

## Minerals Management Service, Interior

## § 281.21

20 years as stipulated in the leasing notice. The primary lease term for each OCS mineral shall be determined based on exploration and development requirements for the OCS minerals being offered by the Secretary. An OCS mineral lease for sand and gravel shall be for a primary term of 10 years unless otherwise stipulated in the leasing notice. A lease will continue beyond the specified primary term for so long thereafter as leased OCS minerals are being produced in accordance with an approved mining operation or the lessee is otherwise in compliance with provisions of the lease and the regulations in this chapter under which a lessee can earn continuance of the OCS mineral lease in effect.

### § 281.20 Submission of bids.

(a) If the bidder is an individual, a statement of citizenship shall accompany the bid.

(b) If the bidder is an association (including a partnership), the bid shall be accompanied by a certified statement indicating the State in which it is registered and that the association is authorized to hold mineral leases on the OCS, or appropriate reference to statements or records previously submitted to an MMS OCS office (including material submitted in compliance with prior regulations).

(c) If the bidder is a corporation, the bid shall be accompanied by the following information:

(1) Either a statement certified by the corporate Secretary or Assistant Secretary over the corporate seal showing the State in which it was incorporated and that it is authorized to hold mineral leases on the OCS or appropriate reference to statements or record previously submitted to an MMS OCS office (including material submitted in compliance with prior regulations).

(2) Evidence of authority of persons signing to bind the corporation. Such evidence may be in the form of a certified copy of either the minutes of the board of directors or of the bylaws indicating that the person signing has authority to do so, or a certificate to that effect signed by the Secretary or Assistant Secretary of the corporation over the corporate seal, or appropriate

reference to statements or records previously submitted to an MMS OCS office (including material submitted in compliance with prior regulations). Bidders are advised to keep their filings current.

(3) The bid shall be executed in conformance with corporate requirements.

(d) Bidders should be aware of the provisions of 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders.

(e) When sealed bidding is specified in the leasing notice, a separate sealed bid shall be submitted for each bid unit that is bid upon as described in the leasing notice. A bid may not be submitted for less than a bidding unit identified in the leasing notice.

(f) When oral bidding is specified in the leasing notice, information which must accompany a bid pursuant to paragraph (a), (b), or (c) of this section, shall be presented to MMS at the lease sale prior to the offering of an oral bid.

### § 281.21 Award of leases.

(a)(1) The decision of the Director on bids shall be the final action of the Department, subject only to reconsideration by the Secretary, pursuant to a written request in accordance with paragraph (a)(2) of this section. The delegation of review authority to the Office of Hearings and Appeals shall not be applicable to decisions on high bids for leases in the OCS.

(2) Any bidder whose bid is rejected by the Director may file a written request for reconsideration with the Secretary within 15 days of notice of rejection, accompanied by a statement of reasons with a copy to the Director. The Secretary shall respond in writing either affirming or reversing the decision.

(b) Written notice of the Director's action in accepting or rejecting bids shall be transmitted promptly to those bidders whose deposits have been held. If a bid is accepted, such notice shall transmit three copies of the lease form to the successful bidder. As provided in § 281.26 of this part, the bidder shall, not later than the 10th business day after receipt of the lease, execute the lease, pay the first year's rental, and unless payment of a portion of the bid is deferred, pay the balance of the

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bonus bid. When payment of a portion of the bid is deferred, the successful bidder shall also file a bond to guarantee payment of the deferred portion as required in § 281.33. Deposits shall be refunded on high bids subsequently rejected. When three copies of the lease have been executed by the successful bidder and returned to the Director, the lease shall be executed on behalf of the United States; and one fully executed copy shall be transmitted to the successful bidder.

(c) If the successful bidder fails to execute the lease within the prescribed time or to otherwise comply with the applicable regulations, the successful bidder's deposit shall be forfeited and disposed of in the same manner as other receipts under the Act.

(d) If, before the lease is executed on behalf of the United States, the land which would be subject to the lease is withdrawn or restricted from leasing, the deposit shall be refunded.

(e) If the awarded lease is executed by an agent acting on behalf of the bidder, the bidder shall submit with the executed lease, evidence that the agent is authorized to act on behalf of the bidder.

**§ 281.22 Lease form.**

The OCS mineral leases shall be issued on the lease form prescribed by the Secretary in the leasing notice.

**§ 281.23 Effective date of leases.**

Leases issued under the regulations in this part shall be dated and become effective as of the first day of the month following the date leases are signed on behalf of the lessor except that, upon written request, a lease may be dated and become effective as of the first day of the month within which it is signed on behalf of the lessor.

**Subpart C—Financial Considerations**

**§ 281.26 Payments.**

(a) For sealed bids, a bonus bid deposit of a specified percentage of the total amount bid is required to be submitted with the bid. The percentage of bonus bid required to be deposited will be specified in the leasing notice. The remittance may be made in cash or by

Federal Reserve check, commercial check, bank draft, money order, certified check, or cashier's check made payable to "Department of the Interior—MMS." Payment of this portion of the bonus bid may not be made by Electronic Funds Transfer.

(b) For oral bids, a bonus bid deposit of a specified percentage of the total amount bid must be submitted to the official designated in the leasing notice following the completion of the oral bidding. The percentage of bonus bid required to be deposited will be specified in the leasing notice. Payment of this portion of the bonus bid shall be made by Electronic Fund Transfer within the timeframe specified in the leasing notice.

(c) The deposit received from high bidders will be placed in a Treasury account pending acceptance or rejection of the bid. Other bids submitted under paragraph (a) of this section will be returned to the bidders. If the high bid is subsequently rejected, an amount equal to that deposited with the high bid will be returned according to applicable regulations.

(d) The balance of the winning bonus bid and all rentals and royalties must be paid in accordance with the terms and conditions of this part, the Leasing Notice, and Subchapter A of this chapter.

(e) For each lease issued pursuant to this subpart, there shall be one person identified who shall be solely responsible for all payments due and payable under the provisions of the lease. The single responsible person shall be designated as the payor for the lease and shall be so identified on the Solid Minerals Payor Information Form (MMS-4030) in accordance with § 210.201 of this title. The designated person shall be responsible for all bonus, rental, and royalty payments.

(f) Royalty shall be computed at the rate specified in the leasing notice, and paid in value unless the Secretary elects to have the royalty delivered in kind.

(g) For leases which provide for minimum royalty payments, each lessee shall pay the minimum royalty specified in the lease at the end of each lease year beginning with the lease year in which production royalty is