

APPENDIX A

MCGREGOR RANGE GRAZING
TERMS AND CONDITIONS

The following are made a part of this invitation and of the contract and are fully binding on the successful bidder.

Bidding Grazing Contracts and Payment

1. An individual may bid on and be awarded more than one grazing unit. If a bidder bids high on more than one unit and wishes to default; i.e., decline to graze the unit, he may do so on the date of sale; however, the Terms and Conditions in No. 4 below shall apply.

BLM reserves the right to reject any or all bids or to withdraw any unit from consideration.

2. Successful bidders will be required to furnish a deposit of 15 percent of total bid price of each unit successfully bid on at the conclusion of the bidding. Personal checks will be acceptable.

3. The successful bidder will be required to furnish, within 10 days from the date of sale, acceptable surety in the amount of 20 percent of the total bid/bids as a guarantee of faithful performance under the terms of the contract. The performance bond or bonds may be: bond of a corporate surety shown on the approved list of the U.S. Treasury Department and executed on approved standard form, cash, cashier's check, money order, certified. The bond or bonds will be released following an inspection of the unit at the termination of the grazing period.

4. Failure of a bidder to furnish required bonds or other acceptable surety will result in forfeiture to the BLM, as liquidated damages, the deposit submitted at the bidding. The award of grazing use will be made to the next highest bidder.

5. If the bidder is a group, association, or corporation, evidence of the authority of the individual signing for the group must accompany the deposit. Failure to include this evidence of authority will result in disqualification of the bid.

6. Payment for grazing use will be made in full by cash, certified check, cashier's check, personal check, or postal money order payable to the BLM within 10 days from receipt of the notice of award.

The full use of purchased AUMs is the sole responsibility of the successful bidder. Refunds for unused AUMs will not be made, except in cases where the loss is required by the Bureau of Land Management (BLM).

7. The purchaser, on the performance of the contract, will not discriminate against any employee or applicant for employment because of sex, age, race, creed, or national origin.

8. If the purchaser should default in the performance or observance of any of the terms, conditions, or stipulations contained in the contract and attachments, then the BLM may terminate the contract and the rental paid will be considered as liquidated damages.

9. The purchaser may not assign any contract or any interest therein without the written approval of the Authorized Officer. An assignment shall contain all the terms and conditions agreed upon by the parties thereto. No extension of grazing use period or increase in set numbers of livestock will be approved if an assignment of a grazing contract is approved.

10. Only cattle that are owned or controlled by the purchaser will be authorized on the Range. All brands used on the livestock must be recorded with BLM.

11. Covenant against contingent fees: The purchaser warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except bonafide employees or bonafide agencies maintained by the purchaser for the purpose of securing business.

COORDINATION WITH FT. BLISS

The primary use of the McGregor Range is for the use of the military to carry out missions. A secondary use of certain portions of the Range is livestock grazing. Grazing contracts will not prevent Ft. Bliss from establishing launching sites, erecting fire towers, radar sites, or other similar construction and fencing of same when required by any military actions.

Personnel of Ft. Bliss, in pursuit of their official functions or other authorized purposes, will have unlimited access to the land covered by this contract.

Purchaser Access

1. A Range Pass for all successful bidders and their employees, who will be caring for the livestock through the season, must be

obtained from the Provost Marshal's Office. All vehicles are required to be registered, proof of vehicle registration and insurance will be required.

2. Each time prior to entry upon McGregor Range for any reason, each purchaser, his family, agents, or guests, must obtain permission from the Commanding General, United States Army Air Defense Center (Ft. Bliss), or his designated agent. Such persons may remain on McGregor Range only during the hours and/or days which permission to enter has been so granted. Under no circumstances will they be granted permission to enter or remain on McGregor Range when their access will interfere with military activities.

3. Contacts with Ft. Bliss regarding access and firing schedules should be made by writing the Provost Marshal, Bldg. 116, Attn: Pete Atkins, Ft. Bliss, Texas, 79916, or by phone at (915) 568-1898, 568-4103, or 568-5433.

4. Projected increases in missile firings over the next several years means an increase in the number of days the range will be closed off to public access. During these times, the range could be closed for several days straight per week.

5. Should security or safety considerations or the assignment of any particular mission require such action, Ft. Bliss reserves the right to deny access for an extended period of time. Ft. Bliss may exercise this right without prior notice to the purchaser.

Safety

Purchaser, his family, agents, or guests are prohibited from touching, tampering with, or disturbing any shell, shell casing, missile target or components thereof which may be found on the lands covered by this contract. Upon discovery of such items, purchaser will report the discovery to the Provost Marshal's Office, Ft. Bliss.

Impact Area

Portions of grazing Unit 9 and grazing Unit 13 are an impact area for laser explosive ordnance and may contain highly dangerous unexploded ordnance. The impact area is identified by a firebreak road with bilingual danger warning signs placed at 200-meter intervals. Entrance into the impact area by purchasers and their representatives is prohibited.

FIRES

Natural and military caused fires occur on the Range.

Firefighting is hazardous and is the responsibility of the US Government. Purchasers should report fires that they see to BLM but purchasers must not attempt to control them. The grazing purchaser waives any and all rights of action which might accrue due to damage to persons or property resulting from fires.

RANGE IMPROVEMENTS

Wells and Pipelines

1. Rights for water which flows through pipelines from the Sacramento River and Carrizo Springs is retained by Ft. Bliss. The Bureau of Land Management (BLM) will manage the day-to-day use and distribution of the water.
2. Wells and pipeline systems are maintained by BLM. The BLM will attempt to make repairs as soon as possible, but in the event of a delay in securing a well contractor, repair parts, or equipment, the provisions of the Terms and Conditions below in No.1. Liability/BLM will apply.
3. It will be the purchaser's responsibility to check the troughs and pipelines periodically and to inform BLM if problems are found. To prevent pipeline breaks, freezeups, etc., the purchaser will refrain from regulating or tampering with water valves and the pipeline system in any way. Minor cleansing of watering troughs, such as removal of trash, weeds, and dead animals will be the responsibility of the purchaser.
4. Grazing Unit 8. In the event that Dagger Tank dries up prior to the end of the grazing season, it will be necessary for the purchaser to haul or otherwise provide water in the upper Sacramento and Chatfield areas of Unit 8.

When water is hauled, drinking troughs may be requested from BLM.

Fences

All fences will be maintained by the purchaser, except in impact areas. In impact areas, the BLM will maintain the fences. Fences are expected to be maintained by the purchaser at no expense to the government, in as good a condition as when received. In maintenance of the fences, the purchaser is expected to use due care to prevent soil erosion, fire, and other damage.

Cattle Handling Facilities

1. Corrals, portable chutes, and portable loading ramps are available for purchaser use. They are expected to be maintained

by the purchaser in as good a condition as when received. The BLM may supply material for needed repairs.

2. Arrangements will also be made at least 3 days in advance for the use of the portable loading chutes and portable squeeze chutes. When the purchaser has completed use of the portable squeeze chutes and loading chute(s), they shall be immediately returned to McGregor Range Camp (old Prather Ranch) unless other arrangements have been made with the BLM representative. Purchasers using pastures with inadequate loading and branding facilities will receive priority for use of the portable chutes.

Purchaser-Constructed Range Improvements

1. The grazing purchaser may construct range improvements necessary for the proper care and management of livestock for which this contract is issued. Authorization will be issued under a Cooperative Agreement. Temporary range improvements must be removed by purchaser within 60 days after his grazing contract has expired or within 60 days of the written notice that the contract has been cancelled for other cause. The purchaser, will restore the area to such condition as existed prior to the improvement. Failure to remove an improvement will result in the improvement being removed by the government at the expense of the purchaser with no claim for damages against the BLM or any agent thereof.

2. With the approval of BLM, the purchaser may leave authorized improvements intact. The U.S. Government will gain title to any permanent improvement authorized to be left on the range.

Removal or Use of Resources on the Range

1. The awarding of this livestock grazing contract does not allow the purchaser to remove either by mechanical means or manual labor any forage, seed, firewood, trees, soil, sand, gravel, etc., from the McGregor Range. Specific written authorization must be obtained from the BLM for the removal of such material.

2. The removal and/or use of materials, supplies or equipment such as posts, wire, gates, pipe, signs, etc., without authorization from BLM, is prohibited.

Movement of Livestock

1. Cattle may be moved on or off McGregor Range only during hours authorized by BLM, normally between dawn and dusk, and only when permission for access is granted by Ft. Bliss.

All livestock will be counted on and off the grazing units on McGregor Range by BLM representatives. The Unit purchaser must notify the representatives as specified on the contract by telephone or letter at least 3 days prior to moving cattle on or off the range, specifying the time and place on McGregor Range when cattle will be loaded or unloaded.

2. Contact the BLM by letter at 1800 Marquess Street, Las Cruces, New Mexico, 88005, or phone at (505) 525-8228.

Contact with Ft. Bliss regarding access and firing schedules should be made by writing the Provost Marshal, Bldg. 116, Attn: Pete Atkins, Ft. Bliss, Texas, 79916, or by phone at (915) 568-1898, 568-4103, or 568-5433.

Contact with the NM Livestock Board should be made with the District Livestock Inspector, Bruce McLaughlin. He may be contacted at Route 1, Box 212, Alamogordo, New Mexico, 88310, telephone. (505) 434-2447.

3. Under no circumstances will livestock be turned out on grazing units with out being counted by BLM. Under emergency situations, livestock may be placed in corrals while waiting to be counted by BLM.

4. Holding traps will be used only when cattle are being gathered or worked. Use will be allowed for no more than 1 week at a time. At all other times, traps will not have any cattle or horses in them and gates will be kept closed. Traps are not part of the grazing units.

Dead livestock will be moved at least 300 yards from corrals and watering troughs.

Arrangements will also be made at least 3 days in advance for the use of the portable loading chutes and portable squeeze chutes.

GRAZING MANAGEMENT

Five Year Contracts

All 5 year contracts, have deferment built into the grazing season schedules. Livestock must be removed from the units during their scheduled periods of nonuse.

On all 5 year contracts, the BLM reserves the right to make adjustments on livestock numbers prior to the start of the next grazing season. Coordination with the contractor will be made before any adjustments are made.

All Contracts

1. In order that proper utilization of forage be obtained, BLM reserves the right to designate the periods of time and areas to be grazed within each unit (such as moving cattle to dirt tanks for trampling purposes and placing of supplemental feed and salt). BLM reserves the right to require salt or supplemental feed to be placed away from the waters as needed. If certain areas of a unit show obvious overgrazing, the purchaser may be asked to relocate their cattle to other areas within the unit as specified by BLM. Failure to keep cattle scattered (away from the overgrazed area) may result in an automatic reduction in stocking rate.
2. Holding traps are not part of the grazing units. Traps may be used only when cattle are being gathered or worked. Use must be for no more than 1 week at a time. At all other times, traps must not have any cattle or horses in them and gates must be kept closed.
3. The grazing period for the units shown in the Specifications and Bid Schedule will be strictly adhered to. A refund will not be made for AUMs not utilized.
4. Purchasers are authorized to remove livestock for a period of 7 days following termination dates as long as animal unit months (AUMs) of forage consumed are not in excess of the contracted number of AUMs.
5. At no time during the term of the contract, will livestock numbers exceed those shown on the bid information sheet, unless written approval is obtained from BLM. With written authorization, purchasers may receive a 10 percent increase in numbers in order to utilize AUMs purchased; however, AUMs of forage utilized may not exceed contracted numbers.
6. Contractors may be required to remove livestock prior to termination of grazing season in order to insure that utilization does not exceed the AUMs of forage purchased.

Class of Livestock

Those Units specified as cattle or yearlings may be stocked with either one or the other, but not in combination of the two.

Cattle

- a. Cow with suckling calf that is less than 6 months of age. Suckling calves born on a 9-month unit will be considered to be less than 6 months of age.

b. Suckling calves born prior to the date of arrival on any unit when they have been on the unit for 6 months.

c. Weaned animal.

Yearling

a. Weaned animal weighing less than 550 pounds upon entering the Unit. The Contractor must provide BLM with a written copy of the scale weights to receive the conversion.

b. A conversion factor of .8 to 1 AU will be allowed on yearlings provided yearling weights do not exceed 550 lbs. upon entering McGregor Range.

If the maximum authorized number of AUs is exceeded, as a result of calves becoming AUs, the excess must be removed within 4 nonfiring days upon receipt of written notification.

Adjustment of Livestock Numbers

BLM reserves the right to reduce stocking rate on any unit when it is deemed necessary due to natural disaster, such as fire or drought, or due to obvious overgrazing.

In the event such a reduction in livestock numbers is necessary, the contractor will be given a least 3 weeks notice to arrange for removal of cattle.

A refund will be made for AUMs not utilized.

Ear Tagging

Should two or more units be successfully bid on by an individual and these units are contiguous, ear tagging of all cattle by unit will be required. BLM will provide ear tags.

Horse Use

Horse grazing use on the units will be allowed only upon written request of the purchaser. No more than three horses per unit will be allowed. Only saddle horses used for operation of the unit will be authorized. If horses are grazed on the unit, the cattle usage authorized must be reduced by the number of horses grazed.

UNAUTHORIZED USE

Unauthorized livestock shall be defined as those animals in excess of authorized numbers or AUMs whichever is the greater,

animals ear tagged or branded other than with purchasers tag or brand or a brand which the purchaser has no written authorization to use.

BLM reserves the right to gather and impound any unauthorized livestock within any grazing unit on McGregor Range. Purchaser shall bear all expenses incurred by BLM including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment.

If livestock stray into adjoining units, the purchaser will be notified in writing by BLM and allowed 4 nonfiring days from receipt of such notice to remove livestock before unauthorized use action shall be initiated.

OFF ROAD VEHICLE USE

No driving off established roads will be allowed. Any type of livestock gathering or checking away from established roads will be by horseback.

VIOLATIONS

The excavation of archaeological sites and gathering of objects of antiquity upon lands subject to this contract is prohibited.

Violators will be subject to prosecution with potential fines of up to \$10,000.00 and cancellation of their grazing contract.

Discovery of any such sites or items will be reported to the BLM.

LIABILITY/U.S. GOVERNMENT

1. The U.S. Government assumes no obligation whatsoever with respect to the security of livestock or other property of the purchaser from theft, loss, or damage of any kind.

2. BLM will not be liable for any damage from loss of livestock or inconvenience to the purchaser in the event water is not available through the pipeline systems, wells, or tanks.

3. Ft. Bliss will not be responsible for damage to any improvement or for any injury to persons or livestock caused directly or indirectly by military activities impact or fallout of missiles, targets, or components thereof.

4. Military personnel may open gates, and if necessary, lower fences in order to accomplish their assigned mission or duty. Ft. Bliss will require personnel to leave gates as found (opened

or closed) and to reposition fences lowered. However, Ft. Bliss assumes no responsibility should gates not be left as found or should fences not be repositioned.

PREDATOR CONTROL

All requests for animal damage control (coyotes) will be made to the APHIS/NMADA Program. APHIS/NMADA will coordinate predator control with Ft. Bliss and the BLM.

NEW MEXICO LIVESTOCK BOARD

This grazing contract is subject to all New Mexico State laws and regulations. These regulations are to be strictly adhered to and failure to comply may be considered a breach of contract. Under normal circumstances, cattle will not be quarantined on McGregor Range. In addition, all livestock leaving McGregor Range will generally require inspection by the New Mexico State Livestock Board.

Contact with the NM Livestock Board should be made with the District Livestock Inspector, Bruce McLaughlin. He may be contacted at Route 1, Box 212, Alamogordo, New Mexico, 88310, telephone (505) 434-2447.

CONTRACT TERMINATION

This grazing contract may be terminated should the purchaser breach any of the terms or conditions stated herein.

This grazing contract may be terminated after thirty (30) days written notice by the BLM, should Ft. Bliss be assigned new, additional, or different missions which, in the opinion of the Commanding General, Ft. Bliss, cannot be accomplished while such grazing contract is in effect.

Any purchaser who is convicted of violating on the McGregor Range any Federal Endangered Species Rules and Regulations may be subject to prosecution and cancellation of their contract. Endangered species on McGregor Range include but are not limited to eagles.