

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's high bids for competitive oil and gas leases NM 58868, NM 58869, and NM 58875.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate. The explanation provided must inform the bidder of the factual basis of the decision and must be sufficient for the Board to determine the correctness of the decision if disputed on appeal.

2. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

Where a competitive oil and gas lease high bid is not clearly spurious or unreasonable on its face and the record fails to disclose a sufficient factual basis for the conclusion that the bid is inadequate, the decision will be set aside and the case remanded for compilation of a more complete record and readjudication of the bid.

3. Oil and Gas Leases: Competitive Leases -- Evidence: Burden of Proof

When the Government rejects a competitive oil and gas lease high bid because it was less than the presale tract valuation, the bidder must not only disprove the Government's fair market estimates, but must also prove that his bids constitute fair market value. However, appellant does not bear this burden until after the Government has established a prima facie case supporting its estimates.

APPEARANCES: Steven F. Sowers, Landman, for Burton/Hawks, Inc.

## OPINION BY ADMINISTRATIVE JUDGE IRWIN

Burton/Hawks, Inc., appeals three May 24, 1984, decisions of the New Mexico State Office, Bureau of Land Management (BLM), rejecting high bids submitted for oil and gas leases NM 58868, NM 58869, and NM 58875, parcels 18, 19, and 25, respectively. The bids, \$210 for each 40-acre parcel, were made at the April 25, 1984, competitive oil and gas lease sale. BLM rejected the bids solely because BLM's evaluation of each parcel showed that "the bid was less than the pre-sale tract valuation."

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1982); 43 CFR 3120.5(a). Michael Shearn, 83 IBLA 53 (1984); Viking Resources Corp., 80 IBLA 245, 246 (1984); Edward L. Johnson, 73 IBLA 253, 254 (1983). The Secretary reserves the right to reject a bid which will not provide a fair return on the lease. Viking Resources Corp., *supra* at 246; Glen M. Hedge, 73 IBLA 377, 379 (1983); Coquina Oil Corp., 29 IBLA 310, 311 (1977).

So long as there was a rational basis for BLM's conclusion that the highest bid does not represent a fair market value for the parcel, we will uphold BLM's decision on appeal. Viking Resources Corp., *supra* at 246; Ambra Oil & Gas Co., 75 IBLA 11, 14 (1983); Glen M. Hedge, 73 IBLA at 378-79; Edward L. Johnson, *supra* at 254-55. However, the Board must have sufficient information to conclude that there is a rational basis for BLM's decision. Michael Shearn, *supra* at 54. In Southern Union Exploration Co., 51 IBLA 89, 92 (1980), we stated:

The explanation provided must be a part of the public record and must be adequate so that this Board can determine its correctness if disputed on appeal. Steven and Mary J. Lutz, 39 IBLA 386 (1979); Basil W. Reagel, 34 IBLA 29 (1978); Yates Petroleum Corp., 32 IBLA 196 (1977); Frances J. Richmond, 24 IBLA 303 (1976); Arkla Exploration Co., 22 IBLA 92 (1975).

In addition, appellant is entitled to know the reasoning and factual basis for rejection of its bid. In Southern Union Exploration Co., *supra* at 92, we said: "Appellant must be given some basis for understanding and accepting the rejection or alternatively appealing and disputing it before this Board."

[2] The record before the Board in the instant case is barren. There are no underlying calculations or data to support BLM's conclusions. There is only a May 31, 1984, memorandum from Deputy State Director, Mineral Resources, stating that "the bids for the April 25, 1984 lease have been reviewed. The Branch of Economic Evaluation recommends that the high bids for parcels 18, 19, 25 \* \* \* be rejected."

Since the high bids are not clearly spurious or unreasonable on their face, in the absence of a factual basis in the record to support BLM's conclusion, we must set aside these decisions and remand them for compilation of a more complete record and readjudication of the acceptability of the bid. Michael Shearn, *supra* at 54, and cases cited therein.

[3] Once the Government has presented sufficient documentation establishing the correctness of its fair market value estimate, the burden shifts to appellant to show not only that the Government's estimates did not constitute fair market value, but also that its bids do represent fair market value. Michael Shearn, *supra* at 55; Kevin J. Bliss, 82 IBLA 31, 33 (1984). The burden does not shift to appellant, however, until the Government has presented sufficient basis for its estimate of fair market value to establish its prima facie correctness, including a disclosure of the presale evaluation. If the bids are rejected again, BLM shall detail the reasons for its decision and shall include the presale evaluation so as to create a reviewable record in the event of an appeal.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are set aside and remanded for further consideration consistent with this decision.

Will A. Irwin  
Administrative Judge

We concur:

Bruce R. Harris  
Administrative Judge

Edward W. Stuebing  
Administrative Judge

