

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER VIII: DEPARTMENT OF NATURAL RESOURCES

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AUTHORITY: Implementing and authorized by Section 19.6 of the Illinois Oil and Gas Act [225 ILCS 725/19.6].

SOURCE: Adopted at 17 Ill. Reg. 8176, effective May 25, 1993; amended at 23 Ill. Reg. 3421, effective March 8, 1999.

SUBPART A: GENERAL PROVISIONS

Section 610.100 Definitions

"Bid List"--means the list of prequalified bidders compiled and maintained by the Illinois Department of Natural Resources, Office of Mines and Minerals.

"CMS"--means the Illinois Department of Central Management Services.

"CMS Standard Procurement Rules"--means the standard procurement rules of the Illinois Department of Central Management Services as codified under 44 Ill. Adm. Code.

"Department"--means the Illinois Department of Natural Resources, Office of Mines and Minerals.

"Emergency Clean-up Project"--means an emergency crude oil production facility, or crude oil or saltwater spill clean-up or remediation of conditions endangering public health or safety or contaminating surface waters, ground water, or the surface of the land.

"Emergency Repair Work"--means work to repair or contain leaks of produced fluids from production equipment, pits, or other containment structures that are contaminating surface waters or ground waters, or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land.

"Emergency Well Plugging"--means the plugging and abandonment of a well or wells that are actively flowing oil or saltwater and are contaminating surface waters or ground waters or are flowing in sufficient quantity to create an increasing area of contamination on the surface of the land, or a well leaking natural gas or hydrogen sulfide gas in sufficient quantity to endanger public safety or create a fire hazard or a non-leaking well which poses an imminent danger to public safety.

"IFB"--means an invitation for bids whereby the Department solicits bids from vendors for the completion of a Standard, Emergency Clean-up, Emergency Repair, or Emergency Well Plugging PRF Project or salvage equipment sale. Bids may be solicited for proposed unit prices, such as for bags of cement and rig time, or for completion of an entire project, or for purchase of salvage production equipment determined to be abandoned in accordance with the Illinois Oil and Gas Act.

"PRF"--means the Department's Plugging and Restoration Fund as established under Section 6 of the Illinois Oil and Gas Act [725 ILCS 225].

"PRF Project"--means a Standard Project, Emergency Clean-up Project, Emergency Well Plugging, Emergency Repair Work or Salvage Plugging Project funded by the Plugging and Restoration Fund.

"Salvage Plugging and Restoration Project"--means a Plugging and Restoration Project whereby abandoned wells are plugged or well site equipment removed and the site cleaned up for the value of the salvage.

"Salvage Equipment Sale"--means sale, by private means or bid, of salvage production equipment associated with abandoned wells in the Plugging and Restoration Program.

"Secretary of State"--means the Secretary of State of the State of Illinois.

"Standard Plugging and Restoration Project"--means a PRF Project that has been determined by the Department to not be an Emergency Project whereby abandoned wells are plugged following a bidding process.

"Supervisor"--means the Supervisor of the Oil and Gas Division of the Department of Natural Resources, Office of Mines and Minerals.

"Well Site Equipment"--means the equipment including but not limited to an associated tank battery and production facility equipment, hydrocarbons from the well that are stored in tanks located on the lease, and hydrocarbons recovered during the plugging operation may be sold at a public auction or a public or private sale. All well site equipment and hydrocarbons acquired by a person by sale shall be acquired under clear title, subject to any perfected prior legal or equitable claims. [225 ILCS 725/19.6(g)(2)]

(Source: Amended at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.110 Incorporation of rules

The Department hereby adopts the CMS Standard Procurement Rules. Inasmuch as the rules of this Part may differ, however, the rules of this Part shall govern.

Section 610.120 Prequalification of Bidders

- a) The Department shall maintain a list of prequalified bidders for Standard, Emergency and Salvage Plugging contracts. A vendor on the bid list shall be presumed to be a responsible bidder.
- b) Any vendor not on the bid list may be determined to be a responsible bidder for a particular project if at the time of contract award the vendor meets the criteria for prequalification set out under this Section, including having submitted a complete request for placement on the bid list as provided herein.
- c) Any vendor may request at any time to be prequalified and placed on the bid list by completing a request on a form prescribed by the Department and signing the written request. If the vendor is a business entity, such as a corporation, the request must be signed by a person authorized to enter into contracts on behalf of that entity.
- d) The request shall contain the following information:
 - 1) A summary of the vendor's plugging and restoration experience, including a description of the five most recent plugging and restoration projects the vendor has performed and the names and addresses of the persons or entities for whom the vendor performed such work. If the

- vendor has not performed five such projects, then the vendor shall so state.
- 2) All plugging and restoration equipment the vendor owns. If the vendor does not own all the equipment that may be generally needed on a plugging and restoration project the vendor must state from whom and under what arrangement, e.g. by lease, the vendor shall obtain the necessary equipment.
 - 3) The location of the vendor's home office, from which all applicable mileage is to be calculated.
 - 4) Certifications as required by Illinois law for any contract with the State of Illinois.
 - 5) If a business entity, the vendor shall also identify the principal owners and officers of the vendor and the nature of the vendor's organization, for instance whether it is incorporated. If the vendor is a corporation the vendor must identify the state in which it is incorporated, if incorporated in Illinois whether it is presently in good standing with the Secretary of State's office, and if incorporated in another state whether it is currently authorized to do business in Illinois.
 - 6) The vendor's Federal Taxpayer Identification Number.
 - 7) Whether there is currently a Director's Decision of the Department outstanding against the vendor, under which the vendor is currently in violation of any law or regulation administered by the Department, and if so what violations and the date on which the violations shall be abated.
- e) Upon receipt of a request for inclusion on the Department's bid list the Department shall review the request to determine whether the vendor is responsible. The Department may require the vendor submit additional information the Department may need to knowledgeably make the determination of responsibility under subsection (f) of this Section.
 - f) The Department shall determine that a vendor is responsible if the vendor has submitted a complete request in compliance with this Subpart and based on the information contained in the request, any additional information supplied by the vendor, and the records of the Department, the Department finds that the vendor:

- 1) Has adequate experience to properly perform plugging and restoration work. A vendor shall be presumed adequately experienced if it has successfully performed plugging and restoration projects on at least five wells.
 - 2) Has adequate equipment available to perform plugging and restoration work. The vendor must own at a minimum a rig sufficient to set cement as required by the Department to properly plug wells, set bridge plugs, and shoot and pull casing. The Department may inspect the equipment of the vendor to determine the adequacy of the equipment.
 - 3) Has access to, either through lease or ownership, adequate equipment, in addition to a rig, to perform plugging and restoration work.
 - 4) Does not have outstanding against it a Director's Decision, under which the vendor is currently in violation of any law or regulation administered by the Department, or is owned or operated by individuals who are so in violation, such that the vendor would be prohibited from receiving a permit from the Department.
 - 5) If an Illinois corporation, is currently in good standing with the Secretary of State's office, and if a foreign corporation is currently authorized to do business in the State of Illinois.
 - 6) Certifies it can, and will, comply with all applicable State laws and regulations.
- g) If any information supplied by the vendor on its request form materially changes such that the information is no longer true, the vendor shall immediately report such change to the Department.
- h) A vendor may be removed from the bid list if:
- 1) The vendor fails to adequately perform the work required under any PRF Project. The Department shall make its determination under this subsection on the basis of the quality and timeliness of the work, and the compliance with the directives from the Department's site manager in performing any PRF project.
 - 2) The vendor no longer meets the requirements for being placed on the bid list.

- 3) The vendor fails to inform the Department of a material change in the information supplied in the request.
- 4) Any statement of the vendor on the request is discovered to be false.

(Source: Amended at 23 Ill. Reg. 3421, effective March 8, 1999)

SUBPART B: STANDARD PLUGGING AND RESTORATION PROJECTS

Section 610.200 Applicability

The rules of this Subpart apply to Standard Projects.

Section 610.210 Scope

A Standard PRF Project may include one or more particular wells to be plugged and sites to be restored; a single leasehold on which all wells are to be plugged, well sites to be restored and lease site to be restored; or several lease sites on which all wells are to be plugged, well and lease sites to be restored.

(Source: Amended at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.220 Work to be performed

The Department shall have the discretion to determine what plugging and restoration work shall be done under any particular project and may reserve the authority to modify the work to be performed during the course of the project.

Section 610.230 Invitation for Bids

Based on the nature of the particular project, the information available regarding the wells to be plugged, and all other relevant criteria, the Department may in its discretion seek bids on a particular project either on the basis of a single price for completion of the entire project or on the basis of itemized prices for the various services and equipment necessary for completion of the project, or both.

Section 610.240 Notification of Vendors

Vendors currently on the Department's prequalified bid list shall receive a copy of the IFB. The Department shall also notify the public by posting a notice in the state newspaper as provided in the Department of Central Management Services standard procurement rules. Any

vendor, whether or not on the bid list, may upon specific request by the vendor receive a copy of a particular IFB.

Section 610.250 Content of the Invitation for Bids

The IFB shall contain the following information:

- a) The location of the wells to be plugged.
- b) The work to be performed at each well and lease site.
- c) The manner in which a vendor must make its bid or proposal.
- d) The date, time and place where the bids or proposals are to be opened.
- e) Whether the vendor must itemize unit prices.
- f) The terms that the Department intends to incorporate into the ultimate contract for completion of the project, including any insurance and performance bond requirements.

Section 610.260 Evaluation of Bids

Bids shall be evaluated on the basis either of the price bid for the entire project or the unit prices, whichever is applicable. Where proposed unit prices are solicited, such as for bags of cement and hours of rig time, the Department shall evaluate each bid on the basis of the anticipated number of units to complete a given well plugging and lease site restoration in determining which proposal offers the lowest expected price. The responsible vendor proposing the lowest expected price shall be determined as offering the best responsible proposal.

Section 610.270 Negotiation

After determining the best bid the Department shall attempt to negotiate a contract with the vendor making such bid. Where the Department is unable to satisfactorily negotiate a contract with the vendor offering the best bid the Department may attempt to negotiate a contract with the vendor offering the next best bid.

Section 610.280 Contract terms

The contract shall be explicitly made in compliance with all applicable State laws and rules, including the CMS standard procurement rules not superseded by these rules, and shall contain

provisions required by such laws and rules and any additional terms to which the parties have agreed.

SUBPART C: EMERGENCY PLUGGING AND RESTORATION PROJECTS

Section 610.300 Applicability

This Subpart applies to Emergency Clean-up Projects, Emergency Repair Work and Emergency Well Plugging Projects.

(Source: Amended at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.310 Scope

An emergency project may include the clean-up or remediation of conditions occurring at crude oil production facilities endangering public health or safety or contaminating surface or ground waters or the surface of the land; repair work to contain leaking produced fluid from wells, tanks, pits, or containment dikes; or plugging of leaking wells endangering the environment or public health and safety.

(Source: Amended at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.320 Work to be performed

The Department shall have the discretion to determine what Clean-up, Repair Work or plugging and restoration work shall be done under any particular project covered by this Subpart and may reserve the authority to modify the work to be performed during the course of the project.

(Source: Amended at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.330 Contracts for Individual Emergency Projects

- a) If the Department has not established a regional contract under Section 605.340 of this Part to cover the region wherein a particular emergency project is located, then the Department may award a contract for that emergency project pursuant to the requirements of this Section.
- b) The Department may obtain a contract for an individual emergency project by direct negotiation. For such contracts the Department may restrict negotiations to a vendor on the bid list that has its home office in the county where the project is

to be located, or where there are no such vendors to the vendor whose home office is located in a county nearest to the county where the project is to be located.

- c) Where the Department is unable to negotiate a satisfactory contract with the nearest vendor as determined under subsection (b) above the Department may choose to negotiate a contract directly with the next nearest vendor on the bid list.
- d) The provisions of this Section are not intended to limit the Department's authority to choose to solicit competitive bids or proposals from all vendors on the bid list where the exigencies of the emergency allow.

Section 610.340 Regional Contracts

- a) The Department may award a contract for all emergency projects arising within a particular geographical region and within a particular period of time. Such regional contracts shall be bid out by means of an IFB submitted to all vendors on the bid list.
- b) After determining the best proposal the Department shall attempt to negotiate a contract with the vendor making such bid.
- c) The IFB shall contain the following information:
 - 1) The counties to be covered by the proposed regional contract.
 - 2) The work generally to be performed under each emergency well plugging project and each emergency remedial work project.
 - 3) The manner in which a vendor must make its proposal.
 - 4) The date, time and place where the proposals are to be opened.
 - 5) The terms that the Department intends to incorporate into the ultimate contract for completion of the project.
- d) Vendors currently on the Department's prequalified bid list shall receive a copy of the IFB. The Department shall also notify the public by posting a notice in the state newspaper as provided in the CMS Standard Procurement Rules. Any vendor, whether or not on the bid list, may upon specific request receive a copy of a particular IFB.

- e) Bids shall be evaluated on the basis either of the price bid for the entire project or the unit prices, whichever is applicable. Where proposed unit prices are solicited, such as for bags of cement and hours of rig time, the Department shall evaluate each bid on the basis of the anticipated number of units to complete a given well plugging and lease site restoration in determining which proposal offers the lowest expected price. The responsible vendor proposing the lowest expected price shall be determined as offering the best responsible proposal.
- f) After determining the best proposal the Department shall attempt to negotiate a contract with the vendor making such proposal.

Section 610.350 Contract terms

The contract shall be explicitly made in compliance with all applicable state laws and rules, including the CMS Standard Procurement Rules not superceded by these rules, and shall contain provisions required by such laws and rules and any additional terms to which the parties have agreed.

SUBPART D: SALVAGE PLUGGING AND RESTORATION PROJECTS

Section 610.400 Applicability

This Subpart applies to Plugging and Restoration Program projects where the cost of plugging a well or wells or the clean-up of the well site is offset by the salvage value of the well site equipment.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.410 Scope

A Salvage Plugging or Restoration Project may include one or more particular wells to be plugged and well sites to be restored; a single leasehold on which all wells are to be plugged, well sites to be restored and lease site to be restored; or several lease sites on which all wells are to be plugged and well and lease sites to be restored.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.420 Work to be performed

The Department shall have the discretion to determine what plugging and restoration work shall be done under any particular project and may reserve the authority to modify the work to be performed during the course of the project.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.430 Contracts and Salvage Estimates

- a) Based on the nature of the Salvage Plugging or Restoration Project, the information available regarding the wells to be plugged or well site equipment to be removed, the estimated value of the salvage production equipment, and all other relevant criteria, the Department may enter into a no cost contract to plug a well or group of wells on a lease or part of a unit on the basis of the total cost to plug the well or wells or to remove the well site equipment and clean up the well site to be offset by the value of the salvage production equipment. The Department will transfer control of the abandoned salvage equipment at the time a contract is signed.
- b) The estimated salvage value of the well site equipment shall be determined by the Department but shall not be less than the following:
 - 1) Pumping unit \$100 each
 - 2) Steel tank \$75 each
 - 3) Fiberglass \$100 each
 - 4) Gunbarrel \$50 each
 - 5) Heater-treater \$75 each
 - 6) Injection pump \$100 each
 - 7) Re-useable shed/outbuildings \$1 per square foot
 - 8) Saleable hydrocarbons per barrel price at time of sale

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.440 Eligible Vendors

In contracts involving the plugging of wells, only vendors currently on the Department's prequalified bid list are eligible for contracts under this Subpart.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.450 Contract terms

The contract shall be explicitly made in compliance with all applicable State laws and rules, including the CMS property disposition rules not superseded by this Part, and shall contain provisions required by such laws and rules and any additional terms to which the parties have agreed.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

SUBPART E: SALE OF SALVAGE EQUIPMENT

Section 610.500 Applicability

This Subpart applies to the sale of abandoned well site equipment. The proceeds of any sale shall be deposited in the Plugging and Restoration Fund.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.510 Scope

The sale of abandoned equipment to interested parties may be by private sale, if less than \$2500 per individual item of production equipment, or by bid if over \$2500 per individual item of production equipment.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.520 Equipment to be sold

Abandoned well site production equipment associated with wells in the Plugging and Restoration Program are eligible under Section 19.6 of the Illinois Oil and Gas Act to be sold through private or public bid sale. The Department shall have the discretion to determine which items of equipment are eligible for sale.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.530 Private Sale

If the estimated salvage values, as determined by the Department, of the abandoned production equipment are less than \$2500 per individual item of production equipment, the Department may sell and transfer control of the equipment to any interested party. Payment under term of a private sale shall be by cashier's check or money order payable to the Plugging and Restoration Fund.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)

Section 610.540 Bid Sale

- a) If the estimated salvage value, as determined by the Department, of the abandoned production equipment is greater than \$2500 per individual item of production equipment, the Department shall sell such equipment by means of a bid sale.
- b) Vendors currently on the Department's prequalified bid list shall receive a copy of the IFB. The Department shall also notify the public by posting a notice in the State newspaper as provided in the Department of Central Management Services Standard Procurement Rules (44 Ill. Adm. Code 1). Any vendor, whether or not on the bid list, may, upon specific request by the vendor, receive a copy of a particular IFB.
- c) The IFB shall contain the location and description of the individual well site production equipment and, if applicable, a minimum acceptable bid amount.
- d) Bids shall be evaluated on the basis of the highest amount bid on the equipment.
- e) After determining the best bid the Department shall negotiate a sale agreement with the vendor making such bid. Where the Department is unable to satisfactorily negotiate a sale agreement with the vendor offering the best bid, the Department may attempt to negotiate a sale agreement with the vendor offering the next best bid.
- f) Payment shall be made by cashier's check or money order payable to the Plugging and Restoration Fund.

(Source: Added at 23 Ill. Reg. 3421, effective March 8, 1999)