

## § 285.212

sale, we will publish a Proposed Sale Notice and a Final Sale Notice. Individual lease sales will include steps such as:

(a) *Call for Information and Nominations (Call)*. The MMS will publish in the FEDERAL REGISTER Calls for Information and Nominations for leasing in specified areas. The comment period following issuance of a Call will be 45 days. In this document, we may:

(1) Request comments on areas which should receive special consideration and analysis;

(2) Request comments concerning geological conditions (including bottom hazards); archaeological sites on the seabed or nearshore; multiple uses of the proposed leasing area (including navigation, recreation, and fisheries); and other socioeconomic, biological, and environmental information; and

(3) Suggest areas to be considered by the respondents for leasing.

(b) *Area Identification*. The MMS will identify areas for environmental analysis and consideration for leasing. We will do this in consultation with appropriate Federal agencies, States, local governments, affected Indian tribes, and other interested parties.

(1) We may consider for lease those areas nominated in response to the Call for Information and Nominations, together with other areas that MMS determines are appropriate for leasing.

(2) We will evaluate the potential effect of leasing on the human, marine, and coastal environments, and develop measures to mitigate adverse impacts, including lease stipulations.

(3) We will consult to develop measures, including lease stipulations and conditions, to mitigate adverse impacts on the environment; and

(4) We may hold public hearings on the environmental analysis after appropriate notice.

(c) *Proposed Sale Notice*. The MMS will publish the Proposed Sale Notice in the FEDERAL REGISTER and send it to the Governor of any affected State and the executive of any local government that might be affected. The comment period following issuance of a Proposed Sale Notice will be 60 days.

(d) *Final Sale Notice*. The MMS will publish the Final Sale Notice in the

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FEDERAL REGISTER at least 30 days before the date of the sale.

### § 285.212 What is the process MMS will follow if there is reason to believe that competitors have withdrawn before the Final Sale Notice is issued?

The MMS may decide to end the competitive process before the Final Sale Notice if we have reason to believe that competitors have withdrawn and competition no longer exists. We will issue a second public notice of Request for Interest and consider comments received to confirm that there is no competitive interest.

(a) If, after reviewing comments in response to the notice of Request for Interest, MMS determines that there is no competitive interest in the lease area, and one party wishes to acquire a lease, we will discontinue the competitive process and will proceed with the noncompetitive process set forth in § 285.231(d) through (i). Under the noncompetitive process, the acquisition fee specified in § 285.502(a) must be submitted with the Site Assessment Plan (SAP) or GAP.

(b) If, after reviewing comments in response to the notice of Request for Interest, MMS determines that competitive interest in the lease area continues to exist, we will continue with the competitive process set forth in § 285.211 through 285.225.

### § 285.213 What must I submit in response to a Request for Interest or a Call for Information and Nominations?

If you are a potential lessee, when you respond to a Request for Interest or a Call, your response must include the following items:

(a) The area of interest for a possible lease.

(b) A general description of your objectives and the facilities that you would use to achieve those objectives.

(c) A general schedule of proposed activities, including those leading to commercial operations.

(d) Available and pertinent data and information concerning renewable energy and environmental conditions in the area of interest, including energy and resource data and information used to evaluate the area of interest. The

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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.

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: