

Bureau of Land Management, Interior

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be credited to future production, but not refunded, unless upon expiration, the total value of payments made exceeds the total value of mineral materials covered by the contract. Payments made in lieu of production prior to termination or relinquishment of contract will not be refunded.

§ 3610.1-5 Performance and reclamation bonds.

(a) The authorized officer shall require a performance bond of not less than \$500 or 20 percent of the total contract value, whichever is greater, for contracts of \$2,000 or more, except for contract sales or permits made from community pits when a reclamation fee is paid by the permittee.

(b) The authorized officer may require a reclamation or performance bond for contract sales of less than \$2,000, but in no event shall the bond be for more than 20 percent of the total contract value.

(c) A performance and reclamation bond may be a:

(1) Bond of a corporate surety shown on the approved list issued by the U.S. Treasury Department;

(2) Cash bond, with a power of attorney to the Secretary to convert such cash upon default in the performance of the terms and conditions of the contract or permit; or

(3) Negotiable Treasury bond of the United States of a par value equal to the amount of required bond, together with a power of attorney to the Secretary to sell such securities upon default.

§ 3610.1-6 Assignments.

(a) The permittee may not assign the contract, permit or any interest therein without the written approval of the authorized officer. The authorized officer shall ensure that all terms and conditions agreed upon are contained in the assignment and are assumed by the assignee.

(b) The authorized officer shall not approve any proposed assignments involving contract performances unless the assignee furnishes a performance bond as required by § 3610.1-5 of this title or obtains a written commitment from the previous surety to be bound by the assignment when approved.

(c) Upon approval of an assignment by the authorized officer, the assignee shall be entitled to all the rights and be subject to all the obligations under the contract, and the permittee shall be released from any further liability under the contract.

§ 3610.1-7 Extension of time.

The authorized officer may grant a one-time extension not to exceed 1 year, if the permittee:

(a) Submits a written request that is received by the authorized officer no later than 30 days or earlier than 90 days prior to the expiration date of the contract; and

(b) Shows, in writing that the delay in removal of the mineral materials was due to causes beyond the control of and without fault or negligence of the permittee.

§ 3610.2 Noncompetitive sales.

§ 3610.2-1 Limitations in volume.

(a) When it is determined to be in the public interest, and where it is impracticable to obtain competition, the authorized officer may sell at not less than fair market value, without advertising or calling for bids, mineral materials not to exceed 100,000 cubic yards (or weight equivalent) in any individual sale.

(b) The authorized officer shall not approve noncompetitive sales that exceed the total aggregate of 200,000 cubic yards (or weight equivalent) made in any one State for the benefit of any one individual, partnership, corporation or entity in any period of twelve consecutive calendar months.

(c) The volume limitations in paragraphs (a) and (b) of this section shall not apply to sales in the State of Alaska of mineral materials which the authorized officer determines are needed for construction, operation, maintenance or termination of the Trans-Alaska Pipelines System or the Alaska Natural Gas Transportation System.

(d) The volume limitations contained in paragraphs (a) and (b) of this section shall not apply where the Director determines that circumstances make it impossible to obtain competition or where, because of an emergency situation affecting public property, health

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and safety, there is insufficient time to invite competitive bids.

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§ 3610.2-2 Government programs.

The authorized officer may sell mineral materials not exceeding 200,000 cubic yards (or weight equivalent) at not less than fair market value without advertising or calling for bids when:

(a) The authorized officer determines the sale to be in the public interest; and

(b) The materials are to be used in connection with a public works improvement program that requires urgent attention on behalf of a Federal, State or local governmental agency and that does not permit time required for advertising.

§ 3610.2-3 Federal mineral leases.

Where the materials are to be used in connection with the development of public lands under a mineral lease issued by the United States, the authorized officer may without calling for competitive bids, sell a volume of mineral materials not to exceed 200,000 cubic yards (or weight equivalent) to any one permittee in one State in any calendar year. No charge shall be made for mineral materials necessarily moved in the process of extracting minerals under Federal lease, as long as the materials remain within the boundaries of the lease and are used for lease development.

§ 3610.2-4 Term of contract.

The term for noncompetitive contracts for the sale of mineral materials shall not exceed 5 years, excluding extension and removal periods.

§ 3610.3 Competitive sales.

§ 3610.3-1 General.

(a) The authorized officer shall make sales, except those specified in subpart 3604 and § 3610.2 of this title, only after inviting competitive bids through publication and posting in conformance with § 3610.3 of this title.

(b) The authorized officer shall not hold sales sooner than 1 week after the

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last advertisement inviting competitive bids.

§ 3610.3-2 Advertising.

(a) When offering mineral materials for sale by competitive bidding, the authorized officer:

(1) Shall advertise the sale through publication in a newspaper of general circulation in the area where the material is located, on the same day once a week for two consecutive weeks;

(2) May extend the period of a time for advertising; and

(3) Shall post a notice of sale in a conspicuous place in the office where bids are to be submitted.

(b) In the advertisement of sale, the authorized officer shall state:

(1) The location by legal description of the tract or tracts on which the material is being offered;

(2) The kind of materials being offered;

(3) The estimated quantities of materials being offered;

(4) The unit of measurement;

(5) The appraised prices;

(6) The time and place for receiving and opening of bids;

(7) The minimum deposit require;

(8) The access requirement;

(9) The method of bidding;

(10) The requirement that mining and reclamation plans shall be filed and that reclamation will be required if applicable;

(11) The bonding requirement;

(12) The location for inspection of contract terms and proposed stipulations;

(13) The office where additional information may be obtained; and

(14) Any additional information deemed necessary.

§ 3610.3-3 Conduct of sales.

(a) Bidding at competitive sales shall be by the submission of written sealed bids, oral bids or a combination of both, as directed by the authorized officer. In the event of a tie in high sealed bids, the highest bid shall be determined by oral auction among the persons making high bids. If no oral bid is made which is higher than the sealed bids, the successful bidder shall then be