



OKLAHOMA DEPARTMENT OF TRANSPORTATION

Sooner Subdivision Railroad Sale Request for Proposals

November 1, 2013



Disclaimer

This Request for Proposals ("RFP") is available to parties that are interested in participating in the competitive sale process of the Sooner Subdivision Railroad.

No representations, warranties, liability or offer

The Oklahoma Department of Transportation has prepared this RFP to provide preliminary information on the Sooner Subdivision Railroad to interested parties. The Oklahoma Department of Transportation does not give any warranty or make any representations, expressed or implied, as to the completeness or accuracy of the information contained in this document or any information which may be provided in connection with it.

The Oklahoma Department of Transportation expressly disclaims any and all liability relating to or resulting from the use of such information by any interested party or other third party in the preparation of any subsequent proposal.

By accepting this RFP, the recipient agrees to be bound by the foregoing limitations.

No liability for costs

The Oklahoma Department of Transportation shall have no obligation to pay or reimburse any interested party for costs incurred in preparing and responding to this RFP.

Proposal Submission Date

All responses should be legible and must be submitted on or before the Submission Date of **3:00 p.m.** (Central Standard Time) **January 30, 2014**. The Oklahoma Department of Transportation in its sole discretion may choose to accept supplemental information after this time. The Oklahoma Department of Transportation reserves the right to reject any submitted proposal.

Contact

For an official copy of the RFP, please complete the application form provided via the following website link: www.okladot.state.ok.us/rail/sooner/index.php.

All communication with eligible Proposers regarding this Request for Proposals will be conducted via email directed to the Proposer's designated lead contact. It is the Proposer's responsibility to receive and periodically validate the receipt of all related correspondence.



Request for Proposals

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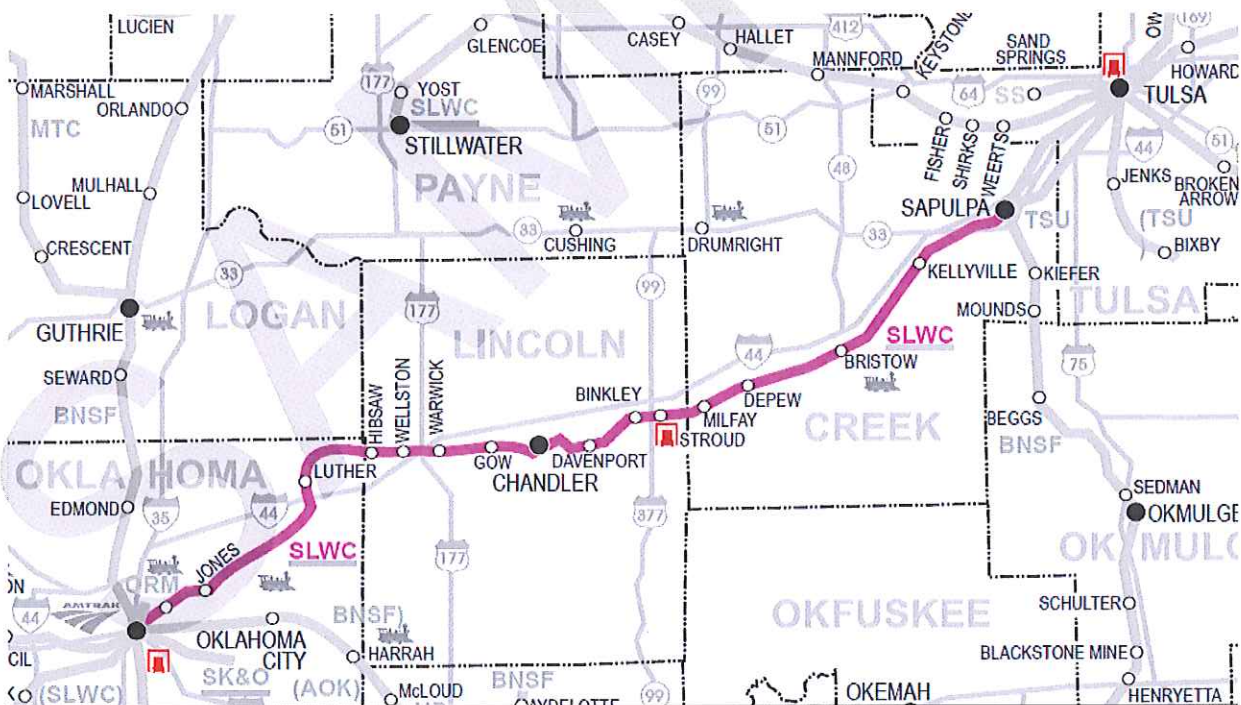


1 Introduction

1.1 Overview

The Oklahoma Department of Transportation (the "Department") invites interested parties ("Proposers") to provide responses to this RFP for the sale of a 97.5 mile segment of railroad between Sapulpa, Oklahoma and Del City, Oklahoma (referred to as the "Sooner Sub"). The Sooner Sub includes the rail line between Milepost 536.4 in Del City, Oklahoma and Milepost 438.9 in Sapulpa, Oklahoma, consisting of all track structures and necessary rights-of-way and all appurtenances thereof and including but not necessarily limited to rail and fastenings, switches and frogs, ties, ballast, roadbed, embankment, other structures or things necessary for support of operations.

In 1998, the State of Oklahoma ("State") purchased the Sooner Sub from the Burlington Northern Santa Fe railroad company for \$5.9 million at liquidation cost – or \$8.5 million when adjusted for 2013 inflation rates. The purchase was part of an asset preservation effort by the State to save as many rail lines as possible from being abandoned and dismantled after several Class I railroad companies were declared bankrupt or merged, and subsequently disposed of excess rail lines. Upon purchase of the Sooner Sub, the Department sought short line operators to lease the line in an effort to keep the Sooner Sub operational. The Department offered a "Track Lease and Operating Agreement" to Stillwater Central Railroad Inc. (Watco Companies), in 1998, allowing it to operate on the line. The lease was renegotiated in 2013 with Stillwater Central Railroad Inc. for an additional five years.



Source: State of Oklahoma 2012-2013 Railroad Map



1.2 Sooner Sub RFP Objectives

The Department is considering the sale of the Sooner Sub in order to meet the following goals and objectives:

1. Increasing economic activity throughout the region.
2. Enhancing customer service and opportunities along the Sooner Sub corridor.
3. Allowing access to the line for all potential users.
4. Returning state-owned assets to private sector ownership, operation and development.

1.3 Statutory Process and Considerations

The Department is issuing this RFP and sales process ("Process") in accordance with the Railroad Revitalization Act contained in 66 O.S. § 304 ("Act").

The Act requires that the Oklahoma Department of Commerce prepare an economic impact study based on each Proposer's Business Plan. The economic impact studies will be considered by the Department in addition to the evaluation of each Proposal as described in Section 3.3. Further, the Department will consider recommendations from the Cabinet Secretaries of the Oklahoma Transportation, Finance, Commerce, Agriculture and Energy departments. The Transportation Commission will receive and consider the Department's recommendation of the Best Value Proposers.

1.4 RFP Process Eligibility

A Proposer must have a minimum of five years of experience operating a common carrier railroad authorized by, and subject to the jurisdiction of the Surface Transportation Board or its predecessor the Interstate Commerce Commission. If the Proposer is being newly formed for the purpose of acquiring the Sooner Sub, then Proposer must be a subsidiary of, or under common control with, a railroad that meets the qualifications set forth in the preceding sentence.



2 Conditions of Sale

2.1 Conditions of Sale

The Department recognizes that the Sooner Sub is a valuable economic asset and transportation corridor to the State. The Department will award the sale of the Sooner Sub to the Proposer that best meets the interests of the State.

The following stipulations, in part or in whole, will be included in any agreement of sale. Proposers should note any concerns with this stipulation in its proposal.

1. Purchaser will be required to honor the new 5-year lease with Stillwater Central Railroad (as of January 1, 2013 and ending December 31, 2017).
2. The Sooner Sub sale shall be considered "AS IS, WHERE IS", as allowed by law.
 - a. The Purchaser will maintain all rail facilities on the Sooner Sub which are necessary to operate the facility at no less than Class II standards which include, but are not limited to, all tracks, communication lines, bridges, embankments, culverts, ditches, road crossings, signal systems and maintenance roadways, and maintain a continuous line of railroad; and perform general maintenance and weed cutting on the Premises.
 - b. The sale includes all rail facilities and rights-of-way as described in subparagraph a (additional details of assets will be included in the public data room).
3. Purchaser will not hold the State liable for any incidents that might occur on the Sooner Sub after the sale agreement has been executed (reps and warranties by the State will be provided at a later time).
4. The Purchaser should anticipate providing commercially reasonable procedures for allowing access to the line by competing railroads and other service providers including passenger rail operations if determined feasible.



3 Selection Process and Schedule

3.1 Description of the Selection Process

The following competitive sale process has been developed in accordance with the Department's statutory authority. The process encompasses two phases:

Request for Proposals

1. Solicit interest through a public process.
2. Collect data for analysis by Proposers, which will be distributed publicly through the Department's internal systems.
3. Assist in arranging site visits for Proposers if determined necessary and feasible.
4. Accept questions from Proposers until January 15, 2014.
5. Allow non-binding offers ("Offer Price") to be submitted for the Department's consideration.
6. Shortlist two Proposers for further negotiation.

Request for Final Offer

1. Both shortlisted Proposers will be requested to provide a binding offer, that will include committed financing and a final (firm) offer price ("Final Offer Price"), for review and consideration by the Department.
2. The Proposer providing the best value proposal ("Preferred Proposer") will be selected by the Department to commence negotiations. The negotiation process will subject the Preferred Proposer to breakage fees (to be defined by the Department at a later time) if a transaction is not completed.
3. Work with the Preferred Proposer to satisfy statutory requirements for the sale of the Sooner Sub, including all required approvals and briefings.
4. Complete commercial and financial close process, including executing the sales agreement and paying the purchase price to the Department.

3.2 Minimum Offer Price

To ensure the Department's objectives are met and to create a competitive proposal environment, the Department has determined a minimum Offer Price that must be met or exceeded in order for a proposal to be considered. If any proposal does not meet or exceed the minimum Offer Price that proposal will be determined to be non-compliant and will not be scored. The minimum Offer Price is \$9,100,000.

3.3 Evaluation of Proposals

The Department will select the best value proposal received from Proposers. The best value proposal will be determined by qualitative and quantitative factors, including the required Business Plan and Projected Economic Activity and the Offer Price.



Proposals will be evaluated and scored as follows:

1. Business Plan and Projected Economic Activity (60 points)

Responses to the questions provided in Section 5.1 will be evaluated qualitatively by the Department and will be scored on a scale of 0 to 60. Proposers should provide sufficiently comprehensive answers to each question to enable the Department to properly evaluate the Business Plan and Projected Economic Activity.

2. Offer Price (40 Points)

- a. Proposer's Offer Price will be scored as a percentage of the highest Offer Price received by the Department.
- b. Scoring Formula = Proposer's Offer Price / highest Offer Price * 40 points.
For example, if Proposer's Offer Price is 14 and the highest Offer Price is 18, the Proposer's score would be calculated as follows: $14 / 18 * 40 = 31$ (out of a maximum of 40 points).
- c. If the minimum Offer Price is not met the Response will not be considered.

Each component score will be added together to form the Proposer's score. The two Proposers with the highest two (2) scores will be shortlisted for further negotiation.

3.4 Timetable

The table below outlines the anticipated timeline for consideration by the Department

Milestone	Date
RFP issued	November 1, 2013
Discussion and interaction with Proposers	November 12, 2013 – January 15, 2014
Receive RFP Responses (includes non-binding Offer Price)	January 30, 2014
Determine shortlisted Proposers	February 14, 2014
One-on-one negotiations with shortlisted Proposers	February 17, 2014 – March 11, 2014
Receive binding offers from shortlisted Proposers	March 14, 2014
Evaluate Proposals and brief State of Oklahoma Cabinet Secretaries and Transportation Commission	January 30 - May 5, 2014
Transportation Commission review and consideration of recommended Preferred Proposer	May 5, 2014
Financial close	July 31, 2014



4 Guidelines for Response Submission

4.1 Instructions for Preparing Response

Proposals should be prepared as follows:

- Maximum 30 pages of responses (excluding requested appendices)
- Minimum 10 point font

4.2 Questions and Clarifications

All questions from eligible Proposers should be submitted in writing to the following email address: fprail@odot.org. Questions are allowed from November 12, 2013 to January 15, 2014. Answers to questions will be provided to all Proposers, however the source of each question will not be revealed. Questions received by the Department will be answered in a timely manner.

4.3 Delivery Instructions

To be considered, responses from eligible Proposers should be submitted via email in the Portable Document Format (.pdf) to the following email address fprail@odot.org prior to the closing on January 30, 2014 at 3:00 p.m. CST.



5 Request for Proposals Requirements

5.1 Required Submittal Items

Proposers are required to prepare proposals in accordance with the following submission requirements.

RFP Submittal Structure

1. *Proposer Overview*
 - a. Overview of the Proposer
 - b. Proposer contact details and lead contact including the email address for official correspondence
 - c. Proposer's value proposition to the State if selected to purchase the Sooner Sub
2. *Offer Price*
 - a. Proposer's Offer Price (equal to or above the minimum Offer Price, otherwise, the proposal will be deemed non-compliant)
 - b. Proposed funding approach and structure to acquire the Sooner Sub
 - c. Confirmation and supporting documentation (letter from capital providers, etc.) that anticipated funding sources can be raised in the proposed timeline for financial close
 - d. Provide details of prior bankruptcies or operational issues experienced by the Proposer within the last five years that the State should have knowledge of when evaluating the Proposer as a potential acquirer
 - e. Description of any conditions that may be attached to the Offer Price
3. *Business Plan and Projected Economic Activity*
 - a. Business Plan
 - i. Provide an overview of expected Sooner Sub operations, including:
 - Expected cargo types to be serviced by the Sooner Sub
 - Projected cargo volumes
 - Expected operational improvements
 - Required upfront rehabilitation or capital improvements to the Sooner Sub
 - Potential expansion options
 - ii. Provide an overview of how the Sooner Sub will be marketed, including:
 - Potential business development efforts along the Sooner Sub
 - Expected marketing plan for Sooner Sub customers and users
 - Rate or service modifications to better serve customers (Proposer should provide potential fees/rates, including a comparison to similar local, regional and State services operated by the Proposer)
 - Expected impact to existing Sooner Sub customers and users
 - iii. Experience operating short line railroads
 - iv. Passenger rail plans
 - Proposers should detail any easement offering, opportunities, or allowances for passenger rail and, if applicable, any plan for potential slot availability
 - v. Plan to interact with other railroad companies for use of the Sooner Sub
 - vi. Plans to address community concerns about freight lines blocking traffic along a main street
 - vii. Plans to obtain Surface Transportation Board approvals and any insight on the required approval timelines
 - viii. Details of any instances where the Proposer has been fined by Federal, State or municipal agencies within the last five years



- b. Projected Economic Activity
 - i. Provide details regarding how many jobs will be created by transferring ownership of the Sooner Sub to the Proposer
 - ii. Project the annual tax revenue to the State and municipalities due to private ownership
 - iii. Projected annual economic, service and access impact to the local energy, agricultural and construction industries and other businesses as applicable
 - The Department needs this information to assist with statutory requirements and the Proposers should be as detailed as possible without incurring excessive expenses to produce economic studies
4. *Heads of Terms* - Proposers should provide a draft heads of terms for the Department's consideration, including key provisions that the Proposer requires to be included in the final contract

SAMPLE



6 Attachments

The following is located in the public "Data Room" at: www.okladot.state.ok.us/rail/sooner/data-room.php

1. Oklahoma Statute Title 66, Section 304
2. Full set of the BNSF sale document from 1998
3. Rights-of-Way Survey
4. Rights-of-Way Assessment Map
5. Stillwater Central Railroad Inc. Track Lease and Operating Agreement signed in 2013.
6. Valuation Summary
7. Maps

SAMPLE