

U.S. Department of the Interior
Bureau of Ocean Energy Management, Regulation and Enforcement

Transmittal

SUBJECT: Offshore Energy and Minerals Management
Internal Procedures and Responsibilities for Ensuring Receipt of Fair
Market Value (FMV) for Outer Continental Shelf (OCS) Oil and Gas Leases

EXPLANATION OF MATERIAL TRANSMITTED:

This Manual Chapter specifies procedures, assigns responsibilities, and provides guidelines for implementing the FMV process and bid adequacy procedures for OCS oil and gas lease sales.

Director



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Chapter: 610.1: Fair Market Value

Originating Office: Resource Evaluation Division (RED), OEMM

1. Purpose. To specify procedures, assign responsibilities, and provide guidelines for implementing the FMV process and bid adequacy procedures for OCS oil and gas lease sales.

2. Objectives. The objective of the FMV process and bid adequacy procedures is to ensure that the public receives a fair return for OCS oil and gas leases, as well as assuring that available BOEMRE resources are used efficiently in performing this function.

3. Authorities. OCS Lands Act, as amended (43 U.S.C. 1331-1356).

4. References.

A. Modifications to the Bid Adequacy Procedures (Federal Register, Volume 64, Number 132, MMS, July 12, 1999).

B. Award of Leases and Extension of Evaluation Period for determining Fair Market Value (30CFR 256.47 (e)(2)).

5. Definitions.

A. Adjusted Delayed Value (ADV) is the minimum of the Mean Range of Values and the Delayed Mean Range of Values.

B. Delayed Mean Range of Values (DMROV) is a measure used to determine whether the high bid received plus royalty receipts expected in the current sale is at least equal to the discounted sum of the bonus and royalties expected on the tract in the next sale. The bonus for the next sale is computed as the MROV associated with the delay in leasing under the projected economic, engineering, and geological conditions, including drainage.

C. Fair Market Value (FMV) is the amount in cash, or on terms reasonably equivalent to cash, for which, in all probability, the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy. This market value which is sought is not merely theoretical or hypothetical but it represents, insofar as it is possible to estimate it, the actual selling price at the time of the transaction.

D. Mean Range of Values (MROV) is a dollar measure of the BOEMRE estimate of a tract's expected net present private value, given that the tract is leased in the current sale.

E. Nonviable Tract/Prospect is a geographic/geologic configuration of hydrocarbons whose risk-weighted, most probable resource size is below the minimum economic field size (MEFS) for the relevant cost regime and anticipated future prices. The level of geologic risk used in this analysis is below the lowest level anticipated for any tract or prospect in the same cost regime.

F. Qualified Bids are the legal, non-anomalous bids received on a tract.

G. Revised Arithmetic Average Measure (RAM) is the arithmetic average of the MROV and all qualified bids on the tract that are equal to at least 25 percent of the high bid.

H. Viable Tract/Prospect is a tract or prospect that has not been determined to be nonviable. A tract or prospect is presumed viable until an appropriate analysis has demonstrated that it meets the nonviable criteria.

6. Policy. It is the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) policy that leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

7. Responsibilities.

A. Director, BOEMRE is responsible for making a final decision on company appeals for reconsideration of rejected high bids.

B. Associate Director for Offshore Energy and Minerals Management (AD/OEMM) is responsible for assessing the appropriateness of the FMV process and approving the National Geological and Geophysical (G&G) Data Acquisition Plan.

C. Regional Directors (RD) are responsible for identifying any illegal or unusual bidding patterns and accepting or rejecting the qualified high bids received on tracts offered for lease.

D. Chief, RED is responsible for developing and executing a National G&G Data Acquisition Plan for each fiscal year; providing guidance related to implementation of the FMV procedures; and appointing representation on any bid appeal review team that may be necessary.

E. Chief, Economics Division (ED) is responsible for developing sale-specific economic parameters and price thresholds for use in the tract resource economic evaluation modeling software; assisting Resource Evaluation (RE) Regional Supervisors with the identification and treatment of anomalous bidding patterns; providing guidance related to implementation of the FMV procedures; and appointing representation on any bid appeal review team that may be necessary.

F. The RE Regional Supervisors are responsible for prioritizing potential G&G data acquisitions for inclusion in the National G&G Data Acquisition Plan; preparing appropriate memoranda and supporting documentation to the Regional Director recommending the acceptance or rejection of high bids received on tracts offered for sale.

G. Chief, Resource Evaluation Methodologies (REM) Branch is responsible for coordinating the modification, testing, training, documentation and release of the official version of the tract evaluation modeling software that conforms to appropriate statutes, regulations and policies, reviewing draft sale-specific economic parameters and price threshold memoranda and archiving input and output files associated with the FMV software modeling runs.

H. Regional G&G Section Chiefs and Resource & Economic Analysis Section (REAS) Chiefs/Unit (REAU) Supervisors are responsible for conducting presale look-back studies; reviewing draft sale-specific economic parameters and price threshold memoranda; validating oil and gas drilling and development costs and activity schedule assumptions; developing appropriate Phase 1 economic viability screens; identifying tracts subject to the number-of-bids rule; evaluating the adequacy of available seismic information; completing the Phase 1 evaluation of all high bids; completing Phase 2 determinations of bid adequacy; providing appropriate supporting material to the RE Regional Supervisor for the preparation of bid acceptance/rejection recommendations memoranda; and distributing and archiving official tract evaluation modeling software input and output files.

I. The RE Data Acquisition and Special Projects Unit Team Leads are responsible for coordinating and monitoring the submission, inspection, and selection of geophysical data and information collected on tracts receiving bids.

8. Procedures.

A. The bid evaluation process consists of two phases designed to distinguish between those bids that reflect unbiased market forces and which can be relied upon to assure receipt of fair market value, and those bids that require further detailed analysis. These procedures consider both market-oriented evaluation criteria and an independent Government determination of Net Present Value for tracts receiving bids. For further details about these procedures, refer to: Modifications to the Bid Adequacy Procedures (Federal Register Volume 64, Number 132, MMS, July 12, 1999) or subsequent revisions.

B. In addition to the two-phase evaluation of bids, the FMV process requires the completion of the additional tasks itemized below.

(1) Presale Instructions

(a) Presale Look-back

Look-back studies, although not mandated by regulation, are conducted as a self-evaluation tool that compares the results of exploratory wells drilled on recently leased blocks to pre-drill forecasts made during bid adequacy evaluations. The Gulf of Mexico OCS Region (GOMR) G&G Section Chief or the Alaska OCS Region (AOCS) Resource Analysis Section (RAS) Chief are responsible for conducting these studies in their respective regions given the availability of new exploration well drilling information.

(b) Identify Potential Newly Available Tracts for Upcoming Lease Sales

Regional RE personnel perform database queries to identify relinquished, terminated, or expired tracts that have recently returned to inventory and are available for the upcoming lease sale. The identification of newly available tracts is used by G&G supervisors to assign priorities for performing presale G&G evaluations. The GOMR G&G Section Chief and the AOCS's RAS Chief are responsible for oversight of this activity.

(c) Update Presale GIS Database

Capture Field, Pool, Sand, Reservoir, Well Completion, and Production level data from the BOEMRE Technical Information Management System (TIMS) along with geo-spatial data for use by G&G and REAU personnel to generate data distributions used in economic viability screens (Phase 1) and FMV modeling software (Phase 2). The GOMR G&G Section Chief; GOMR REAU Supervisor; AOCS REAS Chief are responsible for oversight of this activity.

(d) Develop a National G&G Data Acquisition Plan

Regional RE Supervisors provide the Chief, RED a priority list of potential G&G data acquisitions necessary to support: (1) FMV determinations, (2) resource assessment activities, (3) reserve inventory studies, and (4) various special resource evaluation projects and studies for that year. A bureau-wide priority list and national plan is developed with justification and approved by the AD/OEMM.

(e) Modification, Testing, and Release of the Official Version of FMV Modeling Software

The REM Branch personnel coordinate with model developers and Regional REAU and REAS users to resolve problems and incorporate model enhancements prior to the release of a new official version of the FMV model to ensure optimal accuracy and performance. The REM Branch Chief is responsible for releasing the official version of the FMV modeling software to the Regions for use in determining FMV on tracts receiving bids in lease sales.

(f) Develop Sale-Specific Economic Parameters and Price Thresholds

Economic parameters and price thresholds for royalty suspension are developed by the ED prior to each lease sale, to provide inputs into the FMV modeling software. The Chief, ED issues a Draft Economic Parameter memo for review by the Chief, REM Branch; GOMR G&G Section Chief; GOMR REAU Supervisor; AOCS REAS Chief. The Chief, ED issues the final economic parameter memorandum upon consideration of comments received.

(g) Validate Oil and Gas Drilling and Development Costs and Activity Schedule Assumptions

Regional RE personnel validate oil and gas drilling and development costs and other relevant engineering data using industry, government, and other sources. These data provide the input parameters for the cost and schedule files used by the FMV modeling software. The GOMR G&G Section Chief; GOMR REAU Supervisor; AOCS REAS Chief are responsible for the oversight of this activity.

(h) Develop Estimates of MEFS for Viability Determinations

In the GOMR, REAU personnel develop reservoir parameter distributions for specific geologic/drill depth/water depth trends to generate economic "break-even" values. The information for each trend is plotted and used during Phase 1 and Phase 2 as a screening tool for tract viability analysis. In the AOCS, REAS personnel perform economic viability screens by first identifying representative prospects then making preliminary evaluation runs on these prospects using the FMV modeling software and official sale-specific economic parameters. This effort provides accurate economic viability screens for other prospects in the area. Oversight of these activities are the responsibility of the GOMR G&G Section Chief; GOMR REAU Supervisor; AOCS REAS Chief.

(2) Postsale Instructions

(a) Run Postsale Reports and Determine the Number of Qualified Bids

Postsale reports are run to obtain bid amounts by company and tract, tract acreage, stipulation information, royalty rates and royalty suspension codes. This includes a Number-of-Bids Rule report to identify tracts with 3 or more bids. The GOMR G&G Section Chief; GOMR REAU Supervisor; AOCS REAS Chief are responsible for the oversight of this activity.

(b) Coordinate and Monitor the Submission, Inspection, and Selection of Geophysical Data and Information Collected on Tracts Receiving Bids, including Processed or Reprocessed Data Collected by a Permittee or Third Party

The RE regional staff review the adequacy of available seismic information to ensure the BOEMRE has access to appropriate quality geophysical data and information for use in determining bid adequacy at OCS lease sales. The GOMR G&G Section Chief; GOMR RE Data Acquisition and Special Projects Unit, AOCS RAS Chief are responsible for ensuring the overall adequacy of the available seismic data.

(c) Identify Any Unusual (Anomalous) Bidding Patterns

To ensure the integrity of the bidding process, the RD may identify an unusual bidding pattern at any time during the bid review process, but before a tract is accepted. If the finding is documented, the RD has discretionary authority, after consultation with the Solicitor, to pass those tracts so identified to Phase 2 for further analysis.

(d) Complete the Phase 1 Evaluation of All Blocks Receiving Bids

Using appropriate G&G data and information, geoscientists determine the economic viability of tracts receiving bids by comparing prospect hydrocarbon volumes to minimum economic field size criteria (GOMR) or representative prospect screens (AOCS). The G&G and REAU/REAS Supervisors compile a list of tracts failing to meet these economic viability screens and recommend these tracts to the RE Regional Supervisor for Phase 1 acceptance. After review, the RE Regional Supervisor prepares a memorandum to the RD recommending acceptance of high

bids on the tracts meeting Phase 1 acceptance criteria. REAU/REAS staffs capture tract-specific FMV determination and viability data in TIMS. The remaining tracts are passed to Phase 2.

(e) Complete Phase 2 Determinations of Bid Adequacy

Using appropriate G&G data and information, geoscientists map the potential hydrocarbon accumulations (prospects) and perform economic analysis on individual tracts. These interpretations and economic evaluations are reviewed by regional teams to ensure receipt of FMV. The regional teams responsible for reviewing these interpretations and economic evaluations include the GOMR G&G Section Chief; GOMR REAU Supervisor; AOCS REAS Chief; AOCS RAS Chief; Regional G&G Supervisor.

(f) Request for Extending Phase II Determination of Bid Adequacy Beyond 90 days

30 CFR 256.47 (e)(2) provides for the extension of the time period for acceptance or rejection of a bid for 15 days or longer. In the event an extension is deemed necessary, the RE Regional Supervisor is responsible for submitting a request to the RD for extending the Phase 2 evaluation period. The request should specify the duration of the extension.

(g) Prepare Phase 2 Acceptance/Rejection Recommendations Memoranda

As Phase 2 evaluations are completed, G&G and REAU/REAS Supervisors/Chiefs compile a list of tracts recommended for Phase 2 acceptance with appropriate supporting material and forward to the RE Regional Supervisor for review and concurrence. After review, the RE Regional Supervisor prepares a memorandum to the RD recommending high bid acceptance of these tracts. Tracts where the high bid falls below the ADV are recommended for rejection and a memorandum is submitted to the RD recommending rejection of these bids. Upon final approval by the RD, acceptance and rejection letters are prepared and distributed to the lessees and rejected bidders. The REAU/RAS staffs capture tract-specific FMV determination data and viability information in the TIMS.

(h) Appoint Review Team to Evaluate Company Appeals for Reconsideration of Rejected High Bids

Companies are provided an opportunity to supplement their written appeal with a bid-appeal meeting that includes BOEMRE Headquarters representatives and staff from the BOEMRE Regional Office that conducted the sale. The Chiefs, RED and ED convene a Bid Appeal Review Team to consider all aspects of the appeal and prepare a decision recommendation for the Director. The BOEMRE Bid Appeal Review Team reviews material provided by the appellant and RE staff and prepares a written analysis of the appeal with a recommendation to the Director and a decision letter to be signed by the Director. The appeal is either granted or denied by the Director and constitutes final Agency action.

(i) Distribute and Archive Tract Evaluation Model Input and Output Files

Regional REAU/REAS staffs compile all FMV modeling software input and output files. The GOMR REAU Supervisor; AOCS REAS Chief is then responsible for distributing these files to the Chief, RED; Chief REM via a shared drive for archive.