

ALLOCATION AND RENT OF AGRICULTURAL LEASES OR PERMITS

I. Objective

To determine allocation of, and set the rental rate for, agricultural Crown land (ACL) parcels for use for cropping, grazing and/or haying.

This policy replaces the version 1.0 (October 2019) and includes the following changes:

- *Inclusion of advance registration requirement to participate in an auction*
- *Facilitates alternate auction format*
- *Removal of historical rent transition for legacy leases and permits*

II. Authority

The Crown Lands Act
Agricultural Crown Land Leases and Permits Regulation

III. Description

ACL parcels are allocated primarily via public auction. A minimum bid is established for each available disposition. Rent determination is dependent upon disposition type.

All bidders must register in advance of the public auction process.

The province employs the principle of Caveat Emptor (buyer beware) on all dispositions made available for allocation. All information provided regarding any particular allocation should be independently verified by the interested parties.

IV. Background

The regulation stipulates requirements for registration to participate in a lease or permit allocation auction, minimum bids at auction, setting of rent, additional fees that may apply, and how improvements are transferred between parties.

A. Requirement to register to bid

All bidders at auction are required to register prior to the start of the auction. Registration consists of completing a declaration of eligibility (form ACL-01) including contact information for the bidder.

B. Minimum bids at auction

Manitoba may establish a minimum bid on any disposition available for allocation. The minimum bid includes an administrative reserve, which recognizes the cost of program administrative functions and is subject to review from time to time.

Cropping leases

The minimum bid is comprised of:

- \$200 administrative reserve
- minimum rental amount, calculated as up to two percent of the assessed value of the cultivated acres of the land

Forage leases and permits

The minimum bid is comprised of:

- \$200 administrative reserve (rent is separately charged, see below)

C. Rent*Cropping leases*

The rent for each year of a cropping lease is the amount bid at auction (minus the \$200 administrative reserve).

Forage dispositions

The rent for forage leases and permits is calculated annually by formula (refer to section VIII for the detailed forage formula).

D. Additional Fees assessed on the parcel or unit may include:

- Amount in lieu of tax payment; an annual amount no more than the amount calculated by the applicable municipality for the purposes of taxation.
- Value of Crown-owned improvements.
- Any applicable taxes or fees (e.g., GST).

E. The transfer of any value related to privately-owned improvements on an ACL parcel are to be negotiated with the outgoing leaseholder within 30 days of the auction.**V. Advertising**

Where possible, ACL parcels will be bundled together into logical units, taking into consideration access, carrying capacity, fencing, water and functionality, as determined by department staff.

Available ACL dispositions will be advertised for a minimum of 30 days prior to auction.

Information available with the advertisement may include:

- size of parcel(s) (acres)
- legal description (section-township-range), location (municipality), etc.
- access notes, as available (the province does not guarantee access to any parcel.)
- forage capacity (if applicable)
- additional known amounts payable, including amount in lieu of tax payment, etc.
- date, time, and location of auction for each disposition

Please note that this information is intended to inform potential applicants; however, it is expected that potential bidders visit the parcel(s) to become familiar with accessibility, location and quality of fencing and water, forage capacity and condition, etc.

VI. Allocation of Leases and Renewable Permits**A. Declaration of Eligibility**

In order to be eligible to bid in an auction, applicants are required to complete a declaration of eligibility. A person or entity must not participate in an allocation process if they are not eligible.

Please note that fraud in the application or registration process will not be tolerated, and any associated leases or permits held by the lessee or permittee are subject to cancellation. In addition, the applicant may be restricted from applying for any new leases or permits for a period of up to five years.

B. Bidder Registration

The signed declaration must be submitted in order to obtain bidder registration. Eligible bidders will be assigned a unique registration number to be used in the auction.

In circumstances where in-person registration or auctions are not utilized, the requirement to register in advance of the auction date may be required.

Although registration in advance may not be required in all circumstances, the ability to pre-register remains an option for all scheduled auctions, with registration opening on the same day that the dispositions are advertised.

C. Auction

Auctions will be held via a public forum, either as an online platform, or regionally using a town hall format with bidders required to be physically present.

The exact date(s) and specific details related to the auction will be indicated in the initial advertisement, as well as clearly stated on the auction program.

Bids will be accepted on the disposition, with the highest bid securing the allocation of the disposition, subject to director approval.

Proxy bidders are allowed, provided the applicant completes the pre-registration process delegating the authority to the proxy bidder. Please note that payment must be completed if successful at the auction.

D. Auction bids

The administrative reserve of \$200 will be used at auction. In the case of cropping leases there is an additional minimum rental value that is used to calculate the reserve bid.

Cropping Bids

Any value, including or above the minimum rental value, will set the annual rental amount for each year of the five-year lease (i.e. successful bid minus the \$200 administrative reserve).

Forage Bids

Any value, including or above the administrative reserve of \$200 will be a one-time charge and not impact the rental amount for the lease or permit.

E. Payment

Payment in full is required to be made following the auction process, inclusive of:

- Auction bid amount - the amount bid by the winning applicant (which includes the first year's rent for cropping)
- Rental amount (for forage only, as cropping is included in the auction bid)
- Payment in lieu of taxes
- Value of Crown-owned improvements (if applicable)
- Goods and Services Tax (GST), as applied to the administrative reserve and rent.

Failure to make payment within the time period identified by the province invalidates the lease agreement.

F. Lease Agreements

Lease agreements are required to be completed (signed) by both the lessor and the new leaseholder following the auction process. Failure to complete the lease agreement within the time period identified by the province invalidates the lease agreement.

G. Improvements

Within 30 days of successful allocation via auction, an attempt to come to agreement and settlement on the valuation of any improvements should be made between the outgoing (if held via lease or renewable permit within 2 years prior to the auction) and incoming lease or permit holder. If an agreement cannot be reached, the outgoing lease or permit holder has the option to remove any removable improvements, or pursue compensation as per The Arbitration Act.

H. Appeals

As the allocation of the disposition will be awarded to the highest bid, and the director has no influence on the decision, there will be no appeal process in effect for the purpose of allocation via auction. If the disposition is not awarded to the highest bid, an appeal process will be available.

I. Unallocated dispositions

Agricultural Crown land dispositions that are not successfully allocated in the auction process will be available for a casual permit until such time that a long-term disposition is made via auction.

VII. Allocation of Casual Permits

Casual permits are those awarded for a single growing season.

A. Declaration of Eligibility

A declaration of eligibility must be completed to apply for a casual permit.

Please note that fraud in the application or registration process will not be tolerated, and any associated leases or permits held by the lessee or permittee are subject to cancellation. In addition, the applicant may be restricted from applying for any new leases or permits for a period of up to five years.

B. Casual permit applications received prior to April 1 of the growing season.

Applications will be received by the ACL program until March 31 prior to the growing season.

- If a single eligible application is submitted for a specific disposition, the disposition will be awarded to that applicant.
- If more than one eligible application is submitted for a specific disposition, the allocation will be decided via lottery.

C. Casual permit applications received on or after April 1 of the growing season.

The disposition will be awarded to the first eligible applicant.

D. Payment

Payment for the casual permit is required within 30 days of invoicing by the province.

E. Improvements

As a casual permit is not a long term disposition, there is no expectation of exchange of value of improvements with outgoing or incoming lease or permit holder.

A casual permit holder may make temporary improvements (e.g., single strand electric fence) to facilitate the use of the parcel, and may remove those improvements made by the permit holder at the end of the season of use for the permit. Improvements made by a former lease or permit holder may not be removed.

VIII. Rent

A. Cropping dispositions

The annual rental rate for a cropping lease is the amount bid at auction (subtract administrative reserve of \$200).

B. Forage dispositions

The annual rental rate for any forage disposition (lease or permit) is set via annually calculated formula. The rental rate formula is calculated in the fall prior to the season in which it will be applied.

$$\text{Rent} = A \times 3.5\% \times B$$

Where,

A is the average price of beef, determined by the average sale price per hundred pound weight for the previous 36 months, ending September 30 for 500 to 600 pound heifers and steers in the province, as published by Canfax (an operating division of the Canadian Cattlemen's Association).

3.5 per cent is a calculated rate of return for private use of a public asset and it is subject to regular review. It is intended to set a rental rate that captures factors such as public good and land stewardship.

B is the forage capacity for the land, being the number of animal unit months that the land is capable of producing in an average year, as determined by the province.

IX. Exceptions

Advertising

Advertising requirements may be waived at the discretion of the director for disposal or allocation:

- to a municipality, grazing association, cooperative pasture, or a department or agency of the Manitoba government or the Government of Canada
- for casual haying, grazing, or cropping permits
- for reestablishment of an economic farm unit which has been adversely affected by some action of government
- in situations where lands are to be exchanged between the department and adjacent lessee(s) prior to advertising of vacant lands
- in situations where lands are to be exchanged between adjacent legacy leaseholders prior to advertising of vacant lands
- of lands being held pending Crown and municipal land exchanges
- of lands being held pending sales application review
- as deemed necessary by Manitoba Agriculture and Resource Development

Special Leases

Special leases are issued under the authority of the minister for purposes of research, land and environmental stewardship, or other needs as determined by the department. Allocation and rent of these dispositions, as well as the conditions of the lease agreements, are at the discretion of the minister to enable achievement of the intended purposes.

EFFECTIVE 03 DECEMBER 2020 UNTIL RESCINDED OR AMENDED

Original signed by

HONOURABLE BLAINE PEDERSEN
MINISTER OF AGRICULTURE AND
RESOURCE DEVELOPMENT