II.A, above, for lease offer size requirements.

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B. Action For Receiving Offer

<u>Responsible Official</u>	<u>Step</u>	<u>Action</u>	<u>Keywords</u>
Receiving Official	1.	Receive offer Form 3100-11. Check that offer is on current form and correct number of copies (original and two) are filed, with sufficient rental and \$75 filing fee. (See 43 CFR 3103.2-1 and 3103.2-2, Manual Section 3110.42, and Section V, above.)	COMBINED PRESALE AND POSTSALE OFFER FILED
	2.	Date and time stamp at least one copy of offer form, preferably the copy with the original signature.	
	3.	Assign serial number and validate filing fee.	
	4.	Prepare accounting advice and place two copies (green and goldenrod) in case file.	
	5.	Send case file through Docket to official responsible for ALMRS Entry.	
ALMRS Entry	6.	The following reflects the most common action code(s) to be utilized. Reference is to be made to the current Data Standards for Oil and Gas Lease Cases and the current Data Element Dictionary for additional requirements.	AUTOMATED NOTATION
	6a.	Establish the case in ALMRS (Case Types 311121 or 311122 for present interest; for future interest, Case Types 311123 or 311124);	
	6b.	Enter Action Date (MANDATORY ACTION CODE): Date offer received; DE 1775 Action Code 001/DE 2910 Action Code 124; Action Remarks: Enter parcel number/sale date, if applicable.	
	7.	Send case file to Title Records, as appropriate, for notation on oil and gas plats/status records.	

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Title Records	8.	Note offer on oil and gas plats/status records (or other appropriate records).	RECORDS NOTATION
	9.	Route case file to Adjudication through Docket.	
Adjudication	10.	Priority of an offer received shall be determined as of the time and date the offer is filed in the proper BLM Office. Simultaneously-filed offers are those offers to lease some or all of the same lands that are received in the Receiving and Accounts mail slot prior to Public Room hours; or received by the first regular mail; or received in the same courier mail delivery. Priority of the offers, to the extent of the conflicts between them, shall be determined by a public drawing.	PRIORITY ESTABLISHED
	10a.	If the first drawn applicant fails to comply with all requirements within the specified time, the offer is to be rejected. In such a case, go to next offer in priority, if any. (See Manual Section 3110.43.)	
	11.	Determine lands in the offer that have been offered in an oral auction and are still available during the 2-year period after the sale, and determine the open and available lands described in the offer that have not been through the competitive process, and sort the latter presale-type lands by township and range.	
	12.	Determine if there is a conflict among the offers that requires a public drawing.	
	13.	Adjudicate offer, checking for the following:	ADJUDICATE OFFER CONTAINING BOTH PRESALE AND POSTSALE LANDS

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	13a.	Proper lease offer form and sufficient number of copies, i.e., original and two copies, with each copy showing evidence of having been signed. An offer to lease must be made on the current BLM-approved Form 3100-11, or on unofficial copies of the current form. (See Manual Section 3110.74.)	
	13b.	Original offer form must be manually signed. Failure to date the lease offer is not a fatal deficiency.	
	13c.	Proper rental was received in accordance with 43 CFR 3103.2. (See Manual Section 3110.42 and Section V, above.)	
	13d.	Offer is described by legal land description in accordance with Section III, and conforms to the lease offer size requirements in accordance with Section II, above.	
	13e.	Note that failure to check the public domain or acquired box on the lease form (Form 3100-11), or checking the wrong box is not a fatal deficiency (see Section IV).	
	14.	Offers combining presale and postsale lands may be processed in either of two ways as indicated in the options described in Steps XI.B.15 and XI.B.17, below.	
	15.	<u>OPTION 1:</u>	
	15a.	Segregate the offer (after applying the minimum acreage rule).	SEGREGATE OFFER

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	15b.	Issue lease immediately for postsale lands (even if such lands are less than the minimum acreage after the segregation).	
	15c.	Process the presale lands for posting for competitive sale.	
	15d.	Issue lease for presale lands if parcel receives no bid at oral auction (a second lease), <u>OR</u>	
	15e.	Combine the presale lands in the segregated offer into the first lease as provided under 43 CFR 3110.8, but only if specifically requested to do so by the offeror. Note that additional signed lease offer forms from the offeror are not required for a second lease.	
ALMRS Entry	16.	Update for lease issuance of portion of lands and segregation and suspension of remainder of lease offer:	AUTOMATED NOTATION
	16a.	Enter Action Date (MANDATORY ACTION CODE): Date suspended lands are segregated to new case; DE 1775/2910 Action Code 011; Action Remarks: Enter "INTO" serial number of new case. (Use code only on parent case).	
	16b.	Enter Action Date (MANDATORY ACTION CODE): Date suspended lands are segregated into new case; DE 1775/2910 Action Code 571; Action Remarks: Enter "OUT OF" serial number of parent case. (Use only on new case; also enter DE 1775 Action Code 001/DE 2910 Action Code 387 (case established), DE 1775 Action Code 041/DE 2910 Action Code 128 (presale offer), etc., on new case.)	

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Adjudication	17.	<u>OPTION 2:</u>	
	17a.	After applying the minimum acreage rule, put the issuance of a lease for the postsale lands in suspended status (the 60-day time limit for issuance of a lease will not apply for the lands in this case since "all else is not regular," due to the combination of the presale- and postsale-type lands in the offer).	PENDING POSTSALE OFFER
	17b.	Issue a notice suspending the postsale-type portion of offer (see Illustrations 22 and 23).	
	17c.	Post the presale lands for competitive sale.	
	17d.	If no bid received at the auction, issue one lease to include both presale and postsale lands.	
	17e.	If the presale lands in the offer sold competitively, issue a lease only for the postsale lands.	
		<u>NOTE:</u> Option 2 should be used only if the offeror requests, or if the time and effort required to exercise this option in Adjudication is less than that involved in implementing Option 1.	
	18.	Forward worksheet describing presale-type lands, submitted as part of the offer under 43 CFR 3110.1(a)(1), for inclusion in a future competitive sale preliminary parcel list and sale notice.	PRESALE LANDS PROCESSED FOR COMPETITIVE SALE

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	19.	Configure lands into a parcel in accordance with Handbook 3120-1, but do not combine these lands with other available lands.	
	20.	On Notice of Competitive Lease Sale, note all sale parcels that have presale offers.	
	21.	Hold competitive lease sale.	
	22.	Issue noncompetitive leases, if no bid was received, using either Option 1 or Option 2 to process the lands (see Section X.B, above, to process toward lease issuance).	
	23.	Reject nonpriority offers in accordance with Section X.C, above.	
	24.	Check oil and gas plats/status records for units/CA's that may have been approved since the sale notice was officially posted.	CHECK FOR UNITS/CA'S
	25.	If lands in the offer are within the boundaries of a unit, offeror must submit either evidence of joining the unit or a letter from the unit operator stating that the unit operator has no objection to lease issuance without unit joinder (see Illustrations 11 and 12).	LANDS WITHIN UNIT/UNIT JOINDER
	26.	If lands in the offer are within the boundaries of a CA, offeror must submit evidence of joinder. Unlike Federal units, lessees cannot operate independently in a Federal CA.	LANDS WITHIN CA - JOINDER REQUIRED

C. Action for Processing Offer for Approval

Responsible Official	Step	Action	Keywords
Adjudication	1.	Prepare offer form (Form 3100-11) for lease issuance using either Option 1 or Option 2 in Step XI.B.14, above. Show land description on lease form by typing it in Item 3, or by an attachment to the lease form, if land description of the lease is different than that indicated in Item 2 on the form.	PROCESS LEASE OFFER
	2.	Attach required stipulations and Notice to Lessee concerning Mineral Leasing Act (MLA) Section 2(a)(2)(A) restrictions with respect to assignments/transfers of oil and gas leases from certain Federal coal lease holders (see Illustration 14).	
	3.	When a stipulation is added, deleted, or revised after the official posting of the sale notice but prior to the issuance of a noncompetitive lease, use the following steps:	STIPULATION CHANGES, ADDITIONS, AND DELETIONS
	3a.	If the stipulation revision, addition, or deletion would increase the value of the parcel, withdraw the parcel from the sale notice and readvertise for offering at a future auction in a subsequent sale notice with all the correct stipulations.	
	3b.	Return any postsale noncompetitive offer with <u>all</u> monies refunded (first year's advance rental and filing fee).	

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	3c.	If it is determined that the stipulation change would not increase the value of the parcel, the lands continue to be available for noncompetitive offer during the 2-year period. However, before issuing a noncompetitive lease, post a notice for 45 days in the State Office Public Room and at the appropriate local BLM Field Office to advise the public of the specific stipulation change, addition, or deletion.	
	3d.	If no adverse public response is received during the 45-day period, send a notice to the offeror providing a 30-day period to sign the specific changed or added stipulation (see Illustration 15).	
	3e.	If the offeror accepts the revised or added stipulation, continue to process the lease to issuance as described below.	
	3f.	If the offeror refuses to sign the stipulation change, refund all monies (first year's advance rental and filing fee).	STIPULATION CHANGE REFUSED - REFUND ALL MONIES
	3g.	If a second priority offer exists, provide that party 30 days by notice in which to sign and accept the revised or added stipulation.	
	3h.	If all the remaining offerors refuse to accept the lease, the lands remain available for noncompetitive leasing with the changed stipulation for the remainder of the 2-year period.	