

## REVISED "GRAZING" LEASE APPLICATION/CONFLICT AUCTION PROCESS SUMMARY

2/19/09

The proposed process will address processing of grazing, farming, conservation and communication site lease applications which are treated similarly under Idaho Code 58-310.

### EXPIRING LEASES

<b>Determination to Issue New Lease</b>	<p>The Land Board will determine well in advance (2 years) of lease expiration if it is in the best interest of the endowment beneficiaries to continue the current use through issuance of a new lease.</p> <p>If it is not, the lessee will be notified of the Land Board's decision to discontinue the use. If it is, the Department will send a lease application to the current lessee at least 30 days prior to the established application deadline.</p>
<b>Advertising</b>	<p>Expiring leases will be advertised on the Department's website beginning one year in advance of the established application deadline (currently April 30 of the lease's final year; Idaho Code 58-307(8)).</p>
<b>Application Fee</b>	<p>The lease application fee will be \$250.</p>
<b>Application Processing if No Conflict or No Management Concerns</b>	<p>If the Department has no concerns with the current lease, the new lease will be issued with the existing lease provisions.</p>
<b>Application Processing if Management Concerns But No Conflict</b>	<p>If the Department has concerns with the current lessee's management, the current lessee will be required to meet with Department staff to review any concerns, and develop new lease provisions that are acceptable to the Department. The new lease will be issued using the new lease provisions.</p>
<b>Processing Conflict Applications</b>	<p>Multiple applications for grazing, farming, conservation and/or communication site uses on the same parcel of land will be considered conflict applications.</p>

Conflict applications must be submitted by the established deadline. All applicants for conflicted leases will be required to meet with Department staff to review the proposed use and any resulting concerns, and develop lease provisions that are acceptable to the Department.

The Department will review conflict applications to determine if the proposed uses are compatible. If they are, no auction will be required and the Department will issue multiple leases. If they are not, an auction will be required.

## **APPLICATIONS FOR UNLEASED LAND**

### **Application Processing**

Applications to lease unleased lands may be submitted at any time or by a Department designated deadline. The applicant will be required to meet with Department staff to develop lease provisions acceptable to the Department.

The new lease will be issued using the provisions developed during the meeting(s).

## **DEPARTMENT REVIEW OF LEASE APPLICATIONS**

### **List of Lease Provision Criteria**

The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions.

### **Evaluation Criteria**

Criteria may include:

- The applicant's proposed use and the compatibility of that use of the parcel with preserving the land's long-term leasing viability for purposes of generating maximum return to trust beneficiaries; i.e., the impact of the proposed use and any anticipated improvements on the parcel's future utility and leasing income potential
- The applicants' access to and/or control of land or other resources that will facilitate the proposed use (e.g., grazing rights on neighboring property that will permit more efficient use of the parcel)

- The applicants' previous management of land leases, land management plans, or other experience relevant to the proposed use or ability/willingness to retain individuals with relevant experience
- Potential environmental and land management constraints, such as the Endangered Species Act, that may affect or be relevant to assessing the efficacy or viability of the proposed use
- Any other factors the Department deems relevant to the management of the parcel for the proposed use
- Mitigation measures designed to address trust management concerns such as:
  - Construction of improvements at lessee's expense
  - Payment by lessee of additional or non-standard administrative costs
  - Bonding to ensure removal of any improvements installed for the lessee's benefit only and which would impair the future utility and leasing income potential of the leased land
  - Bonding to ensure future rental payments due under the lease in cases where the lessee is determined by the Department to pose a significant financial risk because of lack of experience or uncertain financial resources

**Application Rejection**

If, after the meeting between the applicant and Department staff, the Department's lease provisions are not acceptable to the applicant, the application will be rejected by the Department.

**Appeal of Rejection**

The Department's decision to reject an application is appealable to the Land Board. The applicant will have 20 days to appeal following the receipt of the rejection notice from the Department. Scheduling of the auction will be postponed until the Board has issued its decision on the appeal.

**Lease Inspections**

Endowment lands included in any lease application will be inspected at the discretion of local Department staff. Inspections are not required, but when conducted, will be documented using the appropriate Department form.

Resource Assessments are no longer required for all expiring leases. Concerns regarding resource management will be addressed in the lease.

## **IMPROVEMENT CREDITING**

### **File Review and Department Valuation**

When meeting with applicants to develop lease provisions, the Department will also provide the following information based on a file review:

- authorized improvements
- age of improvements
- estimated range in value of improvements

The actual value of the improvements, however, is subject to a valuation to be completed by the Department. Objections to the Department valuation can be filed in accordance with IDAPA 20.03.14.102.

### **Value of Existing Improvements**

Lessees shall be compensated for the value of their ownership in authorized improvements upon loss of a lease resulting from lease conflict, land sale, land exchange, change in land use, or non-renewal unless otherwise provided for in the lease. Creditable improvements existing on July 1, 2009 will be valued using the methodology used by the Department prior to 2009 unless otherwise specified in the lease or improvement permit.

### **Authorization for New Improvements**

For improvements authorized after July 1, 2009, the Department will establish, at the time of authorization, an initial value of the improvement using standard cost tables. A straight line, depreciation schedule based on the USDA Life Expectancy will be used in future improvement valuation determinations.

## **CONFLICT AUCTIONS**

### **Minimum Bid**

If the Department has prepared an improvement credit valuation, the cost of doing the valuation will be used to establish a minimum bid at the auction. The minimum bid for conflict auctions without improvement credits will be \$250.

### **High Bid Deposits**

The high bidder and the second high bidder will be required to submit the amount of their highest bid at the conclusion of the auction. All amounts will be held until after the Board reviews the auction results. Bid deposits will be refunded to the unsuccessful auction participants.

### **Withdrawal Prior to Auction**

Applicants who withdraw their application prior to the auction or fail to participate at the auction will forfeit all or part of their deposited funds or owed payments such as:

- The first year's rental deposit for conflict applicants
- The improvement credit payment for current lessees
- The amount forfeited will be the lesser of the Department's cost of making the improvement valuation or the rental deposit/improvement credit payment.

### **Withdrawal After the Auction**

If the high bidder withdraws the bid after the auction but before Land Board review and action on the auction results, the second high bidder will become the high bidder for purposes of Board review. The bid deposit submitted by the original high bidder will be refunded minus the difference between the high bid and second high bid which will be retained by the Department as a penalty.

If an auction participant other than the high bidder requests to withdraw a bid before Land Board review and action on the auction results, the bid amount deposited will be refunded minus the minimum bid which will be retained by the Department as a penalty.

## **LAND BOARD REVIEW OF AUCTION RESULTS**

### **Land Board Action**

The Land Board will review the proposed leases and auction results and make the determination required under Idaho Code § 58-310 consistent with its fiduciary obligations under Article IX, Section 8 of the Idaho Constitution and all relevant statutory provisions.

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