

NOTICE OF AVAILABILITY TO LEASE GOVERNMENT PROPERTY

PROJECT/INSTALLATION:
*SMOKY HILL AIR NATIONAL GUARD RANGE
SALINE COUNTY, KANSAS*

DATED December 28, 2012

NOTICE NO. DACA41-RE-B-13-2028

SEALED APPLICATIONS SUBJECT TO THE CONDITIONS AND TERMS CONTAINED HEREIN, WILL BE RECEIVED AT THE OFFICE OF THE DISTRICT ENGINEER, REAL ESTATE DIVISION ROOM 0602 601 EAST 12TH STREET KANSAS CITY, MISSOURI 64106-2824 UNTIL THE TIME OF APPLICATION OPENING AT THE PLACE SET FORTH:

DATE OF OPENING: February 20, 2013

TIME OF OPENING: 2:30pm
LOCAL TIME AT THE PLACE OF OPENING

PLACE OF OPENING:
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS-MILITARY BRANCH
REAL ESTATE DIVISION
635 FEDERAL BUILDING, ROOM 0602
601 EAST 12TH STREET
KANSAS CITY, MISSOURI 64106-2824

ARRANGEMENTS FOR INSPECTION, AND SECURING ADDITIONAL INDIVIDUAL COPIES OF THE NOTICE AND APPLICATION SHEETS AND ALL INFORMATION MAY BE OBTAINED AT ANY OF THE BELOW LISTED OFFICES:

DISTRICT ENGINEER
KANSAS CITY DISTRICT
U.S. ARMY, CORPS OF ENGINEERS
ATTN: RE-M KANSAS CITY DISTRICT
635 FEDERAL BUILDING, ROOM 0602
601 EAST 12TH STREET
KANSAS CITY, MISSOURI 64106-2824
TELEPHONE (816) 389-3557

SMOKY HILL ANG RANGE
8429 WEST FARRELLY ROAD
SALINA, KANSAS 67401-9407
Attn: Galen R. Wiens
Natural Resources Manager
(316)759-8514

PROPERTY TO BE LEASED:

NUMBER OF ITEMS: 11
TOTAL ACRES: 5,182 acres approx
TERM: ** 5 Years
BEGINNING: March 1, 2013
ENDING: February 28, 2018

** See attached application sheet

SMOKY HILL AIR NATIONAL GUARD RANGE, KANSAS INSTRUCTIONS TO APPLICANTS

1. INSPECTION INFORMATION:

Pre-Bid Meetings will be held on:

21 January 2013, at 1400

22 January 2013, at 1400

24 January 2013, at 1400

Attending one of these meetings is **MANDATORY if you intend to bid**. Arrangements for an inspection of the lease units are to be made with the Land Management Office at Smoky Hill ANG Range, 8429 West Farrelly Road, Salina, Kansas 67401-9407, Phone (316) 759-8514. It is the responsibility of each applicant to inspect the tract, read the attached lease (including the Land Use Regulations) and discuss any areas of concern with the Land Manager.

2. **DESCRIPTION:** See attached maps and Land Use Regulations, Exhibits “A” and “B”, for descriptions of the properties. The maps are believed to be correct, but any error or omission in the description of the property or on the maps shall not constitute any grounds or reason for nonperformance of the provisions and conditions of the lease or claim by the lessee for any refund or deductions from the rental. **All acreages stated in this Notice of Availability are approximate, prospective applicants should verify the actual useable acreage for each lease unit.**

3. **PURPOSE OF LEASING:** The property may be leased for one or more of the following purposes; Hay Production, Crop Production, and/or Grazing, and as stated in the Land Use Regulations, (EXHIBIT “A”) Lease Maps (EXHIBIT “B”) and/or on the application sheets (EXHIBIT “C”).

4. **AUTHORITY OF LAW:** The authority of law for the granting of this lease is Title 10, United States Code, Section 2667.

5. TERMS AND CONDITIONS OF LEASING:

a. Form of Lease:

(1) The successful applicant will be required to enter into a lease with the United States substantially in accordance with the copy of the lease form attached hereto. There are two signature pages in the attached lease, please see Exhibit “D”.

(2) **Each applicant is to print out and sign the Application Form (Exhibit “C”), in the manner you wish your name to appear on the lease. Failure to include the required information may cause disqualification.**

(3) If your application is successful, you will receive an award letter and a copy of the lease executed by the United States. In the event the application is unsuccessful, you will be informed by letter, your un-cashed check or money order, along with your signed, unexecuted signature pages will be returned.

b. Term: The leases will be for a term beginning March 1, 2013 **unless otherwise specified**, on the application sheet.

c. Marking and Sealing Applications: **The Notice of Availability number (DACA41-RE-B-13-2028) and “Do not open until February 20, 2013, 2:30pm” must be plainly marked on the sealed envelope in which applications are submitted.**

**Department of the Army
 Kansas City District, USACE, RE-M
 Attn: Meredith Harmon
 SMOKY HILL Bid
 P.O. Box 15339
 Kansas City, MO 64106**

d. Late Charges for Overdue Payments:

(1) The United States will impose an interest charge, the amount to be determined by law or regulation, on late payments of rent. Interest will accrue from the rental due date. An administrative charge to cover the costs of processing and handling each late payment will also be imposed.

(2) In addition to the charges set forth above, the United States will impose a penalty charge of six percent per annum on any payment, or portion thereof, more than 90 days past due. The penalty shall accrue from the date of delinquency and will continue to accrue until the debt is paid in full.

e. Annual Payments of Rental: The multiple-year lease may provide for the payment of cash rental to the United States, annually in advance as of 1 March each year thereafter.

f. Reservations and Crop Limitations: Lands comprising the project area were purchased with public funds primarily for military purposes. The recreational use of the project lands is also recognized. Utilization of these lands is administered as determined to be in the best interest of the public. It is anticipated that certain areas may be required for military operational, recreational or other allocated purposes. In the event that it becomes necessary during a season of the lease to remove, convert, or limit all or a portion of the leasehold to another use, an equitable adjustment will be made in the rental in accordance with applicable provisions of the lease.

g. Warranty: The property described herein will be leased subject to the provisions and conditions of the Notice of Availability and the lease form and conditions. The property is now subject to inspection by prospective applicants. Applicants are expected to inspect the property and form their own conclusions as to its suitability for their purposes. The failure of any applicant to make such inspection will not constitute grounds for any claim for adjustment or for the withdrawal of Applicants application after the time of application opening. **Arrangements for such inspection may be made with the Land Management Office, at Smoky Hill ANG Range, 8429 West Farrelly Road, Salina, Kansas 67401-9407, (316) 759-8514.** The Government makes no guaranty or warranty, either expressed or implied, with respect to the property.

IT IS TO BE UNDERSTOOD AND AGREED THAT THERE IS NO WARRANTY OF ANY CHARACTER OTHER THAN THAT EXPRESSLY STATED IN THIS NOTICE OF AVAILABILITY.

6. INSTRUCTION TO APPLICANTS:

a. Applicants Subject to These Terms: All applications submitted shall be deemed to have been made with full knowledge of all the terms herein contained.

b. Application Format: Bid applications, Exhibit "C" are to be signed and submitted on the application form, see 5a above, included in the NOA package, and must be accompanied by the required separate deposit for each application, see 6f below.

c. Execution of Applications: Each application must give a full address and telephone number of the applicant and be signed with their usual signature. Any additional sheets shall be identified with the applicant's name. An application executed by an attorney or agent on behalf of the applicant shall be

accompanied by an authenticated copy of the Power of Attorney, or other evidence of authority to act on behalf of the applicant. If the applicant is a corporation, the CORPORATE CERTIFICATE must be executed. If the application is signed by the secretary of the corporation, the Certificate must be executed by some other officer of the corporation under the corporate seal. In lieu of the Corporate Certificate, there may be attached to the application copies of as much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.

d. Qualification of Applicants: Applications qualified on an ‘all or none’ basis will not be accepted. Other qualifications on applications which deviate from the terms of the Notice of Availability will be rejected.

e. Additional Information: Required forms may be obtained from <http://www.nwk.usace.army.mil/re/NOA.cfm> or the office of the Land Manager, Smoky Hill ANG Range, 8429 West Farrelly Road, Salina, Kansas 67401-9407, (316) 759-8514.

f. Deposit Required for Annual Rental: **No application will be considered unless it is accompanied with a separate deposit for each Lease Unit offer.** Each offer with an annual rental amount up to \$1,000.00 will require a deposit of the full amount, any offer over \$1,000 annually will be approximately equal to but not less than ten (10) percent of the annual rental offered for each item, in order to guarantee that the applicant will enter into a written lease and pay the balance of the rental due within ten (10) days after receipt of written notice of acceptance of his application and a draft of lease for execution. Such guaranty must be in the form of a check or money order, payable to the FAO-USAED Kansas City. **However, in the event of default by any applicant, that applicant's deposit may be applied by the Government to any Government loss, cost, and expense occasioned thereby, including any incurred in leasing the property and any difference between the rental for another lease, if the latter amount is less.** The applicant is liable for the full amount of damages sustained by the Government because of their default; such liability is not limited to the amount of the applicant's deposit. If you are not the successful applicant your check(s) or money order(s) will be returned un-cashed.

g. Tax Payer Identification Number

(1) In addition, all persons doing business with the Federal Government **must now provide their “Taxpayer Identification Number”** (the identifying number required under Section 6109 of the Internal Revenue Code of 1986). Please complete and return the attached Tax Identification Sheet with your check and signed leases, we can not process your Lease for approval without this completed information.

(2) For individuals, this number is most likely your social security number. Corporations and other entities should also have a tax I.D. number. Your taxpayer identification number shall be used to generate a Form 1099 reporting any income you have received from this office and/or to use such number for purposes of collecting and reporting on any delinquent amounts arising out of your relationship with this office. Pursuant to 31 U.S.C. § 7701, this office may not conduct business with you unless such number is provided.

7. **SUBMISSION OF APPLICATIONS:** It will be the duty of each applicant to have the application delivered by the time and at the place prescribed in the Notice of Availability. If the application is returned by mail, it is recommended that the application be submitted by Special Delivery or Certified Mail with return receipt for verification of delivery date. If there is any doubt that the mailed application will not arrive at the Kansas City District office on the date and by the time stated in the Notice of Availability, then it should be delivered in person. Applications will be securely kept, unopened. No responsibility will be attached to the Government for the premature opening of an application not properly addressed and identified.

8. **LATE APPLICATIONS MODIFICATION OR WITHDRAWAL OF LATE**

APPLICATIONS: The person whose duty it is to open the applications will decide when withdrawal of an application will be considered. Applications may be modified or withdrawn only by written or telegraphic requests received from applicants prior to the time fixed for opening. Negligence in preparing the application confers no right to withdraw the application after it has been opened. **Applications, modifications, or withdrawals received after the time fixed for opening and before award is made will be considered if sent by special delivery or certified mail not later than the 7th calendar day prior to the date specified for receipt of applications** or if sent by mail (telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt by said officer.

9. **OPENING OF APPLICATIONS:** At the time fixed for the opening, application contents will be made public.

10. **AWARD OF LEASE:** Leases will be awarded to the applicant with the highest proposal and who is responsive to this Notice of Availability, and provided that the applicant is responsible, the application is reasonable, and it is in the best interest of the United States to accept it.

11. **ACCEPTANCE OF APPLICATIONS:** All applications will remain open for acceptance or rejection for ten (10) days from the date of opening. Notice of Award will be given as soon as practicable to the successful applicant or, to a duly authorized representative, in writing at the address indicated in the application.

12. **REJECTION OF APPLICATIONS:** The right is reserved, as the interests of the Government may require to reject at any time, any and all applications received and to accept or reject any items of any application unless such application is qualified by specific limitation.

13. **DATA REQUIRED BY THE PRIVACY ACT OF 1974:** The personal information requested on the Notice of Availability and the lease document, for the lease of Government real property, as authorized by Title 10, USC, Section 2667, is needed and will be used to complete the lease, in the case of the successful bidder and to contact all bidders. The lease document, containing the lessee's address, will be made available to members of the public upon request.

14. **DEFAULT:** In the event that the successful applicant fails to comply with the terms of this Notice, the Government may declare the applicant in default and retain the deposit as liquidated damages.