

FREQUENTLY ASKED QUESTIONS

Well Drilling, Operation and Plugging

(Pennsylvania's Oil and Gas Act of 2012 – Act 13)

25 Pa Code § 78.91 and § 78.98.
Environmental Protection. Chapter 78. Oil and Gas Wells.

Procurement

Commonwealth Procurement Code (CPC), 62 Pa.C.S. Section 101 et seq.

The purpose of this Frequently Asked Questions (FAQ) document is to address an expected increased level of contractor activity relating to a potential influx of federal funding for well plugging in the Commonwealth of Pennsylvania. Its intent is to provide links to information that current and prospective plugging contractors may find useful. This FAQ should not be used in lieu of reference to Pennsylvania's Oil and Gas Act of 2012 – Act 13 and other applicable laws and regulations, including the CPC. The answers outlined in this FAQ are intended to supplement existing requirements. Nothing in this document shall affect statutory or regulatory requirements.

This document is not an adjudication or a regulation. There is no intent on the part of the Department to give this document that weight or deference. The Department may supplement or amend this document at any time as necessary without notice.

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1) Where can I find General Contracting Information?:

Answer:

Miscellaneous information for plugging contractors can be found at the following link:
<https://www.dep.pa.gov/Business/Energy/OilandGasPrograms/OilandGasMgmt/LegacyWells/Pages/Contractors.aspx>

The General Conditions for Construction, which govern well plugging contractor expectations and provide detailed information relating to various contract topics – including bond requirements – can be found at the following link:
[DEP eLibrary \(state.pa.us\)](https://www.dep.pa.gov/Business/Energy/OilandGasPrograms/OilandGasMgmt/GeneralConditionsForConstruction/Pages/GeneralConditionsForConstruction.aspx)

If a plugging contractor is interested in being eligible to bid on contracts, they should register as a commonwealth vendor. Information to can be found at the following vendor registration link:

<https://www.dgs.pa.gov/Materials-Services-Procurement/Supplier-Service-Center/Pages/default.aspx>

The following is a guide for vendor registration:

<https://www.dgs.pa.gov/Documents/Procurement%20Forms/Supplier%20Service%20Center/New%20Vendor%20Registration%20Guide.pdf>

Additional questions and answers about the commonwealth vendor process can be found at the following link:

[FAQ | Department of General Services | Commonwealth of Pennsylvania](#)

Many well plugging contracts have a small business expectation which was developed as an Executive Order by the Governor in 2011. Per the Executive Order, awards to small businesses are typically expected for contracts of an amount less than \$400,000. For contracts in excess of \$400,000; DGS sets the small business target. The expectations for small business involvement in contracts can be found at the following link:

<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

Additional questions and answers about small business requirements can be found at the following link:

[SDB Construction FAQs \(pa.gov\)](#)

2) Additional Contracting Questions:

2.a.) Would DEP consider utilizing a third party to facilitate bids, paperwork, etc. in a manner similar to the model used by the Underground Storage Tank Indemnification Fund (USTIF)?

Answer:

USTIF administers the UST funding for storage tank closures and site cleanups and there is no direct relationship with contract work for well plugging. Knowing that DEP may be challenged with manpower and administration if a quick program ramp up occurs, engaging a third party might be one option the agency considers. Further, DEP is currently researching multiple options for contracting of services, including models that allow primary/subcontractor bidding to facilitate administrative management and potentially allow for large contracts to be run; and address support services such as well finding activities and E&S controls, among other things.

2.b.) Worker and public safety is another matter associated with well plugging work. How is it currently managed?

Answer:

Worker and public safety matters are covered in the General Conditions (2016). Please refer to [DEP eLibrary \(state.pa.us\)](http://DEP.eLibrary.state.pa.us)

2.c.) Road bonding and municipality approvals can be a time consuming and expensive endeavor for plugging contractors. Can this be streamlined and/or taken out of the plugging contractor's hands?

Answer:

The road bonding is based on municipality requirements and is in place to protect those municipalities from excessive costs. DEP does not plan to remove these requirements from contracts or modify the existing process.

2.d.) Landowner relations can also be time consuming. How can property owners' concerns be respected without compromising project efficiency?

Answer:

In general, for DEP contracts, a representative of DEP's Oil and Gas District Operations obtains a landowner consent letter to perform work on the property where the well is located. If nearby properties may be affected, the representative will also obtain those consent forms. DEP is currently working to proactively engage landowners in anticipation of increased plugging activities.

2.e.) There needs to be some indemnity for plugging contractors. There will likely be a lot of paperwork that will confuse contractors that are not savvy with all of the legal language in a contract. Because of this, there needs to be some assurance that if the contractor follows appropriate regulations, instructions and guidelines, they will not be required to come back on their own dime to remedy wells that become problems again in the future.

Answer:

Section 5.0 of the General Conditions of 2016 (Control of Work) speaks to these concerns ([DEP eLibrary \(state.pa.us\)](http://DEP.eLibrary.state.pa.us)). Additionally, and in general, the technical specifications of the contract, as applied in association with the estimates and any provision(s) of the contract, are intended to describe and illustrate the work required to be completed. Only work not complying with the technical specification or appropriate regulations would lead to work that must be remedied at the contractor's own expense.

2.f.) Can the DEP, simplify the paperwork, or make it consistent for all the bids?

Answer:

DEP Oil and Gas has worked to provide consistent bids via the Bid Express website. (https://www.bidexpress.com/login?return_to=%2F). In general, DEP releases two types of bids: Time and Material Bids and Lump Sum Bids. All bidding, aside from emergency

procurement, follows the competitive bid process where the low bidder is typically awarded the contract.

2. g.) Is the DEP willing to pay some amount of the money when a bid is accepted?

Answer:

DEP doesn't release funds prior to work being performed for contract bids. DEP is pursuing the ability to develop grants for well plugging. For such an option and after award of a grant, a portion of the grant moneys may be released prior to the work being performed.

2.g.) Can the DEP eliminate or reduce the bond amount required in order to get more bids?

Answer:

In the current contracting procedure, contact bonds of 110% of the contract amount are required. This includes a 100% performance bond and a 10% maintenance bond conditioned for the contractor's remedy, without cost to the Department, of any defects which develop during the remedy guarantee period as outlined in SUBSECTION 5.18, REMEDY GUARANTEE PERIOD of the General Conditions ([DEP eLibrary \(state.pa.us\)](http://DEP.eLibrary.state.pa.us)). All contract bonds must be executed by a corporate surety authorized to do business in the Commonwealth.

DEP may waive bid bonds (bid guaranty) as part of the bid process.

2.h.) Can the DEP pay within 30 days after each well is plugged instead of after the all the wells in a project are complete?

Answer:

Contract payments are made for work completed. These are made as monthly progress estimates or in the case of lump sum contracts, upon completion/reclamation of individual wells. The processing of these payments generally occurs within 30 days but can be expedited by direct deposit. Paper check payments do slow the payment process because of required signatures on checks.

The final close-out payment on the contract does take a longer amount of time because of contract close-out paperwork. In general, the final payment occurs within 60 days.

2.i.) Will the DEP hire experienced consultants to help oversee the projects?

Answer:

DEP is currently pursuing multiple approaches to potential contracting. This does include potential opportunities to release bids for consulting services. See question 2.a. for additional information on this subject.

2.j.) Can DEP provide a clear explanation on prevailing wages?

Answer:

Under the current contract formatting, prevailing wages are not required. This may change in association with passage of the Bipartisan Infrastructure Framework (BIF). Further details regarding prevailing wage requirements will be provided upon review of any final federal bill language that is voted into law.

Prevailing wage summary:

- DEP's current, internally funded construction contracting process for well plugging falls outside of the prevailing wage requirements. This resulted from an approved exemption request made to Labor and Industry (L&I) during the formation of the plugging program.
- For contracts outside of our typical DEP construction contract work, the following has been applied –
 - Workers for plugging projects have been classified as Laborers, Operators and Truck Drivers.
 - Typically, only those performing work at the site are included in the prevailing wage rates. Professionals, testing companies, surveyors, etc. would not have prevailing wages.
 - The owners or principals of the company are not required to report prevailing wages for any hours they may work on the project.
- Historically, draft bills associated with the BIF have differed on the inclusion of the prevailing wage topic, from being silent on the subject to including a prevailing wage provision.

2.k.) Where can the latest information be found on the BIF and how it may impact well plugging?

Answer:

[Congress.gov](https://www.congress.gov) is the website where the latest legislative language can be accessed. It is possible to search for specific bills or do more general queries at that location such as *Infrastructure Investment and Jobs Act*.

3) Third-party Plugging Resources:

3.a.) How does the *Good Samaritan Law* relate to well plugging?

Answer:

DEP offers liability relief to third parties who plug abandoned and orphan wells under the Good Samaritan Law. More information on that liability relief can be found at the following link: [Good Samaritan \(pa.gov\)](#).

The Good Samaritan application can be accessed here: [8000-PM-OOGM0111.fillable.pdf \(state.pa.us\)](#). Other forms for that may be necessary to implement a Good Samaritan project are provided in the next section of this FAQ.

3.b.) Can the *Well Adoption Process* be used to facilitate abandoned or orphan well plugging?

Answer:

In certain cases, a third party may wish to become the operator of an abandoned or orphan well that has no responsible party through the well adoption process in order to facilitate plugging or operate the well. The necessary form and information for that process are summarized below along with links to other forms that may be useful.

- Operators General Information Form: [DEP eLibrary \(state.pa.us\)](#)
- Operator Ownership and Control Information: [DEP eLibrary \(state.pa.us\)](#)
- Operator Email Registration: [DEP eLibrary \(state.pa.us\)](#)
- Alternate Method Form: [DEP eLibrary \(state.pa.us\)](#)
- Notice of Intent (NOI) for Plugging Single Well and Plugging Project: [DEP eLibrary \(state.pa.us\)](#) and [DEP eLibrary \(state.pa.us\)](#)
- Plugging Certificate: [DEP eLibrary \(state.pa.us\)](#)
- Well Adoption Application: [DEP eLibrary \(state.pa.us\)](#)
- Various Bonding Forms (you may not need all of these or ANY of these – DEP experts will be able to assist with this):
 - [DEP Information Request: DEP eLibrary \(state.pa.us\)](#)
 - [Surety Bond: DEP eLibrary \(state.pa.us\)](#)
 - [Assignment of Certificate of Deposit: DEP eLibrary \(state.pa.us\)](#)
 - [Collateral Bond: DEP eLibrary \(state.pa.us\)](#)

3.c.) What if I have additional questions about becoming an Operator in Pennsylvania?

Answer:

For additional questions about registering as an oil and gas operator, contact your local District Oil and Gas Operations points-of-contact (ask to be directed to an Administrative professional); for other third-party plugging project coordination matters, ask to be directed to the Oil and Gas Inspector for the area of interest:

Click on the link to view the map and contact information for oil and gas district offices.

- [Map and District Office Oil and Gas numbers](#)

3.d.) What if I don't have permission or access to a well?

Answer:

If you don't have any entitlement allowing you access to a well and it is on private land, make sure to get permission from the landowner before accessing the property.

Don't ever touch or manipulate an oil or gas well without written DEP permission unless you are the owner or operator of the well. DEP may assign liability for the well to anyone who alters it.

3.e.) How can I learn more about known abandoned and orphaned leaking well locations?

Answer:

Many third parties have expressed an interest in plugging abandoned and orphan wells that are leaking methane. Although this information cannot be accessed through any of DEP's standard website reports, the agency does track reports of leaking wells and can share this information, if requested. The Well Plugging Program in Harrisburg should be contacted at 717.772.2199 or via email at RA-epOilandGas@pa.gov.

3.f.) What if I still have questions?

Answer:

If additional questions exist after reading the contents of this FAQ, contact the Department of Environmental Protection's (DEP) Well Plugging Program at 717.772.2199 or via email at RA-epOilandGas@pa.gov.

For questions specific to the contractor registration process, it may be more effective to contact the Department of General Services (DGS) directly at 877.435.7363 or via email at RA-PSC_Supplier_Requests@pa.gov.

DGS provides an online Supplier Service Center containing information designed to assist with companies with registration, bidding and account management. It provides assistance to companies that want to sell materials or services to state agencies.

To find out more, please visit them at the link below:

[Supplier Service Center | Department of General Services | Commonwealth of Pennsylvania](#)