The Federal Onshore Oil and Gas Leasing System

INTRODUCTION

The Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act for Acquired Lands of 1947, as amended, give the Bureau of Land Management (BLM) responsibility for oil and gas leasing on about 564 million acres of BLM, national forest, and other Federal lands, as well as private lands where mineral rights have been retained by the Federal Government. The BLM works to assure that environmentally-sound development of mineral resources is in the best interests of the Nation.

While BLM provides technical assistance to Indian tribes and Indian mineral owners, BLM does not lease Indian minerals. Leasing of Indian minerals is handled by the Bureau of Indian Affairs (BIA). Further information on leasing Indian oil and gas minerals may be found at: http://snake1.cr.usgs.gov/demr/index.htm

Regulations governing the BLM's oil and gas leasing program may be found in Title 43, Groups 3000 and 3100, of the Code of Federal Regulations, a publication available in law libraries and most large public libraries. A copy may also be obtained from any BLM State Office. The BLM State Offices are listed on the BLM home page: http://www.blm.gov BLM regulations are also available online at: http://www.access.gpo.gov/nara/cfr/cfr-table-search.html

WHAT LANDS ARE AVAILABLE FOR LEASING?

The BLM determines which public lands are available for leasing by evaluating them through the agency's land use planning process. In areas where development of oil and gas

resources would conflict with the protection or management of other resources or public land uses the BLM identifies mitigating measures, which may appear on leases as either stipulations to uses or as restrictions on surface occupancy.

HOW CAN I QUALIFY TO HOLD A LEASE?

You may qualify to hold an oil and gas lease if you are an adult citizen of the United States. Minors may not acquire leases, but the BLM is authorized to issue leases to a legal guardian or trustee on behalf of a minor. Associations of citizens and corporations organized under United States, State or municipal law may also qualify.

Aliens may hold interests in leases only by stock ownership in U.S. corporations holding leases and only if the laws of their country of citizenship do not deny similar privileges to United States citizens. Aliens may not hold a lease interest through units in a publicly traded limited partnership.

WHAT KINDS OF OIL AND GAS LEASES ARE THERE?

The BLM issues two types of leases for oil and gas exploration and development on lands owned or controlled by the Federal Government - competitive and noncompetitive.

Congress passed the Federal Onshore Oil and Gas Leasing Reform Act of 1987 requiring that all public lands available for oil and gas leasing be offered first by competitive leasing. The BLM may issue noncompetitive leases only after the agency has offered the lands competitively at an oral auction and not received a bid.

The maximum competitive lease size is 2,560 acres in the lower 48 States and 5,760 acres in Alaska. The maximum noncompetitive lease size in all States is 10,240 acres.

The BLM issues both competitive and noncompetitive leases for a 10-year period. Any lease will automatically continue after that so long as –

(1) There is a well on the lease capable of producing in paying quantities on it; or
(2) The lease can receive an allocation of production from an off-lease well capable of producing in paying quantities.

HOW MAY I BID FOR A COMPETITIVE LEASE?

BLM State Offices conduct oral auctions for oil and gas leases not less than quarterly when lands are available. Each State Office publishes a Notice of Competitive Lease Sale, which lists lease parcels to be offered at the auction, at least 45 days before the auction is held. This Notice is posted in the State Office where the sale will be held. The Sale Notice specifies lease stipulations applicable to each parcel.

Lands offered in the Sale Notice come from two sources:

(1) Parcels of lands identified by informal expressions of interest from the public or by the BLM; or
(2) Lands included in offers filed for noncompetitive leases.

You may obtain a Sale Notice for a nominal fee from the appropriate BLM State Office with jurisdiction over the lands.

The BLM conducts all auctions using an oral bidding process. To bid on a competitive lease, you must either attend the auction in person or provide for someone to represent you. The BLM does not accept sealed or mailed bids.

On the day of the auction, the successful bidder must submit a properly executed lease bid form, which constitutes a legally binding lease offer, and pay –

(1) A share of the sale costs ($130 per lease);
(2) The first year's advance rental ($1.50 per acre or fraction thereof); and
(3) Not less than the $2-per-acre minimum bonus bid.

You must pay the balance of the bonus bid within 10 working days of the auction. If you fail to submit the balance of the bonus on time, you will forfeit your entire deposit money.

You may make payments associated with the leasing process by personal check, cashier's check, certified check, or money order, made out to *Department of the Interior - BLM*. You may also use VISA or MasterCard.

HOW MAY I OBTAIN A NONCOMPETITIVE LEASE?

The BLM issues noncompetitive leases only for parcels the agency previously offered competitively but failed to receive a bid.

The lands in expired, terminated, relinquished, or canceled leases are not available for noncompetitive leasing until the BLM offers them competitively in a Sale Notice for an auction <u>and</u> failed to receive a bid. You may file a noncompetitive pre-sale offer on these lands if the prior lease for these lands has expired or terminated, or the lease holder has given up the lease, or the BLM has canceled the lease at least one year before you submit the pre-sale offer to the appropriate BLM State Office.

Following an oil and gas lease sale, you may submit an offer for a noncompetitive lease on any of the parcels that did not receive bids. These lands are available for two years, beginning the first business day following the last day of the auction, as specified in the Sale Notice.

For noncompetitive leasing you must submit each offer on a separate lease offer form. If you submit an offer on the first business day following the auction through the last day of the same month, you must identify the lands you want by the parcel identification number used in the Sale Notice. Afterwards, and for the remainder of the two years, you must use legal land descriptions when you submit a noncompetitive lease offer. During this remaining time of the two years, you may submit offers for lands that are different than the parcel configurations offered at the auction.

You must submit your offers on a BLM-approved form. You must include payment of a $335 non-refundable filing fee and the first year's advance rental of $1.50 per acre.

The BLM considers all noncompetitive lease offers filed on the first business day following the auction as having been filed simultaneously. The agency determines the priority among multiple offers for the same parcel by public drawings. If you submit an offer after the first business day of the auction, you will receive priority according to the time of filing. For example, the BLM gives priority to an offer filed at 10:15 a.m. over an offer filed at 10:16 a.m.

WHAT ARE THE LEASE TERMS AND CONDITIONS?

As lessee, you may explore and drill for, extract, remove, and dispose of oil and gas deposits, except helium, which you may find on your lease.

Before conducting any surface-disturbing activities, you must obtain BLM approval. The oil and gas lease conveys the right to develop those resources on the leased land. You may not build a house on the lease, cultivate the land, or remove any minerals (including helium) other than oil and gas.

WHAT BONDING IS REQUIRED?

Before you conduct any surface-disturbing activities related to drilling, you must provide the BLM a bond of at least $10,000 to ensure your compliance with all the lease terms, including environmental protection. If you are an operator on the lease, you may use the bond of another party, such as the lessee, if the surety and the bond holder agree. When a new person or company becomes the operator on a lease, that new person or company must notify the BLM of the change in operator. The new operator must specify to the BLM what bond will cover their operations.

You can provide bonding by using a surety bond, a personal bond accompanied by negotiable Treasury securities, a cashier's check, a certified check, a certificate of deposit, or an irrevocable letter of credit.

The BLM may require an increase in the bond amount whenever conditions warrant.

WHAT IS THE RENTAL FEE?

Annual rental rates for both competitive and noncompetitive leases are $1.50 per acre (or fraction thereof) in the first five years and $2.00 per acre each year thereafter. Once you obtain your lease, you must pay the rental to the Department of the Interior's Minerals Management Service (MMS) on or before the lease anniversary date. If you do not, your lease will automatically terminate. You should mail the rental payment at least a week or 10 days before the lease anniversary date. You should pay MMS directly, the BLM will not forward any misfiled payments to the MMS.

WHAT ARE THE ROYALTIES?

The MMS collects a royalty on production of 12.5 percent for both competitive and noncompetitive leases.

CAN I TRANSFER A LEASE INTEREST?

You may transfer your interest in a lease by assignment of the record title interest or by transfer of the operating rights interest. You must submit the transfer on an approved form to the appropriate BLM office within 90 days from the date the transferor signs it. Until the BLM approves the transfer, the U.S. Government does not recognize the rights of the transferee and the transferor remains fully responsible for the lease. The BLM will not approve any assignment of record title for a separate zone, deposit, or part of a legal subdivision. Neither will BLM approve any assignment of record title for less than 640 acres outside Alaska, or less than 2,560 acres within Alaska. However, the BLM may approve an assignment of record title for less than this acreage, if it is for the entire leasehold or the parties can demonstrate that approval will increase the chances of development.

WHEN WILL MY LEASE EXPIRE?

Your lease will expire at the end of its primary term, which is usually 10 years. However, the BLM may extend your lease, or your lease may continue under its own terms, if –

(1) Qualifying drilling operations are in progress;
(2) The lease contains a well capable of producing in paying quantities; or
(3) The lease is entitled to receive an allocation of production from an off-lease well.

If your lease does not have a producible well, or a producible well attributed to it, it will automatically terminate if you do not pay annual rental in full and on time.

You may give up all or part of your lease by filing a written relinquishment with the appropriate BLM office. A relinquishment takes effect on the date you file it. However, you must plug any abandoned wells and perform other work as may be required by the BLM so the lease is in proper condition for abandonment. You must also bring the lease account into good standing. If you fail to do any of this, you may forfeit your bond and may be prohibited from leasing any additional Federal lands.

The BLM may cancel a non-producing lease if you fail to comply with lease terms.