

## H-3110-1 - NONCOMPETITIVE LEASES

KeywordsXV. Noncompetitive Future Interest Offers

This section of the Handbook provides guidance and procedures for adjudicating and issuing noncompetitive future interest oil and gas leases, and should be used in conjunction with Manual Section 3110.9 and Handbook 3120-1, Section III.A.

FUTURE  
INTEREST  
OFFER

A. Application

Because no lease may be issued under the Reform Act without first being offered through the competitive sale process, the present interest holder may gain a priority to a Federal future interest lease for the lands involved by: (1) making a successful competitive bid over any other applicant's noncompetitive presale offer, whose offer is nullified by the competitive bid, or (2) being the priority presale offeror if the parcel fails to receive a bid at the oral auction (thereby nullifying the ability of any other party to obtain a postsale noncompetitive offer).

A future interest offer to lease must be made on the current BLM-approved lease offer Form 3100-11 or on unofficial copies of the current form. Future interest offers may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

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B. Action for Receiving Application

Responsible Official	Step	Action	Keywords
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 \$75 filing fee. (See 43 CFR 3103.2-1 and 3103.2-2, Manual Section 3110.42, and Section V, above.)	FUTURE INTEREST OFFER FILED
	2.	Date and time stamp at least one copy of offer form, preferably the copy with the original signature (see Section III.F, above).	
	3.	Assign serial number and validate filing fee.	
	4.	Prepare accounting advice and place two copies (green and goldenrod) in case file.	
	4a.	Note that no rental shall be due to the U.S. prior to the vesting of the oil and gas rights in the U.S.	
ALMRS Entry	5.	Send case file through Docket to official responsible for 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 Type 311123 or Case Type 311124).	
	6b.	Enter Action Date (MANDATORY ACTION CODE): Date future interest offer received; DE 1775 Action Code 001/DE 2910 Action Code 124.	
	7.	Send case file to Title Records, as appropriate, for notation on oil and gas plats/status records.	

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Responsible Official	Step	Action	Keywords
Title Records	8.	Note future interest offer on oil and gas plats/status records (or other appropriate records) and file a copy in the case file.	RECORDS NOTATION
	9.	Route case file to Adjudication through Docket.	
ALMRS Entry	10.	If all or part of lands are a presale offer:  Enter Action Date (MANDATORY ACTION CODE): Date presale future interest offer received; DE 1775 Action Code 041/DE 2910 Action Code 128.	AUTOMATED NOTATION
	11.	Enter Action Date (MANDATORY ACTION CODE, WHEN APPLICABLE): Enter date offer is received; DE 1775 Action Code 448/DE 2910 Action Code 527; Action Remarks: Percentage of Federal mineral ownership when U.S. mineral interests are less than 100%.	

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C. Action on Lease Offer

Responsible Official	Step	Action	Keywords
Adjudication	1.	Check case file for the following:	FUTURE INTEREST OFFER ADJUDICATED
	1a.	Proper \$75 filing fee submitted.	
	1b.	Offer is filed on the current lease form (Form 3100-11), with correct number of copies (original and two copies).	
	1c.	Note that no rental or royalty shall due to the U.S. prior to the vesting of the oil and gas rights in the U.S. However, if the first year's advance rental has been submitted with the future interest offer, the rental is to be retained in the BLM suspense account during the processing of the lands for the competitive sale process.	
	1d.	Verify that vesting date is correct.	
	1e.	Check for conflicts and/or existing private leases on the lands that will vest to the U.S. that predate the date the U.S. will acquire the minerals (see Handbook 3120-1, Section III.A).	
	1f.	Check information provided by applicant giving the name and address of the SMA, if known. Note that failure to provide this information shall not result in a loss of priority of the offer.	
	1g.	Check for proper legal land description and any facts concerning any contracts/leases or agreements for actual or potential development of the lands involved.	

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	1h.	If the lands are acquired, request a title report (see Illustration 25), consent, and stipulations from acquiring agency.	ACQUIRING AGENCY CONSENT TO LEASE
	1i.	If the SMA is the Forest Service, consent to lease also must be obtained for public domain minerals as well as acquired lands minerals.	
	1j.	Include lands in a parcel or parcels on the competitive sale list, in accordance with Handbook 3120-1. Indicate on competitive sale notice those parcels having presale offers.	

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D. Action for Processing Offer for Approval

Responsible Official	Step	Action	Keywords
Adjudication	1.	If the acquiring agency agrees to leasing, and if no bid was received for the parcel at the oral auction, attach stipulations to the lease form (Form 3100-11).	LEASE FORMS AND STIPULATIONS
	2.	Attach the Notice to Lessee concerning MLA Section 2(a)(2)(A) to lease form.	
	3.	Complete the lease form to issue the future interest noncompetitive lease.	
	3a.	Check that "Acquired" box is marked, and show the percent of United States interest under Item 2.	
	3b.	Complete Item 3 on lease form from worksheet, if different from land description in offer submitted.	
	3c.	At bottom of lease form, check the box for "Noncompetitive lease (10 years)," and check "Other," entering "Future interest lease" (see Illustration 26).	
	4.	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
	4a.	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.	
	4b.	Return any postsale noncompetitive offer with all monies refunded (first year's advance rental (if remitted) and filing fee).	

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		4c.	Any presale noncompetitive offer must be held in pending status until conclusion of the future oral auction offering the parcel.	
		4d.	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 if a presale offer had not been filed. However, before issuing a noncompetitive future interest 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.	
		4e.	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).	
		4f.	If the offeror accepts the revised or added stipulation, continue to process the lease to issuance as described below.	
		4g.	If the offeror refuses to sign the stipulation change, refund all monies (first year's advance rental (if remitted) and filing fee).	STIPULATION CHANGE REFUSED - REFUND ALL MONIES
		4h.	If a second priority offer exists, provide that party 30 days by notice in which to sign and accept the revised or added stipulation.	

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		4i.	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.	
		4j.	If adverse public response is received, handle the response as if it were a protest. That is, if the BLM agrees with the adverse response, the BLM is to withdraw the land. Refund to the offeror all monies, including the \$75 filing fee, and give the offeror the right of appeal.	
		4k.	If the adverse response (protest) is denied, offer the lease to the offeror with the changed stipulation as described above, and give the protestant the right of appeal.	
		4l.	If an appeal is filed, notify the offeror of the pending appeal.	
		5.	If unit/CA is involved and notice has been received of acceptance of joinder, a lease may be issued.	
		5a.	If part of lands in offer are outside the boundary of a unit/CA that was approved after the sale notice was officially posted, segregate into two parcels and request joinder for the parcel that is within the agreement boundaries (see Step VIII.A.13g, above, and Illustration 11).	
		5b.	If the future interest offeror is unable to obtain joinder from the unit operator after an extended time period, request the offeror to provide the reasons for failure to join the unit.	UNIT JOINDER CANNOT BE OBTAINED

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	5c.	The BLM authorized officer responsible for review and approval of unit actions must determine, based on the information submitted by the offeror, whether the lease can be operated independently of the unit. If the lease can operate independently, the future interest lease can be issued without unit joinder.	
	5d.	Where the terms of the private unit agreement are in conflict with Federal regulations, the Federal regulations shall prevail.	
	6.	Issue future interest lease to be effective the day of the month when the mineral interests vest in the United States.	
	6a.	Where the U.S. owns both a present fractional interest and a future fractional interest of the minerals in the same tract, the lease, when issued, shall cover both the present and future interest in the lands. The effective date and primary term of the present interest lease is unaffected by the vesting of a future fractional interest. A lease for the future fractional interest, when such interest vests to the United States, shall have the same primary term and anniversary date as the present fractional interest lease.	PRESENT AND FUTURE FRACTIONAL INTEREST
	7.	Complete the accounting advice:	ACCOUNTING ADVICE -
	7a.	Enter the proper coding for the lease anniversary date, which is the date the minerals vest in the U.S. (see Illustration 27).	FUTURE INTEREST LEASE IN MMS-DMD
	7b.	Enter the correct date for the lease expiration date, 10 years later.	

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	7c.	Indicate the vesting date of the mineral interests in the "Remarks" space of the accounting advice.	
	7d.	Note that the MMS automated system now accepts a first-year rental payment for a future interest lease in advance of the vesting date of the minerals. Accordingly, forward the accounting advice for the first year's advance rental (if paid) at the time of issuance of the future interest lease. Note in the "Remarks" space for the MMS-DMD to apply the rental. In this case, the MMS-DMD will begin sending the courtesy billing notice for the second lease year's rental due. Otherwise, the billing notice will be sent by the MMS-DMD for the first year's rental that is due upon the vesting date of the minerals in the U.S.	
	8.	Stamp "Original" or "File" on the originally signed lease offer form for the case file.	LEASE COPIES DESIGNATED
	8a.	Stamp "Lessee" on the first copy of lease offer. Stamp second copy for the SMA.	
	9.	Prepare routing slip and records worksheet. Route lease for signature by the BLM authorized officer.	
Signing Official	10.	Sign the original of lease Form 3100-11 and use signature stamp on lessee/SMA copies of lease form.	
Adjudication	11.	Make distribution in accordance with State Office procedures, with one copy to SMA and one copy to Field Office Operations.	

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	12.	If, after a lease is signed, issued, and mailed to the lessee, it is discovered that some or all of the lease stipulations that were identified in the Notice of Competitive Lease Sale as being applicable to the parcel were not attached as part of the lease, send the stipulations by a notice to the lessee, ensuring that a copy of the notice and stipulations are placed in the case file. The notice to the lessee is simply a courtesy since the stipulations are binding and the lessee has full awareness of the stipulations placed on the parcel as it was advertised in the sale notice. (See 43 CFR 3101.1-3.)	STIPULATIONS INADVERTENTLY NOT ATTACHED TO LEASE
ALMRS Entry	13.	Update lease issuance:	AUTOMATED NOTATION
	13a.	Enter Action Date (MANDATORY ACTION CODE): Date lease signed; DE 1775 Action Code 176/DE 2910 Action Code 237.	
	13b.	ACTION CODE, WHEN APPLICABLE FOR FRACTIONAL U.S. INTEREST LANDS): Enter date lease signed (or offer was received); DE 1775 Action Code 448/DE 2910 Action Code 527; Action Remarks: Percentage of Federal mineral ownership when U.S. mineral interests are less than 100%.	
	13c.	Enter Action Date (MANDATORY ACTION CODE IF LANDS ARE IN MORE THAN ONE COUNTY): Enter date lease signed and lands are in two or more counties; DE 1775 Action Code 417/DE 2910 Action Code 523; Action Remarks: Enter acres and State and county codes from DE 0002.	
	13d.	Enter Action Date (MANDATORY ACTION CODE): Effective date of lease; DE 1775 Action Code 225/DE 2910 Action Code 868.	

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	13e.	Enter Action Date (MANDATORY ACTION CODE): Enter 12 1/2 percent royalty rate; DE 1775 Action Code 102/DE 2910 Action Code 530.	
	13f.	For acquired lands mineral lease: Enter Action Date (MANDATORY ACTION CODE FOR ACQUIRED LANDS MINERALS): Enter fund symbol; DE 1775 Action Code 444/DE 2910 Action Code 496; Action Remarks: Fund symbol argument code from DE 3042; <u>OPTIONAL</u> : Also enter Treasury fund symbol, including proclaimed unit number (refuge code) in Action Remarks.	AUTOMATED NOTATION - FUND SYMBOL FOR ACQUIRED LANDS MINERALS
		<u>NOTE</u> : See Appendix 1 for a listing of the Treasury Symbols.	
	13g.	Enter Action Date (MANDATORY ACTION CODE): Date minerals vest in the U.S.; DE 1775 Action Code 587/DE 2910 Action Code 884; Action Remarks: Fractional percent of U.S. ownership (when applicable).	
	13h.	Enter Action Date (MANDATORY ACTION CODE): Date lease expires; DE 1775/2910 Action Code 763.	
Adjudication	14.	Send case file to Title Records through Docket for notation of appropriate records.	
	15.	Send accounting advice to Accounts.	
Title Records	16.	Note future interest lease issuance on oil and gas plat/status records and HI (or other appropriate) records.	RECORDS NOTATION
	17.	Return case file to Docket.	
Docket	18.	File case file with active cases.	

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Responsible

Official	Step	Action	Keywords
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NOTE: All future interest noncompetitive lease offers filed prior to the Federal Onshore Oil and Gas Leasing Reform Act are "grandfathered," and each offer must be processed under the appropriate regulations that were in effect at the time the offer was filed.

PRE-REFORM ACT  
"GRANDFATHERED"  
FUTURE INTEREST  
LEASE OFFERS