

§ 3420.6

it makes any revision increasing the number or frequency of sales, or the amount of coal offered. BLM will publish any revision in the FEDERAL REGISTER.

(b) Any regional lease sale schedule may be updated or replaced as a result of a new regional tract ranking, selection, and scheduling effort conducted in accordance with the provisions of § 3420.3-4 of this title.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33140, July 30, 1982; 64 FR 52243, Sept. 28, 1999]

§ 3420.6 Reoffer of tracts not sold in previous regional lease sales.

Following the offering of tracts in accordance with the procedures outlined in §§ 3420.2, 3420.3, 3420.4 and 3420.5, any tracts not sold in accordance with the above listed provisions may be reoffered for sale by the Department provided a lease sale schedule has been reviewed by the regional coal team and, after consultation with the Governor, adopted by the Secretary. Provisions of subpart 3422 shall apply to these tracts.

[48 FR 37655, Aug. 19, 1983]

Subpart 3422—Lease Sales

§ 3422.1 Fair market value and maximum economic recovery.

(a) Not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value (FMV) appraisal and the maximum economic recovery (MER) of the tract or tracts proposed to be offered and on factors that may affect these 2 determinations. BLM will publish the solicitation in the FEDERAL REGISTER and at least once per week for two consecutive weeks in a newspaper of general circulation in the area of the sale. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to the solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

(b) The authorized officer shall prepare a written report containing information on the mining method evaluation, estimated coal reserves by bed,

43 CFR Ch. II (10-1-02 Edition)

coal quality assessment, royalty and lease bond recommendations and an evaluation of the public comments on the FMV and MER.

(c)(1) The authorized officer shall not accept any bid that is less than the fair market value as determined by the Department.

(2) Minimum bids shall be set on a regional basis and may be expressed in either dollars-per-acre or cents-per-ton. In no case shall the minimum bid be less than \$100 per acre or its equivalent in cents-per-ton.

[47 FR 33140, July 30, 1982, as amended at 50 FR 8626, Mar. 4, 1985; 51 FR 18888, May 23, 1986; 64 FR 52243, Sept. 28, 1999]

§ 3422.2 Notice of sale and detailed statement.

(a) Prior to the lease sale, the authorized officer shall publish a notice of the proposed sale in the FEDERAL REGISTER and in a newspaper(s) of general circulation in the county or equivalent political subdivision in which the tracts to be sold are situated. The newspaper notice shall be published not less than once a week for 3 consecutive weeks. BLM will post notice of the sale in BLM State Office where the coal lands are managed. BLM will also mail notice to any surface owner of lands noticed for sale and to any other person who has requested notice of sales in the area. The lease sale shall not be held until at least 30 days after such posting in the State Office.

(b) The notice shall:

(1) List the time and place of sale, the type of sale, bidding method, rental, and the description of the tract(s) being offered and the minimum bid(s) to be considered;

(2) Contain a description of the coal resources to be offered; and

(3) Contain information on where a detailed statement of the terms and conditions of the lease(s) which may result from the lease sale may be obtained.

(c) The detailed statement of the terms and conditions of the lease(s) offered and bidding instructions for sale shall:

(1) Contain an explanation of the manner in which the bids may be submitted;

Bureau of Land Management, Interior

§ 3422.3-2

(2) Contain a warning to all bidders concerning 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders;

(3) Specify that the Secretary reserves the right to reject any and all bids and the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason;

(4) Contain a notice that each bid shall be accompanied by the bidder's qualifications (See 43 CFR 3472.2-2);

(5) Contain a notice to bidders that the winning bidders shall have to submit the information required by the Attorney General for post-sale review (See 43 CFR 3422.3-4);

(6) If appropriate, contain (i) a copy of any written qualified surface owner consent, including purchase price, financial obligations and terms and conditions, filed and verified prior to the posting of the notice of lease sale in the appropriate Bureau of Land Management State office; or (ii) a listing of lands for which qualified surface owner consent is required prior to lease sale but has not yet been filed, along with a statement that any consent for those lands filed prior to the deadline for such filings shall be made a part of the official file and shall be available for inspection by the public;

(7) If appropriate, contain a notice that bidders shall file a statement that all information they hold relevant to written consents affecting any area offered in the sale in which the bid is submitted has been filed with the proper Bureau of Land Management State office (43 CFR subpart 1821) in accordance with the provisions of subpart 3427 of this title;

(8) Contain a copy of the proposed lease, including all terms and special stipulations; and

(9) Contain any other information deemed appropriate by the authorized officer.

(d) Each successful bidder, if any, shall reimburse the United States for a proportionate share of the cost of publishing the notice of sale as a condition of lease issuance.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33140, July 30, 1982; 64 FR 52243, Sept. 28, 1999]

§ 3422.3 Sale procedures.

§ 3422.3-1 Bidding systems.

(a) The provisions of 10 CFR part 378¹ are not applicable to this part.

(b) The Department may conduct lease sales using cash bonus—fixed royalty bidding systems or any other bidding system adopted through rule-making procedures.

[47 FR 33140, July 30, 1982]

§ 3422.3-2 Conduct of sale.

(a)(1) Sealed bids shall be received only until the hour on the date specified in the notice of competitive leasing; all sealed bids submitted after that hour shall be returned. The authorized officer shall read all sealed bids, and shall announce the highest bid.

(2) No decision to accept or reject the high bid will be made at the time of sale.

(b) A sale panel shall convene to determine: (1) If the high bid was properly submitted; (2) if it reflects the FMV of the tract; and (3) whether the bidder is qualified to hold the lease. The recommendations of the panel shall be in writing and sent to the authorized officer who shall make the final decision to accept a bid or reject all bids. The sale panel's recommendation and the authorized officer's written decision shall be entered in the case file for the offered tract. The successful bidder shall be notified in writing. The Department reserves the right to reject any and all bids regardless of the amount offered, and shall not accept any bid that is less than fair market value. The authorized officer shall notify any bidder whose bid has been rejected and include in such notice a statement of the reason for the rejection. The Department reserves the right to offer the lease to the next highest qualified bidder if the successful bidder fails to execute the lease, or is for any reason disqualified from receiving the lease.

(c) Each sealed bid shall be accompanied by a certified check, cashier's check, bank draft, money order, certificate of bidding rights, personal

¹Redesignated as 30 CFR part 260 and removed at 48 FR 1182, Jan. 11, 1983.