

# NOTICE OF AVAILABILITY TO LEASE

## Application Information Package

FOR

TUB RUN and JOCKEY HOLLOW  
PROPOSED OUTGRANT SITES  
Fayette County, Pennsylvania

AT

Youghiogheny River Lake project

Site Available for Leasing is along the Shoreline  
of the Lake as shown on the map attached as  
Exhibit "J"

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The information below must appear in the lower left corner of the envelope containing the lease proposal application.

**Sealed Proposal Application for Lease of Real Property**

**To be opened:**

**Time: 10:00 A.M.**

**Date: August 4, 2014**

## **General Information and Requirements for Applications**

### **I. PURPOSE**

This Notice of Availability to Lease is for purposes of soliciting proposals for development and operation of a recreational related facilities and services in furtherance of the objective of the Government to obtain quality facilities and services, at reasonable prices, to meet public demand and at the same time allowing entrepreneurs to make a fair profit. The basic minimum facility and service requirements that must be provided in the applications are described in Exhibit “A”. These are minimum requirements, but your proposal may include additional facilities and services. Your proposal may include, but is not limited to, floating or dry storage boat facilities; camping facilities; boat repair services; boat and motor sales; overnight cottage or motel accommodations; boat rental services; restaurant facilities; and other marina and water related activities.

### **II. SITE LOCATION AND DESCRIPTION**

Jockey Hollow is a picnic area adjacent to US Route 40. It consists of the former Visitor Center building, and approximately 4 acres of land as shown in EXHIBIT “J1”.

Tub Run is a campground approximately 8 road miles and 3 lake miles from Jockey Hollow. The area includes approximately 55 acres, with a one-lane boat launching ramp and 101 improved camp sites as shown in EXHIBIT J2. The Tub Run Recreation Area potable water system primarily consists of two wells, pipes, and appurtenant equipment. The Tub Run Sewage Treatment Plant (STP) along with appurtenant equipment is in full operation from mid-May to mid-September and both are operated and maintained by a private contractor. Information on both may be viewed on the folder Tub Run STP on the share point site.

### **ACCESS**

Access to each site is shown in EXHIBIT J

### **III. UTILITIES**

a. Well water is located on site as shown in Exhibits and all DEP compliance is the responsibility of the Lessee.

b. Electric power is located on site as shown in Exhibits.

c. Sewer is located on site as shown in Exhibits.

**IV. ZONING**

Land and Water Use Zoning details are shown in Exhibit H – Youghiogeny River Lake Master Plan.

**V. PROJECT OPERATION**

The water level of the lake is subject to change. Fluctuation of the lake is dependent on the amount of precipitation received and operations are based on our approved "Release Schedule". On an average year the lake draw down begins in mid- to late June. Impacts to the boat ramp operation can be seen as early as the first week in August on an average year. Fluctuating water levels on the lake must be taken into consideration in the design and the daily operation of facilities. Proposals should include plans to alter operations based on lake levels. All dredging proposals are subject to all laws, regulations and policies of the Corps of Engineers. A Department of the Army Permit will be required for dredging purposes.

Minimum Pool (Normal Winter)	Elevation 1343.4
Normal Pool (Summer)	Elevation 1438.4
Maximum Pool	Elevation 1469.4
Tub Run Boat Ramp inundated	Elevation 1448.4
Tub Run Beach inundated	Elevation 1440.4
Tub Run Beach unusable below	Elevation 1429.4

(From 1981-2010, the pool was below this unusable level for the beach on average from August 9 to March 13)

Tub Run Boat Ramp unusable below	Elevation 1415.4
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(From 1981-2010, the pool was below this unusable level for the ramp on average from September 19 to February 12)

**VI. PURPOSE FOR LEASING**

The property will be leased for commercial recreation purposes in furtherance of the objectives of the Government to obtain facilities and services adequate to meet the public demand at reasonable prices to the public while allowing the lessee to make a fair profit.

**A. APPLICATION FOR PROPOSALS TO DEVELOP A RECREATION CONCESSION WILL INCLUDE A MARKET ANALYSIS AND FEASIBILITY STUDY JUSTIFYING THE PROPOSED DEVELOPMENT WITHIN THE AREA TO BE LEASED. THE STUDY WILL BE IN**

**ACCORDANCE WITH THE SUGGESTED OUTLINE, EXHIBIT E, FOR DEVELOPING MARKET ANALYSIS.**

**B. THE MINIMUM QUALIFICATIONS FOR PREPARING MARKET ANALYSIS AND FEASIBILITY STUDY SHALL INCLUDE EITHER OF THE FOLLOWING:**

**(1) STATE CERTIFIED GENERAL REAL ESTATE APPRAISER.**

**or**

**(2) A CERTIFIED PUBLIC ACCOUNTANT (CPA) FIRM LICENSED IN THE STATE OF OPERATION WITH EXPERIENCE PERFORMING MARKET STUDIES.**

**VI. AUTHORITY OF LAW**

The authorization or authority of law for granting this lease is 16 U.S.C. 460d or 10 U.S.C. 2667. A waiver of 16 U.S.C. 460d ( Exhibit M) request will be sent to Headquarters if not granted 16 U.S.C. 460 d will be the Authority of Law.

**VII. REJECTION OF PROPOSAL**

The right is reserved, as the interests of the Government may require, to reject at any time any and all applications, to waive any informality in applications received, and to accept or reject any items of any applications unless such application is qualified by specific limitation. All actions required in this Notice of Availability shall be accomplished at the risk of the applicant and at the expense of the applicant without claim against the Government.

**VIII. SUBMISSION INSTRUCTIONS**

Sealed applications, in duplicate, subject to conditions contained herein, will be received at the US Army Engineer District, attn: Real Estate Division 1000 Liberty Ave, Pittsburgh PA, 15222, until 2 p.m. local time, 4 August 2014, for leasing of property of the United States, Youghiogheny River Lake Project, for concession purposes. Applications to be delivered in person should be delivered to Youghiogheny River Lake Project Office. Applications will not be accepted after 2 p.m., local time, 4 August, 2014. Modifications of applications may be made and resubmitted in sealed envelopes up to that time.

The right is reserved to the United States, as the interests of the Government may require, the rights to reject at any time any and all applications, to waive any informality in applications received, and to accept or reject any item of any application unless such application is qualified by specific limitation.

**IX. DEFAULT**

In the event that the successful applicant fails to enter into a lease within thirty (30) days after receipt of Government notification that his/her application has been delivered, or in the event that the successful applicant fails to otherwise comply with the terms of this Notice of Availability to Lease, the Government may declare the applicant in default in writing giving the applicant ten (10) days to respond or correct the default. If the applicant remains in default, the Government may then select the next highest rated applicant.

**X. LEASE TERM**

The lease term will be based on the amount of development proposed by the successful applicant, or lease term required by a reputable financial institution for amortization of a loan. The general policies for lease terms are as follows:

<u>Proposed Development</u>	<u>Term</u>
\$150,000 or less	up to 10 years
\$150,000 to \$300,000	15 years
Over \$300,000	up to 25 years

**XI. DISPUTES**

Persons may protest the terms of the Notice of Availability to Lease before applications are due by writing Michael J. Callahan, District Chief of Real Estate, Pittsburgh, Corps of Engineers, who shall mail or otherwise furnish a written copy of the decision to the protestor. The Chief of Real Estate Division should consider such protest within sixty (60) days from delivery but may continue the leasing process.

Except as otherwise provided in this proposal, any protest, by a qualified lease applicant, concerning a question of fact or law arising under this application which is not disposed of by agreement may, within thirty (30) days of the date of the Government rejection letter to that applicant, be protested to Albert J. Edwardo, District Chief of Real Estate, Pittsburgh District, Corps of Engineers, who shall mail or otherwise furnish a written copy of the decision to the lease applicant.

In connection with any written protest proceedings under this provision, protestor should clearly:

- (1) Identify the Notice of Availability in question;
- (2) Identify contact parties;
- (3) State the reasons for the protest;
- (4) Provide documentation in support of the protest, and;
- (5) State what is the desired result.

The decision of the District Chief of Real Estate, or his duly authorized representative for the determination of such protest, shall be final and conclusive.

The Chief of Real Estate reserves the right to establish management objectives and requirements designed to achieve objectives. These following objectives are not subject to the dispute process:

- (1) Minimum facility development as described in the Notice of Availability for Leasing
- (2) Five Year Plan of Operation and Development
- (3) Detailed Data Sheet on proposed facilities
- (4) Draft lease with site specific conditions

The District Chief of Real Estate will determine whether a lease should be stayed during the protest process. There is a presumption that a lease should be awarded contingent on the outcome of the protest process. Therefore, pending final decision of a dispute, a lessee awarded the lease shall proceed diligently with the performance of the lease and in accordance with the Chief of Real Estate's decision.

## **XII. AWARD OF LEASE**

A Lease will be awarded to the applicant who is most responsive to this Notice of Availability, provided that the application is responsible covering all the terms and conditions of the Notice, the application is reasonable, environmentally acceptable and capable of being permitted, and it is in the interest of the Government to issue the lease.

The selection criteria will involve a Phase I in which the scope of development, proposed services to be provided and consistency of development and services with water based public recreation will be rated on a point system. The Phase II criteria will be proposed operation and development plan, design, quality and nature of development and proposed sequencing/phasing. Other determining factors are experience and background, financial capability, credit and criminal background checks, and Environmental and Cultural Acceptability.

## **XIII. PLANS REQUIRED OF SUCCESSFUL APPLICANT**

Upon award of a lease to the successful applicant, the following must be provided within sixty (60) days for review and approval by the District Engineer:

- (1) Final topographical site plan at a scale of 1"=100' including landscaping plans. The plans must include development plans for construction proposals both on private property and on Government property, to include access roadways, parking lots, dry storage facilities, campgrounds, restaurants, etc.

(2) A safety plan, a fire plan, and a Spill Prevention Containment and Counter Measure Plan (if applicable).

(3) As requested by the District Engineer, construction plans for all facilities at an appropriate scale. Scale and quality of drawings must be prepared and assembled in a professional manner and be of sufficient quality to be reviewed.

(4) A sign plan in conformance with the prevailing Corps of Engineers sign regulation, Exhibit I. The sign regulation will be a part of the final lease agreement conditions.

(5) Any revision in the plans after approval by the Corps of Engineers shall require additional written approval by the District Engineer prior to implementation of the revisions or construction of any facilities. Revisions may require additional National Environmental Policy Act (NEPA) evaluation at the expense of the applicant.

#### **XIV. CONTACT INFORMATION**

Provide name, address, and telephone number of the applicant and, if applicable, the name, address, and telephone number of a representative authorized to act on behalf of the applicant during the course of the project.

#### **XV. PROPERTY INSPECTION**

To make arrangements for inspections of the property proposed to be leased, you should contact the Youghiogheny River Lake Resource Manager's office by mailing to: Resource Manager, US Army Corps of Engineers, 497 Flanigan Road, Confluence Pa 15424-1902, or by phoning 814-395-3242.

#### **XVI. MINIMUM FACILITY REQUIREMENTS**

The Minimum Facility Requirements for a submission to be considered are shown in Exhibit A. Any submission that does not meet those requirements WILL NOT be considered.

#### **APPLICATION CONDITIONS**

It is the responsibility of the applicant to make sure that all Notice of Availability to Lease provisions and sample lease provisions are understood and the conditions of the premises proposed for lease are known. Prior to selection and final award of the lease, the Corps will **conduct a pre-lease conference with the applicants. At this conference, provisions of the draft lease will be reviewed, Corps policies will be discussed, and, at the conclusion, the**

**applicants will be required to sign an acknowledgement attesting to the conference and the information provided therein.**

It will be the successful lessee's responsibility to provide and maintain all facilities and utilities necessary to serve the lease area at no cost to the Government. The lessee will furnish all labor, equipment, and supplies to provide public access to the facility. The lessee must provide trash containers and garbage removal services; keep the area neat, orderly and safe; keep grass and weeds neatly mowed, except as provided in the lease conditions or the NEPA document; provide security; provide sewage pump-out facilities, etc. for the leased area on a regular ongoing basis to assure proper maintenance and operation of the site. All areas on Government property must remain open to the general public, and no private exclusive use of the government property will be permitted. An Inventory and Condition Report will be agreed upon at the time of the lease award to designate such Government-owned improvements. Lessee-owned areas may receive user designations as approved in writing by the District Engineer for the public patrons; however, all existing Government-owned improvements, including launching areas, will remain open for use by the general public on a first-come-first-served basis.

Lessee must obtain approval from the appropriate agency (Federal, state or local governmental body) to distribute gasoline, oil or any other item requiring such approval.

Development of the facilities on the premises must commence within one hundred eighty (180) days from the date of the execution of the lease, unless otherwise provided in writing by the District Engineer. Any modifications or alterations to facilities, services or structures at the time of the final award of lease must be submitted for approval prior to construction of the facility or offering of the service.

The lessee will not be allowed to provide facilities for or offer for sale or lease any "timeshare" interest in any facilities, accommodations or personal property on the leased premises or in any portion of the leased premises.

By submittal of an application, the applicant agrees to provide non-discrimination and civil rights assurances, if applicable.

The information provided by the applicant may be used by the Corps to conduct a comprehensive background check and credit check.

All questions may be directed to the US Army Corps of Engineers, Pittsburgh District, Real Estate Division, 1000 Liberty Ave, Suite 2100, Pittsburgh, PA, 15222, (412) 395-7185.

a. **\*PROJECTED SEQUENCE OF EVENTS AND DEADLINES -**

<u>EVENT</u>	<u>DEADLINE</u>
Advertise NOA	May 12, 2014
Lease Proposals Due	August 4, 2014

Request for Phase II Details for Successful Proposals  
Pre-lease Conference  
Award of Lease (as appropriate)

October 3, 2014  
November 3, 2014  
December 15, 2014

\* This is only a projected sequence of events and deadlines. The Government may modify, as appropriate, the timelines for reasonable cause. The Phase I submission deadline dates will not be changed.

## **APPLICATION REQUIREMENTS**

Requirements and conditions for the Application Process are as follows. Failure to meet all these requirements and conditions may be grounds for rejection of applications.

- a. **PARK AND RECREATION DEVELOPMENT PLAN** - Applicants are required to include plans for the first 5 years of development. The 5-year Development Plan must include, as a minimum, those minimum facilities and services listed in Exhibit “A”.
- b. Additional facilities and services may be proposed as determined appropriate for use by the general public. This plan may be conceptual in nature and should be in 1-year increments. It must identify the facility and service, the year it will be provided, and the estimated cost to develop each.
- c. **SITE PLAN** - The 5-year Development Plan is to be accompanied by a site plan depicting the general location of all facilities, including both Government boundaries and any private boundary lines, if applicable. The plan should be of sufficient detail so that boundaries of the lake property, as well as private property, may be depicted. The site plan should reflect all the area necessary to accommodate the proposed initial and long-range development. Access roadways, launching areas, etc. located on private and Government property must be included.
- d. **REAL ESTATE RIGHTS** - Applicants must present evidence of fee simple title or documentation as to ownership or documentation of sufficient other real estate rights of any adjacent private property required to support the proposed development. A fully executed option to purchase or lease or easement options will be sufficient for the Phase I evaluations. However, a conveyance of sufficient real estate rights to the property is required prior to execution of the lease. Evidence must be provided documenting roadway access to the proposed sites from appropriate other public roadways, if not provided on Corps property. A lease agreement with the Corps of Engineers will be required for all proposed development on Government property. If sublease agreements are proposed in the operation of the lease area, the subleasing plan shall be provided in final form, i.e. executed documents, with the submission of proposal.
- e. **ZONING RESTRICTIONS** – Evidence that the proposal does not conflict with the proposed development on adjacent private property, if applicable, i.e. waiver from zoning restrictions, etc., must be provided in your application. All local restrictions applying to

private property, particularly zoning restrictions, must be complied with or a waiver obtained from the local governing body and/or the District Engineer.

- f. **MARKET DATA** – The application is to include general information supporting the proposed development. Supporting data should include market analysis information establishing the demand for the proposed facilities and services. The market information is to also reflect economic data, income and expenditures (cash flow) from the proposed development supporting the economic feasibility of the proposal. The study should provide where the projected demand will be generated, i.e. new roadways, residential and commercial developments, new recreational developments in the area, existing but not serviced demand, etc. A comprehensive detailed market analysis and feasibility study will be required as part of the proposal process.
- g. **UTILITIES** – The proposal should provide the source of all necessary utilities, including water, sewer, electric, telephone, etc. Specific information relative to water and sewer utility providers, electric power companies, telephone service companies, etc., is to be identified in the proposal. If services are not currently available on the proposed site, commitment letters from each utility are required. If fill material is necessary to develop the site on Government property below the upper contour elevation for operating the project, below Elevation 1469 feet, an offset plan to provide substitute flood storage for the project will be required during the lease award process. Significant deviations from the original offset plan may require additional NEPA documentation.
- h. **LEASE AGREEMENT** – Proposals must state that the applicant, if awarded a lease, agrees to enter into, pay rental and abide by all the terms and conditions of the lease as outlined in the sample lease attached as Exhibit “D and D1”. Please note in the sample lease, among other provisions, that the developer must provide pump-out facilities; all facilities must be in compliance with the Americans with Disabilities Act (ADA); full or part-time residency is prohibited; the length of stay for campsite developments on Government property is limited to 30 days in any 60-day period; rental payments are derived from a schedule with an option for rental payment for boat and motor sales, etc. Leasing of any existing Government improvements will be in accordance with Condition 7b, Rates and Prices, provided in the sample lease.
- i. **DEPOSIT** – All applications will require submission of a refundable application fee of \$2,500 for Jockey Hollow and \$10,000 for Tub Run. The deposit will apply to future rental payments required by the lease for successful applicants. Deposits will be refunded to unsuccessful applicants within ten (10) working days from the date of the decision by the selection committee.
- j. **ASSURANCE AGREEMENT** – In addition to the deposit requirement, the successful applicants must sign the attached Exhibit “F”, which constitutes an agreement that the applicant will abide by all the terms and conditions and provide all the information required by the lease award process. Failure to provide the executed document may result in denial of the application.

**k. EXPERIENCE AND BACKGROUND –**

1. List any/all previous business endeavors with a description of the business operations and status.
2. Provide a description of any management qualifications and experience.
3. Provide third party personal and business references.
4. If applicant is a corporation it must provide:
  - a. Articles of incorporation and by-laws.
  - b. Names, addresses, dates of birth, and social security numbers of officers and participating principles and all addresses they have used for the last ten (10)years.
  - c. Summary of corporate activity.
5. If applicant is a partnership, it must provide:
  - a. The partnership agreement.
  - b. Names, addresses, dates of birth, and social security numbers of the partners and all addresses they have used for the last ten (10) years.
6. If the applicant is a sole proprietor, he/she must provide their social security number, date of birth, current address, and all addresses used for the last ten (10) years.

**K. FINANCIAL CAPABILITY –**

1. If the applicant is a corporation or limited partnership, you must provide a current financial statement prepared by an independent certified public accountant or by an independent licensed public accountant.
2. If the applicant is an individual or partnership, he/she/they must provide a complete and current personal financial statement.
3. Each applicant must provide the names, addresses, and telephone numbers of at least two commercial or institutional credit references from which the applicant has previously obtained financing. You must also attach a letter authorizing each credit reference to respond to inquiries from the Government.

4. Provide a preliminary budget, projected cash flow, estimated operating costs, and detailed plans of financing including commitment letters covering all projected financing for the five-year development plan from proposed lenders. Identify all interim and permanent sources of funds and include copies of loan documents used to implement the assignment.

## 5. Feasibility of Development of Site Under Consideration

a. Identify profit centers.

1. Primary – facilities that draw people.
2. Secondary – services complimenting primary center.

Example: Boat repair service at a marina ( Note: Restaurant might be primary if it draws people from outside, but secondary if used to serve patrons of a resort motel.)

b. Estimate income from primary centers.

1. Describe facility from physical standpoint. ( Is it designed to serve large boats? Fishers? Water sports enthusiasts? Overnight campers? Vacation campers? )
2. Estimate season for primary center.
3. Estimate the percentage of total market that can reasonably be expected to purchase the item that the profit center sells (motel, room, boat slip, campsites, etc.).

## 6. Income Feasibility

a. Considerations:

1. Average distance traveled to site.
2. Frequency of use (weekday, weekend, holiday, etc.).
3. Analyze competition.
  - a. Location of competitors.
  - b. Quality of facility offered by competitors.
  - c. Expansion potential of competitors.

- b. Calculate estimated income from primary centers by multiplying estimated number of units to be rented by the price per unit.
  - 1. More units may be rented during peak season when price per unit may be higher.
  - 2. Figure estimate of income weekly, then add total for the year.
- c. Estimate income from secondary centers.
  - 1. Estimate the number of dollars each customer of the primary center will spend at the secondary center.
  - 2. Consider competitive facilities for secondary center business.
- d. Three prediction methods.
  - 1. Published data of average expenditure per customer at comparable facility.
  - 2. Percentage of total gross income historically generated by similar secondary centers.
  - 3. Sampling experience at existing similar facilities.
- e. Estimate total gross income.
- f. Estimate cost of development, O&M and replacement expenditures.

## **7. Appraisal**

- a. Income approach.
  - 1. Revenue received from operation (gross income).
  - 2. Less operating expenses (including reserves for replacement).
  - 3. Cash flow (net income).
  - 4. Yield on investment.
- b. Cost approach.
  - 1. Land cost to rent.
  - 2. Development costs (private and Government).

c. Market data approach – net rent multiplier.

**8. Conclusions**

a. Discussion of positive and negative features of the enterprise.

b. Determine alternatives.

c. Establish conclusion based on the market analysis.

Enclose: Appropriate Maps, Tables and Charts