

OHIO RIVER VALLEY INSTITUTE CONTRACTORS' WEBINAR

KENTUCKY DIVISION OF OIL AND GAS

Date: April 24, 2024



Bipartisan Infrastructure Law (BIL) (November 2021)

Three Types of Federal Orphan Plugging Fund Grants Identified as Available:

- ▶ **Initial Grant:**
 - ▶ Funds Required to be Committed Within One Year of Receipt, 90% Within 90 Days, and Balance Returned if not Obligated in accordance with U.S. Department of Interior (DOI) Deadlines.
- ▶ **Formula Grant:** Based upon a DOI Formula (Well Count, Est. Plug Cost, & Jobs Loss)
 - ▶ Each State's Eligibility Amount was Announced by DOI on January 31, 2022. States Must Return Unobligated Grant Funds Five Years After Receipt.
- ▶ **Performance Grants: (2 Sub-Types)**
 - ▶ **Regulatory Improvement Grant:** Based upon 1) State Strengthened Plugging Standards, or 2) State Reduced Future Orphan Well Burdens, Ten Year Look-back Provision.
 - ▶ **Matching Grant:** Based Upon Increased Spending of State Plugging Funds.

BIL INITIAL GRANT ORPHAN WELL PLUGGING SUMMARY

- ▶ A Total 43 Separate Plugging Packages were Issued for Request For Proposals (RFPs) Through the Finance Cabinet during FY 23 & FY24 to Plug 635 Orphan Wells.
- ▶ KDOG has since Plugged All 635 Contracted Orphan Wells in 27 Counties.
- ▶ One Year Reclamation Inspections for Contractor Retention Release are On-going.
- ▶ Kentucky Geological Survey (KGS) Continues Work on their Project to Model and Estimate the Methane Emissions Eliminated by the Orphan Well Plugging. Delivery of their Final Report is set for September 30, 2024.



**BEFORE
&
AFTER...
DAVISS
COUNTY,
KY**

BIL FORMULA GRANT ORPHAN WELL PLUGGING UPDATE

- ▶ Kentucky's Phase I Formula Grant Application for \$25M was Submitted to DOI on November 8, 2023. KY is Eligible for \$78.9M Formula Grant funds. DOI, however, took a Phased Approach that Requires a Separate Yearly Application for no more than \$25M.
- ▶ DOI has Projected a Target Award Date of June 1 2024.
- ▶ All Formula Grant Work Must Comply with Requirements of the Federal Endangered Species Act and the National Historic Preservation Act in Addition to Pre- and Post-Plugging Methane Emission Measurements.
- ▶ Formula Grant Plugging Work Will Progress Much Slower than Initial Grant Work Due to More Stringent DOI Requirements.
- ▶ RFP Releases Possibly to Begin late Fall 2024.

DOI Standard Award Terms, Davis Bacon Act & Build America Buy America Shall Apply

- ▶ DOI “Standard Award Terms and Conditions” will be required in all Grant Awards, available on the DOI website at: <https://www.doi.gov/grants/doi-standard-terms-and-conditions>
- ▶ For all project work under the BIL, award recipients will be required to comply with the **Davis-Bacon Act (DBA)**.
- ▶ Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America’s Workers*.
- ▶ Pursuant to the **Build America, Buy America Act (BABA)**, none of the funds under a federal award that are part of federal financial assistance for infrastructure may be obligated for a project unless **all** of the iron, steel, manufactured products, and construction materials purchased in the project are produced in the United States, unless subject to an approved waiver.

DOI Terms, BABA and DBA Cont...

▶ **Davis-Bacon Act Requirements:**

- ▶ Contractors must pay laborers and mechanics the applicable prevailing wages for all hours worked on the site of the work on a weekly basis (except for contributions to bona fide fringe benefit plans, which must be made at least quarterly);
- ▶ Maintain an accurate record of hours worked and wages paid, including fringe benefit contributions;
- ▶ Submit certified payrolls <https://www.dol.gov/agencies/whd/forms/wh347> to the contracting agency/funding recipient each week, within seven days of the payroll date for that workweek; and
- ▶ Ensure that the required contract clauses and applicable wage determinations are incorporated into any lower-tier subcontracts.
- ▶ Field audits will be conducted periodically to ensure contractor compliance with DBA Terms.
- ▶ For more information, go to [Davis-Bacon and Related Acts | U.S. Department of Labor \(dol.gov\)](#)

How Can Contractors Bid On Plugging Packages

All Bidding Will be Through the Finance & Administration Cabinet Division of Engineering and Contract Administration (DECA)

- ▶ DECA Rules Require Bid Bonds and Performance and Payment Bonds for All Projects.
- ▶ Bidders Must Route Request for Proposals (RFP) Package Questions through DECA. The Division of Oil and Gas (KDOG) Cannot Respond to Contractor Inquiries about Well Sites and RFP's.
- ▶ Well Sites will be Presented as a PowerPoint PDF Exhibit with a Summary of Each Well included in the Package, Where All Bidders will see the Same Message. Note: Contractors Must Incorporate Unforeseen Risk Considerations into Their Bid Cost Proposals. Contractors are Encouraged to Investigate Well Sites prior to Bidding.
- ▶ Only Complete Response Packages per DECA Requirements will be Accepted.
- ▶ Well Plugging Under the RFP's will Follow Guidelines of the Kentucky Abandoned Storage Tank and Orphan Well (KASTOW) Statutes (KRS 353.561-564) and 805 KAR 1:060.



WHAT SHOULD CONTRACTORS INCLUDE IN THEIR RESPONSE TO RFP'S?

The Contractor **MUST** review the entire Request for Proposal thoroughly to ensure the submittal of a complete package. Contractor should read the Scope of Work carefully and make notes of all requirements. Below are a few key points about the RFP response from Contractors:*

- ▶ COST PROPOSAL BIDDER'S RESPONSE FORM:
 - ▶ INCLUDE PRICE PER WELL
 - ▶ CHECK YOUR MATH
 - ▶ SIGNATURE
- ▶ BIDDERS EXPERIENCE, QUALIFICATIONS, & PRIOR PROJECTS SUMMARY:
 - ▶ DEMONSTRATE YOUR EXPERIENCE AND CAPABILITIES TO PERFORM THE SCOPE OF WORK
 - ▶ DO NOT ASSUME KDOG KNOWS YOUR EXPERIENCE/PROJECTS
 - ▶ BE VERY DETAILED AND THOROUGH IN ANSWERS
- ▶ DAVIS-BACON ACT REQUIREMENTS:
 - ▶ BE SPECIFIC IN PLANNED APPROACH TO DAVIS BACON REQUIREMENTS
- ▶ SCOPE OF WORK
- ▶ CONTRACTORS PROPOSED EQUIPMENT LIST & PROPOSED WORK PLAN

**does not include all components required in response to RFP*

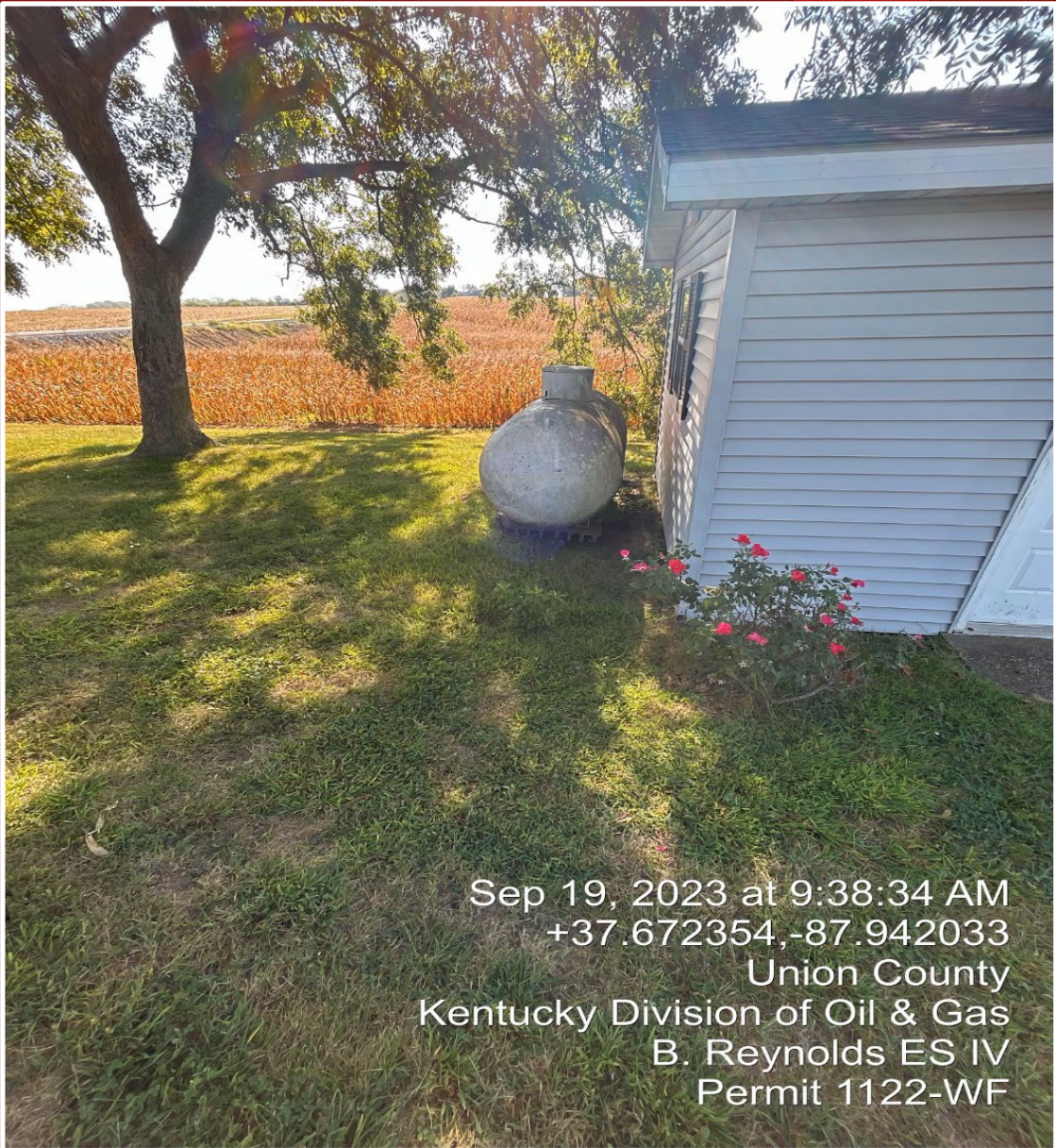
SCOPE OF WORK DETAILS...

- Coordinate with KDOG inspector for preliminary site inspections upon award.
- Landowner meeting, define access and limit area of disturbance.
- Notify KDOG prior of schedule to plug wells, including commencement date and order of wells to be plugged.
- Plugging procedures, be prepared for well unknowns and downhole obstructions.
- Remove all facilities, surface pipelines, and debris, check all metal for TENORM.
- Contain all spills, prevent spill impacts, document all materials that leave the site.
- Reclaim and restore at end of project; submit Contractor Notes, Completed Plugging Affidavits, Disposal Material Manifests and Invoices to KDOG.
- One-year Final Reclamation Assessment for acceptance; submit Final Retainage Invoices.

EQUIPMENT LIST EXAMPLES...

- Substantial Service Rig, Water Truck, Pipe Truck;
- Bulk cement handling and batching;
- Cement Pumping equipment, Vacuum Truck;
- Fishing tools and power swivel for downhole obstructions;
- Backhoe, small dozer, reclamation equipment; and
- Safety and monitoring meters and equipment.





Sep 19, 2023 at 9:38:34 AM
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Union County
Kentucky Division of Oil & Gas
B. Reynolds ES IV
Permit 1122-WF

Questions/Comments

- ▶ This presentation will be placed on the DOG's webpage at: <https://eec.ky.gov/Natural-Resources/Oil-and-Gas/Pages/default.aspx> and the Energy and Environment Cabinet's "Building A Better KY" webpage at: <https://eec.ky.gov/Pages/Build.aspx>
- ▶ In addition to this presentation, links to various resources will be added to DOG's website.
- ▶ General questions about the BIL, DOG or this presentation should be emailed to OrphanWells@ky.gov
- ▶ Specific questions about the eProcurement process should be emailed to Kristi.Sharp@ky.gov
- ▶ Thank you for your time!

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