

**INDIAN RIVER COUNTY
OFFICE OF MANAGEMENT AND BUDGET
PURCHASING DIVISION**

DATE: February 21, 2022

TO: BOARD OF COUNTY COMMISSIONERS

THROUGH: Jason E. Brown, County Administrator
Kristin Daniels, Director - Office of Management and Budget

FROM: Jennifer Hyde, Purchasing Manager

SUBJECT: Rejection of Annual Bid 2022016 to Maintain and Operate the West Regional WWTF Wetlands Systems

BACKGROUND:

On behalf of the Department of Utility Services, sealed bids were solicited for annual maintenance and operation of the West Regional Wastewater Treatment Facility Wetlands ("Facility"), which was designed by Ecotech Consultants, Inc. ("Ecotech") in 1996. The 169± acre Facility is made up of an influent deep settling pond with overland flow through nine deep marsh cells and three shallow marsh cells to a final storage outfall cell and is permitted to a 4.0 MGD Average Annual Daily Flow capacity. The most recent agreement for the work was awarded to Ecotech by the Board on January 9, 2018, with an optional two-year extension executed. The agreement expired January 31, 2022. The proposed term of the new award was from February 1, 2022 through January 31, 2023, with three optional one-year extensions available.

BID RESULTS:

Advertising Date: October 22, 2021
Bid Opening Date: November 19, 2021
DemandStar Broadcast to: 575 Subscribers
Bid Documents Requested by: 16 Firms
Replies: 2 Firms

Proposing Firm	Location	Total Annual Bid	Total Annual Bid with Add/Alternate Services
Florida Environmental Consulting, Inc.	Vero Beach	\$32,900	\$32,900
Ecotech Consultants, Inc.	Vero Beach	\$34,500	\$36,500

On January 19, 2022, staff notified both bidders of its intent to not award the bid, as staff is concerned pending changes to the facility's operating permit might impact the requirements of site maintenance and operations, and subsequently the scope and cost of the work bid. Staff proposed to consider re-solicitation of the work after receipt of the permit, and issue a purchase

order to Ecotech to prepare the annual report for the period January 1, 2021-December 31, 2021, due in April, and to perform system maintenance in the interim.

The low bidder, Florida Environmental Consulting, Inc. ("FEC") filed a timely protest against the intent to not award the bid, asserting award should be made in the interim and under the existing permit and bid conditions. After review, their protest was upheld and both firms were notified on January 21, 2022, of intent to award to FEC.

On January 23, 2022, Ecotech submitted a timely protest of the award to FEC, asserting that the FEC bid was non-responsive, and that FEC did not meet the General Qualifications listed in the invitation to bid. The qualifications are a "minimum of ten (10) years' experience with the design, permitting, construction, operation and maintenance of constructed wetlands for wastewater treatment and disposal..." and "hydro period manipulation for the maintenance of a diverse shallow marsh community."

Ecotech stated "FEC's response to the bid solicitation is non-responsive" because the project experience submitted on the qualification questionnaire does not include evidence of the 10-year experience requirement. This protest was denied because the questionnaire was completed and returned in accordance with the instructions. The bid and form did not specifically require the 10-year general qualifications be submitted on the form in order to be responsive.

FEC was asked, as authorized in the bid documents, to provide additional qualifications to document the 10-year experience requirement. The additional qualifications submitted did not, in the Utilities department's opinion, add up to 10 years of experience in each of the categories. However, these requirements are the same as those in every solicitation issued for these services at this Facility, including the solicitation awarded to FEC in 2011. No protest was levied by Ecotech against that award. FEC completed the initial three-year term, as well as both available one-year extensions, and received a memo from the department thanking them for the services provided at the facility.

The bid documents provide that "the County reserves the right to cancel the bid, accept or reject any and all bids in whole or in part, and waive any irregularity or technicality in bids received." The response to the Ecotech protest stated staff intends to ask the Board to waive the technicality regarding any gap in the General Qualifications and the bid submitted by FEC.

Ecotech's attorney, Murphy Reid L.L.P. has indicated their intent "to oppose the award of the referenced bid to Florida Environmental Consulting, Inc." as this matter is being considered by the Board.

The protest documents and the Purchasing Manager's response to them are available to review in the Purchasing Division.

DISCUSSION:

The following solicitations have been awarded, and extended by the Board for this project. Purchasing records dating to the original design, construction and operation and maintenance are no longer available.

Solicitation	Award Date	Award Term	Annual Cost	Awarded Firm
Bid 7059	10/4/2005	5 years	\$35,000	Ecotech (second low bidder)
Bid 2012010	1/11/2011	5 years (3+1+1)	\$34,000	FEC
Bid 2017011	10/18/2016	1 year + 3 month extension	\$34,000	Ecotech (second low bidder)
RFP 2018004	1/9/2018	4 years (2+2)	\$32,000	Ecotech (top ranked)

Staff has identified three options for the Board’s consideration.

1. Waive the technicality regarding any gap in the General Qualifications and the bid submitted by FEC, and award the bid to them as the lowest, responsive and responsible bidder.
2. Uphold the 10-year qualifications requirement in the bid and declare FEC non-responsible to perform the work and award the bid to Ecotech.
3. Reject all bids submitted for this work.

Staff recommends the Board reject all bids submitted for this work. While staff is confident both FEC and Ecotech can perform the work contemplated in the bid, it has determined the majority of the services related to wetland operation and management can be completed by the Utilities Operators at the Facility. Staff is already completing the weekly sampling and can prepare the annual reports based on the data returned from the lab. Nuisance and exotic species are not currently an issue, therefore that portion of the work contemplated in the bid is not required.

Assistance with design services, nuisance or exotic species management, or that exceeds the conditions of the permit, can be obtained from any qualified firm via purchase order, as these services would be anticipated to fall well below the \$35,000 bid threshold.

Keeping the work in house will also provide staff more control over timeliness and content of required reports to FDEP.

Notification of this change to staff’s recommendation regarding the bid was made to both bidders on Monday, February 21, 2022.

FUNDING:

Award of the FEC bid would represent a \$900, or 2.8% increase in annual cost over the previous bid. Award of Ecotech’s bid would represent a \$2,500, or 7.8% increase in annual cost over the previous bid. Operation and Maintenance of the system is available and budgeted in the Utilities –

Wastewater Treatment – Other Professional Services Account as shown in the following table. Laboratory testing of soil and water samples, regardless of whether staff or a contractor collects them, is also paid from this account. The annual estimate for those costs is \$10,700.

Account Number	Account Description	Annual Cost Option 1 (FEC)	Annual Cost Option 2 (Ecotech)	Annual Cost Option 3 (reject)
47121836-033190	Utilities/Wastewater Treatment/ Other Professional Services	\$43,600	\$45,200	\$10,700

RECOMMENDATION:

Staff recommends the Board reject all bids submitted in response to Bid 2022016.