

Chicken Broiler Quota Order, amendment*

Regulation 146/2004
Registered August 17, 2004

Manitoba Regulation 298/89 amended

1 The Chicken Broiler Quota Order, Manitoba Regulation 298/89, is amended by this order.

2 Section 8 of Schedule "A" is repealed and the following is substituted:

Retirement and basic allotment reallocation program procedures

8(1) Designated Staff may operate a Retirement and Basic Allotment Reallocation Program for each category on or before the sixth regular business day of the month following the month in which notification is given by the Board to registered producers of such Program.

8(2) Designated Staff may cancel, or may postpone, for up to seven days at any time, the operation of any Retirement and Basic Allotment Reallocation Program for a category for any reason they deem advisable.

8(3) A person wishing to submit an Offer must do so in writing, either by letter or telefax, in a form satisfactory to the Designated Staff, to the Board's head office.

8(4) Each Offer on a particular Retirement and Basic Allotment Reallocation Program must include any necessary application fee established by the Board for processing an Offer, together with the following information:

- (a) the number of quota units offered for cancellation;
- (b) the category of the quota units offered;

* This order is made under the *Manitoba Chicken Broiler Producers Marketing Plan Regulation*, Manitoba Regulation 37/2004, and is Order No. 2, 2004 of Manitoba Chicken Producers.

(c) the minimum retirement payment to the nearest cent per quota unit which the offeror is willing to accept upon cancellation of the quota units offered for cancellation;

(d) the name, address and signature of the offeror;

(e) the Producer Registration Number of the offeror.

The Designated Staff may require an offeror to provide proof of the consent of any secured creditor of the offeror to the submission of such Offer.

8(5) Upon receipt of an Offer in an acceptable form, the Designated Staff shall determine the Reallocation Day for the operation of a Retirement and Basic Allotment Reallocation Program to deal with the Offer, and shall cause a notice to be mailed to each registered producer indicating the fact that an Offer has been received; the number of quota units offered for cancellation; the minimum retirement payment which the offeror is willing to accept upon cancellation of the quota units offered for cancellation; and the Reallocation Day. Provided the number of quota units offered for cancellation are at least 30,000 quota units, such notice shall also be mailed to each person on the Notification List.

8(6) A person wishing to submit a Bid on a Retirement and Basic Allotment Reallocation Program must do so in writing, either by letter or by telefax, in a form satisfactory to the Designated Staff, to the Board's head office, which must be received prior to 4:00 p.m. of the last working day before the month in which the Retirement and Basic Allotment Reallocation Program is to be held.

Each Bid on a particular Retirement and Basic Allotment Reallocation Program must include the following information:

(a) the number of quota units requested for allotment;

(b) the category of the quota units requested;

(c) the administration fee, to the nearest cent per quota unit, which the bidder is willing to pay upon allotment of the quota units requested for allotment;

(d) the name, address and signature of the bidder;

(e) the Producer Registration Number of the bidder, where applicable.

Only one quantity of quota units may be specified in any Bid.

A registered producer may indicate on a Bid, in a form satisfactory to the Designated Staff, that, if the Bid is successful, a portion of the quota units requested are to be allocated to one or more other registered producers provided that the provisions of section 9 are met by each such registered producer.

In order for a Bid to be eligible to be processed on a Program, the bidder must submit a separate bank draft or credit union primary order payable to the Board (or other method of payment or security for payment acceptable to the Designated Staff) representing the full amount of the administration fee such bidder proposes to pay in connection with that Bid which must be received at the Board's head office no later than 4:00 p.m. of the last working day before the month in which the Retirement and Basic Allotment Reallocation Program is to be held.

8(7) In the case of an omission or defect in a Bid or in an Offer the Designated Staff may not make changes or additions to such Bid or Offer, and the Bid or Offer will be rejected. A member of the Designated Staff shall attempt to contact the bidder or offeror and to advise him/her of such rejection. The fact that a Bid or an Offer is rejected shall not preclude the bidder or offeror from submitting a subsequent Bid or Offer.

8(8) A Bid may be amended or withdrawn, provided such withdrawal or amendment is in writing and in the form of a letter or a telegram or a telefax satisfactory to the Designated Staff, sent by the bidder, and is received at the head office of the Board prior to 4:00 p.m. of the last working day before the month in which the Retirement and Basic Allotment Reallocation Program is to be held. Such withdrawal or amendment must be clear and unambiguous and must identify the bidder by name and by Producer Registration Number, where applicable, and must specify the Bid that is to be withdrawn or amended.

Any Bid which is received after any deadline for submission for that Program will be rejected by the Designated Staff.

8(9) As provided in section 55.2 of this Order, the Designated Staff may refuse to accept or may postpone processing of any Bid or any Offer. Any decision to postpone the processing of a Bid or an Offer, or to reject a Bid or Offer made by the Designated Staff shall be final. The Designated Staff may also establish terms and conditions before a Bid or an Offer will be processed in the future. Any person who is not satisfied with the terms and conditions established by the Designated Staff before a Bid or Offer will be processed in the future may appeal such decision in writing to the Board.

8(10) On each Reallocation Day, the Designated Staff shall qualify all valid Bids for the quota units offered for cancellation where the administration fee set out in a Bid is at least equal to the minimum retirement payment set out in the Offer. In the event only one such qualified Bid is received for the quota units offered for cancellation, that Bid will be deemed to be the successful Bid. In the event more than one such qualified Bid is received for the quota units offered for cancellation, the Bid offering the highest administration fee per quota unit will be deemed to be the successful Bid. In the event two or more such qualified Bids offering the highest administration fee per quota unit are identical, the Designated Staff shall conduct a lottery among such identical Bids to determine the successful Bid.

In the event the successful Bid offering the highest administration fee per quota unit is less than the number of quota units offered, the qualified Bid offering the next highest administration fee per quota unit where the administration fee is at least equal to the minimum retirement payment set out in the Offer will be deemed to be the next successful Bid with respect to all or a portion of the balance of the quota units offered for cancellation.

To the extent that the aggregate of the quota units comprising the qualified Bids deemed to be successful aggregate less than the number of quota units offered for cancellation, the qualified Bid offering the next highest administration fee per quota unit where the administration fee is at least equal to the minimum retirement payment set out in the Offer will be deemed to be the next successful Bid with respect to all or a portion of the balance of the quota units offered for cancellation, and such process shall be repeated until the successful Bids aggregate the number of quota units offered for cancellation. As a result of this process, in the event two or more such qualified Bids offering the highest administration fee per quota unit are identical, and the number of remaining quota units offered for cancellation are less than the aggregate of such Bids, the Designated Staff shall distribute the quota units rateably among such identical Bids.

In the event, as a result of the above procedure, the successful Bids still aggregate less than the number of quota units offered for cancellation the Designated Staff shall then qualify all valid Bids for the quota units offered for cancellation where the administration fee set out in the Bid is less than the minimum retirement payment set out in the Offer. The qualified Bid in this second grouping offering the next highest administration fee per quota unit will be deemed to be the next successful Bid with respect to all or a portion of the balance of the quota units offered for cancellation and such process shall be repeated until such successful Bids aggregate the number of quota units offered for cancellation. As a result of this process, in the event two or more such qualified Bids from this grouping are identical, and the number of remaining quota units offered for cancellation are less than the aggregate of such Bids, the Designated Staff shall distribute the quota units rateably among such identical Bids. In the event, as a result of this second procedure the aggregate administration fees which would be payable upon allotment of the quota units requested for allotment is less than the aggregate minimum retirement payment requested with respect to the quota units offered for cancellation, the Program shall be cancelled and the Offer and all Bids shall be deemed to be unsuccessful.

8(11) Following the operation of a Retirement and Basic Allotment Reallocation Program, the Designated Staff shall report to the Board particulars of the Offer, the number of Bids received, the number of quota units in each Bid, the administration fee offered with each Bid, and any particulars of the successful Bid(s). The Board will review such report and if satisfied, in its sole discretion, that there have been no irregularities or deficiencies in the operation of that Retirement and Basic Allotment Reallocation Program, the Board may pass a resolution to accept such results.

Following the acceptance of the results of a Retirement and Basic Allotment Reallocation Program, the Board will pass a resolution to allot quota units to the successful bidder(s) and to cancel quota units of the successful offeror in order to implement such results and will determine the effective date or the process for determining the effective date to apply to such allotment(s) and to such cancellation(s).

In the event a successful bidder indicated on the Bid that a portion of the quota units are to be allotted to another registered producer or producers, the Board will allocate the quota units in accordance with such indication.

The allotment of quota units to a successful bidder who is a registered producer will be effective as of the first day of the marketing cycle of that bidder which occurs after the effective date established by the Board for such allotment.

The allotment of quota units to a successful bidder who is an eligible person will be effective upon a date satisfactory to the Board and the eligible person for the commencement of the eligible person's first marketing cycle.

The cancellation of quota units allotted to a successful offeror will be effective as of the last day of the marketing cycle of that offeror which occurs after the effective date established by the Board for such cancellation.

8(12) Following the Board's consideration of the results of a Retirement and Basic Allotment Reallocation Program, each participant in the Retirement and Basic Allotment Reallocation Program will be advised in writing by the Designated Staff whether such participant's Offer or Bid was successful, and if the Bid or Offer was successful, the effective date of the allotment or cancellation.

8(13) All funds submitted by unsuccessful bidders and all excess administration fees submitted by successful bidders as proposed administration fees will be returned to such bidder.

Coming into force

3 This order comes into force on June 30, 2004 or on the date it is registered with the Registrar of Regulations, whichever is later.

June 2, 2004

MANITOBA CHICKEN PRODUCERS:

Waldie Klassen
Chair

Fred Homann
Secretary

APPROVED

August 16, 2004

MANITOBA FARM PRODUCTS
MARKETING COUNCIL:

Rhéal Cenerini
Chair

Gordon H. MacKenzie
Secretary

The Queen's Printer
for the Province of Manitoba