



Board Action

BOARD OF DIRECTORS

September 19, 2023

ITEM

Nebraska City Station Unit 1 Replacement Valve HCV-15 Labor

PURPOSE

Board of Directors authorization to reject the proposals received for RFP No. 6076, and for the District to enter into a negotiated contract for installation of replacement valve HCV-15 for the Nebraska City Station Unit 1.

FACTS


- a. The existing valve can no longer perform its intended function and repairs occur every outage to keep the valve serviceable.
- b. The valve replacement work will be completed during the planned spring 2024 outage. Material procurement will be provided separate from this contract.
- c. Three (3) bids were received and all bids were determined to be legally non-responsive.

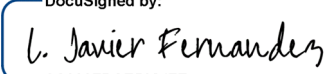
ACTION

Authorization by the Board to reject all proposals received for RFP No. 6076 and allow District Management to enter into a negotiated contract.

RECOMMENDED:

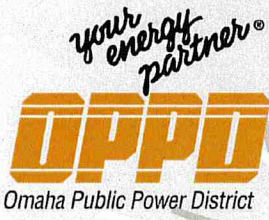
APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:

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

DocuSigned by:

 AC309FDGE56247E...
 L. Javier Fernandez
 President and Chief Executive Officer

TRV:sae

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



MEMORANDUM

DATE: August 31, 2023

UO-2023-018

FROM: S.A. Eidem

TO: T.R. Via

SUBJECT: Nebraska City Station Unit 1 HCV-15 Valve Replacement Labor

1.00 GENERAL

Request for Proposal (RFP) No. 6076 is for the labor services contract for replacement of the Nebraska City Unit 1 (NC1) HCV-15 valve. The contract is for labor services only and does not include the supply of materials. The material supply contract was previously awarded. Installation is planned to occur during the scheduled unit outage in the spring of 2024.

The currently installed boiler stop isolation valve (HCV-15) has a long history of failing to operate, causing or extending outages, creating unsafe local conditions, or having costly repairs. Several attempts have been made to recondition the valve for reliable operation and sealing without success. The valve currently requires maintenance every outage to continue its use.

The contract was advertised on July 20, 2023. Two letters of clarification were issued. Bids were received and opened on August 17, 2023. Three companies submitted bids. The Engineers estimate for this work was \$1,100,000. The bid prices are as follows:

ME&I Construction Services, Inc.	\$1,184,200
Total-Western Inc.	\$1,207,774
TEiC Construction Services, Inc.	\$1,255,441

2.00 COMPLIANCE WITH CONTRACT TERMS AND CONDITIONS

OPPDP's legal counsel noted the proposal of Total-Western, Inc. ("TW") includes revised payment terms requiring weekly invoiced progress payments in conflict with the desired milestones in OPPDP's bid documents. In addition, TW's proposal includes a Recruitment Fee to be paid by OPPDP if it hires anyone during the term of the Contract or during the twelve (12) months after completion of the work under

the contract. This Recruitment Fee would be required to be paid enterprise wide during the applicable period. It is our opinion that these substantial deviations to the District's requested RFP terms render the TW proposal legally non-responsive, and the TW proposal may not be considered by the Board of Directors for the award of this contract.

OPPD's legal counsel noted the proposal of TEiC Construction Services, Inc. ("TEiC") incorporates a previously agreed upon Master Services Agreement between TEiC and the District and then adds additional Special Conditions on top of such previously negotiated terms. These Special Terms materially alter the risk allocation of the District and TEiC and makes its proposal legally non-responsive to the bidding documents and may not be considered by the Board of Directors for the award of this contract.

OPPD's legal counsel noted the proposal of ME&I Construction Services, Inc. ("ME&I") incorporates mark ups and alternative positions to the Contract Documents that it would like to "discuss with OPPD contracts and/or Legal". Under the sealed bidding process, the parties are not allowed to discuss revisions to the documents in order to come to a negotiated resolution. As a result, these requests make its proposal legally non-responsive and may not be considered by the Board of Directors for the award of this contract.

3.00 COMPLIANCE WITH TECHNICAL REQUIREMENTS

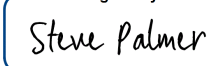
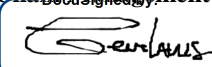
All three proposals received were determined to comply with the technical requirements and were economically evaluated.

4.00 RECOMMENDATION

Based on non-compliance with the legal requirements of this RFP, it is recommended that all proposals received for RFP No. 6076 be rejected by the Board of Directors and that District Management be authorized to enter into a negotiated contract.



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., Thursday, August 17, 2023, in Omaha, Nebraska</p>		<p align="center">REQUEST FOR PROPOSAL NO. 6076</p> <p align="center">NC1 HCV-15 Valve Installation</p>			<p align="center">DocuSigned by:  Steve Palmer <small>C171422F76EE422...</small> Director Supply Chain Management</p> <p align="center">  <small>5EC5B86907EE4F8...</small> Compiled by and Certified Correct</p>	
<p align="center">Anticipated Award Date September 21, 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>ME&I Construction Services, Inc. 3205 N. Frontage Road Suite 1 Vicksburg, MS 39180</p>	<p>Total-Western, Inc. 8049 Somerset Blvd Paramount, CA 90723</p>	<p>TEiC Construction Services, Inc. 170 Tucapau Rd Duncan, SC 29334</p>		
		SUPPLIER'S BID	SUPPLIER'S BID	SUPPLIER'S BID		
1.	<p><u>Proposal Price(S)</u></p> <p>Lump Sum Firm Price</p>	<p><u>\$1,184,200.00</u></p>	<p><u>\$1,207,774.28</u></p>	<p><u>\$1,255,441.00</u></p>		
2.	<p><u>Completion Guarantee(s)</u></p> <p>HCV Released to OPPD: May 13, 2024, 0600 Hour</p>	<p><u>Guaranteed Completion Date</u></p> <p><u>May 13, 2023 , 0600 Hour</u></p>	<p><u>Guaranteed Completion Date</u></p> <p><u>May 13, 2024 , 0600 Hour</u></p>	<p><u>Guaranteed Completion Date</u></p> <p><u>May 13, 2024 , 0600 Hour</u></p>		



Troy F. Meyerson
ATTORNEY
402.978.5347
tmeyerson@fraserstryker.com
fraserstryker.com

August 29, 2023

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

RE: Request for Proposal No. 6076 – Nebraska City Station Unit 1 HCV-15 Valve
Installation ("RFP No. 6076")

Ladies and Gentlemen:

We have reviewed the three (3) proposals received in response to the District's RFP No. 6076 and provide the following legal opinion.

The proposal of Total-Western, Inc. ("TW") includes revised payment terms requiring weekly invoiced progress payments in conflict with the desired milestones in OPPD's bid documents. In addition, TW's proposal includes a Recruitment Fee to be paid by OPPD if it hires anyone during the term of the Contract or during the twelve (12) months after completion of the work under the contract. This Recruitment Fee would be required to be paid enterprise wide during the applicable period. It is our opinion that these substantial deviations to the District's requested RFP terms render the TW proposal legally non-responsive, and the TW proposal may not be considered by the Board of Directors for the award of this contract.

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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 all three (3) proposals for RFP No. 6076 and authorize Management to negotiate an acceptable contract. We recommend that the final contract

Fraser Stryker PC LLO

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

August 29, 2023

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documents be reviewed and approved by the District's General Counsel.

Sincerely,

A handwritten signature in blue ink, appearing to read "Troy F. Meyerson", with a horizontal line extending to the right.

Troy F. Meyerson
FOR THE FIRM

TFM:
3009463.1



Moody/Via

RESOLUTION NO. 6592

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

**REQUEST FOR PROPOSAL (RFP) NO. 6076
NC1 HCV-15 VALVE INSTALLATION**

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 three (3) proposals received for RFP No. 6076 are 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. 6076 are rejected and Management is authorized to negotiate and enter into a contract or contracts for the labor services for replacement of the Nebraska City Unit 1 (NC1) HCV-15 Valve, subject to review and approval of the final contract(s) by the District’s General Counsel.