

Serpent River First Nation

LIMITED PARTNERSHIP

Request for Proposal (RFP)

Fuel Delivery Services

Request for Proposal

The Serpent River First Nations Limited Partnership is seeking a proposal for petroleum.

Submission Requirements

Serpent River First Nation Limited Partnership (SRFN LP) is inviting you to submit a proposal for the fuel supply for our Serpent River First Nation Gas Bar.

The closing date for proposal submission is Wednesday June 12, 2024 (the “closing date”). To be eligible for consideration, proposals must be received by fax or email no later than 3:00 p.m. on the closing date.

All submissions shall be addressed to the principal contact:

Misty Brousseau

Acting General Manager

Title: Serpent River First Nations Limited Partnership (SRFN LP)

Email: Plaur@srfnedc.com

Office: 1.705.844.2119 EXT- 221

Fax: 1.705.844.1219

Address: 479 Highway 17 West P.O. Box 13 Cutler Ontario P0P 1B0

All questions shall be submitted in writing to the principal contact, by 3pm, Wednesday June 5, 2024 .

Proposals shall be completed without delineations, alterations or erasures. Proposals received after the submission deadline will be returned to the Respondent unopened and at the Respondent’s cost.

All accepted proposals and accompanying documentation will become the property of SRFN LP and will not be returned.

Terms and Conditions

By inviting a proposal, SRFN LP makes no commitment or obligation to the respondents in any way, specifically no obligation to enter into any contract as a result of the issuance of this RFP or to select the lowest cost or any bidder. In particular, SRFN LP shall in no event be responsible for any costs incurred in the preparation and submission of a proposal in response to this RFP.

Key Dates

Key dates pertinent to the selection process are presented below:

- *RFP issued May 24, 2024*
- *Questions submitted by June 5, 2024*
- *Proposal submission deadline June 12, 2024*

INTRODUCTION

Serpent River First Nation is an Anishinabe First Nation in the Canadian province of Ontario, located midway between Sudbury and Sault Ste. Marie along the North Channel of Lake Huron. It is a “self-sufficient people within a community of caring and compassionate families.”

Serpent River First Nation operates a gas bar at 475 Highway 17 West in Cutler, Ontario. It sells regular unleaded, mid-grade and premium gasoline, and diesel fuel. In 2022-23, the gas bar sold 3.1 million litres of fuel (all types). In 2023-24, the gas bar sold 3.85 million litres of fuel in the fiscal year. The fuel sales are broken down as follows:

	Regular	MidGrade	Premium	Diesel	TOTAL
23-Apr	218,198.56 L	4,053.09 L	7,725.40 L	10,384.83 L	240,361.88 L
23-May	249,154.88 L	4,483.83 L	10,707.67 L	12,525.23 L	276,871.61 L
23-Jun	269,356.09 L	4,577.51 L	13,225.00 L	15,950.63 L	303,109.23 L
23-Jul	343,610.93 L	5,744.27 L	17,195.22 L	17,543.65 L	384,094.07 L
23-Aug	431,268.93 L	1,078.87 L	3,541.68 L	20,389.39 L	456,278.87 L
23-Sep	368,878.55 L	6,374.41 L	14,486.90 L	16,673.35 L	406,413.21 L
23-Oct	296,772.72 L	5,363.86 L	10,028.95 L	14,656.39 L	326,821.92 L
23-Nov	283,566.43 L	3,851.46 L	7,115.41 L	12,133.96 L	306,667.26 L
23-Dec	279,357.73 L	3,380.64 L	7,377.00 L	10,488.39 L	300,603.76 L
24-Jan	234,682.33 L	3,050.23 L	7,520.80 L	9,622.56 L	254,875.92 L
24-Feb	249,090.98 L	3,355.61 L	8,982.61 L	11,270.30 L	272,699.50 L
24-Mar	313,420.52 L	5,011.04 L	8,681.63 L	11,454.30 L	338,567.49 L
TOTALS	3,537,358.65 L	50,324.82 L	116,588.27 L	163,092.98 L	3,867,364.72 L

Serpent River First Nation Limited Partnership is seeking a fuel supplier once its current contract expires (forecast for October 2024). It has issued this Request for Proposal (RFP) document to identify potential suppliers to fulfill this requirement.

LEGAL TERMS AND CONDITIONS OF RFP

APPLICATION OF THESE LEGAL TERMS AND CONDITIONS

These legal terms and conditions set out the Lead Agency's and the Proponent's legal rights and obligations only with respect to the RFP proposal process and any evaluation, selection, negotiation or other related process. In no event will the legal terms and conditions of this document apply to, or have the effect of supplementing, any Contract formed between the Lead Agency and the Proponent, or otherwise apply as between the Proponent and the Lead Agency following the signing of any such Contract.

DEFINITIONS

In this document, the following terms have the following meanings:

- (a) "Lead Agency" means the Serpent River First Nation Limited Partnership.
- (b) "Contract" means a legal agreement, if any, entered into between the Lead Agency and the Proponent following and as a result of the Proponent's selection by the Lead Agency in the Lead Agency's RFP process.
- (c) "Losses" means, in respect of any matter, all direct or indirect, as well as consequential: claims, demands, proceedings, losses, damages, liabilities, deficiencies, costs and expenses (including without limitation all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement whether from a third person or otherwise).
- (d) "Proponent" means the legal entity which has signed the Proposal, and "proponent" means any proponent responding to the RFP, excluding or including the Proponent, as the context requires.
- (e) "Proposal" means the package of documents consisting of this document, the Proponent's proposal submitted under cover of the Proposal Form, and all schedules, appendices and accompanying documents, and "proposal" means any proposal submitted by any proponent, excluding or including the Proponent, as the context requires.
- (f) "RFP" means the document issued by the Lead Agency as Request for Proposal, as amended from time to time and including all addenda.

1.0 NO LEGAL OBLIGATION ASSUMED BY THE LEAD AGENCY

Despite any other term of the RFP, the Lead Agency assumes no legal duty or obligation to the Proponent

or to any proposed subcontractor in respect of the RFP, its subject matter or the Proposal unless and until the Lead Agency enters into a Contract, which the Lead Agency may decline to do in the Lead Agency's sole discretion.

2.0 NO DUTY OF CARE OR FAIRNESS TO THE PROPONENT

The Lead Agency does not owe to the Proponent or to any of the Proponent's proposed subcontractors any contract or tort law duty of care, fairness, impartiality or procedural fairness in the RFP process, or any contract or tort law duty to preserve the integrity of the RFP process. The Proponent hereby waives and releases the Lead Agency from any and all such duties and expressly assumes the risk of all Losses arising from participating in the RFP process on this basis.

3.0 EVALUATION OF PROPOSALS

3.1 Compliance / Non-Compliance

Any proposal which contains an error, omission or misstatement, which contains qualifying conditions, which does not fully address all of the requirements or expectations of the RFP, or which otherwise fails to conform to the RFP may or may not be rejected by the Lead Agency at the Lead Agency's sole discretion. The Lead Agency may also invite a proponent to adjust its proposal to remedy any such problem, without providing the other proponents an opportunity to amend their proposals.

3.2 Reservation of Complete Control over Process

The Lead Agency reserves the right to retain complete control over the RFP and proposal processes at all times. Accordingly, the Lead Agency is not legally obligated to review, consider or evaluate the proposals, or any particular proposal, and need not necessarily review, consider or evaluate the proposals, or any particular proposal, in accordance with the procedures set out in the RFP, and the Lead Agency reserves the right to continue, interrupt, cease or modify its review, evaluation and negotiation processes in respect of any or all proposals at any time without further explanation or notification to any proponents.

3.3 Discussions/Negotiations

The Lead Agency may, at any time prior to signing a Contract, discuss or negotiate changes to the scope of the RFP, any proposal or any proposed agreement with any one or more of the proponents without having any duty or obligation to advise the Proponent or to allow the Proponent to vary its Proposal as a result of such discussions or negotiations with other proponents or changes to the RFP or such proposals or proposed agreements, and, without limiting the general scope of Section 6 of this

document, the Lead Agency will have no liability to the Proponent as a result of such discussions, negotiations or changes.

3.4 Acceptance or Rejection of Proposals

The Lead Agency has in its sole discretion, the unfettered right to: accept any proposal; reject any proposal; reject all proposals; accept a proposal which is not the lowest-price proposal; accept a proposal that deviates from the requirements of the RFP or the conditions specified in the RFP; reject a proposal even if it is the only proposal received by the Lead Agency; accept all or any part of a proposal; enter into agreements respecting the subject matter of the RFP with one or more proponents; or enter into one or more agreements respecting the subject matter of the RFP with any other person at any time.

4.0 PROTECTION OF LEAD AGENCY AGAINST LAWSUITS

4.1 Release by the Proponent

Except only and to the extent that the Lead Agency is in breach of Section 8.2 of this document, the Proponent now releases the Lead Agency , its officials, its agents and its employees from all liability for any Losses incurred in connection with the RFP or the Proposal, including any Losses in connection with:

- (a) any alleged (or judicially determined) breach by the Lead Agency or its officials, agents or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the Lead Agency has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially))
- (b) any unintentional tort of the Lead Agency or its officials or employees occurring in the course of conducting the RFP process,
- (c) the Proponent preparing and submitting the Proposal;
- (d) the Lead Agency accepting or rejecting the Proposal or any other submission; or
- (e) the manner in which the Lead Agency: reviews, considers, evaluates or negotiates any proposal; addresses or fails to address any proposal or proposals; resolves to enter into a Contract or not enter into a Contract or any similar agreement; or the identity of the proponent(s) or other persons, if any, with whom the Lead Agency enters any agreement respecting the subject matter of the RFP.

4.2 Indemnity by the Proponent

Except only and to the extent that the Lead Agency breaches Section 8.2 of this document, the Proponent indemnifies and will protect, save and hold harmless the Lead Agency, its officials, its agents and its employees from and against all Losses, in respect of any claim or threatened claim by the Proponent or any of its proposed subcontractors or agents alleging or pleading:

- (a) any alleged (or judicially determined) breach by the Lead Agency or its officials or employees of the RFP (it being agreed that, to the best of the parties' knowledge, the Lead Agency has no obligation or duty under the RFP which it could breach (other than wholly unanticipated obligations or duties merely alleged or actually imposed judicially));
- (b) any unintentional tort of the Lead Agency or its officials or employees occurring in the course of conducting the RFP process, or
- (c) liability on any other basis related to the RFP or the proposal process.

4.3 Limitation of Lead Agency Liability

In the event that, with respect to anything relating to the RFP or this proposal process (except only and to the extent that the Lead Agency breaches Section 8.2 of this document), the Lead Agency or its officials, agents or employees are found to have breached (including fundamentally breached) any duty or obligation of any kind to the Proponent or its subcontractors or agents whether at law or in equity or in contract or in tort, or are found liable to the Proponent or its subcontractors or agents on any basis or legal principle of any kind, the Lead Agency's liability is limited to a maximum of \$100, despite any other term or agreement to the contrary.

5.0 DISPUTE RESOLUTION

Any dispute relating in any manner to the RFP or the proposal process (except to the extent that the Lead Agency breaches this Section 7 or Section 8.2 of this document, and also excepting any disputes arising between the Lead Agency and the Proponent under a Contract (or a similar contract between the Lead Agency and a proponent other than the Proponent)) will be resolved by arbitration in accordance with the Arbitration Act (1991), amended as follows:

- (a) The arbitrator will be selected by the Lead Agency's Legal Counsel;
- (b) Section 6 of this Appendix 1 will: (i) bind the Lead Agency, the Proponent and the arbitrator; and (ii) survive any and all awards made by the arbitrator; and
- (c) The Proponent will bear all costs of the arbitration.

6.0 PROTECTION AND OWNERSHIP OF INFORMATION

6.1 RFP and Proposal Documents Lead Agency's Property

(a) All RFP-related documents provided to the Proponent by the Lead Agency remain the property of the Lead Agency and must be returned to the Lead Agency, or destroyed, upon request by the Lead Agency.

(b) The documentation containing the Proposal, once submitted to the Lead Agency, becomes the property of the Lead Agency, and the Lead Agency is under no obligation to return the Proposal to the Proponent.

6.2 Proponent's Submission Confidential

Subject to the applicable provisions of the Freedom of Information and Protection of Privacy Act (Ontario), other applicable legal requirements, and the Lead Agency's right to publicly disclose information about or from the Proposal, including without limitation names and prices, in the course of publicly reporting to the Serpent River First Nation Chief and Council about the RFP, the Lead Agency will treat the Proposal (and the Lead Agency's evaluation of it), in confidence in substantially the same manner as it treats its own confidential material and information.

6.3 All Lead Agency Information Confidential

(a) The Proponent will not divulge or disclose to any third parties any non-public documents or information concerning the affairs of the Lead Agency which have been or are in the future provided or communicated to the Proponent at any time (whether before, during or after the RFP process). Furthermore, the Proponent agrees that it has not and must not use or exploit any such non-public documents or information in any manner, including in submitting its Proposal.

(b) The Proponent now irrevocably waives all rights it may have by statute, at law or in equity, to obtain any records produced or kept by the Lead Agency in evaluating its Proposal (and any other submissions) and now agrees that under no circumstances will it make any application to the Lead Agency or any court for disclosure of any records pertaining to the receipt, evaluation or selection of its Proposal (or any other submissions) including, without limitation, records relating only to the Proponent.

7.0 NO CONFLICT OF INTEREST / NO COLLUSION / NO LOBBYING

7.1 Declaration as to no Conflict of Interest in RFP Process

(a) The Proponent confirms and warrants that there is no officer, director, shareholder, partner,

employee or contractor of the Proponent or of any of its proposed subcontractors, or any other person related to the Proponent's or any proposed subcontractor's organization (a "person having an interest") or any spouse, business associate, friend or relative of a person having an interest who is: (i) an official or employee of the Lead Agency ; or (ii) related to or has any business or family relationship with an elected official or employee of the Lead Agency , in each case, such that there could be any conflict of interest or any appearance of conflict of interest in the evaluation or consideration of the Proposal by the Lead Agency , and, in each case, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

(b) The Proponent confirms and warrants that there is no person having an interest (as defined above) who is a former official, former employee or former contractor of the Lead Agency and who has non-public information relevant to the RFP obtained during his or her employment or engagement by the Lead Agency, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

7.2 Declaration as to No Conflict of Interest Respecting Proposed Supply

The Proponent confirms and warrants that neither the Proponent nor any of its proposed subcontractors is currently engaged in supplying (or is proposing to supply) goods or services to a third party such that entering into an agreement with the Lead Agency in relation to the subject matter of the RFP would create a conflict of interest or the appearance of a conflict of interest between the Proponent's duties to the Lead Agency and the Proponent's or its subcontractors' duties to such third party, except as set out, in all material detail, in a separate section titled "Conflicts; Collusion; Lobbying" in the Proposal.

7.3 Declaration as to No Collusion

The Proponent confirms and warrants that:

(a) the Proponent is not competing within the RFP process with any entity with which it is legally or financially associated or affiliated, and

(b) the Proponent is not cooperating in any manner in relation to the RFP with any other proponent responding to the RFP,

in each case, except as set out, in all material detail, in a separate section titled "Conflicts, Collusion, Lobbying" in the Proposal.

7.4 Declaration as to Lobbying

The Proponent confirms and warrants that:

(a) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors is registered as a lobbyist under any lobbyist legislation in any jurisdiction in Canada or in the United States of America; and

(b) neither it nor any officer, director, shareholder, partner, employee or agent of the Proponent or any of its proposed subcontractors has engaged in any form of political or other lobbying whatsoever with respect to the RFP or sought, other than through the submission of the Proposal, to influence the outcome of the RFP process.

8.0 GENERAL

(a) All of the terms of this Appendix 1 to this Proposal Form which by their nature require performance or fulfillment following the conclusion of the proposal process will survive the conclusion of such process and will remain legally enforceable by and against the Proponent and the Lead Agency.

(b) The legal invalidity or unenforceability of any provision of this Appendix 1 will not affect the validity or enforceability of any other provision of this Appendix 1, which will remain in full force and effect.

(c) The Proponent now assumes and agrees to bear all costs and expenses incurred by the Proponent in preparing its Proposal and participating in the RFP process.

9.0 INDEPENDENT LEGAL ADVICE

THE PROPONENT ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO SEEK INDEPENDENT LEGAL ADVICE BEFORE SUBMITTING ITS PROPOSAL.

Appendix A – Required Information from Proponents

1. Please describe any agreement or contract requirements.
2. Please describe the pricing model which is utilized by your company.(rack, zone)
3. Please describe the types of fuels the Proponent can supply.
4. Please describe any fees or surcharges.
5. Please describe any incentives to use your company. Competitive pricing?
6. Are there additives in your gasoline? What are the performance benefits?
7. Please describe your service areas. Are there transportation charges?
8. Do you offer automatic delivery? Is there an automated system your company will provide?
9. Please describe any branding required. Do you supply signage and branding?
10. Please describe any partnerships with suppliers that will provide benefits.
11. Please describe any potential investment in a new storefront, pumps ,canopy etc. Will your company assist with renovations or a new build?

Please provide a Proponent overview comprising:

12. Executive Summary of the Proponent company and proposal;
13. Ownership structure of the Proponent company, including the parent company;
14. Geographical coverage in Canada and abroad;
15. Proponent company size, years of experience and capabilities.
16. Please describe how the proponent will manage the account (customer relations).
17. Please describe how the Proponent will execute supply and delivery. Will the Proponent use its own resources? Will it use subcontractors, and if so, who are they and how is the Proponent/subcontractor relationship defined?
18. Please describe the Proponent's emergency/disaster plan and how fuel requirements would be supported during an emergency/disaster situation.
19. Please describe the Proponent's procedure to manage fuel spills in transit and onsite
20. Please describe the Proponent's Health and Safety Plan and the provision of MSDS and WHMIS documents to the delivery site.
21. Please describe the Proponent's safety records for the past three (3) years, including number of incidents (subcontractors included).
22. Please describe if the Proponent has a "quality control" or "quality assurance" plan in place that complies with industry standards, government regulations and legal requirements.
23. Please describe the type of reporting and frequency of reporting the Proponent will provide.
24. Please describe how your gasoline fuel meets existing regulatory requirements.
25. Please describe how your diesel fuel meets existing regulatory requirements.

Appendix B – Proponent References (3)

Client Name

Address

Contact Name

Telephone Number

Email

Length of Relationship

Type of Service Provided to the Client

Client Name

Address

Contact Name

Telephone Number

Email

Length of Relationship

Type of Service Provided to the Client

Client Name

Address

Contact Name

Telephone Number

Email

Length of Relationship

Type of Service Provided to the Client

Appendix C – Proponent Certificate of Insurance