



Moody/Via

RESOLUTION NO. 6561

WHEREAS, sealed bids were requested and advertised, as required by law, for the following:

**REQUEST FOR PROPOSAL (RFP) NO. 6035
NEBRASKA CITY STATION UNIT 1 REHEATER OUTLET HEADER MATERIALS**

WHEREAS, bids were received and opened at the time and place mentioned in the published notices and the Director – Supply Chain Management supervised the tabulations, which have been submitted to this Board; and

WHEREAS, the Board of Directors has carefully considered the bids submitted, as well as the recommendations of the District's Management and General Counsel; and

WHEREAS, Section 70-637 of the Nebraska Revised Statutes authorizes the District's Board of Directors to reject proposals if they are not responsive to the Request for Proposals, and to authorize Management to pursue a negotiated contract without compliance with the sealed bidding provisions of Section 70-637 through 70-639; and

WHEREAS, the Board of Directors concurs with Management's recommendation that the two proposals received for RFP No. 6035 are technically and/or legally non-responsive.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Omaha Public Power District that all proposals received in response to Request for Proposal No. 6035 are rejected and Management is authorized to negotiate and enter into a contract or contracts for the procurement of a replacement reheater outlet header, tubing and associated piping for the Nebraska City Station Unit 1 boiler, subject to review and approval of the final contract(s) by the District's General Counsel.



MEMORANDUM

DATE: April 6, 2023

UO-2023-004

FROM: S.A. Eidem

TO: T.R. Via

SUBJECT: Nebraska City Station Unit 1 Reheater Outlet Header Materials

1.00 GENERAL

Request for Proposal (RFP) No. 6035 is for the material design, fabrication, and procurement contract to replace the reheater outlet header/tubing assemblies and associated piping of the Nebraska City Station Unit 1 (NC1) boiler. This contract does not include installation.

The NC1 reheater outlet header assembly, associated tube stubs and a short section of piping is original equipment with commercial operation starting in 1979. The reheater outlet header and tube assemblies were evaluated and require replacement to maintain unit reliability. Loose tubing located in the reheater outlet header doghouse is included in this contract to facilitate construction rigging activities. A short section of piping is included in this contract for the construction pipe to header tie-in location. A manway is being installed on the end of the header for periodic internal condition assessments of the header.

Two proposals were submitted and opened in response to the RFP on March 15, 2023. The Engineer's Estimate at the time of bid opening was \$1,100,000. The proposal prices are as follows:

COMPANY	BASE BID PRICE	HEADER MANWAY ADDER
Chanute Manufacturing Company	\$1,149,252.00	\$35,317.00
GE Steam Power, Inc.	\$1,395,325.00	\$13,820.00

2.00 COMPLIANCE WITH CONTRACT TERMS AND CONDITIONS

OPPD's legal counsel noted the proposal received from GE Steam Power, Inc. (GE) is legally non-responsive due to substantial revisions to the RFP terms including preprinted standard terms and conditions, several commercial exceptions and a provision stating the GE proposal is subject to "prior sale" before the Board of Directors acts on the RFP.

OPPD's legal counsel noted the proposal received from Chanute Manufacturing Company (Chanute) is materially non-responsive due to the proposal stating it is only valid for 30 days which expires before the Board of Directors acts on the RFP.

3.00 COMPLIANCE WITH TECHNICAL REQUIREMENTS


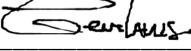
The proposals received were determined to comply with the technical requirements and were economically evaluated.

4.00 RECOMMENDATION

Based on the non-compliance with the legal requirements of this RFP, it is recommended that all proposals received for RFP No. 6035 be rejected by the Board of Directors and that District Management be authorized to enter into a negotiated contract.

Scott A. Eidem

S.A. Eidem, P.E.
Director, Engineering Services
Utility Operations

<p align="center">TABULATION OF BIDS Opened at 2:00 p.m., C.D.T., Wednesday, March 15, 2023, in Omaha, Nebraska</p>		<p align="center">REQUEST FOR PROPOSAL NO. 6035</p> <p align="center">Nebraska City Station Unit 1 Reheater Outlet Header Materials</p>		<p align="right">DocuSigned by:  C171422F76EE422... Director Supply Chain Management</p> <p align="right"> 5EC5B86907EE4F6 Compiled by and Certified Correct</p>	
<p align="center">Anticipated Award Date April 20, 2023</p>					
<p align="center">ENGINEER'S ESTIMATE</p> <p align="center"><u>\$1,100,000.00</u></p>					
<p align="center">BID ITEM</p>		BIDDER'S NAME & ADDRESS			
		<p align="center">Chanute Manufacturing Company 5727 S. Lewis Ave, Suite 600 Tulsa, OK 74015</p>	<p align="center">GE Steam Power, Inc 200 Great Pond Dr Windsor, CT 06095</p>		
		SUPPLIER'S BID	SUPPLIER'S BID	SUPPLIER'S BID	
1.	<p><u>Proposal Price(S)</u></p> <p>Base Bid Lump Sum Firm Price</p> <p>Header Manway Adder</p>	<p><u>\$1,149,252.00</u></p> <p><u>\$35,317.00</u></p>	<p><u>\$1,395,325.00</u></p> <p><u>\$13,820.00</u></p>	<p>_____</p> <p>_____</p>	
2.	<p><u>Completion Guarantee(s)</u></p> <p>Item Delivery: March 15, 2024</p>	<p><u>Guaranteed Completion Date</u></p> <p><u>March 25, 2024</u></p>	<p><u>Guaranteed Completion Date</u></p> <p><u>March 15, 2024</u></p>	<p><u>Guaranteed Completion Date</u></p> <p>_____</p>	



Stephen M. Bruckner
ATTORNEY
402.978.5225
sbruckner@fraserstryker.com
fraserstryker.com

March 21, 2023

Omaha Public Power District
444 South 16th Street
Omaha, NE 68102

RE: Request for Proposal No. 6035 – NC1 Reheater Outlet Header Replacement Materials
("RFP No. 6035")

Ladies and Gentlemen:

We have reviewed the two (2) proposals received in response to the District's RFP No. 6035 and provide the following legal opinion.

The proposal of GE Steam Power, Inc. ("GE") includes a provision stating that the GE proposal is subject to "prior sale" before the Board of Directors acts on this RFP. The GE proposal also includes preprinted standard terms and conditions and several commercial exceptions to the contract documents, including a modified liquidated damages provision and revised terms that would increase the contract price in the event of inflation. It is our opinion that these substantial revisions to the District's requested RFP terms render the GE proposal legally non-responsive, and the GE proposal shall not be considered by the Board of Directors for the award of this contract.

The proposal of Chanute Manufacturing Company ("Chanute") states that the proposal is valid for 30 days. I have been informed that the District requested a letter of clarification from Chanute stating that its proposal will remain open through the date of the applicable Board meeting and contract execution date, but Chanute declined to do so. Therefore, the Chanute proposal is materially non-responsive to the contract documents and cannot receive further consideration for the award of this contract.

Section 70-637(5) of the Nebraska Revised Statutes authorizes the Board of Directors to reject all bids if they are non-responsive to the contract documents or exceed the fair market value of the RFP's subject matter. Accordingly, the Board of Directors may reject both proposals for RFP No. 6035 and authorize Management to negotiate an acceptable contract. We recommend that the final contract documents be reviewed and approved by the District's General Counsel.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Stephen M. Bruckner', written over a light blue horizontal line.

Stephen M. Bruckner
FOR THE FIRM

SMB:sac
2978381

Fraser Stryker PC LLO

500 Energy Plaza, 409 South 17th Street, Omaha, NE 68102 — TEL: 402.341.6000 — FAX: 402.341.8290



Board Action

BOARD OF DIRECTORS

April 18, 2023

ITEM

Nebraska City Station Unit 1 Reheater Outlet Header Materials

PURPOSE

Board of Directors authorization to reject the proposals received for RFP No. 6035, and for the District to enter into a negotiated contract for purchase of a replacement reheater outlet header, tubing and associated piping for the Nebraska City Station Unit 1 boiler.


FACTS

- a. The reheater outlet header of the Nebraska City Station Unit 1 boiler has been evaluated and will be replaced to maintain unit reliability.
- b. The District requested bids for the design, fabrication and supply of the replacement reheater outlet header, tubing and associated piping materials under RFP No. 6035.
- c. Installation labor will be provided separate from this contract.
- d. Two proposals were received and both were determined to be legally non-responsive.

ACTION

Authorization by the Board of Directors to reject all proposals received for RFP No. 6035 and allow District Management to enter into a negotiated contract.

RECOMMENDED:

DocuSigned by:

 181187221FA24AE...
 Troy R. Via
 Vice President – Utility Operations
 and Chief Operating Officer

APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:

 AC399FDGE56247E...
 L. Javier Fernandez
 President and Chief Executive Officer

TRV:sjh

- Attachments: Letter of Recommendation
 Tabulation of Bids
 Legal Opinion
 Resolution