

§ 285.214

MMS will withhold trade secrets and commercial or financial information that is privileged or confidential from public disclosure under exemption 4 of the FOIA and as provided in § 285.113.

(e) Documentation showing that you are qualified to hold a lease, as specified in § 285.107.

(f) Any other information requested by MMS in the FEDERAL REGISTER notice.

§ 285.214 What will MMS do with information from the Requests for Information or Calls for Information and Nominations?

The MMS will use the information received in response to the Requests or Calls to:

- (a) Identify the lease area;
- (b) Develop options for the environmental analysis and leasing provisions (stipulations, payments, terms, and conditions); and
- (c) Prepare appropriate documentation to satisfy applicable Federal requirements, such as NEPA, CZMA, the ESA, and the MSA.

§ 285.215 What areas will MMS offer in a lease sale?

The MMS will offer the areas for leasing determined through the process set forth in § 285.211 of this part. We will not accept nominations after the Call for Information and Nominations closes.

§ 285.216 What information will MMS publish in the Proposed Sale Notice and Final Sale Notice?

For each competitive lease sale, MMS will publish a Proposed Sale Notice and a Final Sale Notice in the FEDERAL REGISTER. In the Proposed Sale Notice, we will request public comment on the items listed in this section. We will consider all public comments received in developing the final lease sale terms and conditions. We will publish the final terms and conditions in the Final Sale Notice.

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The Proposed Sale Notice and Final Sale Notice will include, or describe the availability of, information pertaining to:

- (a) The area available for leasing.
- (b) Proposed and final lease provisions and conditions, including, but not limited to:

- (1) Lease size;
 - (2) Lease term;
 - (3) Payment requirements;
 - (4) Performance requirements; and
 - (5) Site-specific lease stipulations.
- (c) Auction details, including:
 - (1) Bidding procedures and systems;
 - (2) Minimum bid;
 - (3) Deposit amount;
 - (4) The place and time for filing bids and the place, date, and hour for opening bids;
 - (5) Lease award method; and
 - (6) Bidding or application instructions.
 - (d) The official MMS lease form to be used or a reference to that form.
 - (e) Criteria MMS will use to evaluate competing bids or applications and how the criteria will be used in decision-making for awarding a lease.
 - (f) Award procedures, including how and when MMS will award leases and how MMS will handle unsuccessful bids or applications.
 - (g) Procedures for appealing the lease issuance decision.
 - (h) Execution of the lease instrument.

§§ 285.217–285.219 [Reserved]

COMPETITIVE LEASE AWARD PROCESS

§ 285.220 What auction format may MMS use in a lease sale?

(a) Except as provided in § 285.231, we will hold competitive auctions to award renewable energy leases and will use one of the following auction formats, as determined through the lease sale process and specified in the Proposed Sale Notice and in the Final Sale Notice:

Type of auction	Bid variable	Bidding Process
(1) Sealed bidding.	A cash bonus or an operating fee rate.	One sealed bid per company per lease or packaged bidding unit.
(2) Ascending bidding.	A cash bonus or an operating fee rate.	Continuous bidding per lease.
(3) Two-stage bidding (combination of ascending and sealed bidding).	An operating fee rate in one, both, or neither stage and a cash bonus in one, both, or neither stage.	Ascending or sealed bidding until: (i) Only two bidders remain, or (ii) More than one bidder offers to pay the maximum bid amount. Stage-two sealed or ascending bidding commences at some predetermined time after the end of stage-one bidding.
(4) Multiple-factor bidding.	Factors may include, but are not limited to: technical merit, timeliness, financing and economics, environmental considerations, public benefits, compatibility with State and local needs, cash bonus, rental rate, and an operating fee rate.	One proposal per company per lease or packaged bidding unit.

(b) You must submit your bid and a deposit as specified in §§ 285.500 and 285.501 to cover the bid for each lease area, according to the terms specified in the Final Sale Notice.

§ 285.221 What bidding systems may MMS use for commercial leases and limited leases?

(a) For commercial leases, we will specify minimum bids in the Final Sale Notice and use one of the following bidding systems, as specified in the Proposed Sale Notice and in the Final Sale Notice:

Bid System.	Bid Variable.
(1) Cash bonus with a constant fee rate (decimal).	Cash bonus.
(2) Constant operating fee rate with fixed cash bonus.	A fee rate used in the formula found in § 285.506 to set the operating fee per year during the operations term of your lease.
(3) Sliding operating fee rate with a fixed cash bonus.	A fee rate used in the formula in § 285.506 to set the operating fee for the first year of the operations term of your lease. The fee rate for subsequent years changes by a mathematical function we specify in the Final Sale Notice.
(4) Cash bonus and constant operating fee rate.	Cash bonus and operating fee rate as stated in paragraph (2) of this section (two-stage auction format only).
(5) Cash bonus and sliding operating fee rate.	Cash bonus and operating fee rate as stated in paragraph (3) of this section (two-stage auction format only).
(6) Multiple-factor combination of nonmonetary and monetary factors.	The MMS will identify bidding variables in the Final Sale Notice. Variables may include: (i) Nonmonetary (e.g., technical merit) factors and (ii) Monetary (e.g., cash bonus, rental rate, fee rate) factors.