



Presentation to the BOEM Maryland Intergovernmental Task Force


Draft Proposed Sale Notice

January 29, 2013

PSNs 101: Overview

- Competitive Process
- Components of a PSN
 - Draft PSN
 - Draft Lease
 - Bidder's Financial Form
- PSN Draft Walkthrough
- Deadlines and Milestones

The Competitive Process

- Call for Information
- Proposed Sale Notice  We are here.
 - 60-day Comment Period
- Final Sale Notice
 - 30-day Waiting Period
- Auction
 - 30-day DOJ/FTC Review
- Send blank leases to winner
 - Winner has 10 days to sign, file financial assistance, and pay balance of auction bids.
- BOEM signs

The Proposed Sale Notice

- 30 CFR 585.216: Elements of a PSN
 - The area available for leasing
 - Lease provisions and conditions (term, payment terms, site-specific stipulations, environmental conditions, etc.)
 - Auction details (bidding procedures and systems, minimum bids, bid deposits, place and time of the auction, etc.)
 - The lease form
 - Criteria BOEM will use to evaluate bids
 - Award procedures
 - Appeal procedures

Components of the Proposed Sale Notice

- The Proposed Sale Notice (*Federal Register Notice*)
- The Lease Form
 - Draft Leases, Addenda A-E
 - Will allow bidders to see what they are bidding on, in context.
- Bidder's Financial Form

Sections of the Draft PSN

- Summary
- Dates (for comments and completion of qualifications)
- Addresses, Further Information, Authority
- Background, Atlantic Wind Connection
- Deadlines and Milestones
- Financial Terms and Conditions, Financial Assurance
- Place and Time
- Public Seminar

Sections of the Main PSN Document (continued)

- Mock Auction
- Bid Deposits and Minimum Bids
- Areas offered for Leasing
- Division into Lots
- Withdrawal of Blocks
- Lease Terms and Conditions: Most were developed during the EA preparation, and will be similar to other mid-Atlantic states.

Sections of the Draft PSN (continued)

- Qualifications: Deadline to submit materials is end of comment period.
- Auction Procedures: David Harper will cover this in his presentation.
- Acceptance, Rejection, or Return of Bids
- Process for Issuing the Leases
- Anticompetitive Behavior
- Bidding Behavior Certification
- Non-Procurement Debarment and Suspension Regulations
- Final Sale Notice
- Force Majeure
- Appeals
- Protection of Privileged or Confidential Information
- National Historic Preservation Act

Walkthrough of the Lease Draft

- Force Majeure
- Appeals
- Protection of Privileged or Confidential Information
- National Historic Preservation Act
- Draft Lease
 - 18 Sections of lease form
 - November 2012 version
 - Addendum A: Description of Leased Area and Lease Activities
 - Addendum B: Lease Term and Financial Schedule
 - Addendum C: Lease-Specific Terms, Conditions and Stipulations
 - Addendum D: Project Easements
 - Addendum E: Rent Schedule
 - Bidder's Financial Form

Deadlines and Milestones

During PSN Comment Period

- Public submits comments
- Auction Seminar
- Select and Invite Panelists
- Receive Qualifications materials (legal, financial and technical)
 - Ensure that bidders are Legally Qualified.
 - Ensure that bidders are Technically and Financially Qualified.
 - Deadline to submit materials: End of PSN Comment period
 - Deadline establish all qualifications: Publication of FSN.
 - If you are not qualified by publication of the FSN, bidders will not participate in this auction.
 - Eligible Bidders List will be published in the FSN.

From PSN Comment Close to FSN

- BOEM will review PSN Comments.
- BOEM will finalize company qualification evaluations.
- BOEM will consider what should change from the PSN to the FSN, update the FSN, and publish it in the *Federal Register*.
- BOEM Intergovernmental Task Force Meeting

FSN Waiting Period Milestones

- **FSN + 7** (Seven days after publication of the FSN):
Bidders Financial Forms are **DUE!**
 - Once BOEM has processed this information, bidders may log in and leave bid deposits.
- **FSN +7**: Self-Certification of antitrust compliance is **DUE!**
 - I certify that [name of qualified bidder] did not and will not engage in anticompetitive bidding behavior in violation of Federal law, BOEM's regulations, or auction procedures.
 - I certify that this bid is made in a good faith effort to win a lease to engage in the development of renewable energy resources.

FSN Waiting Period Milestones

- **FSN + 14:** Bid Deposits are **DUE!**
 - The amount of the Bid Deposit depends on how many Zones/Leases the bidder would like to be eligible to bid on. Assuming Two Zones:
 - To be eligible to bid on either Zone/Lease, a bidder must submit a bid deposit of \$5 per acre for the largest Zone.
 - To be eligible to bid on both Zones, a bidder must submit a bid deposit of \$5 per acre for the entire area.

FSN Waiting Period Milestones

- **FSN + 21:** Non-Monetary Package is **DUE!**
 - This is mandatory, even if a bidder is not seeking a non-monetary credit, or does not believe that it is eligible to receive such a credit. May consist of a statement that no credit is sought under the non-monetary factors.
 - If no statement is submitted within 21 days of the publication of the FSN, BOEM may assume that the bidder is not interested in participating in the auction, and an otherwise eligible bidder may be prevented from bidding.
- **Mock Auction**
 - Will be shortly before the monetary auction date. It may be before or after consideration of non-monetary packages.
 - Mock Auction details will be published in the FSN.
 - Mock Auction participation is for Maryland sale bidders only.
- **THE AUCTION MAY NOW BEGIN!**

The Auction Itself

- The Panel convenes to consider Non-Monetary Packages.
- Non-Monetary determinations are sent to BOEM.
- BOEM notifies eligible bidders of the Panels determinations:
 - BOEM only tells bidders of their Non-Monetary credit. BOEM will not tell bidders about the Non-Monetary credits of other bidders.
- BOEM notifies the auction services contractor and ONRR of the determinations.
- **MONETARY AUCTION**
- The Panel re-convenes to verify the auction results.

From Auction to Lease Execution

- BOEM will allow DOJ 30 days to conduct an Antitrust review of the auction, subject to 43 USC 1337(c):
 - **Antitrust review of lease sales.** (1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary [of the Interior] shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.
- If BOEM determines that the government would not receive a fair return for the leases, BOEM could decide, even at this stage, not to issue any leases pursuant to the sale.
- BOEM will announce the winners of the lease sale if it hasn't already done so.

From Auction to Lease Execution

- BOEM will send three lease copies to the winners. (Rent is due within 45 days of this date).
- Unless BOEM allows more time, winners have 10 days in which to post financial assurance, pay the balance of the bonus bid at auction, and sign and return the three copies.
- BOEM receives these copies, and executes the leases.
- A few words on default

Review and Discussion

Questions and Comments

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