

Bureau of Land Management, Interior**§ 5441.1****§ 5430.0-6 Policy.**

Competitive timber sales shall be advertised in a newspaper of general circulation or agency website in the area in which the timber or other vegetative resources are located and a notice of the sale shall be posted in a conspicuous place in the office where bids are to be submitted. Such advertisement shall be published on the same day once a week for two consecutive weeks, except that sales amounting to less than 500 M board feet, need be published once only. When in the discretion of the authorized officer longer advertising periods are desired, such longer periods are permitted.

[85 FR 82374, Dec. 18 2020]

§ 5430.1 Requirements.

The advertisement of sale shall state the location by county, section, township, range, meridian, of the tract or tracts on which timber or other vegetative resources are being offered, the estimated total quantity, the unit of measure, the total appraised value, the minimum deposit, time and place for receiving bids, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

[35 FR 14135, Sept. 5, 1970]

PART 5440—CONDUCT OF SALES**Subpart 5441—Advertised Sales**

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AUTHORITY: 43 U.S.C. 2604, 30 U.S.C. 601 *et seq.*

Subpart 5441—Advertised Sales**§ 5441.1 Qualification of bidders.**

(a) A bidder or purchaser for the sale of timber must be (1) an individual who is a citizen of the United States, (2) a partnership composed wholly of such citizens, (3) an unincorporated association composed wholly of such citizens, or (4) a corporation authorized to transact business in the States in which the timber is located. A bidder must also have submitted a deposit in advance, as required by § 5441.1-1. To qualify for bidding to purchase set-aside timber, the bidder must not have been determined by the Small Business Administration to be ineligible for preferential award of set-aside sales and must accompany his deposit with a self-certification statement that he is qualified as a small business concern as defined by the Small Business Administration (13 CFR part 121).

(b) At the request of the authorized officer, or the officer conducting the sale, bidders must furnish evidence of qualification in conformance with paragraphs (a) and (c) of this section or if such evidence has already been furnished, make appropriate reference to the record containing it.

(c) Timber sale contracts are “covered transactions” under the suspension and debarment rules for discretionary assistance, loan, and benefit award programs at 2 CFR part 180, implemented as a regulation by the Department of the Interior (the Department) at 2 CFR part 1400. See 2 CFR 180.200, 180.210, and 1400.970.

(1) A bidder or purchaser that has been suspended, debarred, or otherwise determined to be ineligible for award is prohibited from bidding on a timber sale unless an award specific written compelling reasons exception determination pursuant to 2 CFR 180.135 and 1400.137 is issued by the Department’s Director of the Office of Acquisition and Property Management to permit an excluded party to participate in the covered transaction.

(2) A bidder or purchaser suspended, debarred, or otherwise award ineligible may continue to bid on timber purchase contracts; however, absent issuance of a written compelling reasons determination under paragraph

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(c)(1) of this section, no award shall be made during the period of award ineligibility.

(3) As required by 2 CFR 180.335, prior to awarding a timber sale contract, a bidder or purchaser (*i.e.*, a nonprocurement award participant) shall certify to the Bureau of Land Management (BLM) that neither the entity nor any of its principals, as defined at 2 CFR 180.995, is suspended, debarred, or otherwise disqualified.

(4) If a participant enters into a covered transaction with another person at the next lower tier, the participant must verify that the person with whom they intend to enter into that transaction is not suspended, debarred, or otherwise award disqualified. See 2 CFR 180.300 and 1400.220.

[35 FR 9785, June 13, 1970, as amended at 47 FR 38696, Sept. 2, 1982; 52 FR 26983, July 17, 1987; 85 FR 82374, Dec. 18, 2020]

§ 5441.1-1 Bid deposits.

Sealed bids shall be accompanied by a deposit of not less than 10 percent of the appraised value of the timber or other vegetative resources. For offerings at oral auction, bidders shall make a deposit of not less than 10 percent of the appraised value prior to the opening of the bidding. The authorized officer may, in his or her discretion, require larger deposits. Deposits may be in the form of cash, money orders, bank drafts, cashiers or certified checks made payable to BLM, or bid bonds of a corporate surety shown on the approved list of the United States Treasury Department or any guaranteed remittance approved by the authorized officer. Upon conclusion of the bidding, the bid deposits of all bidders, except the high bidder, will be returned. The deposit of the successful bidder will be applied to the purchase price at the time the contract is signed by the authorized officer unless the deposit is a corporate surety bid bond, in which case the surety bond will be returned to the purchaser. If BLM fails to award the timber sale within 90 days of the determination of the high bidder, a portion of the bid deposit may be refunded to the high bidder upon written request to the authorized officer, such that BLM retains a deposit of at least 5% of the appraised value. The re-

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mainder of the full bid deposit must be resubmitted to BLM once the high bidder is notified in writing that the delay of award has been remedied and the authorized officer is prepared to issue the contract. If the high bidder is unable to provide the full amount of the bid deposit within 30 days of the written notification, the sale will be re-auctioned and the high bidder will be barred from participating in any subsequent auctions for the same tracts.

[85 FR 82374, Dec. 18, 2020]

§ 5441.1-2 SBA set-aside sales.

Only bids of small business concerns which have filed a self-certification statement as required by § 5441.1 may be considered for sales subject to set-asides. When no such bids are received, the timber may be sold under § 5443.1 in the same manner as timber not previously made subject to a set-aside. When timber subject to a set-aside is not sold for any other reason, the sale may be rescheduled for a set-aside sale.

[35 FR 9785, June 13, 1970. Redesignated at 85 FR 82375, Dec. 18, 2020]

Subpart 5442—Bidding Procedure

§ 5442.1 Bidding.

(a) Bidding at competitive sales shall be conducted by the submission of sealed bids, written bids, oral bids, or a combination of bidding methods as directed by the authorized officer.

(b) In sealed bid sales, the bidder submitting the highest sealed bid shall be declared the high bidder. In the event of a tie in high sealed bids, the high bidder shall be determined by lot from among those who submitted the tie bids.

(c) In oral auction sales, submission of the required minimum bid deposit and a written bid at not less than the advertised appraised price shall be required to participate in oral bidding. The officer conducting the sale shall declare a specific period, prior to oral bidding on each tract, during which bid deposits and written bids may be submitted. Bid deposits and written bids also may be submitted any time prior to the specific period declared by the officer conducting the sale. Oral bidding to determine the high bidder shall

begin from the highest written bid after closure of the submittal period. In the event there is a tie in high written bids, and no oral bidding occurs, the bidder who was the first to submit his bid deposit and written bid shall be declared the high bidder. If the officer conducting the sale cannot determine who made the first submission of high tie written bids, the high bidder shall be determined by lot. The declared high bidder must confirm his oral bid in writing immediately after the sale, but failure to do so shall not relieve him of his purchase obligation.

[38 FR 6280, Mar. 8, 1973]

§ 5442.2 Resale of timber from uncompleted contract.

(a) This section applies to the sale of timber only when 50 percent or more of the timber included in the sale is timber remaining from an uncompleted contract. A bid from a purchaser who held the uncompleted contract, or an affiliate of such purchaser, will be considered only if:

(1) The contract was not canceled because of breach by the purchaser, and

(2) The purchaser has made full payment of the total purchase price and any related charges by the expiration date.

(b) The purchaser who held the uncompleted contract, or affiliate of such purchaser, shall, upon execution of the resale contract, agree that the Bureau of Land Management shall retain the original payment for timber not removed under the uncompleted contract, less the cost of resale, as a credit toward the purchase price of the resale contract.

[55 FR 17755, Apr. 27, 1990]

§ 5442.3 Rejection of bids; waiver of minor deficiencies.

When the authorized officer determines it to be in the interest of the Government to do so, he may reject any or all bids and may waive minor deficiencies in the bids or the timber sale advertisement.

[38 FR 6280, Mar. 8, 1973]

Subpart 5443—90-Day Sales**§ 5443.1 General.**

If no bid is received within the time specified in the advertisement of sale, and if the authorized officer determines that there has been no significant rise in the market value, he may in his discretion, keep the sale open for not to exceed 90 days by posting notice thereof in a conspicuous place in the office where bids are to be submitted. If during such period a written bid is submitted, together with the required deposit, for not less than the advertised appraised value, a notice of such bid shall be posted immediately after receipt of such bid for seven successive days in the same office and in the same manner. If no other written bid is received during the seven day posting period, the sole bidder shall be deemed the high bidder. If, however, during such seven day posting period other written bids are received, an oral auction shall be conducted in the usual manner for those who have submitted written bids. The authorized officer shall notify those who have submitted written bids of the time and place of the oral auction. The written bids shall be considered the initial bids in such oral auction. If there is a tie in the high written bids that are submitted during the seven day posting period and if no higher bid is offered during the oral auction, the party who first submitted the high bid shall be deemed the high bidder.

[35 FR 9786, June 13, 1970]

PART 5450—AWARD OF CONTRACT**Subpart 5450—Award of Contract; General**

Sec.

5450.1 Pre-award qualifications of high bidder.

Subpart 5451—Bonds

5451.1 Minimum performance bond requirements; types.

5451.2 Performance bonds in excess of minimum.

5451.3 Performance bond reduction.

5451.4 Payment bond.