

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

12313
37807

FOR RELEASE ON DELIVERY
EXPECTED AT 9:30 A.M. EST
TUESDAY, MARCH 27, 1984

STATEMENT OF
BRIAN P. CROWLEY, SENIOR ASSOCIATE DIRECTOR
RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
HOUSE SUBCOMMITTEE ON ENVIRONMENT, ENERGY,
AND NATURAL RESOURCES
COMMITTEE ON GOVERNMENT OPERATIONS
ON THE
FAIR MARKET VALUE REQUIREMENTS OF THE
BUREAU OF LAND MANAGEMENT'S PUBLIC LAND SALES IN
LAS VEGAS, NEVADA



123750

Mr. Chairman and Members of the Subcommittee:

We are glad to be here today to discuss our report, The Bureau of Land Management Should Follow Fair Market Value Requirements in Selling Land in Las Vegas, Nevada

(GAO/RCED-84-127, Mar. 27, 1984).

On May 12, 1983, Interior's Bureau of Land Management (BLM) offered for sale at an auction 460 acres of public land in the Las Vegas metropolitan area. Proceeds from the sale are to be used to offset the Forest Service's (Agriculture) cost of acquiring land in the Lake Tahoe Basin. Before the auction, BLM in a press release stated that BLM's goal for the May 1983 auction was to set its price lower than the appraised fair market value to sell as much of the land as possible at the auction. Generally speaking, fair market value is what an informed, willing seller wants for a property and what an informed, willing buyer would pay for the property, neither being under abnormal pressures to transact. Of

the 46 parcels offered, 4 sold for a total of \$1.1 million. This amount was \$173,000 less than appraised fair market value.

Concerned about whether the discount procedure was in accordance with fair market value requirements, you asked us to review BLM's land sales in the Las Vegas area. You also asked us to determine how BLM's land sales efforts were affecting the Forest Service's land acquisition program at Lake Tahoe.

LAS VEGAS LAND SALES PROGRAM

BLM's land sales program in Las Vegas is authorized by the Santini-Burton Act of 1980 (Public Law 96-586). The act directs BLM to sell about 7,000 acres of high-value public land over a 15-year period in the Las Vegas area to allow room for community expansion. The act also authorized the Forest Service to acquire about 20,000 acres of environmentally sensitive land in the Lake Tahoe Basin of California and Nevada to prevent further decline in the lake's water quality.

BLM began its Las Vegas land sales program in 1981 and has offered for sale about 1,500 acres. As of March 5, 1984, BLM sold 567 acres for about \$9.5 million. BLM plans to offer up to 700 acres each year in the Las Vegas area until 1995, when the Santini-Burton authority expires.

BLM's LAS VEGAS LAND SALES PROCEDURES

The Santini-Burton Act requires BLM to jointly develop regulations with Nevada's Clark County and the cities of Las Vegas and North Las Vegas to implement its Las Vegas land sales program. The Santini-Burton Act further requires that land sales be consistent with the provisions of the Federal Land Policy and

Management Act (Public Law 94-579), except to the extent necessary to expeditiously carry out the purposes of the act. In March 1981, BLM and the local governments agreed that section 203 of the Federal Land Policy and Management Act and BLM's regulations issued pursuant to section 203 should be used to conduct the land sales program. This criteria requires that public land be sold for no less than fair market value, as determined by an appraisal adhering to the principles of the Uniform Appraisal Standards for Federal Land Acquisitions.

BLM's preferred sale procedure is an auction, followed by over-the-counter sales of parcels not sold at auction. Before a public land sale, BLM or contractors appraise each parcel's fair market value, usually for a 1-year marketing period. The appraised value establishes BLM's minimum acceptable bid at the auction. The appraised value also is the minimum price which an over-the-counter purchaser must pay. Before the auction, BLM notifies the public of the minimum bid, that is, the appraised fair market value.

DETERMINING FAIR MARKET VALUE

The Uniform Appraisal Standards define fair market value as the price which the property would be sold by an informed owner willing, but not obligated, to sell to an informed buyer desiring, but not obligated, to buy.

A key concept is the informed seller, one who knows the relative worth of his or her property compared with similar properties that have recently sold. BLM usually contracts with a professional real estate appraiser to appraise land it intends to sell in Las Vegas, following the principles cited above. BLM's

contract appraisers used the comparable sales approach, also known as the market data approach, in establishing appraised fair market value. This approach included analyzing various factors of similar properties recently sold in that area, including general economic and social characteristics of the neighborhood, such as proximity to schools and shopping, and property aspects, such as drainage, local zoning, and availability of roads and utilities.

The Uniform Appraisal Standards and relevant case law indicate that fair market value should reflect conditions where both the seller and buyer are willing and unpressured to transact and that a reasonable period of time has been allowed for exposure of the property in the open market to find a knowledgeable buyer. The "reasonable time" and "willing seller" elements are part of the definition of fair market value in order to exclude the influence during the appraisal process of "forced sale" prices. Thus, to determine the fair market value of BLM land, an appraiser would not consider the sale prices of properties sold under forced conditions, such as owner bankruptcy.

MAY 1983 SALE DID NOT COMPLY WITH
FAIR MARKET VALUE REQUIREMENTS

BLM's interpretation of the Santini-Burton Act was that land in Las Vegas should be sold as quickly as possible to offset the cost of the Forest Service buying land in Lake Tahoe. BLM lowered the minimum bid prices 15 percent below the appraised fair market value in May 1983 in order to stimulate bidding at the Santini-Burton public auctions. BLM officials in Nevada wanted to try a new approach because at the first two auctions in September 1981

and December 1982, less than 1 percent of the 1,000 acres offered for sale were sold.

BLM's appraised values of land assumed that there would be a 1-year market period. For the May 1983 auction, BLM adjusted prices downward 15 percent to reflect a new 1-day market period rather than the previous 1-year period. BLM lowered the appraised values 15 percent to reflect a 1-day marketing period because BLM officials believed the discounted prices more accurately reflected the price trends they observed in other auctions in Las Vegas and BLM wanted to stimulate bidding at the auction. According to the chief appraiser at BLM's Nevada State Office, private sector auctions in Las Vegas are generally foreclosures or bankruptcy sales with lower sale prices. BLM's contract appraisers found that these prices were 15 to 40 percent below fair market prices in the Las Vegas area.

Contrary to BLM's view supporting its decision, we believe that the May 1983 1-day discount procedure did not comply with applicable regulatory requirements that public land be sold for no less than fair market value, as determined by an appraisal. The Federal Land Policy and Management Act, BLM's sales regulations, the Uniform Appraisal Standards, and professional standards indicate that fair market value should not be based on an assumption that the government must sell its property in 1 day. This is inconsistent with the reasonable time concepts of fair market value. In our opinion, this makes BLM's sales program analogous to forced or panic sales typical of sellers acting under duress. Such a procedure contradicts the generally accepted appraisal

standard that the seller has a reasonable time in which to find a buyer and is not obligated to sell.

Although BLM's reason for lowering prices 15 percent for the May 1983 auction did not comply with the regulatory fair market value requirements, it is possible that existing market conditions in May 1983, such as a sluggish real estate market, could justify a lowered appraised value for a 1-year marketing period. There is no way to verify this, however, because we did not obtain an independent appraisal at the time of sale to update BLM's September 1982 appraisal.

PROCEDURES FOR FUTURE SALES

Although BLM has not used the 1-day market period approach since May 1983, it had planned on using this procedure for the November 30, 1983, auction. The contract appraisers were required to appraise the sales parcels for two separate market periods--1 year and 1 day. Shortly before the auction, BLM decided to use the 1-year appraised value to establish the minimum bids. At this auction, BLM sold 17 parcels for \$3.3 million which was about \$500,000 more than the appraised fair market value of \$2.8 million.

BLM's Nevada Associate State Director told us that the procedure might be used in the future if Santini-Burton sales were to decline. He said that, if we conclude that the 1-day procedure does not comply with existing regulations, BLM could promulgate revised Santini-Burton Act regulations. The revisions would have to be done in cooperation with affected local governments. Section 2(a) of the act allows procedures that are inconsistent

with the Federal Land Policy and Management Act, if necessary to expedite the Santini-Burton Act purposes.

We believe that the principles contained in the Uniform Appraisal Standards provide a sound basis for BLM to establish appraised fair market value and question whether current conditions support the need to adopt new regulations to permit a 1-day discounted land sale.

As an alternative to the 1-day auction, we discussed with BLM officials in October 1983 the possibility of using a sealed competitive bid procedure for the Las Vegas land sales. Under this procedure, BLM could allow several weeks for the public to submit sealed bids on any tract offered in Las Vegas for at least the appraised fair market value. This flexibility could improve public participation in the sales program. In November 1983, BLM issued instructions adopting this procedure. For the January and February 1984 sealed bid openings in Las Vegas, BLM offered 950 acres and sold 92.5 acres for \$1.2 million, which was about \$13,000 more than appraised fair market value.

Also, we believe that as long as current conditions prevail, it is not necessary to quickly sell land at a discount in order to generate funds for the Forest Service's land acquisition program.

LAKE TAHOE LAND ACQUISITION PROGRAM

The Santini-Burton Act does not require BLM to make direct payments to the Forest Service to fund land acquisition at Lake Tahoe. Instead, the act authorizes the Congress to appropriate money to the Forest Service each year from the Land and Water Conservation Fund. The act provides that BLM's sales revenues will be deposited annually in the Department of the Treasury's general

fund but that, by fiscal year 1995, BLM's proceeds will repay the appropriations made to the Forest Service from the Conservation Fund. For repayment purposes, funds are to be transferred sometime before fiscal year 1995 from the general fund to the Conservation Fund. No funds have been transferred to date.

BLM's sales program has had no effect to date on the Forest Service's land acquisition program. The Congress appropriated a total of about \$27 million to the Forest Service in fiscal years 1982, 1983, and 1984 from the Conservation Fund to acquire land in the Lake Tahoe Basin. At the end of fiscal year 1983, the Conservation Fund had an unappropriated balance of \$2.5 billion. The Conservation Fund was established in 1965 to provide for the acquisition of recreation lands. The Fund receives \$900 million annually from four sources--offshore oil and gas leases, surplus property sales, recreation fees, and the motorboat fuels tax. The Conservation Fund has more than enough revenue to cover the Forest Service's planned land acquisition program at Lake Tahoe, which the Service estimates will have a total cost of between \$85 million and \$280 million.

The act also requires the Secretary of the Interior to prepare semiannual reports to congressional legislative committees on BLM's and the Forest Service's income and expenditures. To date, these twice-yearly reports have not been prepared. BLM officials told us that the first report will be issued in fiscal year 1984 and will contain information on earlier years.

This concludes my statement, Mr. Chairman. We will be glad to respond to any questions.

27807