

COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
DIVISION OF REAL PROPERTIES

INVITATION FOR BIDS

FOR LICENSE

State-Owned Real Property

41 Acres

Timber Harvest and Sale

Fleming WMA

Fleming, Kentucky

Invitation to Bid: 012424

Bid Opens: Wednesday, January 24, 2024 @ 3:00 p.m. ET

INSTRUCTIONS TO BIDDERS

(1) Bid must be submitted on the "Form of Bid" included within and made part of this invitation, appropriately signed and received at the Division of Real Properties, State Properties Branch, Bush Building, 3rd Floor, 403 Wapping Street, Frankfort, Kentucky 40601-2607, no later than the specified "bid opening" date and time.

(2) The Commonwealth of Kentucky reserves the unqualified right to reject any or all bids.

(3) Bids will be 'publicly' read aloud and Bidders may access the bid opening through a conference call. To access the conferencing bridge, Bidders may either dial 502-782-CONF (2663) OR 502-564-9110. Once called, Bidders will be prompted to enter a code. Bidders, as "attendees/participants" need to enter the code 42014. Please be mindful that the conference call will not begin until the moderator (Buyer: Nancy Brownlee) is logged in and the conference call will end once the moderator hangs up.

(4) For further information or to obtain a hard copy of the bid package, contact Nancy Brownlee, Division of Real Properties, Bush Building, 3rd Floor, 403 Wapping Street, Frankfort, KY 40601-2607 (phone 502/782-0358. nancy.brownlee@ky.gov)

**GENERAL TERMS AND CONDITIONS
INVITATION TO BID
SALE OF TIMBER**

**FLEMING WILDLIFE MANAGEMENT AREA
FLEMING COUNTY, KENTUCKY**

GENERAL TERMS AND CONDITIONS

Scope of Project

At the request of the Secretary of the Finance and Administration Cabinet for the use and benefit of the Department of Fish and Wildlife Resource, hereinafter referred to as the "KDFWR", the issues this Invitation for bids to harvest a tract of timber adding up to approximately 41 acres of the Fleming Wildlife Management Area, hereinafter referred to as "Fleming WMA". The areas of interest and inventory data is provided in the Exhibits A, B, C, attached hereto and made a part hereof. The successful bidder shall have 2 years from the date of execution of the resulting Contract of Tenancy to remove the subject timber from the units, as well as completing all requirements described in this contract. Persons interested in responding to this Invitation to Bid must submit the enclosed sealed bid form of proposal. All bids should be submitted on or before Wednesday, January 24, 2024 **at 3:00 p.m. ET**. This Invitation to Bid and the bidder's response, when accepted by KDFWR, will govern any Contract of Tenancy issued as a result of this Invitation to Bid. The Contract of Tenancy shall commence on the date executed by the Secretary of the Finance and Administration Cabinet

Section 1
INTRODUCTION

The harvesting of timber, as specified in this bid package, shall be in accordance with all terms and provisions specified herein. The timber sale areas are within the Fleming WMA property located in Fleming County, Kentucky. The timber sale boundary areas contain approximately 41 acres. Due to United States Fish and Wildlife Service (USFWS) regulations, the cutting of timber/trees is only permitted from August 1- March 31. The successful bidder will also not be allowed to work on the following weekends: October 14-15 and 21-22, no weekends in November, December 9-10, and December 16-17. The successful bidder can remove cut timber or dress and seed areas within the cutting boundary after March 31; however, NO trees are to be cut or damaged under penalty of Federal Law. Boundaries and some leave trees will be marked by KDFWR prior to any operations by the bidder.

Section II
PERFORMANCE

The timber sale unit boundaries will be definitively designated by vertical blue slashes, leave trees will be dotted with blue paint on the up and down hill side of the tree. All boundary and leave trees are to be left standing and unharmed. Units 1-4 (Rigdon, Horseshoe, Big Boy, and Partial Hill) will have reserve trees that are to be left, while the smaller group selection units (5-12) are complete clear-cuts with no reserves. The successful bidder will be required to provide copies of all mill tickets for

units 5-12 (Group Selections) in an effort to look at sustainability of this type of harvesting. All stems with a DBH of 3" or greater are to be cut unless designated as a leave tree. Plans and strategies for removing timber on this project will require approval by KDFWR. It is expected that equipment will be cleaned to prevent the spread of exotic/invasive species on property owned by KDFWR.

It will be the bidder's responsibility to address issues on the WMA roads prior to use. This would include rock, dirt work, or drainage that might be needed to facilitate the harvest and extraction of timber. At the completion of each area the successful bidder will be required to re-rock (1" DGA), grade, clean ditches, and replace culverts if necessary (18-24") on all pre-existing WMA roads that were used during the harvest, regardless if rock was put down prior to facilitate the harvest.

Tower Road (.5 miles 160 tons)

Jacob Road (.9 miles 300 tons)

The successful bidder is also required to improve approximately 1.3 miles by 14ft wide road which will be used for the duration of the project on units 1-4. The location of the road is clearly shown on the map provided and will meet the following specifications at the conclusion of the project:

All vegetation, wet, organic, uncompact soil or other undesirable materials shall be removed from the entire length and width. The subgrade shall be of firm undisturbed soil material or shall be of suitable compacted materials approved by KDFWR. The road shall be crowned to shed water. It will be the bidder's responsibility to place 2 inches of stone on the entirety of the road. Load tickets will be provided to KDFWR that 840 tons of rock were placed on the road at conclusion.

Ditches and up to 15, 18–24-inch culverts will be provided and installed by bidder. Design ditch channels to have stable grades and side slopes no steeper than 2 to 1 to move water away from the road to prevent flows from causing roadside erosion and provide a stable outlet for the ditch. The capacity of a roadside ditch must be adequate to carry the drainage from the road surface to outlet. Culverts will be installed at locations directed by KDFWR.

This rock and finished road work is to be completed to these specifications at the conclusion of timber harvesting at Fleming WMA. KDFWR reserves the right to pause logging operations to address drainage and sediment issues that may arise. It is important for bidders to account for rock and road improvements in their bid.

Bids should indicate a lump sum payment for all timber products identified in this bid package that will be paid to KDFWR. It is important that road improvements and rock are factored into the bid. The Commonwealth of Kentucky will receive a lump sum price for all timber products from the successful bidder. The successful bidder shall make bond or deposit with the State by check or cash within 5 days of the signing of this contract for the sum of \$5,000 to be held in escrow against the full compliance by the successful bidder of the conditions and requirements of this contract. A total bond payment of \$10,000 and the lump sum price for all timber products is to be paid in full to the Commonwealth of Kentucky before any activity begins. The \$10,000 bond or deposit will be forfeited to the state if the successful bidder fails to fulfill all the conditions and requirements of the contract. If the logger is found to be falsifying tally sheets, cutting timber outside the harvest units, or neglecting **Best Management Practices**, then the logger forfeits their performance bond and any timber remaining to be harvested. If the fore mentioned conditions occur the logger will vacate the premises and all remaining timber immediately. Upon satisfactory completion to the state of this contract, the bond will be released back to the successful bidder.

All improvements to the Fleming WMA shall be removed prior to the expiration of the Contract of Tenancy or extensions thereof. Any improvements remaining on the premises shall become the property of KDFWR without recourse by the bidder, unless written authorization is issued by KDFWR.

It will be the responsibility of each bidder to examine and survey the areas on which logging operations will take place to make their own determination as to the logistics of removing timber from the above-described tract(s). KDFWR must approve all ingress and egress routes to the tracts, skid trail locations prior to the commencement of logging activities, and it will be the responsibility of the bidder to build and maintain suitable skid trails to carry out the logging operation. No skid trails are to be built on ground with less than 15% slope unless they are pre-existing. KDFWR has inventoried the tracts and our estimations are provided. It is the bidder's responsibility to determine their own timber assessment.

No marked leave trees may be harvested or purposely damaged during the timber operation. Accidental damage to mature hardwood trees must be minimized. Some damage to residual non-pulpwood or leave trees will occur, however damage must be minimized, and damage will be assessed for each tract. Provisions for excessive damage will be as follows: for non-harvested trees greater than 6 inches in diameter at breast height, if damage exceeds 10%, a compensation of \$100 (one hundred dollars) per damaged tree above the 10% threshold will be assessed. Damage is defined as knockdown; topping or main stem breakage; over one-third of the main crown removed; stripping or removing bark on the butt log due to skidding; felling or other harvesting operations that exposes over 100 square inches of wood; or trees that are bent over 20 degrees from normal. Minor damage (damage under the specifications listed above) will not be assessed. Special consideration will be provided to account for weather or storm conditions that may occur during or directly before the harvest that might render a higher degree of harvest damage to the residual stand than would normally occur.

All telephone lines, ditches, bridges, roads, pipelines, and fences located within or immediately outside the boundaries of the sale areas shall be protected by the bidder during cutting and logging operations. The bidder is required to notify the KDFWR if damage occurs, and the bidder is responsible for repairs as soon as possible under the supervision of KDFWR. The bidder will be permitted to erect improvements to carry out the logging operation of this agreement, with all improvements being approved by KDFWR.

All roads, trails, and streams shall, at all times, be kept free of logs, brush, and debris resulting from the cutting and logging operations under this Contract of Tenancy. The bidder is responsible for maintaining public roads and rights-of-way free of soil and logging debris. Practices must be undertaken to restrict the deposition of soil onto public roads. The bidder is also responsible for timely clearing of soil deposited onto public roads. If the bidder fails to keep them clear, then KDFWR will clear them, and the bidder shall reimburse KDFWR for the cost.

The bidder assumes his/her full share of the maintenance of any established public and non-public roads and bridges that he/she may use in conducting the operations of cutting and logging the timber under this Contract of Tenancy. The bidder agrees to maintain during operations said roads and bridges in as good a condition as prior to the beginning of operations. After the completion of the logging operation the bidder will be required to grade and re-gravel with 1 inch of #467 the WMA gravel roads that were utilized during the logging operation. WMA roads that are open to public

vehicular traffic must remain open to the public and in acceptable quality for passenger vehicles. Any paved roads used by the contractor must be returned to a condition as good as their condition prior to the beginning of the logging operations at the sole expense of the bidder.

Issues that may arise regarding damage to county-owned and –maintained roads by the successful bidder and/or successful bidder’s contractors’ equipment and hauling trucks will be the responsibility of the contractor and will not be the responsibility of KDFWR.

The bidder must use all appropriate Best Management Practices for water quality protection as specified by the Kentucky Forest Conservation Act. The KDFWR must approve all stream and channel crossing locations. Improved stream and channel crossings must be used where appropriate and approved by KDFWR prior to installation. All active skid trails will have temporary water control structures installed daily between December-March. Retirement of landings, haul roads, and skid trails shall be completed in accordance with the appropriate Best Management Practices (BMPs) referenced above including: the elimination of berms, removal of ruts, and other practices needed to resurface roads, trails, and landings; installation of permanent water control structures; preparation of seedbed; application of seed (seed mixes must be approved by KDFWR); and application of lime and fertilizer as indicated by soil testing and/or direction from KDFWR. Once landings, haul roads and skid trails have been retired they are to be seeded with the seed mixtures mentioned below. Purchase and application of seed is the responsibility of the successful bidder, any deviation to the seed mixture must be approved by KDFWR. Seed mixes are as follows, for anything below 10% slope- 4# ladino white clover, 4# white clover and 50# wheat. These rates are per acre and should be mixed together and sown. For anything 10% slope and over 8# white clover and 100#wheat per acre.

The bidder agrees not to pollute any streams of the sale area, and to keep the streams and water resources free from soil and logging debris and trash generated from logging operations on said area, and will forever protect, indemnify, and hold harmless KDFWR from any and all claims, costs, prosecutions, or actions resulting from any violations by him.

(All skid trails are to be water barred and seeded)

(Distances between water bars for retirement of skid trails)

<u>Skid Trail % Slope</u>	<u>Spacing (slope distance in Feet)</u>
1	400
2	245
5	125
10	78
15	58
20	47
25	40
30	35
35	32
40	29

The successful bidder or representative will be required to sign and acknowledge a Unit Entrance/Exit checklist, which summarizes KDFWR’s expectations for each unit. Periodic inspections will be conducted and require a signature for each visit as well. If a contract extension is needed, reasonable progress needs to be shown within the original (2) year agreement.

During the term of this Contract of Tenancy, the bidder agrees to exercise all means in his power to prevent the start of and to suppress all forest fires on the contract area and in its vicinity. The bidder is responsible for contacting KDFWR and appropriate local authorities in the event of a fire. No fire for any purposes is allowed on the logging operation without approval of KDFWR.

During high and extreme fire hazard weather, KDFWR may prohibit logging. KDFWR reserves the right to suspend logging (harvesting and hauling) operations when weather conditions will lead to rutting that cannot be fixed with equipment that is available and on-site or conditions are deemed as such to produce long-term impairment of the water bodies.

All operations being carried out by the bidder for the cutting and removal of the timber under this sale may be suspended by KDFWR if the conditions and requirements contained in this Contract of Tenancy are disregarded. Continued failure to comply with any one of the stated conditions and/or requirements shall be sufficient cause for the termination of this Contract of Tenancy.

Complaints or disagreements by the bidder as to any actions taken by KDFWR respecting this Contract of Tenancy shall not be considered unless made in writing within thirty (30) days of such action causing a complaint or disagreement by the bidder to the Director of KDFWR. The decision of the Director shall be final in the settling of complaints and disagreements on the part of the bidder as they pertain to the interpretation of the regulations and provisions of this bid package.

When timbering operations are in progress, the bidder shall have, at all times, at the site of activities, a representative who shall be authorized to receive, on behalf of the bidder, any and all notices and instructions in regard to the conditions and requirements set forth in this Contract of Tenancy and to take such action as may be required under the terms of this Contract of Tenancy. ***A Kentucky Master Logger must be present on the harvest site at all times while harvesting activities are underway.*** KDFWR will provide contact personnel that will be available on-site in a reasonable period of time.

All records of the bidder as they pertain to the operations being carried out under the terms of this sale shall be open to inspection at any time by KDFWR.

The bidder shall have no right or permission to use any part of the area outside the boundary of the area herein described, unless the bidder shall have obtained special prior written permission from KDFWR describing the limitations of such use.

The mineral and right-of-way rights over, on, in, and under the sale area herein described are in no way affected by this Contract of Tenancy. KDFWR, nor any licensee, nor successor, nor assignee of it shall be liable to the bidder for any damages because of the exercise of their rights, however, or by whomever conducted, and that the bidder agrees to hold KDFWR harmless from any claims for such damages on the part of the bidder. The successful bidder should coordinate the logging operation at all times with the KDFWR Wildlife Biologist or Forester. KDFWR does not undertake the responsibility to furnish right-of-way over lands belonging to others.

The term "bidder", as used in this sale, shall include and mean any and all representatives of the bidder, his or her employees, individuals or groups with whom the bidder may contract, and the contracting party's employees.

The bidder agrees to comply with all applicable state, federal, and local statutes, rules, and regulations. This includes but is not limited to those involving worker's compensation insurance,

OSHA, child labor, and other laws governing timber harvesting.

The Contract of Tenancy resulting from this bid proposal shall not be assigned in whole or part.

Timber is to be taken on a "where is", "as is" basis without recourse. **KDFWR makes no warranty or guaranty as to the quality, quantity, condition, size, and/or description of timber sold under this contract. A site visit prior to the submission of bid is encouraged.**

KDFWR will be primarily responsible for ensuring that all such provisions are enforced. Major deviations from these provisions will require the prior written approval of the Division of Real Properties and KDFWR. Problems, which arise under any aspect of performance, should first be resolved between the licensee and KDFWR. In the event problems and/or disagreements cannot be resolved, they should be reduced to writing, and referred to the Division of Real Properties for settlement. KDFWR reserves the right to terminate the Contract of Tenancy immediately for cause in the event of any material breach of these terms and conditions and for convenience.

As a guarantee of faithful performance of the conditions and requirements of this sale, the bidder agrees that all monies paid under this Contract of Tenancy shall, upon failure to comply and fulfill all conditions and requirements herein set forth, be retained by KDFWR to be applied as far as may be to the satisfaction of his obligations assumed hereunder.

Section III BID PACKAGE ADDENDA

This bid package may be supplemented or amended at any time by appropriate addenda, which will be mailed to all known bid package holders and will be posted to the eProcurement website. Addenda may also be necessary after the receipt date and will be sent to all Bidders who have submitted a bid. It shall be the Bidder's responsibility to verify all addenda prior to submittal of response by viewing at <https://vss.ky.gov/vssprod-ext/Advantage4>

Section IV BIDDER RESPONSIBLE FOR BID SUBMITTAL

All bids submitted shall be deemed to have been made with the full knowledge of all of the terms, conditions, provisions, specifications, and requirements contained in this bid package and any addenda thereto.

Each Bidder has the responsibility of delivering his/her bid by the time and at the place prescribed in this bid package. Bids received prior to the closing for receipt of bids will remain unopened until the time scheduled for opening bids. Any bid received after the date and time specified in this bid package, may be rejected, and returned unopened to the Bidder.

The Commonwealth shall not have any liability to a Bidder due to the failure of such bid to be properly addressed or marked, or the premature opening of such a bid due to the improper address. Neither the bids nor their contents will be made available for public information or inspection until a determination of a Successful Bidder has been made and award is final.

Bids may be withdrawn by a written request received from the Bidder prior to the time fixed for opening. Otherwise, bids may not be withdrawn for a period of one hundred and twenty (120) calendar days after the closing date for receipt of bids. Negligence on the part of the Bidder in

preparing his bid confers no right to withdraw his bid after it has been opened.

Bidders are cautioned that the Restriction on Communications applies to any Commonwealth employee except as listed below.

Section V
INQUIRIES – RESTRICTION ON COMMUNICATION

The Commonwealth Buyer named below shall be the **sole point of contact** throughout the procurement process (with the exception of scheduling a site visit, should the Bidder so choose to schedule a site visit). All communications, oral and written (regular, express, or electronic mail, or fax), concerning this procurement shall be addressed to:

Nancy E. Brownlee
502-782-0358
E-mail – Nancy.Brownlee@ky.gov

From the issue date of this bid package until a Bidder is selected and the selection is announced, Bidders are not allowed to communicate with any Commonwealth Staff concerning this bid package except:

- The Commonwealth Buyer (Nancy Brownlee) cited in this bid package.
- Commonwealth representatives during a scheduled Bidders' Conference; or
- Via written questions submitted to the Commonwealth Buyer (Nancy Brownlee)

For violation of this provision, the Commonwealth reserves the right to reject that Bidder's bid response.

All inquiries must be submitted no later than ten (10) days prior to the deadline for receipt of bids to allow sufficient time for written responses to be routed.

Section VI
NO PRIOR COMMITMENT OR OBLIGATION OF THE COMMONWEALTH

The issuance of this bid package in no way constitutes an expressed or implied commitment by the Commonwealth to award a Contract of Tenancy to or to pay for the costs incurred in the preparation of a response to this bid package.

The Commonwealth unconditionally reserves the right to withdraw or cancel this bid package and to reject any and all offers at any time and for any reason without recourse against the Commonwealth. This bid package confers no rights upon the Bidder nor obligates the Commonwealth in any manner.

No Contract of Tenancy resulting from this bid package can be deemed valid and/or binding until properly approved and executed by the Secretary of the Finance and Administration Cabinet.

The Commonwealth may waive minor irregularities or technicalities; however, such waiver shall in no way operate to modify the bid package requirements or provisions if the Bidder is awarded the Contract of Tenancy.

Section VII
ISSUING OFFICE

This bid package is being issued by the Division of Real Properties, Finance and Administration Cabinet, on behalf of the Department of Fish and Wildlife. The only authority empowered to sign or obligate the Commonwealth is the Secretary, Finance and Administration Cabinet. Receipt of bid materials by the Commonwealth or submission of a bid to the Commonwealth confers no rights upon the Bidder nor obligates the Commonwealth in any manner.

No Contract of Tenancy resulting from this bid package can be deemed valid and/or binding until properly approved and executed by the Secretary of the Finance and Administration Cabinet.

Section VIII
Alterations/Renovations of the Premises

1. The parties hereto agree that the premises are to be utilized in their "as is" condition. The Commonwealth makes no guaranty or warranty, either expressed or implied, with respect to the property upon which the timber is harvested or access thereto.
2. The Successful Bidder shall obtain all occupancy permits required by state law, if applicable.
3. The Successful Bidder may not remove the structures, improvements, and equipment erected or placed upon the premises without the prior written approval of the Department of Fish and Wildlife Resources. Upon approval from the Department of Fish and Wildlife to remove any structures, improvements, or equipment placed upon the premises, the Successful Bidder must repair any damage to the premises resulting from the removal of the structures, improvements, or equipment.

Section XI
Protection of Work, Property, Employees, and Public

1. The Successful Bidder shall continuously maintain adequate protection of all its work from damages and shall protect the successful Bidder's and the Commonwealth's property from injury or loss arising in connection with the resulting agreement. The Successful Bidder shall make good any such damage, injury, or loss.
2. The Successful Bidder shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of the Kentucky workers compensation laws and all federal, state, and municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. The Successful Bidder shall designate a responsible member of its organization on the work as safety officer, whose duty shall be to enforce safety regulations. The name and position of the person so designated shall be reported to the Department of Fish and Wildlife.

Section XII
CONTRACT OF TENANCY PERIOD

Upon acceptance of bid, the Commonwealth is willing to grant a Contract of Tenancy to the Successful Bidder to harvest the timber from the wildlife management area for a term of two years, with an option to renew only if reasonable progress has been made within the original (2) year agreement. the timbering is incomplete. The initial two year period shall begin the date the Contract of Tenancy is signed by the Secretary of the Finance and Administration Cabinet.

The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The Bidder shall be advised of any proposed revisions prior to the renewal period. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw from either exercising the option or continuing the Contract of Tenancy in an extended period.

The Bidder's use of the premises is subject to, and the Bidder shall comply with, all applicable state and federal statutes and regulations.

The Commonwealth makes no guaranty or warranty, either expressed or implied, with respect to the property upon which the timber is situated.

The Bidder is expected to have examined the property and to submit with Bidder's bid his/her own formed conclusions as to its suitability of the property for the stated purposes.

Section XIII
REVENUE PAYABLE TO THE COMMONWEALTH

The successful Bidder shall pay to the Commonwealth the Bidder-specified lump sum amount for the subject timber harvested from the Fleming WMA. Rental payment to the Commonwealth shall be payable lump sum prior to the Successful bidder's start of logging.

Section XIV
CANCELLATION OF CONTRACT

The Commonwealth reserves the right to cancel the Contract of Tenancy for convenience when requirements under the Contract of Tenancy no longer exist, or changes in general conditions render the contract as not responsive to the needs of the Commonwealth. A written notice will be given to the Successful Bidder at least thirty (30) days prior to such proposed termination date. Upon the termination date specified in the written notice, all privileges of Successful Bidder shall cease, and Successful Bidder shall no longer be permitted to use Fish and Wildlife' premises and shall remove any personal property of Successful Bidder from premises by the cancellation date.

Upon cancellation of the resulting Contract of Tenancy, the Successful Bidder shall restore the premises and structures used in Successful Bidder's operation in as good a condition as of the date the contract was entered into by the parties. Reasonable wear and tear and damage by the elements is expected.

Section XV
HOLD HARMLESS

The Successful Bidder shall indemnify and hold harmless the Commonwealth, the U.S. Army Corps of Engineers, any of its agents, employees, or representatives, from any and all claims, demands, damages, actions, costs, including attorney fees, and charges which the Commonwealth and the Corps or the Successful Bidder may have to pay by reason of injury to any person or property or loss of life or property resulting from or in any way connected with the character, condition or use of the premises or any means of ingress thereto, or egress therefrom, or resulting from the Successful Bidder's operations on the premises, unless such injury or loss arises directly from the negligence of the Commonwealth and the Corps, any of their departments or agencies, or officers or employees while acting within the scope of their employment.

The Successful Bidder shall, at its own expense, assume the defense of such claims and actions for damages arising out of such injuries or losses which may be brought against the Commonwealth or the Corps by third persons; and shall pay such judgments that may be rendered in such actions, unless such claims or actions for damages and/or judgments arise directly from the negligence of the Commonwealth, any of its departments or agencies, or any of its officers, agents or employees while acting within the scope of their employment.

Section XVI
INSURANCE

Liability Insurance.

The Successful Bidder will be required to obtain, from a reputable insurance company authorized to do business in the Commonwealth, and carry liability of indemnity insurance providing as a minimum:

COMMERCIAL GENERAL LIABILITY, via the Occurrence Form, with a \$1,000,000 Combined Single Limit for any one Occurrence for Bodily Injury, Personal Injury and Property Damage, \$2,000,000 aggregate including:

1. Premises – Operations Coverage
2. Products and Completed Operations
3. Contractual Liability
4. Broad Form Property Damage
5. Independent Contractors Protective Liability
6. Personal Injury

Said insurance shall name the Commonwealth as an additional insured and shall also provide that said policy shall not be subject to cancellation, termination or change without at least thirty (30) days prior written notice to the Commonwealth. The Successful Bidder must furnish a copy of its insurance policy to the Department of Fish and Wildlife prior to commencement of operations.

After award of the Contract of Tenancy, the minimum liability amounts of required coverage established under this Section shall be subject to modification by the Commonwealth upon sixty (60)

days written notice to the Successful Bidder.

Casualty Insurance

During the term of the Contract of Tenancy, and any extension thereof, the Successful Bidder shall maintain, at the successful Bidder's sole expense, fire, and extended coverage insurance, including theft and vandalism, covering the proposed development in an amount equal to its full replacement cost value. The successful Bidder shall also carry and maintain during the term of the contract, at successful Bidder's sole cost and expense, fire and extended coverage insuring all contents and inventories in the premises to the extent of their full insurable value. Certificates of such policies shall be delivered to the Commonwealth within ten (10) days of the beginning of operations at the facilities, and thereafter within thirty (30) days prior to the expiration of the term of each policy, together with evidence of payment thereof by the Successful Bidder. Renewal or additional policies shall be obtained and maintained by the Successful Bidder in like manner and to like extent. All policies of insurance must contain a provision that the company writing the policy will give the Commonwealth thirty (30) days advance written notice of any cancellation or lapse of the effective date or any reduction in the amounts of insurance.

Section XVII **RECORDS INSPECTION**

The Successful Bidder, as defined in KRS 45A.030 (10) agrees that the Department of Fish and Wildlife, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The Successful Bidder also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

In the event of a dispute between the Successful Bidder and the Department of Fish and Wildlife, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004. (See attachment below)



Secretarys order
11-004.xml

Section XVIII **TERMINATION FOR DEFAULT**

If at any time during the period in which the resulting Contract of Tenancy is in effect, the Successful Bidder defaults on any obligation incurred hereunder, then the Contract of Tenancy shall be subject to termination by the Commonwealth with no right of recourse remaining in the Successful Bidder.

All rights and benefits herein conferred shall be deemed forfeited, and the Successful Bidder covenants that it shall quietly surrender possession of the contract premises to the Commonwealth, provided however, that before any termination shall occur under this Paragraph, the Successful Bidder shall be given written notice and be allowed thirty (30) days from the date of receipt of such notice in which to cure such default or noncompliance. If said default or noncompliance is cured within the above time period, then the Contract of Tenancy shall remain in full force and effect.

The procedure for termination of the Contract of Tenancy under this Paragraph shall be as follows:

- The Commonwealth shall deliver, by certified mail, to the Successful Bidder, a “Notice of Termination” which shall specify (i) the reason(s) for termination of the Contract of Tenancy; (ii) the extent to which performance under this Contract of Tenancy is to be terminated; and, (iii) the date upon which termination shall become effective.
- The Successful Bidder shall stop performance under the Contract of Tenancy on the date indicated and to the extent specified in said “Notice of Termination”, unless the default or noncompliance is cured within the time period stated in the notice.
- The rights and remedies of the Commonwealth provided in the above Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

Section XIX TAXES

The Successful Bidder shall pay all taxes which may be lawfully imposed by the Commonwealth and its political subdivisions and shall secure and pay for all permits and licenses which may be required by the Commonwealth or a political subdivision.

Section XX REMOVAL OF PERSONAL PROPERTY UPON EXPIRATION, CANCELLATION, OR TERMINATION FOR DEFAULT

All of the Successful Bidder’s equipment (excluding fixtures), supplies, and materials shall be removed from the contract premises, at Successful Bidder’s sole expense, fifteen (15) days after cancellation, termination or expiration date of the Contract of Tenancy. Failure to remove personal property from the contract premises shall also be deemed a lack of compliance with “satisfactory” clean-up/restoration, shall be considered abandonment of the property, and the property shall become titled with the Commonwealth.

Section XXI EMPLOYMENT PRACTICES

The Successful Bidder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The successful Bidder must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, status, political affiliation, or disability. Such action shall include, but is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Successful Bidder agrees to post in conspicuous places,

available to employees and applicants for employment, notices setting forth the provision of this clause.

Section XXII
PERMITS AND LICENSES

The Successful Bidder, its contractors, and employees, shall procure all necessary permits, licenses, and certificates which are required by state and local laws, and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments.

Section XXIII
RIGHT OF ENTRY

The Commonwealth, its agents, and employees, reserve the right to enter upon the WMA premises at reasonable times to inspect the premises, operation, and equipment, or for any purposes in connection with work necessary to the benefit of the Commonwealth.

Section XXIV
ASSIGNMENT

The Successful Bidder shall not voluntarily, involuntarily or by operation of law assign, sublet, or otherwise transfer the Contract of Tenancy or any interest created therein, to any other person, association, partnership, corporation, or other entity without first obtaining in each and every instance the Commonwealth's prior written consent. Any attempt to assign, sublet, or otherwise transfer the Contract of Tenancy, or any interest created therein, without such consent shall be void. If an assignment, sublet, or transfer is made with the consent of the Commonwealth, then the Successful Bidder shall not be relieved from the performance of all terms, covenants, and conditions of the Contract of Tenancy. If the Commonwealth gives consent to any such assignment, subletting, or transfer once, such consent shall not operate as a waiver of the necessity for obtaining the Commonwealth's consent to any subsequent assignment, subletting, or transfer. No assignment will be effective or binding against the Commonwealth until such time as the assignee executes an amendment, signed by all parties, reflecting such assignment.

Section XXV
INDEPENDENT CONTRACTOR STATUS

The Successful Bidder shall be an independent contractor and all persons employed by him/her in the exercise of the privileges granted therein shall be employees, agents, and servants of successful Bidder only and not the Commonwealth.

Section XXVI
MODIFICATIONS/CHANGES

No modification or change of any provision in this bid shall be made, or construed to have been made, except with the prior written agreement of both parties through an amendment to the Contract of Tenancy executed by all parties. Memoranda of Understanding and correspondence shall not be construed as amendments to the Contract of Tenancy.

If any provision of the Contract of Tenancy is declared or found to be illegal, unenforceable, or void, then both the Commonwealth and the Successful Bidder shall be relieved of all obligations arising under such provision. If the remainder of the Contract of Tenancy is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

Section XXVII
OFFER OF GRATUITIES

By submitting a bid, the Successful Bidder certifies that no member of or delegate of Congress, nor any elected or appointed official or employee of the Commonwealth of Kentucky has or will benefit financially or materially from this procurement. Any Contract of Tenancy arising from this procurement may be terminated by the Commonwealth if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the Successful Bidder, his or her agents, or employees.

Section XXVIII
ENTIRE AGREEMENT

This bid package represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof and shall be independent of and have no effect upon any other agreement.

Section XXIX
FORCE MAJEURE

The Successful Bidder will not be liable to the Commonwealth if failure to perform the agreement arises out of causes beyond the control and without the fault or negligence of the Successful Bidder. Such causes may include, but are not restricted to, acts of God, fire, quarantine restriction, strikes and freight embargoes. In all cases, the failure to perform must be beyond the control and without fault or negligence of the successful Bidder. The Successful Bidder will take all possible steps to recover from such occurrences.

Section XXX
COMMONWEALTH'S PROPERTY

The Successful Bidder shall be responsible for the proper care and custody of any Commonwealth property furnished for the Successful Bidder's use in connection with the performance of the resulting Contract of Tenancy. This responsibility includes the repair and/or replacement due to loss, damage, or negligence, normal wear and tear expected.

Section XXXI
VENUE

The laws of the Commonwealth of Kentucky shall govern this bid and the resulting Contract of Tenancy. Any legal proceeding against the Commonwealth or the departments regarding this Contract of Tenancy or any resultant agreement shall be brought in Commonwealth of Kentucky administrative or judicial forms. Venue will be in Franklin County, Commonwealth of Kentucky.

In the event that either party deems it necessary to take legal action to enforce any provision of this Contract of Tenancy, and in the event the Commonwealth prevails, the Successful Bidder agrees to pay all expenses of such action, including attorneys' fees and costs at all states of litigation, as set by the court or hearing officer.

Section XXXII
ADDITIONAL TERMS/CONDITIONS

Additional items/services, terms and/or conditions that come within the scope of the Contract of Tenancy and are found to be needed by the Commonwealth may be added to the Contract of Tenancy.

Section XXXIII
CONFLICT OF INTEREST

No official or employee of the Commonwealth, and no other public official of the Commonwealth of Kentucky or the federal government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the Contract of Tenancy or proposed Contract of Tenancy.

The Successful Bidder covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Successful Bidder further covenants that in the performance of the Contract of Tenancy no person having any such known interests shall be employed. By entering into the Contract of Tenancy, the Successful Bidder covenants that it is not in violation of KRS Chapter 11A (Executive Branch Code of Ethics).

Section XXXIV
REGISTRATION WITH THE SECRETARY OF STATE BY A FOREIGN ENTITY

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by [KRS 14A.9-010](#) to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under [KRS 14A.9-030](#) unless the person produces the certificate within fourteen (14) days of the bid or bid opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in [KRS 14A.9-010](#), the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within [KRS 14A.1-070](#).

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>.

Section XXXV
PROHIBITION FROM REMOVAL OF VEGETATION/MINERALS, BAT MITIGATION

The Successful Bidder agrees that no live trees will be cut, no vegetation dug, nor the landscape altered in any way without prior consultation and written approval of the Department of Fish and Wildlife, and where applicable, the Commonwealth. The Successful Bidder shall be required to replace any grass or trees that have to be removed from the contract premises. In no event shall the Successful Bidder extract or remove any minerals, oil, or gas from the premises.

The Successful Bidder agrees to abide by all laws, regulations, policies, and procedures of the Commonwealth in all regards, including but not limited to the attached. See Exhibit B “Revised Indiana Bat Mitigation Guidance for the Commonwealth of Kentucky” and Exhibit C “Kentucky State Laws Affecting Preservation and Management of Archaeological Sites and Other Cultural Resources”, attached hereto and made a part hereof.

Section XXXVI
CONSTRUCTION ON THE CONTRACT PREMISES

The Successful Bidder shall not be authorized to construct, erect, or place any structure or other facility upon the premises, or to make any alteration to an existing structure or facility.

Section XXXVII
BID

A. Evaluation of Bids

The Commonwealth will conduct an evaluation of bids received in response to this solicitation. Items to be given specific attention during the evaluation process are as follows:

- Revenue payable to the Commonwealth
- Evaluation of prior work quality based upon references’ comments

B. Submission of Bid

It will be the duty of each Bidder to see that his bid is delivered by the time and at the place prescribed in this RFB. Bids received prior to the closing of receipt of bids will be securely kept, unopened, until the time set for opening bids. The officer whose duty it is to open them shall decide when the specified time has arrived, and no bid received thereafter will be considered. No responsibility will attach to an officer for the premature opening of a bid through inadvertence or one not properly addressed and marked. ONLY written bids, received prior to the time and date set for the bid opening will be considered responsive.

Neither the bids nor their contents shall be made available for public information or inspection until such time as an award of a Contract of Tenancy is made.

C. Withdrawal of Bid

Bids may be withdrawn by a written request received from the Bidder prior to the time fixed for opening. Otherwise, bids may not be withdrawn for a period of one hundred and twenty (120) calendar days after the closing date for receipt of bids. Negligence on the part of the Bidder in preparing his bid confers no right to withdraw his bid after it has been opened.

D. Bid Subject to These Terms

All bids submitted shall be deemed to have been made with full knowledge of all terms, conditions, and requirements contained in this RFP and enclosures thereto.

It is agreed by the parties hereto that all questions as to the execution, validity, interpretation, construction, and performance of the resulting Contract of Tenancy shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto further agree that any legal action, which is brought on the basis of said Agreement, shall be filed in the circuit court of Franklin County, Kentucky.

NOTE:

The Contract of Tenancy will be awarded for the harvest and sale of timber from approximately 64 acres on based on a highest lump sum payment and bidder's references to that responsible, responsive bidder whose offer conforming to this Invitation to Bid will be most advantageous to KDFWR. KDFWR expressly reserves the right to reject any or all bids and to waive technicalities and minor irregularities in form of bids submitted. Any bidder's past performance under Contract of Tenancy shall be a consideration and may be a factor in the award or denial of the Contract of Tenancy.

Additional terms and conditions may be added to the agreement, as mutually agreed and as necessary between the parties. Nothing in this Contract of Tenancy shall be construed to convey or grant any right, title, interest, estate, claim, or demand in or to the contract premises other than the right to use contract premises for the purposes and under the terms and conditions stated in this Contract of Tenancy.

For further Information concerning this sale, the exact location and access to the site, please contact Josh Frazier @ (606) 356-9910, Wildlife Forester

Information Required in Each Offer

1. **Contact:** Include the name and phone number of the individual who is to be the principal contact with KDFWR.
2. **Signature:** The principal contact must include his/her signature on the bid proposal.
3. **Required References:** Contact information for up to three (3) landowner references is **REQUIRED** to be provided in a Bidder's bid. These landowners will have had timber harvested on their properties within the past five (5) years by the Bidder. If no previous timber harvesting has been conducted by the bidder, then character or other work references should be provided. This portion of the evaluation will be reviewed/scored by the Department of Fish and Wildlife Resources. **NOTE: BIDS SUBMITTED WITH LESS THAN THREE LANDOWNER REFERENCES WILL BE REJECTED AND NOT CONSIDERED FOR THIS SOLICITATION.**
4. **Bid:** Include a bid amount (lump sum payment for all timber, pulpwood and sawtimber) which will be paid to KDFWR prior to any logging taking place on the Wildlife Management Area.

Qualifications

After determining that a bid proposal satisfies the requirements of this project, the Commissioner of KDFWR, or a designee, will evaluate the bid proposal based on the following subjective factors.

1. Bid Amount.....55 points
2. Evaluation of prior work quality based upon reference comments...45 points

KDFWR will review and assign points to the “evaluation of prior work quality based on reference comments, as follows:

For Bidder's each reference:

- o 45 points for Highly Satisfied/Excellent;
- o 30 points for Satisfied;
- o 0 points for Poor Performance/Not recommended

For example: if a bidder had 3 “excellent” references, that bidder would receive 45 points ($45 * 3/3 = 45$). If a bidder received one “excellent” and two “satisfied,” then that bidder would receive 35 points ($45 + 30 + 30 + 30 = 105/3 = 35$).

KDFWR reserves the right to conduct discussions/meetings with any Bidder to determine their qualifications for further consideration. Discussions shall not disclose any information derived from bid submitted by other Bidders.

After determining the best bid received, KDFWR may negotiate a fair and reasonable compensation rate based on the pricing submitted in the Bidder's bid.

FORM OF SEALED BID

TO: Finance and Administration Cabinet
Department for Facilities and Support Services
Division of Real Properties
Third Floor, Bush Building
403 Wapping Street
Frankfort, Kentucky 40601-2607

INVITATION NO: 012424

BID OPENING: Wednesday, January 24, 2024

AT: 3:00 P.M.

Subject to the General Terms and Conditions and Authentication of Bid and Affidavit of Non-Collusion and Non-Conflict of Interest, ***I propose to pay the Kentucky Department of Fish and Wildlife Resources the following lump sum amount for all timber in this sale (41 acres at Fleming WMA):***

Unit 1 (Rigdon 8.4 acres)

Unit 2 (Horseshoe 7.6 acres)

Unit 3 (Partial Hill 6.4 acres)

Unit 4 (Big Boy 12.6 acres)

Units 5-12 (Group Selections 5.9 acres total)

Bidder's signature

Print

**AUTHENTICATION OF BID AND AFFIDAVIT OF
NON-COLLUSION AND NON-CONFLICT OF INTEREST**

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the Bidder (if the Bidder is an individual), a partner (if the Bidder is a partnership) or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Bidder is a corporation);
2. That the attached bid or bids covering Kentucky Division of Real Properties Invitation No. 012424 have been arrived at by the bidder independently and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other lessee of materials, supplies, equipment or services described in the Invitation to Bid, designed to limit independent bidding or competition;
3. That the contents of the bid or bids have not been communicated by the Bidder or its employees or agents to any person not an employee or agent of the Bidder or its surety on any bond furnished with the bid or bids and will not be communicated to any such person prior to the official opening of the bid or bids;
4. That the Bidder is legally entitled to enter into contracts with KDFWR of Kentucky and is not in violation of any conflict of interest, statute, including the provisions of KRS 45A.330 to 45A.340, 45A.990, 45A.164.390 or KRS 11A.040 of the Executive Branch Code of Ethics; and,
5. That I have fully informed myself regarding the accuracy of the statements made above.

NOTICE

1. Any agreement or collusion among Bidders or prospective Bidders which restrains, tends to restrain or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding, or otherwise, is prohibited.
2. Any person who violates any provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine not less than five thousand dollars (\$5,000), nor more than ten thousand dollars (\$10,000), imprisonment for not less than one (1) year, nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars (\$10,000), nor more than twenty thousand dollars (\$20,000).

STATEMENT OF FINAL DETERMINATION
OF VIOLATIONS PURSUANT TO KRS 45A.485

Pursuant to KRS 45A.485, the Bidder shall reveal to DMA, prior to the award of a contract, any final determination of a violation by the Bidder within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342.

For the purpose of complying with the provisions of KRS 45A.485, please list any final determination(s) of violation(s) of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which have been rendered against the Bidder within the five (5) years preceding the award of this contract. Please include the date of the determination and the state agency issuing the determination. (Please use extra sheets if necessary.)

KRS Violation

Date

State Agency

The Bidder is further notified that KRS 45A.485 requires that for the duration of this contract, the Bidder shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which apply to the Bidder's operations. KRS 45A.485 further provides that the Bidder's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, or failure to comply with the above-cited statutes for the duration of the contract, shall be grounds for DMA's cancellation of the contract, and the Bidder's disqualification from eligibility to bid or submit proposals to DMA for a period of two (2) years.



**Required Affidavit for Bidders, Offerors
and Contractors
(KRS 45A.110 & 45A.115)**

Affidavit Effective for One (1) Year from Date of Execution

Instructions: Pursuant to KRS 45A.110 and 45A.115, a bidder, offeror, or contractor (“Contractor”) is required to submit a Required Affidavit for Bidders, Offerors, and Contractors to be awarded a contract, or for the renewal of a contract. An authorized representative of the contracting party must complete the attestation below, have the attestation notarized, and return the completed affidavit to the Commonwealth.

Attestation

As a duly authorized representative for the Contractor, I swear and affirm under penalty of perjury, that that the Contractor has not knowingly violated campaign finance laws of the Commonwealth of Kentucky and that the award of a contract will not violate any provision of the campaign finance laws of the Commonwealth. For purposes of this attestation, "Knowingly" means that the bidder or offeror is aware or should have been aware of the existence of a violation. The bidder or offer understands that the Commonwealth retains the right to request an updated affidavit at any time.

Signature

Printed Name

Title

Date

Bidder or Offeror Name: _____

Address: _____

Commonwealth of Kentucky Vendor Code (If known): _____

Subscribed and sworn to before me this ____ day of _____, _____.

State of: _____ Notary: _____

County of: _____ My Commission Expires: _____