

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE:)
)
PRE-APPROVED AUCTION AND BID)
PROCEDURES)
)

GENERAL ORDER 21-3

To: (1) facilitate and expedite the sale of bankruptcy estate property, (2) provide certainty by using standardized procedures, and to (3) foster competition between interested buyers of bankruptcy estate property, the Court, in consultation with the bankruptcy bar for the Northern District of West Virginia, has pre-approved the below auction and bid procedures for use in motions to sell bankruptcy estate property. The Clerk of Court shall post a form motion to sell on the Court’s website that includes these pre-approved procedures. These pre-approved procedures are not mandatory and do not prohibit a party from seeking separate Court approval of auction and bid procedures.

AUCTION AND BID PROCEDURES

1. Any party interested in purchasing the Property (an “Upset Bidder”) must submit a written bid to the address listed below on or before: _____

Address for the Written Submission of Upset Bids:

2 The Upset Bidder must submit an alternative bid to purchase the Property. The alternative bid must equal or exceed the Alternative Minimum Bid:

The Alternative Minimum Bid is \$ _____.


3. An Upset Bidder must submit information at or before the time of the auction demonstrating the financial wherewithal of the Upset Bidder to consummate the proposed transaction. Upset Bidders may not substantially deviate from the terms of the proposed sale to the Stalking Horse Bidder. The representative of the Bankruptcy Estate will determine if the Upset Bidder has submitted a qualified bid based on the terms of the bid, and the Upset Bidder’s financial ability to consummate the proposed purchase at the alternative bid price.

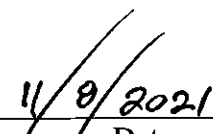
4. If a qualified Upset Bid is timely received, a Notice of Auction must be filed with the Bankruptcy Clerk that details the time place and manner of the auction. At the auction, the party representing the Debtor's Bankruptcy Estate will select the bid, or combination of bids, that represent the highest or best value for the Property (the "Winning Bidder"). The representative of the Bankruptcy Estate has the right to select the best bid, even if not the highest bid.

5. The Winning Bidder must complete and sign all agreements or other documents within ___ days of the auction, or within ___ days of any Court order following a contested auction, whichever is later. In the event the Winning Bidder is different from the Stalking Horse Bidder, the representative of the Debtor's Bankruptcy Estate shall assess whether the Winning Bidder is an insider of the Debtor, whether the sale represents an arms-length transaction between the parties, made without fraud or collusion, and whether there has been any attempt by either party to take any unfair advantage of the other such that the Winning Bidder may be deemed to be purchasing the Property in good faith pursuant to 11 U.S.C. § 363(m). These representations must be made in any proposed order approving the Motion to Sell that also requests that the sale be approved under § 363(m).

6. If a bidder at the auction objects to the selection of the Winning Bidder, then that bidder may submit a bid under protest at the auction. The Debtor's representative shall file a Notice of Contested Auction with the Bankruptcy Clerk and the Court may hold a hearing or take such other action as it deems appropriate to determine if the Debtor's representative executed sound business judgment in selecting the Winning Bidder.

7. If for any reason the Winning Bidder fails to consummate the sale of the Property, the offeror of the second highest or best bid (subject to the same reservations) will automatically be deemed to have submitted the highest and best bid, and the representative of the Debtor's Estate is authorized to effect the sale of the Property to such offeror without further order from the Court. If the failure to consummate the purchase of the Property is the fault of the Winning Bidder, the Winning Bidder's deposit, if any, shall be forfeited to the Bankruptcy Estate and the Bankruptcy Estate has the right to seek all available damages from the defaulting bidder.


Hon. David L. Bissett
United States Bankruptcy Judge


Date