

State Lands, Leases of. Leases of State Lands. Manner of.

There is no provision in the law requiring open bidding upon the leasing of state lands, such matters being left to the discretion of the court.

August 19, 1914.

Hon. Sydney Miller,
Register of State Lands,
Helena, Montana.

Dear Sir:

I am in receipt of your communication under the present date, in which you request my opinion as to your powers and duties under the following state of facts:

" 'A' submitted bid for the lease pursuant to notice within the time allowed. 'B' submits bid for the lease requesting that if his bid is less than 'A's' that he be allowed to submit

another bid which would be in excess of 'A's' bid and that such procedure be continued until one or the other refuses to raise the other's bid. 'B' requests that if the lease cannot be granted according to the manner above that the bids be rejected and the lease be awarded to the highest open bidder at some date to be fixed at the office of the Register.

"Please advise me what my legal duty is in the matter; that is, am I bound to issue the lease to the highest bidder, pursuant to our regular rules and customs and also pursuant to the notice given. If I am not bound under our regular rules and customs, please advise me in what other manner I may proceed to lease the land?"

The legislature in enacting Chap. 147, Session Laws of 1909, seems to have left the rules and procedure for the leasing of lands largely to the discretion of the board. And the only limitations placed upon the board's manner of making leases is that of time and price. No provision is made in the law for the manner of calling for bids upon the land or making application to lease. I assume that the Board of Land Commissioners has adopted a certain rule or practice as to how these things shall be done, and I must assume also that the parties in this case acted in accordance with and in conformity to the rules of practice of the land office.

Unless there is some other rule which provides that lands shall be leased upon open bidding when a request that that method be adopted is made, I am of opinion that it is your duty to make the lease in accordance with the rules of the board relating to such matters in existence at the time the notices were sent out, and under which the parties made their bids.

Yours very truly,

D. M. KELLY,
Attorney General.