## 6125.8500 PUBLIC SALE OF LEASES.

Subpart 1. **Time, place, and notice.** The public sale of leases shall be held at such times and places as may be designated by the commissioner. The commissioner shall give public notice of each sale by publication in the State Register, the EQB Monitor, and a qualified newspaper that has its known office of issue in the county seat of the county in which the lease units to be leased are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county.

The notice shall be published at least once in the above publications. The publication shall be at least 30 days but not more than 60 days before the date of the sale. Like notice may be published in additional newspapers and trade magazines as the commissioner may direct. Each notice shall contain the following information:

- A. time and place of holding the sale;
- B. the place or places where the list of lands to be offered for leasing and a copy of the lease form will be available for purchase or inspection, and where bid forms may be obtained; and
  - C. such other information as the commissioner may direct.
- Subp. 2. Copy of list of lands offered and lease form. Those interested in obtaining a list of the lands offered for leasing and the proposed lease form may obtain one by submitting a request to the commissioner. Each request must be accompanied by a check or money order, payable to the Department of Natural Resources, in the amount specified by the commissioner, based on copying and mailing costs, as a fee for a copy of the list and the lease form. Copies of the list and the lease form will be available for inspection at the Hibbing and Saint Paul offices of the Division of Minerals.
- Subp. 3. **Lease form.** At least 30 days before the date of the sale, the commissioner shall prepare the lease form that will cover the lands being offered. The lease shall be based on the model form contained in part 6125.8700. The lease may contain insertions, changes, or additions as may be necessary to incorporate other particulars applicable to the industrial minerals being offered for lease at public sale, subject to the following:
- A. The primary term of the lease may not exceed ten years plus the unexpired portion of the calendar year in which the lease is issued.
- B. The rental rates may not be less than \$1.50 per acre per year for the unexpired portion of the calendar year in which the lease is issued and the next succeeding two calendar years, \$5 per acre per year for the next succeeding three years, and \$25 per acre per year thereafter during the term of the lease.

- C. The base royalty rates for the following commodities may not be less than:
- (1) three percent of the gross market value for dimension stone and 1-1/2 percent of the gross market value for any stone produced from waste stone and sold as a by-product;
- (2) five percent of the gross market value for kaolin clay, silica sand, and diamonds and other gemstones; and
- (3) three percent of the gross market value for all other industrial mineral commodities.
- Subp. 4. **Bids.** Each bid shall be submitted on a form obtained from the commissioner. The bid royalty rate shall be an additional percentage of the gross market value above the base royalty rate.

Each bid form must be accompanied by a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the sum of the following amounts:

- A. an application fee of \$100; and
- B. rental for one full calendar year. For the purposes of the bid, the rental is calculated at \$1.50 per acre times the gross acreage of the lands offered for lease. The remaining rentals, due at the time the lease is issued, shall be due upon the effective date of the lease.

The bid, together with the certified check, cashier's check, or bank money order, shall be enclosed in a sealed envelope marked CONFIDENTIAL - BIDS FOR STATE MINERAL LEASES. Each sealed bid envelope shall be delivered in person or by mail to the commissioner at Division of Minerals, 500 Lafayette Road, Saint Paul, Minnesota 55155-4045. Bids may be submitted any time before 4:30 p.m., Saint Paul, Minnesota time on the last business day before the day specified for the opening of the bids, and no bids submitted after that time shall be considered. Upon receipt, the commissioner shall endorse upon each sealed bid envelope the exact time of presentation and preserve the same, unopened in the commissioner's office. At the time specified, the commissioner shall publicly open the bids and announce the amount of each bid separately.

The commissioner will request each high bidder to provide evidence it is qualified to hold state mineral leases pursuant to part 6125.8300. The evidence must be provided within 45 days of the request from the commissioner or the bids from that high bidder will be rejected.

Upon the award of a lease, the application fee submitted with the bid shall be deposited with the commissioner of management and budget as a fee for the lease. All bids not accepted shall become void and the application fee and rental payment accompanying the

bids shall be returned to the respective bidders; provided, however, the application fee and rental payment accompanying a bid shall not be returned if the bidder was the high bidder and subsequently withdraws its bid prior to the awarding of a lease.

Subp. 5. **Issuance of lease.** Leases are awarded by the commissioner to the highest bidder for the lands offered for lease, provided that the bidder has shown evidence that the bidder is qualified to hold state mineral leases pursuant to part 6125.8300. Any public sale lease approved for issuance by the commissioner that covers 160 or more acres of land must also be approved by the state Executive Council.

Tie bids will be resolved by the commissioner by the random drawing of the name of one tied bidder from a pool comprised of the names of all the tied bidders.

The right is reserved to the state to reject any or all bids for leases offered at public lease sale.

**Statutory Authority:** MS s 93.25

**History:** 19 SR 2433; L 2003 c 112 art 2 s 50; L 2009 c 101 art 2 s 109

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