



Williams/Via

RESOLUTION NO. 6498

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

**REQUEST FOR PROPOSAL (RFP) NO. 5948
69-13.8kV 10/12.5(14) MVA OLTC TRANSFORMER**

WHEREAS, bids were received and opened at the time and place mentioned in the published notices and the interim 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(5) of the Nebraska Revised Statutes authorizes the District’s Board of Directors to reject proposals if they are not responsive to the Request for Proposal or exceed the fair market value for the proposed scope of work, 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 all five of the proposals received for RFP No. 5948 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. 5948 are rejected and Management is authorized to negotiate and enter into a contract or contracts for the procurement of 69-13.8kV 10/12.5(14) MVA OLTC Transformers, subject to review and approval of the final contract(s) by the District’s General Counsel.



Board Action

BOARD OF DIRECTORS

April 19, 2022

ITEM

Award RFP No. 5948 “69-13.8kV 10/12.5(14)MVA OLTC Transformer”

PURPOSE

Board of Directors authorization to reject the proposals received for RFP No. 5948, and for the District to enter into a negotiated contract for the purchase of one (1) 69-13.8kV 10/12.5(14)MVA OLTC Transformer and to enter into a contract for an initial term of one (1) year with the option to renew for up to four (4) additional one (1) year terms.

FACTS

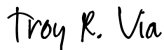
- a. The 69-13.8kV 10/12.5(14)MVA OLTC Transformers are required to support strategic spares, proactive replacements and provide flexibility for future projects. Twenty-five (25) similar units are in-service today ranging in age.
- b. This contract will initially procure a quantity of one (1) unit to support OPPD’s sparing program.
- c. Five (5) proposals were received; three (3) are legally responsive, and zero (0) are technically responsive.
- d. Renewable contract provision includes an escalation/de-escalation formula based on indices.
- e. Transformers purchased through renewals of the contract would be based on need and be used to support future spares, future load growth, or replacement projects.


ACTION

Authorization by the Board to reject all proposals received for RFP No. 5948 “69-13.8kV 10/12.5(14)MVA OLTC Transformer” and allow District Management to enter into a negotiated contract.

RECOMMENDED:

APPROVED FOR BOARD CONSIDERATION:

DocuSigned by:

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

DocuSigned by:

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

TRV:jgb

Attachments: Analysis of Proposals
 Tabulation of Bids
 Legal Opinion
 Resolution



MEMORANDUM

DATE: April 8, 2022
FROM: D. D. Buelt
TO: T.R. Via

RFP No. 5948
“69-13.8kV 10/12.5(14)MVA OLTC Transformer”

Analysis of Proposals

1.0 GENERAL

RFP No. 5948 was advertised for bid on February 15, 2022.

RFP No. 5948 provides the opportunity to purchase 69-13.8kV 10/12.5(14)MVA transformers for initial term of one (1) year with the option to renew up to four (4) additional one (1) year terms pursuant to the escalation/de-escalation provisions. OPPD will initially procure a quantity of one (1) 69-13.8kV 10/12.5(14)MVA transformer to support spare needs with desired delivery in May 2023.

No RFP Addendums or Letters of Clarification were issued.

Bids were requested and opened at 2:00 p.m., C.D.T., Wednesday, March 16, 2022.

Five (5) total proposals were received. The proposals received are summarized in the table below:

Bidder	Lump Sum Firm Price	Legally Responsive	Technically Responsive
Niagara Transformer Power Corporation	\$725,864	No	No
WEG Transformers USA	\$951,500	Yes	No
Pennsylvania Transformer Technology, Inc.	\$989,346	Yes	No
Delta Star Inc.	\$1,250,808	Yes	No
Hitachi Energy USA Inc.	\$1,287,165	No	No

2.0 COMPLIANCE WITH CONTRACT TERMS AND GENERAL REQUIREMENTS

OPPD’s legal counsel noted the proposal of Hitachi Energy USA, Inc. states it will provide a price escalation policy at the time OPPD places an order. Accordingly, the Hitachi proposal is materially nonresponsive to the contract documents and cannot be considered for the award.

OPPD’s legal counsel noted that Niagara Power Transformer Corporation did not include an escalation method as required by the RFP documents. Without the escalation method, the District

is unable to evaluate pricing for this procurement. Therefore, the Niagara Power proposal is materially nonresponsive to the contract documents and cannot be considered for the award of this contract.

For the Pennsylvania Transformer Technology proposal to receive consideration, OPPD must obtain a letter of clarification stating the following: 1) It withdraws the "subject to prior sale" language in its shipping schedule and withdraws the pre-printed contract terms included in its proposal; and 2) It withdraws the statement that it reserves the right to adjust pricing. Pricing must be firm, or subject to a specified escalation methodology included with the proposal, to be considered. Finally, the proposal states it is open only for thirty (30) days. If additional time is needed, a letter should be obtained extending the validity of the proposal. Other exceptions in the RFP proposal to the contract terms are acceptable, but must be evaluated. Upon clarification, Pennsylvania Transformer did not withdraw the pre-printed contract terms in their entirety. Therefore, OPPD considers the bid as materially nonresponsive.

The WEG proposal takes exception to the liquidated damages, payment, and limit of liability terms in the contract documents. The exceptions do not render the proposal materially nonresponsive, but are subject to OPPD's evaluation.

Delta Star proposal includes preprinted contract terms that must be withdrawn by Delta Star in a letter of clarification if their proposal is to receive further consideration. Upon clarification, Delta Star withdrew their standard terms and conditions and accepted OPPD's form of agreement for this RFP.

3.0 COMPLIANCE WITH TECHNICAL REQUIREMENTS

The proposals received from Delta Star, Hitachi Energy USA, Inc., Niagara Power Transformer, and WEG Transformer USA did not meet the desired delivery date and are deemed technically nonresponsive.

The proposal from Pennsylvania Transformer Technology did not remove their pre-printed contract terms in their entirety and is deemed technically nonresponsive.

4.0 RECOMMENDATION

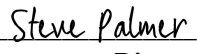
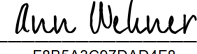
On the basis of compliance with the legal and technical requirements, it is recommended that all proposals received for RFP No. 5948 "69-13.8kV 10/12.5(14)MVA OLTC Transformer" be rejected by the Board of Directors and that District Management be authorized to enter into a negotiated contract.

DocuSigned by:

Dannie D. Buelt

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Dannie Buelt, PE
Director, Engineering
Utility Operations

<p style="text-align: center;">TABULATION OF BIDS Opened at 2:00 p.m., C.D.T., Wednesday, March 16, 2022, in Omaha, Nebraska</p> <hr/> <p style="text-align: center;">Anticipated Award Date April 21, 2022</p> <hr/> <p style="text-align: center;">ENGINEER'S ESTIMATE</p> <p style="text-align: center;">\$700,000.00</p>	<p>REQUEST FOR PROPOSAL NO. 5948 69-13.8kV 12.5MVA OLTC Transformer</p> <p style="text-align: right;">Page 2 of 2</p>		<p>DocuSigned by:  C171422F76E4192 Director</p> <p>DocuSigned by:  F8B5A3C97DAD4F8 Supply Chain Management</p> <p>Compiled by and Certified Correct</p>
<p>BID ITEM</p>	<p>BIDDER'S NAME & ADDRESS</p>		
	<p>Pennsylvania Transformer Technology, Inc. 30 Curry Avenue Canonsburg, PA 15317</p>	<p>WEG Transformers USA 6350 WEG Drive Washington, MO 63090</p>	
	<p>SUPPLIER'S BID</p>	<p>SUPPLIER'S BID</p>	<p>SUPPLIER'S BID</p>
<p>1. <u>Price Proposal:</u></p> <p>Firm base price to furnish and deliver one (1) 69-13.8kV 10/12.5(14)MVA OLTC Transformer</p> <p>A. Transformer Only:</p> <p>B. Shipping Only, FOB Destination:</p> <p>C. Assembly Only:</p> <p>Total Bid Price (A+B+C):</p> <p>2. <u>Delivery Guarantee(s):</u></p> <p>Desired Delivery Date:</p>	<p style="text-align: center;">\$950,246.00</p> <p style="text-align: center;">\$18,100.00</p> <p style="text-align: center;">\$21,000.00</p> <p style="text-align: center;">\$989,346.00</p> <p style="text-align: center;"><u>Guaranteed Delivery Date</u></p> <p style="text-align: center;">May 1, 2023</p>	<p style="text-align: center;">\$910,100.00</p> <p style="text-align: center;">\$16,400</p> <p style="text-align: center;">\$25,000.00</p> <p style="text-align: center;">\$951,500.00</p> <p style="text-align: center;"><u>Guaranteed Delivery Date</u></p> <p style="text-align: center;">90 - 95 Weeks ARO</p>	<p style="text-align: center;">\$ _____</p> <p style="text-align: center;">\$ _____</p> <p style="text-align: center;">\$ _____</p> <p style="text-align: center;">\$ _____</p> <p style="text-align: center;"><u>Guaranteed Delivery Date</u></p> <p style="text-align: center;">_____</p>

FRASER STRYKER

PC LLO

LAWYERS

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STEPHEN M. BRUCKNER
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March 21, 2022

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

RE: Request for Proposal No. 5948-69: 13.8kV – OLTC Transformer (RFP No. 5948)

Ladies and Gentlemen:

We have reviewed the five (5) proposals received in response to RFP #5948 and provide the following legal opinion.

The proposal of Hitachi Energy USA, Inc. states that it will provide an escalation policy for the prices in the proposal, at the time that OPPD places a purchase order. This is unacceptable, as OPPD must have each bidder's proposed escalation method now, in order to determine the lowest and best bid for this RFP. Accordingly, the Hitachi proposal is materially nonresponsive to the contract documents and cannot be considered by the District's Board of Directors for the award of this contract.

The proposal of Niagara Power Transformer Corporation did not include an escalation method as required by the RFP documents. Without the escalation method, the District is unable to evaluate pricing for this procurement. Therefore, the Niagara Power proposal is materially nonresponsive to the contract documents and cannot be considered for the award of this contract.

The proposal of Pennsylvania Transformer Technology requires a letter of clarification from the bidder. In order for that proposal to receive consideration, the District must obtain a letter of clarification from the Pennsylvania Transformer stating the following: 1) that it withdraws the "subject to prior sale" language in its shipping schedule and withdraws the pre-printed contract terms included with its proposal; and 2) that it withdraws the statement that it reserves the right to adjust pricing. Pricing must be firm, or subject to a specified escalation method included with the proposal, in order to be considered by the Board. Finally, I note that the proposal states it is open only for thirty (30) days. If additional time is needed for Board consideration, then a letter should be obtained extending the validity of the proposal. The other exceptions in the proposal to the RFP contract terms are acceptable, but must be evaluated by the District.

The proposal of WEG Transformers USA includes an escalation method that applies to the pricing stating in the proposal. The WEG proposal takes exception to the liquidated damages, payment,

and limit of liability terms in the contract documents. Those exceptions do not render the proposal materially nonresponsive, but they are subject to the District's economic evaluation.

The proposal of Delta Star also includes a price escalation method. Further, the Delta Star proposal includes preprinted contract terms that must be withdrawn by Delta Star in a letter of clarification if this proposal is to receive further consideration.

Subject to the foregoing comments and the District's technical and economic evaluation, all of the proposals, except the proposals of Hitachi Energy and Niagara Power, may be considered by the District's Board of Directors for the award of this contract. The form of performance and payment bond for the successful bidder also must be approved by the Board.

Alternatively, pursuant to Section 70-637(5) of the Nebraska Revised Statutes, the Board may reject all bids and enter into a negotiated contract for this procurement if the Board finds that no responsive bids were received or the bids are in excess of fair market value for the subject matter of the RFP.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stephen M. Bruckner".

Stephen M. Bruckner
FOR THE FIRM

SMB/jmp
2779990

69-13.8kV 10/12.5(14)MVA OLTC Transformer

