

20.03.14 – RULES GOVERNING GRAZING, FARMING, AND CONSERVATION, ~~NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES~~

000. LEGAL AUTHORITY.

These rules are promulgated by the ~~Idaho State Board of Land Commissioners~~ pursuant to Section 58-104, Idaho Code. (3-18-22)

001. ~~TITLE AND SCOPE.~~

~~01. Title. These rules are titled IDAPA 20.03.14, “Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases.” (3-18-22)~~

021. Scope. These rules constitute the Department’s administrative procedures for leasing ~~of~~ state endowment trust land (~~endowment lands~~) for grazing, farming, ~~and~~ conservation, ~~noncommercial recreation, communication sites~~ and other uses that are treated similarly under ~~the provisions of~~ Section 58-307, Idaho Code, regarding a lease term for no longer than twenty (20) years, and under ~~the provisions of~~ Section 58-310, Idaho Code regarding lease auctions. These rules are to be construed in a manner consistent with the duties and responsibilities of the ~~Idaho State Board of Land Commissioners~~ as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7, and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. (3-18-22)

002. ADMINISTRATIVE APPEALS.

01. Board Appeal. All decisions of the Director are appealable to the Board. An aggrieved party ~~desiring to make such an~~ may appeal by filing with the Director must, within twenty (20) days after receiving a written notice of the final decision being appealed or in case of a conflict auction within twenty (20) days after the auction is held, file with the Director a written notice of appeal setting forth the basis for the appeal within twenty (20) days of:

- i. receiving notice of the Board’s decision, which is being appealed or;
- ii. the conflict auction is held. ~~The Board has the discretion to accept or reject any timely appeal. In the event that the Board rejects hearing the appeal, the decision of the Director will be deemed final.~~

02. Board Decision. In the event the Board hears an appeal, it will do so at the earliest practical time or, in its discretion, appoint a Board sub-committee or a hearing officer to hear the appeal. The Board sub-committee or hearing officer will make findings and conclusions which the Board accepts, rejects, or modifies. The decision of the Board ~~after a hearing, or upon a ruling concerning the Board sub-committee or hearing officer’s findings and conclusions, are~~ is final. (3-18-22)

03. Judicial Review. Judicial review of the final decision of the Board is in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-18-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Amortization. The purchase of Department authorized, lessee installed, lease improvements by the Department through allowance of credit to the lessee’s annual lease payments. (3-18-22)

02. Animal Unit Month (AUM). The amount of forage necessary to feed one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull for one (1) month. One (1) yearling is considered seven tenths (.7) of an AUM. Five (5) head of sheep, or five (5) ewes with lambs are considered one (1) AUM. One (1) horse is considered one and one-half (1 1/2) AUM. (3-18-22)

03. Assignment. The Department approved transfer of all, or a portion of, a lessee's right to another person wherein the second person assumes the lease contract with the Department. (3-18-22)

04. Board. The Idaho State Board of Land Commissioners; or its designee~~such representatives as may be designated.~~ (3-18-22)

05. Conflict Application. An application to lease state endowment ~~trust~~ land for grazing, farming, or conservation, ~~noncommercial recreation or communication site~~ use when one (1) or more applications have been submitted for the same parcel of state endowment ~~trust~~ land and for the same or an incompatible use. (3-18-22)

06. Department. The Idaho Department of Lands. (3-18-22)

07. Director. The Director of the Idaho Department of Lands or their designee, ~~or such representative as may be designated by the Director~~his designee. (3-18-22)

08. Extension. An approved delay in the due date of the rental owed on a farming lease without risk of loss of the lease. (3-18-22)

09. Improvement Valuation. The process or processes of estimating the value of Department authorized improvements associated with a lease, as defined in Section 102. (3-18-22)

10. Lease. A written agreement between the Department and a person containing the terms and conditions upon which the person will be authorized to use state endowment ~~trust~~ land. (3-18-22)

11. Herd Stock. Livestock leased or managed, but not owned, by the lessee. (3-18-22)

~~**12. Lease Application.** An application to lease state endowment ~~trust~~ land for grazing, farming, conservation, noncommercial recreation, or communication site purposes. (3-18-22)~~

~~**13. Manageable Unit.** A unit of state endowment ~~trust~~ land designated by the Department, geographically configured and sufficiently large to achieve the proposed use. (3-18-22)~~

~~**13.4. Management Plan.** The signed state endowment ~~trust~~ land lease for grazing, farming and/or conservation, and any referenced attachments such as annual operating plans or federal allotment management plans, is considered the management plan. (3-18-22)~~

~~**15. Mortgage Agreement.** Department authorization for the lessee to obtain a mortgage on a state endowment ~~trust~~ land lease. (3-18-22)~~

~~**16. Person.** An individual, partnership, limited liability company, association, trust, unincorporated organization, ~~corporation~~ or any other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (3-18-22)~~

~~**17. Proposed Management Plan.** A document written and submitted by the lease applicant detailing the management objectives and strategies associated with their proposed activity. (3-18-22)~~

~~**18. Sublease.** An agreement in which the state endowment ~~trust~~ land ~~lessee~~ holder conveys the right of use and occupancy of the leased land ~~property~~ to another party on a temporary basis. (3-18-22)~~

011. -- 018. (RESERVED)

019. LESSEE MAILING ADDRESS.

Unless otherwise notified by the lessee, the Department will send all lease correspondence ~~from the Department will be sent~~ to the name and address as it appears on the lease application. It is the lessee's duty to notify the Department, in writing, of any change in mailing address. (3-18-22)

020. APPLICATIONS AND PROCESSING.

01. Eligible Applicant. Any person legally competent to contract may submit an application to lease ~~state endowment trust~~ land provided such person is not then in default of any contract with the Department ~~of Lands~~; provided further, that the Department may, in its discretion, exclude any person in breach of any contract with the state of Idaho or any department or agency thereof. (3-18-22)

02. Application Process.-

~~All lease applications must be submitted to the Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as determined by the Department, and must meet the following criteria:~~ (3-18-22)

a. Applications. All applications must:

i. Be submitted to the Department on the appropriate Department Form;

ii. Be signed by the applicant;

~~i.~~

~~ii.~~

iii. ~~_____ a. _____ Non refundable Fee. _____ Each application for a lease must be accompanied by a non-refundable application fee in the amount specified by the Board; _____ (3-18-22)~~

iii. Be timely submitted. The deadline for leasing a parcel of endowment land that is already leased is established by the Department for the year that the existing lease expires.

~~iv.~~

iv. ~~_____ b. _____ Application Deadline. The deadline to apply to lease a parcel of state endowment trust land already covered by a lease is as established by the Department for the year the existing lease expires. Applications to lease unleased state endowment trust land may be submitted at any time, or at such time as designated by the Department; _____ (3-18-22)~~

Be accompanied with a proposed management plan.

v. ~~_____ e. _____ Proposed Management Plan. All applicants for state grazing, farming and conservation leases must submit a proposed management plan with their application. Where _____ If the current lessee is an applicant, the Department will recognize the existing management plan, as described by the existing lease provisions, as the proposed management plan required to complete the lease application. The Department may require amendments to the proposed management plan in accordance with Subsections 020.02.e. and 020.02.f. _____ (3-18-22)~~

v. Include a legal description of the endowment land sought to be leased. The Department may require an amendment of the legal description of lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason the Department deems appropriate. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, the application is considered invalid.

~~vi.~~

vii.vi. ~~_____ d. _____ Legal Description on Application. All applications must include a legal description of the state endowment trust land applied on. The Department reserves the right to require an amendment of the legal description of state endowment trust lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason the Department deems appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, the application is considered invalid.~~

(3-18-22)

b.e. Nonconflicted Applications. (3-18-22)

i. If the current lessee is the only applicant and the Department does not have concerns with the lessee's current management of the leased ~~state~~-endowment ~~trust~~ land, a new lease will be issued. (3-18-22)

ii. If the current lessee is the only applicant and the Department has concerns with the lessee's current management of the ~~leased~~ ~~state~~-endowment ~~trust~~ lands, the Department will request in writing a new proposed management plan and meet with the current lessee to develop terms and conditions of a proposed lease. (3-18-22)

f.c. Conflicted Applications. (3-18-22)

i. All applicants submitting conflict applications must meet with the Department to develop the terms and conditions of a proposed lease specific to each applicant's proposed management plan. (3-18-22)

ii. The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions. Among the factors to be addressed in the criteria are the following: (3-18-22)

(1) The applicant's proposed use and the compatibility of that use of the ~~state~~ endowment ~~trust~~ land with preserving its 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. (3-18-22)

(2) The applicant's legal access to and/or control of land or other resources that will facilitate the proposed use and is relevant to generating maximum return to trust beneficiaries. (3-18-22)

(3) The applicant's 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. (3-18-22)

(4) Potential environmental and land management constraints that may affect or be relevant to assessing the efficacy or viability of the proposed use. (3-18-22)

(5) Mitigation measures designed to address trust management concerns such as: (3-18-22)

(a) Construction of improvements at lessee's expense. (3-18-22)

(b) Payment by lessee of additional or non-standard administrative costs where the nature of the proposed use and/or the applicant's experience raises a reasonable possibility that greater monitoring or oversight by the Department than historically provided will be necessary to ensure lease-term compliance. (3-18-22)

(c) 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 ~~state~~-endowment ~~trust~~ land. (3-18-22)

(d) 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. (3-18-22)

(6) Any other factors the Department deems relevant to the management of the ~~state~~ endowment ~~trust~~ land for the proposed use. (3-18-22)

iii.g. Proposed Lease. Within ten (10) days of the final meeting with the applicant to discuss lease provisions, the Department will provide the applicant with a proposed lease containing those terms and conditions upon which it will lease the ~~state~~ endowment ~~trust~~ land. If the applicant does not accept in writing the lease as

proposed by the Department within seven (7) days of receipt, the application will be rejected in writing by the Department. Within twenty (20) days of the date of mailing of the rejection notice, the applicant may appeal the Department's determination as to the lease's terms and conditions to the ~~Land~~ Board. If the appeal is denied, the applicant may continue with the auction process by accepting the lease terms and conditions initially offered by the Department. No auction may be held until the ~~Land~~ Board resolves any such appeal. (3-18-22)

03. Expiring Leases. ~~The Department will mail L~~lease applications ~~will be mailed by the Department~~ to all holders of expiring leases ~~no less than~~at least thirty (30) days prior to the application deadline. ~~It is the lessee's responsibility to ensure that the signed applications and associated fees are delivered to the Department by the established deadline~~ lessee's responsibility to ensure that the signed applications and associated fees are delivered to the Department by the established ~~Signed applications and the application fee must be returned to the Department by the established deadline or postmarked no later than midnight of that date. It is the lessee's responsibility to ensure applications are delivered or postmarked by the~~ deadline. (3-18-22)

04. Rental Deposit. (3-18-22)

a. Existing Lessee. If the existing lessee is the sole applicant, the lessee may submit the rental deposit at the normal due date. If a conflict application is also filed on the expiring lease and the existing lessee is awarded the lease by the ~~Land~~ Board, the lessee must deposit, with the Department, the estimated first year's rental for the lease at the time the lease is submitted to the Department with lessee's signature. (3-18-22)

b. New Applicants. (3-18-22)

i. Expiring Lease. New applicants for expiring leases must ~~pay submit~~ the estimated first year's rental to the Department at the time ~~of the application~~ is submitted. (3-18-22)

ii. Unleased ~~State~~ Endowment ~~Trust~~ Land. All applicants for unleased ~~state~~ endowment ~~trust~~ land are deemed new applicants. If ~~a new~~ an applicant for unleased state endowment trust land is ~~applicant is~~ the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. (3-18-22)

021. LEASE LENGTH OF LEASE.
The Department may issue a lease for any period of time up to the maximum term provided by law. (3-18-22)

022. -- 029. (RESERVED)

030. CHANGE IN LAND USE.
The Director may change the use of any ~~state~~ endowment ~~trust~~ land, in whole or in part, for other uses that will better achieve the objectives of the Board. (3-18-22)

031. -- 039. (RESERVED)

040. RENTAL.

01. Rental Rates. The Board determines the methodology used to calculate rental rates ~~is determined by the Board~~. (3-18-22)

02. Special Uses. The Department determines Fees for special uses requested by the lessee and approved by the Department ~~are determined by the Department~~. (3-18-22)

03. Rental Due Date. Lease rentals are due in accordance with the terms of the lease. (3-18-22)

041. CHANGE OF RENTAL.

The Department reserves the right to increase the annual lease rental. Notice of any increase will be provided in writing to the lessee at least one hundred eighty (180) days prior to the lease rental due date. (3-18-22)

042. LATE PAYMENTS.

Rental not paid by the due date is considered late. Late payment charges from the due date forward are specified in the lease. (3-18-22)

043. -- 048. (RESERVED)

049. BREACH.

01. Non-Compliance. A lessee is in breach if the lessee's use is not in compliance with the lease's provisions ~~of the lease~~. (3-18-22)

02. Damages for Breach. A lessee is responsible for all damages resulting from breach and for other damages, as provided by law. (3-18-22)

050. LEASE CANCELLATION.

Leases may be canceled by the Director for the following reasons: (3-18-22)

01. Non-Compliance. If the lessee is not complying with the lease provisions or if resource damage attributable to the lessee's management is occurring to leased state endowment ~~trust~~ land ~~within a lease~~, the lessee will be provided written notification of the violation by regular and certified mail. The letter will set forth the reasons for the Department's cancellation of the lease and provide the lessee thirty (30) days' notice of the cancellation. (3-18-22)

02. Change in Land Use. ~~A lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department~~ If the state endowment trust lands are to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing lease, then a lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department. In the event of early cancellation due to a change in land use, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-18-22)

03. Land Sale. The Department reserves the right to sell state endowment ~~trust~~ lands covered under the lease. The lessee will be notified that the state endowment ~~trust~~ lands are being considered for sale prior to submitting the sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale. In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-18-22)

04. Mutual Agreement. Leases may be canceled by mutual agreement between the Department and the lessee. (3-18-22)

051. LEASE ADJUSTMENTS.

01. Department Initiated Required. The Department may make adjustments to the lease for resource protection or resource improvement. (3-18-22)

02. Lessee Requested. Lessee requested changes in lease conditions must be submitted in writing and ~~must~~ receive written approval from the Department before implementation. (3-18-22)

052. EXTENSIONS OF ANNUAL FARMING LEASE PAYMENT.

01. Farming Lease Extensions. An extension of the annual lease payment may be approved for farming leases only. Each lease is limited to no more than two (2) successive or five (5) total extensions during any ten (10) year lease period. Requests for extensions must be submitted in writing and ~~must~~ include the extension fee.

which is determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. (3-18-22)

02. Liens. When an extension is approved, the Department will file a lien on the lessee's pertinent crop in a manner provided by ~~law~~Idaho Code. (3-18-22)

03. Due Date. Rental plus interest at a rate established by the Board will be due not later than November 1 of the year the extension is granted. (3-18-22)

053. -- 059. (RESERVED)

060. FEES.

Fees for lease administration ~~will may be periodically set~~are set by the Board and must be paid in full before a transaction can occur. All lease administration fees are non-refundable. The Board ~~may has the authority to~~ set fees related to administration of the leasing process ~~such as including, but not limited to the following:~~ lease applications; full lease assignment; partial lease assignment; ~~mortgage agreement;~~ subleases; late rental payment; minimum lease fee; and lease payment extension request. (3-18-22)

061. -- 069. (RESERVED)

070. SUBLEASING.

~~The lessee must receive the Department's written approval before authorizing another person to use leased endowment land. A lessee may not authorize another person to use state endowment trust land without prior written approval from the Department.~~ The lessee must provide the name and address of sublessee, purpose of sublease, and a copy of the proposed sublease agreement. Lessee controlled herd stock does not require sublease approval. (3-18-22)

071. ASSIGNMENTS.

~~The lessee must complete a Department assignment form and receive the Department's written approval of that form before assigning a lease form. The lessee may not assign a lease, or any part thereof, without prior written approval of the Department.~~ (3-18-22)

~~**072. MORTGAGE AGREEMENTS.**~~

~~THE LESSEE MAY NOT ENTER INTO A MORTGAGE AGREEMENT THAT INVOLVES STATE ENDOWMENT TRUST LAND LEASE WITHOUT PRIOR WRITTEN APPROVAL OF THE DEPARTMENT. THE LESSEE MUST SUBMIT THE REQUIRED FILING FEE. THE TERM OF A MORTGAGE AGREEMENT MAY NOT EXCEED THE LEASE TERM. (3-18-22)~~

~~**073.**~~ **079. (RESERVED)**

080. MANAGEMENT PLANS.

01. Federal Plan. When ~~state~~ endowment ~~trust~~ land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, the management plan. (3-18-22)

02. Modification of Plan. The Department may review and modify any grazing management plan upon changes in conditions, laws, or regulations, provided that the Department will give the lessee at least thirty (30) days' notice of any ~~such modification's~~ modification's ~~prior to the~~ effective date ~~thereof~~. Modifications mutually agreeable to both the Department and lessee may be made at any time and may be initiated ~~by~~at the lessee's request. (3-18-22)

081. -- 089. (RESERVED)

090. TRESPASS.

01. Loss or Waste. The lessee must use the ~~property within the~~ leased lands in ~~such a~~ manner ~~as that~~ will best protect the state of Idaho against loss or waste.

01.02. Trespass. –Unauthorized activities occurring on state endowment ~~trust~~ land are considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions. (3-18-22)

02. Civil Action by Lessee. The lessee is encouraged to take civil action against owners of trespass livestock on state endowment ~~trust~~ lands to recover damages to the lessee for lost forage or other values incurred by the lessee. (3-18-22)

03. Continuing Trespass. When continued trespass causes resource damage, the Department will initiate proceedings to restrict further trespass and recover damages as necessary. (3-18-22)

04. Trespass Claims. Trespass claims initiated by the Department will be assessed as triple the current State AUM rate for forage taken. (3-18-22)

091. -- 099. (RESERVED)

100. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS.

01. Prior Written Approval. The lessee must secure the Department's written approval ~~of the Department~~ prior to constructing any improvements or buildings, or clearing any state endowment ~~trust~~ land. Failure to secure such approval eliminates any right to an improvement credit and may, at the Department's discretion, be deemed a material breach of the lease and be cause for cancellation. Any arrangement for cost sharing or improvement crediting will be identified in the improvement permit. Routine farming practices identified in a farm plan will not require prior approval. (3-18-22)

02. Maintenance. The lessee must maintain all ~~All~~ authorized improvements so that they are in a must be maintained in functional condition by the lessee. The lessee may be required to remove or reconstruct improvements in poor or non-serviceable condition. Existing maintenance agreements on lands acquired from the federal government remain in effect until amended by the parties involved. If maintenance is not being accomplished, the Department will provide a certified letter to the lessee informing the lessee of the rule violation. If work is not begun within thirty (30) days of the letter being sent, the Department may contract repairs and add the amount to the annual rental. (3-18-22)

03. Bond. The Department may, as it deems necessary, require the lessee to furnish a bond prior to constructing improvements ~~as deemed necessary~~ to protect endowment assets or to ensure performance under the lease. (3-18-22)

101. IMPROVEMENT CREDIT.

01. Sale or Auction. In the event of sale of the state leased endowment ~~trust~~ land ~~covered under the lease~~ or if the existing lessee is not the successful bidder at the auction of the lease, the creditable value of the authorized improvements, as determined by the Department, will be paid to the former lessee by the Department or the purchaser where a sale occurs or by the successful bidder where a new lease is issued. (3-18-22)

02. Exchange. In the event of exchange of the state leased endowment ~~trust~~ land ~~covered under the lease~~, the creditable value of authorized improvements, as determined by the Department, will be paid to the former lessee by the acquiring party, if other than the existing lessee. (3-18-22)

03. Crediting. Improvement credit may be allowed when the Department determines that such credit would further the objective of maximizing long-term financial return to trust beneficiaries and if the improvements are: (3-18-22)

- a. Authorized in writing by the Department or lacking written authorization, but in existence prior to 1970; (3-18-22)
- b. Not expressly permitted “for lessee’s benefit only”; and (3-18-22)
- c. Maintained during the lease term. (3-18-22)

04. Value Only to Lessee. Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because no value exists for a future lessee, a notation will be made in the permit, “For lessee's benefit only.” If the succeeding lessee or assignee chooses not to purchase the non-creditable improvements, the former lessee will be required to remove them. (3-18-22)

05. Maintenance Costs. Maintenance of improvements will be considered a normal cost of doing business and no improvement credit will be allowed, except that, with prior written approval from the Department, improvement crediting may be allowed for materials used for the maintenance of Department-funded improvements. (3-18-22)

06. Unauthorized Improvements. No credit will be allowed for unauthorized improvements. At the discretion of the Department, the lessee may be required to remove unauthorized improvements. (3-18-22)

07. Cost Sharing. Federal or state cost-share amounts are not included in the allowable improvement credit. (3-18-22)

102. VALUATION OF IMPROVEMENTS.

Credited improvements will be valued ~~on the basis of~~based on replacement cost, including lessee provided labor, equipment and materials, less depreciation based on loss of utility. Improvements cannot be appraised higher than current market value, regardless of lessee's cost. Any improvement amortization or cost limitations identified by the Department will be considered in determining a final value. (3-18-22)

01. Applicant Review of Department Improvement Credit Valuation. All applicants for a conflicted lease will be provided a copy of the Department’s improvement credit valuation for review and a notice of objection form. Any applicant objecting to the appraisal will have twenty-one (21) days from the date of the valuation mailing to submit the notice of objection form to the Department. If no objections are received during the twenty-one (21) day review period, the lease auction will be scheduled and will proceed using the Department’s improvement credit valuation. (3-18-22)

02. Failure to File a Timely Notice of Objection. Failure to submit a notice of objection within the specified twenty-one (21) day period will preclude any applicant from further administrative remedies ~~and the auction will proceed using the Department’s improvement credit valuation.~~ (3-18-22)

03. Notice of Objection. Any applicant objecting to the Department improvement credit valuation must submit ~~with the completed, and timely, notice of objection for a payment of a complete and timely notice of objection form, and payment of~~ two thousand five hundred dollars (\$2,500) or ten percent (10%) of the total Department improvement credit valuation whichever is greater, to pay for the services of an independent third party. Within five (5) days of receipt of the notice of objection, the Department will notify all applicants in writing that an objection has been received and provide them with a list of certified appraisers. (3-18-22)

04. Selection of an Independent Third Party. The applicants will have twenty-one (21) days from the date of the Department’s notification of an objection to select by mutual agreement, one individual from the list of certified appraisers to serve as an independent third party. If the applicants cannot agree on an independent third party within the twenty-one (21) day time period, the Department will randomly select one individual from the list to serve as the independent third party. (3-18-22)

05. Duties of the Independent Third Party. The independent third party will review the Department improvement credit valuation and alternate valuations provided by the applicants. ~~Following this review, the independent third party will select from among the Department valuation and alternate valuations, the one value from those that (s)he determined to be s-is the most accurate value of the improvements, and will . The independent third party will and~~ notify the Department of this value in writing. (3-18-22)

06. Notification of Final Improvement Value. Within five (5) days of receiving the independent third party's final determination of improvement credit value, the Department will mail ~~to~~ each applicant an auction notice that will reference the independent third party's determined value of improvements. The determination by the independent third party of the improvement value will be deemed final, and the appraised value of improvements will not be allowed as a basis for appeal of the auction. (3-18-22)

103. -- 104. (RESERVED)

105. CONFLICT AUCTIONS.

01. Two or More Applicants. When two (2) or more eligible applicants apply to lease the same ~~state~~ ~~endowment trust~~ land for grazing, farming, ~~or~~ conservation, ~~noncommercial recreation, or communication site~~ purposes and the Department determines the proposed uses are not compatible, the Department will hold an auction. (3-18-22)

02. Minimum Bid. Bidding begins at two hundred fifty dollars (\$250) or the cost of preparing any required improvement valuation in connection with the expiring lease, whichever is greater. (3-18-22)

03. Auction Bidding. Each applicant who appears in person or by proxy at the time and place so designated in ~~the auction~~ ~~said~~ notice and bids for the lease is deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction. (3-18-22)

04. Withdrawal Prior to or Failure to Participate in an Auction. Applicants who either withdraw their applications after accepting the Department offered lease ~~per Subsection 020.02 of this rule and prior to before~~ the auction that results in no need to schedule an auction or cancellation of a scheduled auction; or applicants who fail to participate at the auction by not submitting a bid which results in only one (1) participant at the scheduled auction, forfeit an amount equal to the ~~greater~~ ~~lesser~~ of the following: (3-18-22)

a. The Department's cost of making any required improvement credit valuation; (3-18-22)

b. For existing lessee applicants, any improvement credit payment that would otherwise be due if not awarded the lease; or (3-18-22)

c. For conflict applicants, the rental deposit made. (3-18-22)

05. High Bid Deposit. The high bidder ~~mustis required to~~ submit payment in the amount of the high bid at the conclusion of the auction. (3-18-22)

06. Auction Procedures. The Department will prescribe the procedures for conducting conflicted lease auctions. (3-18-22)

07. Withdrawal After Auction. (3-18-22)

a. If the high bidder withdraws or refuses to accept the lease, the ~~Department will retains the~~ high bid payment ~~will be retained by the Department.~~ (3-18-22)

i. If the auction involved only two (2) participants, the second high bidder will be awarded the lease. (3-18-22)

ii. If the auction involved more than two (2) participants, the lease will be reauctioned. (3-18-22)

b. If an auction bidder, other than the high bidder, withdraws a bid before Land Board review and action on the auction results, no adjustment will be made in the payment deposited by the high bidder. (3-18-22)

106. BOARD REVIEW OF AUCTION.

The Board will review the proposed leases and auction results and make the determination required under Section 58-310, Idaho Code, consistent with its obligations under Article 9-IX, Section 8 of the Idaho Constitution and all relevant statutory provisions. (3-18-22)

107. -- 110. (RESERVED)

111. NOXIOUS WEED CONTROL.

01. **Weed Control.** The lessee must cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on state endowment trust land. The lessee will take measures to control noxious weeds on the leased state endowment trust land in accordance with Title 22, Chapter 24, Idaho Code. (3-18-22)

02. **Responsibility.** The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Control of noxious weeds on state grazing lands will be shared by the lessee and Department, with the Department's share subject to funds appropriated for that purpose. (3-18-22)

112. LIVESTOCK QUARANTINE.

01. **Cooperation.** The lessee must cooperate with the state and federal agency responsible for the control of livestock diseases. (3-18-22)

02. **Non-Compliance.** Non-compliance with state or federal regulations will be considered a lease violation and may result in cancellation of the lease. (3-18-22)

113. ANIMAL DAMAGE CONTROL.

The lessee may request the services of USDA Animal and Plant and Health Inspection Service-Wildlife Services to remove animals causing crop damage or harassing/killing the lessee's livestock. The Department is liable for any consequence from any animal control actions. (3-18-22)

~~114. LIABILITY (INDEMNITY).~~

~~The lessee must indemnify and hold harmless the state of Idaho, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased state endowment trust land, or the occupation of the leased parcel by any of the lessee's agents or by any person occupying the same with the lessee's permission. (3-18-22)~~

115. RULES AND LAWS OF THE STATE.

The lessee must comply with all applicable rules, regulations, and laws of the state of Idaho and the United States insofar as they affect the use of the state endowment trust lands described in the lease. (3-18-22)

116. -- 999. (RESERVED)