**FEDERAL INFRASTRUCTURE ACT**

**ORPHAN WELL PLUGGING INITIATIVE**

As the Division of Oil and Gas has been receiving requests for information from potential vendors regarding the announced Federal Infrastructure Act Orphan Well Plugging initiative, we thought it might be helpful to share some information about general vendor insurance/bonding requirements and the process for registering with the Kentucky Finance Cabinet to become a state vendor.

Registering is the Vendor Self Service System is the first and important step because this system will be used to post opportunities to bid and vendors will receive email notifications for relevant opportunities.

Anyone wanting to register in the Vendor Self Service System (VSS) can use the link below:

<https://finance.ky.gov/eProcurement/Pages/default.aspx>

If there are problems with the registration process, the vendor will need to contact the Customer Resource Center at 877-973-4357.

Vendors are also required to complete the Annual Affidavit for Bidders, Offerors and Contractors form. This form must be submitted to the Division of Oil & Gas prior to offering any bids. You may obtain this form from the Kentucky Finance Cabinet at the link below:

<https://finance.ky.gov/eProcurement/ResourcesSupport/2020%20-%20Annual%20Required%20Affidavit%20for%20Bidders%20Offerors%20and%20Contractors.pdf>

**INSURANCE AND BONDING INFORMATION**

According to information from the Finance Cabinet, interested vendor contractors will need no less than the following:

* Commercial General Liability: $1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage with a $3,000,000 annual aggregate. The deducible or Self-Insured Retention per occurrence shall not be more than $10,000.
* Automobile Liability: $500,000 combined single limit per accident for bodily injury and property damage.
* Workers’ Compensation and Employers Liability: Workers’ compensation with statutory benefits without limit, as required by the Kentucky Workers Compensation Act and employer’s liability limits of $1,000,000 per accident.

Contractors are required to furnish the Coverage Certificate prior to commencing work and must keep up-to-date copies on file with the state until all work is completed.

**RISKS INSURANCE**

The Contractor shall provide All Risks Insurance in an amount of not less than one hundred percent (100%) of the insurable value of all the work. The coverage is to be written on CP 00 20 06 95 or equivalent acceptable to the Commonwealth. All coinsurance clauses in the Risks Insurance policy will be waived. The insurer will waive all rights of subrogation against the Owner (i.e. the Commonwealth). Such insurance shall be for the benefit of the Contractor, Owner and any Subcontractor engaged on this project, as the Owner shall find their respective interest may appear. The Risks Insurance must be dated and in force on the date indicated in the Contract to begin work.

**PERFORMANCE & PAYMENT BONDS**

The Contractor shall furnish separate performance and payment bonds to the Owner. The Contractor shall furnish a performance bond satisfactory to the Owner in an amount equal to one hundred percent (100%) of the Contract Sum as security for the faithful performance of the Contract. The Contractor shall also furnish a payment bond satisfactory to the Owner in an amount equal to one hundred percent (100%) of the Contract Sum for the protection of all persons performing labor or furnishing materials, equipment or supplies for the Contractor or his Subcontractor for the performance of the Work provided for in the Contract, including security for payment of all unemployment contributions which become due and payable under Kentucky Unemployment Insurance Law.

Each bond furnished by the Contractor shall incorporate by reference the terms of the Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Sum is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount.

The performance and payment bonds shall be executed by a surety company authorized to do business in this Commonwealth, and the contract instrument of bonds must be countersigned by a duly appointed and licensed resident agent.

**BID BONDS**

Pursuant to KRS 45A.185, DECA or the using agency may require a bid bond as surety that a bidder will hold its offer firm for a specified period. If the Solicitation requires a bid bond, a bidder shall file with the requesting agency a bid bond or certified check in the amount and form specified by the Solicitation with the requesting agency. The bond shall be received with either the bid or prior to the bid closing to be considered.

The bond shall be in an amount equal to at least five percent (5%) of the amount of the bid or as stated in the Solicitation.

In addition to signing the bid bond as principal, the bidder shall have the bond signed by a surety company authorized to do business in the Commonwealth. A list of surety companies may be obtained from the Kentucky Department of Insurance. If the surety on a bond has its authority to do business in Kentucky revoked or, if for any reason, it ceases to do business in the Commonwealth, the bidder shall promptly obtain another surety on the bond.

The bond shall be conditioned on full performance of all obligations imposed on the bidder by the Solicitation, including the obligation to keep the price firm for as long a period as specified in the Solicitation, obligation to enter into a contract with the Commonwealth, and the obligation to file a performance payment bond if required by contract. The bid bond shall provide that upon failure to perform an obligation, the Commonwealth may recover from the bidder and the surety, or either of them, any and all damages suffered because of the failure.

If a bidder elects to submit a certified check in lieu of a bid bond, it shall be security for full performance of all obligations referred to in subsection c. of this Section.

If a bidder is not awarded a contract, the certified check shall be returned to that bidder promptly after the award is made. The successful bidder's check shall be returned after the contract is awarded or as soon as the bidder has filed a performance bond, if required. Checks may be returned by certified mail, return receipt requested. The return receipts shall be electronically attached or hard copies attached to each bidder's bid and filed in the bid folder.

Complete details about the bidding process can be found on the Division of Engineering and Contract Administration’s webpage at:

<https://finance.ky.gov/department-for-facilities-and-support-services/office-of-facility-development-and-efficiency/division-of-engineering-and-contract-administration/Pages/default.aspx>

We hope this information may help to answer some of the questions as we move forward with this program.