

# WEST VIRGINIA CODE: §5a-11-4

## **§5A-11-4. Public Land Corporation to conduct sales of public lands by competitive bidding, modified competitive bidding or direct sale.**

(a) Sales, exchanges or transfers of public lands under this article shall be conducted under competitive bidding procedures. However, where the secretary or executive director determines it necessary and proper in order to assure the following public policies, including, but not limited to, a preference to users, lands may be sold by modified competitive bidding or without competitive bidding. In recognizing public policies, the secretary or director shall give consideration to the following potential purchasers:

- (1) The local government entities which are in the vicinity of the lands; and
- (2) Adjoining landowners.

(b) The policy for selecting the methods of sale is as follows:

(1) Competitive sale is the general procedure for sales of public lands and shall be used in the following circumstances:

(A) Wherever in the judgment of the secretary the lands are accessible and usable regardless of adjoining land ownership; or

(B) Wherever the lands are within a developing or urbanizing area and land values are increasing due to the location of the land and interest on the competitive market.

(2) Modified competitive sales may be used to permit the adjoining landowner or local governmental entity to meet the high bid at the public sale. Lands otherwise offered under this procedure would normally be public lands not located near urban expansion areas, or not located near areas with rapidly increasing land values, and where existing use of adjacent lands would be jeopardized by sale under competitive bidding procedures.

(3) Direct sale may be used when the lands offered for sale are completely surrounded by lands in one ownership with no public access, or where the lands are needed by local governments.

(4) In no event shall lands be offered for sale by "modified competitive sales" or "direct sale" unless and until the corporation makes a written finding of justification for use of an alternative bidding procedure.

(5) Subject to the bidding procedures set forth herein, the corporation is authorized, at its discretion, to sell public lands subject to rights-of-way, restrictive covenants or easements retained by the corporation, limiting the use of such lands to purposes consistent with the use of adjoining or nearby lands owned by the corporation.

(c) When lands have been offered for sale by one method of sale and the lands remain unsold, then the lands may be reoffered by another method of sale.

(d) Except as provided in this article and section seven-a, article one, chapter twenty of this code, public lands may not be sold, exchanged or transferred by the corporation for less than fair market value. Fair market value shall be determined by an appraisal made by the Real Estate Division. The appraisal shall be performed using the principles contained in the current Uniform Appraisal Standards for Federal Land Acquisitions published under the auspices of the Interagency Land Acquisition Conference: Provided, That public lands not acquired or managed by the Division of Natural Resources pursuant to section seven, article one, chapter twenty of this code or section two, article five of said chapter may be sold, exchanged or transferred to any federal agency or to the state or any of its political subdivisions for less than fair market value if, upon a specific written finding of fact, the Executive Director of the Real Estate Division determines that such a transfer would be in the best interests of the corporation and state.

(e) The corporation may reject all bids when such bids do not represent the corporation's considered value of the property exclusive of the fair market value.

(f) The corporation shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, regarding procedures for conducting public land sales by competitive bidding, modified competitive bidding and direct sales.