

**COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
DIVISION OF REAL PROPERTIES
INVITATION FOR BIDS**

HAY HARVEST
at
Simon Kenton Wildlife Management Area (WMA)
Mason County, Kentucky
Department of Fish & Wildlife Resources

INVITATION NO: 120623
BID OPENS: December 6, 2023 @ 2:00 p.m. EST

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: Jamie Bryant) 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 Jamie Bryant Division of Real Properties, Bush Building, 3rd Floor, 403 Wapping Street, Frankfort, KY 40601-2607 502/782-0363. Jamie.Bryant@ky.gov

**GENERAL TERMS AND CONDITIONS
INVITATION TO BID
HAY HARVEST/SALE OF HAY**

**SIMON KENTON WILDLIFE MANAGEMENT AREA (WMA)
MASON COUNTY, KENTUCKY**

**GENERAL TERMS AND CONDITIONS
Scope of Project**

At the request of the Kentucky Department of Fish and Wildlife Resource, hereinafter referred to as the "KDFWR", the Division of Real Properties issues this Invitation for Bids to harvest hay from Simon Kenton WMA located in Maysville, Mason County, KY. The areas of interest will be shown on Exhibit "A". The successful bidder shall have from July 1, 2024 to October 1, 2029 to cut, bale, and remove hay from the premises. Bidders will bid on all acreage as one package. 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 **December 6, 2023 at 2:00 p.m.** This Invitation to Bid and the bidder's response, when accepted by KDFWR, will govern any license agreement issued as a result of this Invitation to Bid. The license agreement shall be effective on the date executed by the Secretary of the Finance and Administration Cabinet.

**Section I
INTRODUCTION**

The harvesting of hay, as specified in this bid package, shall be in accordance with all terms and provisions specified herein. The harvest areas are within the Simon Kenton WMA property located in Mason County, Kentucky. The harvest areas contain approximately 150 acres. The property will be leased for the production of hay crop, with the objective of maintaining open lands and enhancing public recreational opportunities on Simon Kenton WMA. This contract is part of an overall habitat management program for the benefit of wildlife populations on the area. The bidder will be responsible for cutting, raking, baling and removing the hay from the WMA. In addition, the successful bidder agrees to lime the entire 150 acres at least once during the contract period at a rate of 3 tons per acre. The successful bidder will also agree to sow ladino white clover and medium red clover mix at least once during the contract period. The planting will happen between February 15th through March 1st, preferably by the "frost seeding" method. Seeding rates are 1lb to the acre of ladino clover and 3lbs to the acre for medium red clover. Seed tags and receipts will be required to be submitted to the Public Lands Biologist. Harvesting may not start any earlier than July 1, 2024. The bidder must move hay offsite by October 1st for each year of the contract. If the bales are not removed from the premises the hay will be forfeited to KDFWR and the contractor will be charged \$5.00 per bale removal fee for any bales remaining on the property.

It will be the responsibility of each bidder to examine and survey the areas on which haying operations will take place and make their own determination for logistics of removing hay from the fields. KDFWR must approve all ingress and egress routes to the fields prior to the commencement of haying activities.

Section II **PERFORMANCE**

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 haying 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 is responsible for maintaining public roads and rights-of-way free of soil. 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 hay under this license. The bidder agrees to maintain during operations said roads and bridges in as good a condition as prior to the beginning of operations. 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 haying operations at the sole expense of the bidder.

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

During the term of this license, the bidder agrees to exercise all means in his power to prevent the start of and to suppress all fires on the licensed 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 haying operation without approval of KDFWR.

During high and extreme fire hazard weather, KDFWR may prohibit haying. KDFWR reserves the right to suspend any aspect of haying 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 hay cutting under this sale may be suspended by KDFWR if the conditions and requirements contained in this license 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 license.

Complaints or disagreements by the bidder as to any actions taken by KDFWR respecting this license 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 haying 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 license and to take such action as may be required under the terms of this license. 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 license to use any part of the area outside the boundary of the area herein described, unless the bidder shall have obtained special 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 license. 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 haying operation at all times with the KDFWR Wildlife Biologist. KDFWR does not undertake to furnish to the bidder right-of-way over lands belonging to others.

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:

Jamie Bryant
502-782-0363
Jamie.Bryant@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 (Jamie Bryant) cited in this bid package
- Commonwealth representatives during a scheduled Bidders' Conference; or
- Via written questions submitted to the Commonwealth Buyer (Jamie Bryant)

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 License 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 License 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 License.

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 License 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 hay 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
DEPOSIT

A deposit for each bid equal to \$100 shall be due and payable to the Commonwealth and submitted with successful Bidder's bid no later than December 6, 2023. Bid deposit(s) shall be returned to unsuccessful Bidder(s). The bid deposit of successful Bidder shall be kept and the amount deducted from rental due to the Commonwealth.

Section XIII
LICENSE PERIOD

Upon acceptance of bid, the Commonwealth is willing to grant a license to the Successful Bidder to harvest the hay from the wildlife management area for a term of one year, to be renewed for four (4) successive one-year periods for a total of not to exceed five (5) years, beginning the date the License Agreement is signed by the Secretary of the Finance and Administration Cabinet or upon approval of successful bid by the Secretary of the Finance and Administration Cabinet and date of issuance of a right-of-entry to the Successful Bidder, and ending six months thereafter.

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 license 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 hay 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 XIV
REVENUE PAYABLE TO THE COMMONWEALTH

The successful bidder shall pay to the Commonwealth the Bidder-specified lump sum for the subject 150 acres of hay harvested per year from the Simon Kenton WMA. Rental payment to the Commonwealth shall be payable lump sum.

Section XV
CANCELLATION OF LICENSE

The Commonwealth reserves the right to cancel the license for convenience when requirements under the license no longer exist, or changes in general conditions render the license 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 license, 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 license was entered into by the parties. Reasonable wear and tear and damage by the elements is expected.

Section XVI **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 licensed premises or any means of ingress thereto, or egress therefrom, or resulting from the Successful Bidder's operations on the licensed 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 XVII **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 license, 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 license agreement, 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 license, 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 XVIII 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 XIX
TERMINATION FOR DEFAULT

If at any time during the period in which the resulting License Agreement is in effect, the Successful Bidder defaults on any obligation incurred hereunder, then the Agreement 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 licensed 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 License Agreement shall remain in full force and effect.

The procedure for termination of the License Agreement 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 License Agreement; (ii) the extent to which performance under this License Agreement is to be terminated; and, (iii) the date upon which termination shall become effective.
- The Successful Bidder shall stop performance under the License 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.
- 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 XX
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 XXI
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 licensed premises, at Successful Bidder’s sole expense, fifteen (15) days after cancellation, termination or expiration date of the License Agreement. Failure to remove personal property from the Licensed 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 XXII
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 XXIII
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 XXIV
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 XXV
ASSIGNMENT

The Successful Bidder shall not voluntarily, involuntarily or by operation of law assign, sublet, or otherwise transfer the License Agreement 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 License Agreement, 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 License Agreement. 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 XXVI
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 XXVII

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 License Agreement executed by all parties. Memoranda of Understanding and correspondence shall not be construed as amendments to the License.

If any provision of the license 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 license is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

Section XXVIII 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 license agreement 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 XXIX 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 XXX 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 XXXI 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 license agreement. This responsibility includes the repair and/or replacement due to loss, damage,

or negligence, normal wear and tear expected.

Section XXXII
VENUE

The laws of the Commonwealth of Kentucky shall govern this bid and the resulting License Agreement. Any legal proceeding against the Commonwealth or the departments regarding this License Agreement 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 License Agreement, 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 XXXIII
ADDITIONAL TERMS/CONDITIONS

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

Section XXXIV
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 license or proposed license.

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 license no person having any such known interests shall be employed. By entering into the license agreement, the Successful Bidder covenants that it is not in violation of KRS Chapter 11A (Executive Branch Code of Ethics).

Section XXXV
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 XXXVII CONSTRUCTION ON THE LICENSED 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 XXVIII 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

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 RFP. 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 license 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.

Information Required in Each BID

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. Bid: Include a bid amount (lump sum payment for all hay) which will be paid to KDFWR.

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.....100%

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

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

FORM OF PROPOSAL (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: 120623
BID OPENING: December 6, 2023
AT: 2:00 p.m. ET

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 lump sum amount for all hay in this sale:***

\$_____ of total lump sum price (minimum bid of \$1000 per year) of hay products harvested from the subject 150 acres in from Simon Kenton WMA

Note: Bidder must indicate in writing the bid incorporates one lime application and one clover application by and at the sole expense of the successful Bidder.

Printed Name: _____

Signed: _____

Address: _____

Phone: _____

**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. 120623 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: _____

Appendix A: Simon Kenton- Hay Field Locations

