

Bureau of Land Management, Interior

§ 2710.0-6

SOURCE: 45 FR 39418, June 10, 1980, unless otherwise noted.

Subpart 2710—Sales: General Provisions

§ 2710.0-1 Purpose.

The regulations in this part implement the sale authority of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713).

§ 2710.0-2 Objective.

The objective is to provide for the orderly disposition at not less than fair market value of public lands identified for sale as part of the land use planning process.

§ 2710.0-3 Authority.

(a) The Secretary of the Interior is authorized by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713), to sell public lands where, as a result of land use planning, it is determined that the sale of such tract meets any or all of the following disposal criteria:

(1) Such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(2) Disposal of such tract shall serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership; or

(3) Such tract, because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency.

(b) The Secretary of the Interior is authorized by section 310 of the Federal Land Policy and Management Act (43 U.S.C. 1740) to promulgate rules and regulations to carry out the purpose of the Act.

§ 2710.0-5 Definitions.

As used in this part, the term

(a) *Public lands* means any lands and interest in lands owned by the United States and administered by the Secretary through the Bureau of Land Management except:

(1) Lands located on the Outer Continental Shelf;

(2) Lands held for the benefit of Indians, Aleuts, and Eskimos.

(b) *Secretary* means the Secretary of the Interior.

(c) *Authorized officer* means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this part.

(d) *Act* means the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701).

(e) *Family sized farm* means the unit of public lands determined to be chiefly valuable for agriculture, and that is of sufficient size, based on land use capabilities, development requirements and economic capability, to provide a level of net income, after payment of expenses and taxes, which will sustain a family sized agribusiness operation above the poverty level for a rural farm family of 4 as determined by the Bureau of Labor Statistics, U.S. Department of Labor, for the calendar year immediately preceeding the year of the proposed sale under the regulations of this part. The determination of the practical size is an economic decision to be made on a local area basis considering, but not limited to, factors such as: Climatic conditions, soil character, availability of irrigation water, topography, usual crop(s) of the locale, marketability of the crop(s), production and development costs, and other physical characteristics which shall give reasonable assurance of continued production under proper conservation management.

§ 2710.0-6 Policy.

(a) Sales under this part shall be made only in implementation of an approved land use plan or analysis in accordance with part 1600 of this title.

(b) Public lands determined to be suitable for sale shall be offered only on the initiative of the Bureau of Land Management. Indications of interest to

have specific tracts of public lands offered for sale shall be accomplished through public input to the land use planning process. (See §§ 1601.1-1 and 1601.8 of this title). Nominations or requests to have specific tracts of public lands offered for sale may also be made by direct request to the authorized officer.

(c)(1) The Federal Land Policy and Management Act (43 U.S.C. 1713(f)) provides that sales of public lands under this section shall be conducted under competitive bidding procedures established by the Secretary. However, where the Secretary determines it necessary and proper in order to assure equitable distribution among purchasers of lands, or to recognize equitable considerations or public policies, including, but not limited to, a preference to users, lands may be sold by modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

- (i) The State in which the lands are located;
- (ii) The local government entities in such State which are in vicinity of the lands;
- (iii) Adjoining landowners;
- (iv) Individuals; and
- (v) Any other person.

(2) When a parcel of land meets the sale criteria of section 203 of the Federal Land Policy and Management Act (43 U.S.C. 1713), several factors shall be considered in determining the method of sale. These factors include, but are not limited to: Competitive interest; needs of State and local governments; adjoining landowners; historical uses; and equitable distribution of land ownership.

(3) Three methods of sale are provided for in § 2711.3 of this title: competitive; modified competitive; and direct (non-competitive). The policy for selecting the method of sale is:

(i) Competitive sale as provided in § 2711.3-1 of this title is the general procedure for sales of public lands and may be used where there would be a number of interested parties bidding for the lands and (A) wherever in the judgment of the authorized officer the lands are accessible and usable regard-

less of adjoining land ownership and (B) wherever the lands are within a developing or urbanizing area and land values are increasing due to their location and interest on the competitive market.

(ii) Modified competitive sales as provided in § 2711.3-2 of this title may be used to permit the existing grazing user or adjoining landowner to meet the high bid at the public sale. This procedure will allow for limited competitive sales to protect on-going uses, to assure compatibility of the possible uses with adjacent lands, and avoid dislocation of existing users. Lands offered under this procedure would normally be public lands not located near urban expansion areas, or with rapidly increasing land values, and existing use of adjacent lands would be jeopardized by sale under competitive bidding procedures.

(iii) Direct sale as provided in § 2711.3-3 of this title may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by State or local governments or non-profit corporations, or where necessary to protect existing equities in the lands or resolve inadvertent unauthorized use or occupancy of said lands.

(4) When lands have been offered for sale by one method of sale and the lands remain unsold, then the lands may be reoffered by another method of sale.

(5) In no case shall lands be sold for less than fair market value.

(d) Sales of public lands determined to be chiefly valuable for agriculture shall be no larger than necessary to support a family-sized farm.

(e) The sale of family-sized farm units, at any given sale, shall be limited to one unit per bidder and one unit per family. The limit of one unit per family is not to be construed as limiting children eighteen years or older from bidding in their own right.

(f) Sales under this part shall not be made at less than fair market value. Such value is to be determined by an appraisal performed by a Federal or independent appraiser, as determined by the authorized officer, using the

principles contained in the *Uniform Appraisal Standards for Federal Land Acquisitions*. The value of authorized improvements owned by anyone other than the United States upon lands being sold shall not be included in the determination of fair market value. Technical review and approval for conformance with appraisal standards shall be conducted by the authorized officer.

(g) Constraint and discretion shall be used with regard to the terms, covenants, conditions and reservations authorized by section 208 of the Act that are to be in sales patents and other conveyance documents, except where inclusion of such provisions is required by law or for protection of valid existing rights.

[45 FR 39418, June 10, 1980, as amended at 49 FR 29014, July 17, 1984; 49 FR 29795, July 24, 1984]

§ 2710.0-8 Lands subject to sale.

(a) All public lands, as defined by § 2710.0-5 of this title, and, which meet the disposal criteria specified under § 2710.0-3 of this title, are subject to sale pursuant to this part, except:

(1) Those public lands within the re-vested Oregon California Railroad and reconveyed Coos Bay Wagon Road grants which are more suitable for management and administration for permanent forest protection and other purposes as provided for in the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181(a)); May 24, 1939 (53 Stat. 753); and section 701(b) of the Act.

(2) Public lands in units of the National Wilderness Preservation System, National Wild and Scenic Rivers System and National System of Trails.

(3) Public lands classified, withdrawn, reserved or otherwise designated as not available or subject to sale shall not be sold under the regulations of this part until issuance of an order or notice which either opens or provides for such disposition.

(b) Unsurveyed public lands shall not be sold under the regulations of this part until they are officially surveyed under the public land survey system of the United States. Such survey shall be completed and approved by the Secretary prior to any sale.

Subpart 2711—Sales: Procedures

§ 2711.1 Initiation of sale.

§ 2711.1-1 Identification of tracts by land use planning.

(a) Tracts of public lands shall only be offered for sale in implementation of land use planning prepared and/or approved in accordance with subpart 1601 of this title.

(b) Public input proposing tracts of public lands for disposal through sale as part of the land use planning process may be made in accordance with §§ 1601.3, 1601.6-3 or § 1601.8 of this title.

(c) Nominations or requests for sales of public lands may be made to the District office of the Bureau of Land Management for the District in which the public lands are located and shall specifically identify the tract being nominated or requested and the reason for proposing sale of the specific tract.

[45 FR 39418, June 10, 1980, as amended at 49 FR 29015, July 17, 1984]

§ 2711.1-2 Notice of realty action.

(a) A notice of realty action offering for sale a tract or tracts of public lands identified for disposal by sale shall be issued, published and sent to parties of interest by the authorized officer not less than 60 days prior to the sale. The notice shall include the terms, covenants, conditions and reservations which are to be included in the conveyance document and the method of sale. The notice shall also provide 45 days after the date of issuance for the right of comment by the public and interested parties.

(b) Not less than 60 days prior to sale, notice shall be sent to the Member of the U.S. House of Representatives in whose district the public lands proposed for sale are located and the U.S. Senators for the State in which the public lands proposed for sale are located, the Senate and House of Representatives, as required by paragraph (f) of this section, to Governor of the State within which the public lands are located, to the head of the governing body of any political subdivision having zoning or other land use regulatory responsibility in the geographic area within which the public lands are located and to the head of any political