

# FOR LEASE

## STATE-OWNED REAL PROPERTY

### Kentucky River Wildlife Management Area Tobacco Barns

### Department for Fish and Wildlife Resources

### Owenton, Owen County, Kentucky

Invitation No: 10182019

Bid Opens: Friday, Oct. 18, 2019 at 2:30 PM ET

1. Bids must be submitted on the "Form of Proposal" included within and made part of this Invitation and received at the Division of Real Properties, Department of Facilities Management, Finance and Administration Cabinet, 3<sup>rd</sup> Floor, Bush Building, 403 Wapping Street, Frankfort, Kentucky 40601-2607, not later than the specified "bid opening" time and date.
2. The Commonwealth of Kentucky reserves the unqualified right to reject any or all bids.
3. Bidders are invited to attend bid openings.
4. For further information, please contact [Wendell.Harris@ky.gov](mailto:Wendell.Harris@ky.gov), State Properties Branch, Division of Real Properties, 3<sup>rd</sup> Floor, Bush Building, 403 Wapping Street, Frankfort, Kentucky 40601-2607, at (502) 564-9831 or Scott Ferrell, Kleber WMA, (502) 535-6335.
5. **NOTICE TO BIDDER:** If you plan to attend the bid opening and have a disability that requires accommodation, please contact our office by Thursday, Oct. 17 so that reasonable arrangements can be made.

**INVITATION TO BID  
KENTUCKY RIVER WILDLIFE MANAGEMENT AREA  
ROBERTS II TRACT  
TOBACCO BARNs**

**GENERAL TERMS AND CONDITIONS**

**SECTION I  
SCOPE OF LEASES**

At the request of the Department of Fish and Wildlife Resources, hereafter referred to as "Department", the Division of Real Properties, issues this Invitation to Bid on the lease of the following:

**Barn #1 (next to the road):** Capacity 5000 sticks, good condition. No subleasing of barn, clean up barn after crop is removed.

**Barn #2 (hill top):** Capacity 4200 sticks, good condition. No subleasing of barn, clean up barn after crop is removed.

Both of which are a part of the Kentucky River Wildlife Management Area, as shown on "Exhibit A" in Owen County, Owenton, Kentucky.

**SECTION II  
LEASE TERM**

The lease agreement established from this Sealed Bid for the barns will be for the period beginning when the lease is executed for a term of one year, to be renewed automatically upon the same terms and conditions for four (4) successive one-year periods, for a total of five (5) years. The Lessee's occupancy and use of the leased premises are subject to, and the Lessee shall comply with, all applicable state and federal statutes, rules, and regulations.

**SECTION III  
BASIS OF BID QUOTATIONS**

Rental rates quoted in response to this Invitation shall remain firm for the initial term of the resulting lease. After the initial period, amounts are subject to revision, which may be either increases or decreases. Either party may request said revision in writing. Any request for a decrease in the rent must be documented as to the reason for the requested decrease, and may result in a rebid of the tobacco barns at the discretion of the Commonwealth. The party to whom the request is presented must notify the requesting party of his decision within 30 days after receipt of the request or satisfactory supporting documentation, whichever occurs later. In the event the requested revision is refused, the requesting party shall have the right to withdraw from the lease, without prejudice. Bids for the tobacco barn are to be made on a dollar amount per barn. The successful bidders shall enter into lease contract with the Department of Fish and Wildlife Resources on an annual basis (annually renewable for four years). Payment may be made by money orders, cashier's checks or

certified checks, which are to be made payable to the Department of Fish and Wildlife Resources. Payment in full must accompany the lease when signed by the Bidder.

**SECTION IV**  
**USE OF PROPERTY**

Property shall be used exclusively for the purpose of housing tobacco or hemp only; with the understanding there will be no stripping in the barn or subleasing of the barn. No grazing of livestock shall be permitted. The Lessee shall be responsible for the accomplishment of specified utilization, maintenance, and care of the barn included in this lease; shall furnish all equipment labor and supplies; and shall pay all expenses necessary and incident to compliance with the provisions and conditions as set forth herein. No part of any lease unit may be placed in any federal agricultural land retirement program. The Lessee shall be responsible for maintaining the entire leased premises in a clean and sanitary condition throughout the lease term and any renewal thereof. The Lessee further agrees that upon the expiration, cancellation or termination of the Lease Agreement, that they will return the leased premises in as good an order as received, ordinary wear and tear, and acts of God excepted and the barn must be cleaned after tobacco is removed. The Department shall be responsible for insuring that such provisions are enforced. Major deviations from these provisions will not be made without the written approval of the Department and Division of Real Properties. Problems, which arise under any aspect of performance, shall first be resolved between the Lessee and the Department. If such problems and or disagreements cannot be resolved, either party, in writing will refer them to the Division of Real Properties for settlement.

**SECTION V**  
**RENTAL PAYMENT**

The balance of the lease payment (total lease payment less \$100.00 bid deposit) for the initial term of the lease will be due and payable upon the execution of a lease document. The annual rental payment for renewal terms shall become due and payable in full on the first day of each year of the Lessee's use of the property.

**SECTION VI**  
**SITE VISIT**

Bidders are urged and expected to inspect the site to be leased, and to satisfy themselves as to all general and local conditions that may affect the cost of compliance with the lease, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of lease.

**NOTE:** FOR FURTHER INFORMATION  
CONCERNING EXACT LOCATION AND  
ACCESS TO THE SITE, PLEASE CONTACT  
SCOTT FERRELL, KLEBER WMA, AT 502-  
535-6335, MONDAY THROUGH FRIDAY,  
8:00 A.M. TO 4:30 P.M.

**SECTION VII**  
**CANCELLATION**

Either party to the resulting Lease Agreement may cancel the agreement by notice to the other party, specifying the date of cancellation, with such notice not to be less than thirty (30) days prior to the date of cancellation. The time under this Section shall be computed from the date of mailing of the above-referenced notice and cancellation shall not be effective until the last day of the month in which the notice periods end. Upon said cancellation, the Lessee shall quit the leased premises and will return them in as good an order as received, ordinary wear and tear, and acts of God excepted.

**SECTION VIII**  
**ASSIGNMENT**

The Lessee shall not voluntarily, involuntarily, or by operation of the law assign, sublet, transfer, mortgage or otherwise encumber all or any part of the premises to any other person, partnership, corporation or other entity without first obtaining in each and every instance the Department and the Finance and Administration Cabinet's prior written consent. Any attempt to assign, sublet, transfer, mortgage or otherwise encumber all or any part of the premises without such consent shall be void. If an assignment of the lease is made with written consent of the Finance and Administration Cabinet, the Lessee shall not be relieved from the payment of all rent according to the terms hereof or for the performance of all other terms, covenants, and conditions of the Lease. If the Department and the Finance and Administration Cabinet once gives consent, such consent shall not operate as a waiver of the necessity for obtaining Finance's prior written consent to any subsequent assignment or subletting. No assignment will be effective or binding against the Lessor until such time the assignee executes an amendment to the Lease Agreement reflecting such assignment.

**SECTION IX**  
**HOLD HARMLESS**

The Lessee agrees to indemnify and hold harmless the Lessor from any and all claims, demands, damages, actions, costs, including attorney's fees, and charges for which the Lessor may be subject, or for which the Lessor, or the Lessee, may be required to pay by reason of use. The Lessee shall, at their own expense, assume defense of such claims and actions for damages or judgments arising from injury to any person or property or loss of life or property resulting from or in any way connected to the character, condition or use of the leased premises or any means of ingress thereto, or egress therefrom unless such injury or loss arises directly from the negligence of the Lessor, or any of its officers agents or employees, while acting within the scope of their employment. The Bidder shall carry and maintain public liability insurance, during the term of the resulting agreement, in the minimum amounts of \$100,000.00 per person and an aggregate of \$300,000.00 per accident for personal injury, and \$100,000.00 property damage. Said insurance shall name the Commonwealth as an additional insured and shall contain a non-cancellation clause notifying the Commonwealth at least thirty (30) days in advance of any proposed cancellation. Copies of all insurance policies shall be submitted to the Department of Fish and Wildlife

Resources, #1 Game Farm Road, Frankfort, Kentucky 40601, annually for review and approval.

## **SECTION X** **TERMINATION FOR DEFAULT**

- (a) If at any time during the period in which the Lease Agreement is in effect, the Lessee, In the opinion of the Lessor, defaults on any obligation incurred hereunder, including, but not limited to the obligation to pay rent as provided in this Agreement, then the Agreement shall be subject to termination by the Lessor, with no right of recourse remaining in the Lessee. All rights and benefits therein conferred shall be deemed forfeited, and the Lessee covenants that it shall quietly surrender possession of the demised premises to the Lessor, provided however, that before any termination shall occur under this Paragraph, the Lessee 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 Lease Agreement shall remain in full force and effect.
- (b) The procedure for termination of the Lease Agreement under this Paragraph shall be as follows:
1. The Lessor shall deliver, by certified mail, to the Lessee a "Notice of Termination" which shall specify (a) the nature of the termination; (b) the extent to which use under the Lease Agreement is to be terminated; and (c) the date upon which termination becomes effective.
  2. The Lessee shall stop use under the Lease Agreement 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.
- (c) In the event of termination for default, the Lessee shall be responsible for paying to the Lessor any and all monetary sums due the Lessor under this Lease Agreement, up to and including the effective date of termination.
- (d) The rights and remedies of the Lessor provided in the Agreement shall not be exclusive, and are in addition to any other rights and remedies provided by law or in equity.

## **SECTION XI** **METHODS OF AWARD**

The Lease(s) will be awarded for the lease of **Barn #1(next to road)** capacity of 5000 sticks, in good condition, and **Barn#2 (hill top)** capacity of 4200 sticks, in good condition, on a highest bid amount to that responsible, responsive bidder whose offer conforming to this Invitation to Bid will be most advantageous to the Commonwealth. The Commonwealth of

Kentucky reserves the right to reject any or all bids and waive technicalities. The bidder's past performance under lease shall be a consideration and may be a factor in the award of the lease.

## **SECTION XII** **ADDING TERMS AND CONDITIONS**

Additional terms and conditions that come within the scope of the resultant lease and found to be needed may be added to the lease if mutually agreeable to both the Lessee and the Department.

## **SECTION XIII** **GOOD FAITH DEPOSIT**

A good faith deposit must be submitted with each bid in an amount equal to **ONE HUNDRED DOLLARS (\$100.00)**. The good faith deposit should be made payable to the Kentucky State Treasurer (certified or cashier check only- **cash** will not be acceptable). All such deposits will be returned on unsuccessful bids. The deposit made with the successful bid will be retained by the agency and later applied to the lease payment.

**NOTE:**       **Bids for each barn are to be made at the minimum bid of \$1000.00 for Barn No. 1 and \$1000.00 for Barn No. 2**

## **SECTION XIV** **CONFLICT OF LAW AND CHOICE OF LAW PROVISION**

The parties agree hereto that the laws of the Commonwealth of Kentucky shall govern all questions as to the execution, validity, interpretation, construction, and performance of this Lease. Furthermore, the parties hereto agree that any legal action, which is brought on the basis of, said Agreement, shall be filed in either the Courts of Franklin County, Kentucky, commensurate with the jurisdictional limits of those Courts, of the Commonwealth of Kentucky.

## **RECORDS AND INSPECTION**

The Bidder shall keep adequate records, books and accounts covering the business operation conducted upon the premises, in such form as the DFWR/department may prescribe, including dates, times, etc. Such records and books of account shall be open for inspection or audit by the agents and employees of the DFWR at all reasonable times. Bidder shall employ an independent audit agency to perform annual audits, when at the discretion of the Commonwealth an audit is required.

The Bidder, as defined by KRS 45A.030(10), agrees that 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 the resulting lease for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records, or other evidence provided to the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission, which are directly pertinent to the resulting lease shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior or subsequent to the execution of the lease. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information that would otherwise be subject to public release if a state government agency were providing the service.

**FORM OF PROPOSAL  
(SEALED BID)**

TO: Finance and Administration Cabinet Department for Facilities and Support Services Division of Real Properties Bush Building 3rd Floor 403 Wapping Street Frankfort, Kentucky 40601	INVITATION NO: <u>10182019</u> BID OPENING: <u>Fri. Oct. 18, 2019</u> AT: <u>2:30 p.m. ET</u>
---	---

**BID FORM**

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 Commonwealth of Kentucky the following amount:

- For the lease of Barn #1, capacity of 5000 sticks located at Kentucky River Wildlife Management Area, in Owenton, Kentucky, I propose to pay \$\_\_\_\_\_ for the lease of Barn No. 1.
  
- For the lease of Barn #2, capacity of 4200 sticks located at Kentucky River Wildlife Management Area, in Owenton, Kentucky, I propose to pay \$\_\_\_\_\_ for the lease of Barn No. 2.

**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 Number: 10182019** have been arrived at by the bidder independently and have been submitted without collusion with, or without any agreement, understanding or planned common course of action with, any other bidder or materials;
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 bids or bids;
4. The bidder is legally entitled to enter into lease with the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 45A.330 to .340 and 164.390, and,
5. That I have fully informed myself regarding the accuracy of the statements made above.



**ANNUAL AFFIDAVITT FOR BIDDERS, OFFERORS AND CONTRACTORS**

Affidavit Effective Date: \_\_\_\_\_  
Affidavit Expiration Date: \_\_\_\_\_  
Maximum Length One-Year

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS PAGE 1 OF 2**

**FOR BIDS AND CONTRACTS IN GENERAL:**

- I. Each bidder or offeror swears and affirms under penalty of perjury, that to the best of their knowledge:
  - a. In accordance with KRS 45A.110 and KRS 45A.115, neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.
  - b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.
  - c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.
  - d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.
  - e. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding, in not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based on or doing business with a jurisdiction with which Kentucky can enjoy open trade, as define in Executive Order No. 2018-905.
  - f. The bidder or offeror swears and affirms that the entity bidding, and all subcontractors therein, have not violated any of the prohibitions set forth in KRS 11A.236 during the previous ten (10) years, and further pledge to abide by the restrictions set forth in such statue for the duration of the contract awarded.

**FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS):**

- II. Each contractor further swears and affirms under penalty of perjury, that to the best of their knowledge:
  - a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the campaign of the gubernatorial candidate elected in the election last preceding the date of contract award.

b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor the officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

Solicitation/Contract #: \_\_\_\_\_

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS** PAGE  
2 OF 2

c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law. If the bidder, offeror, or contractor becomes non-compliant with any statements during the affidavit effective period, I will notify the Finance and Administration Cabinet, Office of Procurement Services immediately. I understand that the Commonwealth retains the right to request an updated affidavit at any time.

\_\_\_\_\_  
Signature Printed Name

\_\_\_\_\_  
Title Date

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Address

Subscribed and sworn to before me by \_\_\_\_\_  
(Affiant) (Title)

of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(Company Name)

\_\_\_\_\_  
Notary Public

[seal of notary]

My commission expires: \_\_\_\_\_

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

Pursuant to KRS 45A.485, the Bidder shall reveal to the Commonwealth, 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.)

<u>KRS Violation</u>	<u>Date</u>	<u>State Agency</u>

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 the Commonwealth's cancellation of the contract, and the Bidder's disqualification from eligibility to bid or submit proposals to the Commonwealth for a period of two (2) years.