

New York State Department of Environmental Conservation

Division of Mineral Resources
Bureau of Oil and Gas Regulation
625 Broadway
Albany, NY 12233-6500
(518) 402-8056

INVITATION FOR BIDS (IFB)

Name of Project: *Oil and Gas Lease*

_____ State Reforestation Area #_____, _____ acres

Contract Number:

Bid Due Date:

Release Date:

Pre-Bid Conference: None

Article 1: Background

The New York State Department of Environmental Conservation (“Department”) is authorized by Title 11, Section 23-1101 of the Environmental Conservation Law to make leases on behalf of the State for exploration, production, and development of oil and gas on State lands other than State Parks.

Article 2: Scope of Work

All bids for leasing of the oil and gas rights to _____, _____ acres, as shown on a map of said area attached as Exhibit _____ must be submitted to the Department on the bid form. The State of New York (“State”) is considered to be the owner of 100 percent of these Oil and Gas rights but makes no warranty as to its ownership thereof and bidders assume risk of proving title. Should the title search reveal that the State does not own all or part of the Mineral Rights on a portion of the subject tract, proportional restitution of the initial bonus payment shall be made.

The high bidder will be granted the exclusive right to prospect for by geophysical and other exploratory tests, extract, pipe and remove oil and natural gas, and occupy and use only so much of the surface of the Property as approved by the Department as reasonably necessary to carry on the work of prospecting for, extracting, piping and removing such oil and natural gas and also the right to use, free of cost, oil and natural gas as fuel in so far as may be necessary to the development and operation of the Property. It is understood that Department grants only those rights owned by it and by execution of this agreement makes no warranty or guarantee to Lessee with respect to ownership of any rights under the Property described in Exhibit(s) _____. For the purpose of determining the amount of any rentals and shut-in royalties hereunder, the number of gross acres above specified shall be deemed correct, whether actually more or less.

Department also will grant to Lessee the right to take, with the approval of Department, a sufficient supply of water to carry on said operations on the Property by means of pipelines or otherwise. Prior to the initiation of any activity in furtherance of such taking, Department or its representative shall approve the amount of water necessary for such purpose, the manner and duration of its taking and the plans and specifications for any works required in connection therewith.

Prospective bidders are advised that, from time to time, a subject tract may be landlocked, to wit, surrounded by lands in the possession of others and that the Department cannot provide or assure access to the property for prospective lessees across these lands. The successful bidder, if any, shall be solely responsible for obtaining the right of access to the proposed lease area across these lands.

No underground storage rights will be granted to Lessee under any terms of this Lease.

Article 3: Mandatory Requirements

Failure of the prospective bidder to meet all mandatory requirements may result in the bid being judged non-responsive.

Bids must be accompanied by a deposit of 10% of the bid amount in the form of a check or money order drawn to the New York State Department of Environmental Conservation.

All bidders must complete, sign and return the bid form (page __ of __) which is attached and incorporated herein. Failure to use the attached may result in a bid being judged non-responsive.

Following the award of this Lease, the Lessee, its successors, heirs or assigns, prior to entry on the Property for the purpose of drilling for oil or natural gas, must:

1. file with the Department an Organizational Report pursuant to the requirements of 6 NYCRR § 551.1 of the regulations;
2. apply for and secure for each well site proposed for the Property, prior commencement of drilling operations, a drilling permit for each site, pursuant to 6 NYCRR § 552.1 of the regulations; and
3. for each well site proposed, provide in a form and amount acceptable to the Department, financial security to guarantee the performance of well plugging and abandonment obligations as required pursuant to 6 NYCRR § 551.4 and 555 of the regulations.

Article 4: Standard Lease Clauses

The successful bidder will be required to sign a Lease addressing the same or similar provisions:

- a. **Appendix A** - Standard Clauses for All NYS Leases dated 11/00
- b. **Appendix B** - Standard Clauses for All NYS DEC Leases dated 4/00
- c. **Termination:** This Lease may be canceled or terminated by the Department upon notice and for cause. All monies due the Department will be paid upon notification of cancellation or termination.
- d. **Freedom of Information Act Requirements:** The Lessee must provide to the NYSDEC all information, records, and other written material it produces, possesses, or relies upon if such material is the object of a legitimate request to the NYSDEC pursuant to the Freedom of Information Act.
- e. **Receipts:** - In instances where monies are collected for the State, the Lessee will be required to forward all monies to the Department. The Department will then pay the Lessee's portion upon submission of an acceptable invoice. Upon request, the Lessee must make accounting records available for audit. Additionally, Lessees are required to post a surety bond or another acceptable security in lieu thereof, in an amount to be equal to at least the three highest months of anticipated annual monies collected by the Lessee on behalf of the State.

- f. **Term:** The Primary Term of this Lease is for a period of 5 years, with the option to amend or extend for a maximum of two additional one-year periods upon the mutual written consent of both parties and the approval of the Office of the State Comptroller. This Lease shall provide for a Contingent Secondary Term as defined in Article 3 of the Lease. The expected start date of this Lease is (Date).
- g. All monetary references are in U.S. dollars.

Article 5: Non-committal Clause:

This IFB does not commit the Department to award a Lease or pay any costs incurred in the preparation of a bid in response to this IFB. The Department reserves the right to accept or reject any or all bids received as a result of this IFB, to negotiate with all qualified sources, or to cancel, in part or in its entirety, this IFB if it is in the best interest of the Department to do so.

Article 6: State's Reserved Rights:

The State reserves the right to:

- a. Define requirements to meet agency needs and to modify, correct, and clarify requirements at any time during the process provided the changes are justified and that modifications would not materially benefit or disadvantage a bidder;
- b. Disqualify proposals that fail to meet mandatory requirements;
- c. Eliminate mandatory requirements unmet by all bidders;
- d. Award Leases for any and all parts of a bid and negotiate Lease terms and conditions to meet agency program requirements;
- e. Require clarification from bidders for the purpose of assuring a full and complete understanding of the solicitation requirements;

Article 7: Method of Response to Inquiries

All requests for information pertinent to the preparation and submission of the bid and this procurement process are to be made in writing to Charles Gilchrist, Department of Environmental Conservation, Chief, Compliance Enforcement Section, 625 Broadway-3rd Floor, Albany, NY 12233-6500, no later than (date). No other Department employee is to be contacted regarding this procurement process. Written responses will be provided by mail or facsimile by c.o.b. (date), to all bidders who requested an IFB

The Department is responsible for providing addenda or responding to questions only from those persons or firms having obtained the IFB documents from the Department. Persons or firms obtaining the IFB from sources other than the Department bear the sole responsibility for obtaining any addenda issued or responses to questions about the project. If it is necessary to revise this IFB after the due date for bids, revisions will be provided only to firms who have submitted bids.

Article 8: Bid Submittals

Bids are to be submitted to the Department in Albany, New York. Bids must be clearly labeled on the outside of the envelope or package with the following statement:

Bid: *(title of project)*

Contract No:

Bid Open Date and Time:

BID - DO NOT OPEN

Two copies of the bid must be delivered no later than *(time)*, local prevailing time, on *(bid due date)* to the following:

Bureau of Procurement Services
New York State Department of Environmental Conservation
625 Broadway, 10th Floor
Albany, New York 12233-5027
Attention: Donna Pinchbeck

Please note that the above deadline is for receipt of the bid at the Department's Bureau of Procurement Services in Albany, New York, not for mailing or entrusting to a delivery service. Late bids will be returned unopened. Faxed bids will not be accepted.

Bid submissions should include:

- a. Completed Bid Form;
- b. MacBride Fair Employment Principles/Non-Collusion Requirements/Ethics Law Provision Form;
- c. Bid deposit in the form of a check or money order drawn to the New York State Department of Environmental Conservation, in an amount equal to ten (10) percent of the total bonus bid. Said check shall be returned to all unsuccessful bidders. Any earnest money on deposit with the Department shall be applied to this guarantee. The successful bidder shall remit the remaining ninety (90) percent of the bonus bid on receipt of a fully executed copy of the Lease.

Bidders shall bid on the basis of a bonus per acre which amount shall pay the first year's rental; however, no bonus which is less than \$5.00 per acre will be accepted.

All offers shall be firm and not revocable for a period of up to 60 days.

Article 9: Financial Terms

The rental for each succeeding year during the Primary Term of the Lease in the absence of commercial production shall be three dollars (\$3.00) per acre of the Property for the second year of the Primary Term and \$3.00 per acre of the Property for the third and each remaining

year of the Primary Term. Production royalties will be one-eighth (1/8) of all hydrocarbons produced and sold off of the Lease without deduction for exploration, production, operation or other costs of Lessee.

No payment other than the bid deposit will be accepted until the Office of the State Comptroller has approved the Lease.

Financial Security will be required for surface entry activities which require a permit from the Department. The amount will be based on the projected cost of restoration or repair of State property.

Article 10: Insurance

The Lessee agrees to procure and maintain at its own expense and without expense to the Department for the entire term of this Lease and any extensions thereof, insurance of the kinds and amounts hereinafter provided by insurance companies licensed to do business in the State of New York, covering all operations under this Lease. Upon execution of this Lease, the Lessee shall furnish to the Department a certificate or certificates, in form satisfactory to the Department, showing that it has complied with this Article, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the Department. The certificate should list the Department and the State of New York as additional insured. The kinds and amounts of insurance required are as follows:

- a. Policy covering the obligations of the Lessee in accordance with the provisions of the Worker's Compensation Law, Employers Liability, and Disability Benefits. This Lease shall be void and of no effect unless the Lessee procures the Worker's Compensation policy and maintains it until acceptance of the work.
- b. Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such insurance shall cover liability arising from premises operations, independent Contractors products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in a Contract (including tort liability of another assumed in a Contract).
- c. Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non-owned automobiles.
- d. The Lessee shall require that any subcontractors hired carry insurance with the same limits and provisions as provided herein.
- e. The Lessee shall require that any assignee comply with these provisions.

Article 11: Method of Award

The Department will award this Lease to the highest responsive, responsible bidder whose bid meets all of the terms and conditions of this IFB. In cases where two or more responsible bidders submit identical high bids, tying bidders shall have the option of participating in a run-off bid opening to be conducted by the Department under the same terms and conditions and held no later than two weeks after the date the tying bids were opened. The Department will supply the bid documents and instructions to the tying bidders. In any case where a tying bid precipitates a run-off bid, the tying bid shall constitute the minimum bid for the run-off bid. If one or more tying bidders elect not to participate in the run-off bid opening, the Department will award the Lease to the sole remaining tying bidder. The Department may also reject all bids, waive any technicality or informality in bidding or disallow any bid if the bidder, upon request, fails to furnish satisfactory evidence of responsibility and thereafter readvertise for new bids at its discretion.

BIDDER'S/PROPOSER'S CERTIFICATION

NON-COLLUSIVE BIDDING
AND
NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
MACBRIDE FAIR EMPLOYMENT PRINCIPLES
AND
STATE ETHICS LAW PROVISION

BY SUBMISSION OF THIS BID AND BY SIGNING HEREUNDER THE BIDDER/PROPOSER, AND EACH PERSON SIGNING ON BEHALF OF SUCH PARTY CERTIFIES, AND IN THE CASE OF A JOINT BID/PROPOSAL, EACH PARTY THERETO CERTIFIES AS TO ITS OWN ORGANIZATION, UNDER PENALTY OF PERJURY, THAT TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF:

A. NON-COLLUSION State Finance Law §139-d

- 1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- 2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- 3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

B. MACBRIDE FAIR EMPLOYMENT PRINCIPLES State Finance Law §165(5)

- 1. it or any individual or legal entity in which the bidder/proposer holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership in the bidder/proposer, either: (answer yes or no to one or both of the following, as applicable).
- 2. has business operations in Northern Ireland;

Yes _____ or No _____ (check answer) **IF YES, COMPLETE #3**

- 3. shall take lawful steps in good faith to conduct any business operations that it has in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

Yes _____ or No _____ (check answer)

C. STATE ETHICS LAW PROVISION

By submittal of this bid/proposal, the undersigned hereby certifies, for and on behalf of the bidder/proposer, that he is familiar with the following provisions of the State Ethics Law provisions applicable to post employment restrictions affecting former state employees: POL §73(8)(a)(i) the two year bar, and §73(8)(a)(ii), the life-time bar, and that submittal of this bid/proposal is not in violation of either provision, and that no violation will occur by entering into a Lease or in performance of the contractual services, and further that the bidder/proposer recognizes that the Department may rely upon this certification

Except as follows: (attach information if needed) (Proposer is to make full disclosure of any circumstances which could affect its ability to perform in complete compliance with the cited laws. Any questions as to the applicability of these provisions should be addressed to the New York State Ethics Commission, 39 Columbia Street, Albany, N.Y. 12207: telephone #1-800-87-ETHICS.)

NOTE: All references to "bid" "bidder" shall be deemed to include "proposer" "proposal".

Date: _____

Print Name and Title

Signature

Contract # _____

BID FORM

Bids on _____, Town(s) of _____, _____ County, New York which totals approximately _____ acres shall be entered below:

BONUS PER ACRE _____

TOTAL BONUS _____

By submission of this bid, the Bidder stipulates and agrees that he/she has carefully examined the Oil and Gas Lease, area map and applicable Rules and Regulations and that the bid is made in reliance upon said documents.

In witness whereof the bidder has executed this bid, this _____ day of _____, 20____.

Bidder Sign Here: _____

Firm Name: _____

By: _____

Address: _____

Phone # _____

Fax # _____