

§ 162.227 What form of rent payment can be accepted under an agricultural lease?

(a) When rent payments are made directly to the Indian landowners, the form of payment must be acceptable to the Indian landowners.

(b) Payments made to us may be delivered in person or by mail. We will not accept cash, foreign currency, or third-party checks. We will accept:

- (1) Personal or business checks drawn on the account of the tenant;
- (2) Money orders;
- (3) Cashier's checks;
- (4) Certified checks; or
- (5) Electronic funds transfer payments.

§ 162.228 What other types of payments are required under an agricultural lease?

(a) The tenant may be required to pay additional fees, taxes, and/or assessments associated with the use of the land, as determined by the tribe having jurisdiction over the land. The tenant must pay these amounts to the appropriate tribal official.

(b) Except as otherwise provided in part 171 of this chapter, if the leased premises are within an Indian irrigation project or drainage district, the tenant must pay all operation and maintenance charges that accrue during the lease term. The tenant must pay these amounts to the appropriate official in charge of the irrigation project or drainage district. Failure to make such payments will constitute a violation of the lease under § 162.251.

§ 162.229 How long can the term of an agricultural lease run?

(a) An agricultural lease must provide for a definite lease term, specifying the commencement date. The commencement date of the lease may not be more than one year after the date on which the lease is approved.

(b) The lease term must be reasonable, given the purpose of the lease and the level of investment required. Unless otherwise provided by statute, the maximum term may not exceed ten years, unless a substantial investment in the improvement of the land is required. If such a substantial invest-

ment is required, the maximum term may be up to 25 years.

(c) Where all of the trust or restricted interests in a tract are owned by a deceased Indian whose heirs and devisees have not yet been determined, the maximum term may not exceed two years.

(d) An agricultural lease may not provide the tenant with an option to renew, and such a lease may not be renewed or extended by holdover.

§ 162.230 Can an agricultural lease be amended, assigned, sublet, or mortgaged?

(a) An agricultural lease may authorize amendments, assignments, subleases, or mortgages of the leasehold interest, but only with the written consent of the parties to the lease in the same manner the original lease was approved, and our approval. An attempt by the tenant to mortgage the leasehold interest or authorize possession by another party, without the necessary consent and approval, will be treated as a lease violation under § 162.251 of this subpart.

(b) An agricultural lease may authorize us, one or more of the Indian landowners, or a designated representative of the Indian landowners, to consent to an amendment, assignment, sublease, mortgage, or other type of agreement, on the landowners' behalf. A designated landowner or representative may not negotiate or consent to an amendment, assignment, or sublease that would:

- (1) Reduce the rentals payable to the other Indian landowners; or
- (2) Terminate or modify the term of the lease.

(c) Where the Indian landowners have not designated a representative for the purpose of consenting to an amendment, assignment, sublease, mortgage, or other type of agreement, such consent may be granted by or on behalf of the landowners in the same manner as a new lease, under §§ 162.207 through 162.209 of this subpart.

§ 162.231 How can the land be used under an agricultural lease?

(a) An agricultural lease must describe the authorized uses of the leased

§ 162.232

premises. Any use of the leased premises for an unauthorized purpose, or a failure by the tenant to maintain continuous operations throughout the lease term, will be treated as a lease violation under § 162.251 of this subpart.

(b) An agricultural lease must require that farming and grazing operations be conducted in accordance with recognized principles of sustained yield management, integrated resource management planning, sound conservation practices, and other community goals as expressed in applicable tribal laws, leasing policies, or agricultural resource management plans. Appropriate stipulations or conservation plans must be developed and incorporated in all agricultural leases.

§ 162.232 Can improvements be made under an agricultural lease?

An agricultural lease must generally describe the type and location of any improvements to be constructed by the lessee. Unless otherwise provided in the lease, any specific plans for the construction of those improvements will not require the consent of the Indian owners or our approval.

§ 162.233 Who will own the improvements made under an agricultural lease?

(a) An agricultural lease may specify who will own any improvements constructed by the tenant, during the lease term. The lease must indicate whether any improvements constructed by the tenant will remain on the leased premises upon the expiration or termination of the lease, providing for the improvements to either:

(1) Remain on the leased premises, in a condition satisfactory to the Indian landowners and us; or

(2) Be removed within a time period specified in the lease, at the tenant's expense, with the leased premises to be restored as close as possible to their condition prior to construction of such improvements.

(b) If the lease allows the tenant to remove the improvements, it must also provide the Indian landowners with an option to waive the removal requirement and take possession of the improvements if they are not removed within the specified time period. If the

25 CFR Ch. I (4–1–10 Edition)

Indian landowners choose not to exercise this option, we will take appropriate enforcement action to ensure removal at the tenant's expense.

§ 162.234 Must a tenant provide a bond under an agricultural lease?

Unless otherwise provided by a tribe under § 162.203 of this subpart, or waived by us at the request of the owners of a majority interest in an agricultural lease tract, the tenant must provide a bond to secure:

(a) The payment of one year's rental;

(b) The construction of any required improvements;

(c) The performance of any additional lease obligations, including the payment of operation and maintenance charges under § 162.228(b) of this subpart; and

(d) The restoration and reclamation of the leased premises, to their condition at the commencement of the lease term or some other specified condition.

§ 162.235 What form of bond can be accepted under an agricultural lease?

(a) Except as provided in paragraph (b) of this section, a bond must be deposited with us and made payable only to us, and such a bond may not be modified or withdrawn without our approval. We will only accept a bond in one of the following forms:

(1) Cash;

(2) Negotiable Treasury securities that:

(i) Have a market value at least equal to the bond amount; and

(ii) Are accompanied by a statement granting full authority to us to sell such securities in case of a violation of the terms of the lease.

(3) Certificates of deposit that indicate on their face that our approval is required prior to redemption by any party;

(4) Irrevocable letters of credit issued by federally-insured financial institutions authorized to do business in the United States. A letter of credit must:

(i) Contain a clause that grants us the authority to demand immediate payment if the tenant violates the lease or fails to replace the letter of credit at least 30 days prior to its expiration date;

(ii) Be payable to us;