

COUNCIL ACTION FORM

SUBJECT: PURCHASE OF POWER PLANT UNIT #8 COAL MILL PARTS

BACKGROUND:

This bid is for the purchase of mill parts needed for planned mill rebuilds associated with routine maintenance and inventory replenishment for the Unit #8 Coal Mills located in the Power Plant. This equipment is used for pulverizing coal into a powder that is used as fuel in the Unit #8 Boiler. There are a total of four mills to provide coal for Unit #8, and three of those four must be operational for the Plant to be fully operational. If a second mill were to go offline, the generating capacity of the Plant would be limited due to the lack of ability to get fuel into the boiler. As a result, the Power Plant may have to purchase electricity, or start up one or both of our gas turbines in order to supplement generating capacity. This would likely lead to significantly higher production costs.

The majority of the parts on this bid have a long lead time and are being purchased now for the planned maintenance of the coal mills. Maintenance delays will be reduced significantly by having these parts in stock at the Plant and minimize the risk of the Plant having to shut down if more than one of the coal mills goes offline. In addition, by purchasing these parts in higher quantities based on planned rebuilds, as opposed to an as-needed basis, the City realizes savings based on increased volume discounts and overall reduced transaction costs associated with shipping costs and multiple issuances of purchase orders.

Funding is available from the approved FY2009/10 Electric Production operating budget for Unit #8 Boiler Maintenance, which contains \$313,500 for parts. If needed, funding is also available from the approved FY2009/10 Electric Production operating budget for Unit #7 Boiler Maintenance, which contains \$150,000 for parts. Of the \$463,500 amount available between these two accounts, \$187,741.48 has been spent, which leaves \$275,758.52 remaining.

A list of three prospective bidders was provided by Power Plant staff, and on January 6, 2010, the bid document was issued to those three vendors. On January 28, a single bid was received as follows:

The Babcock & Wilcox Company, Barberton, Ohio	\$216,852.71
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Babcock & Wilcox (B&W) took numerous exceptions to the City of Ames terms and conditions. In addition, B&W asked to add additional exceptions after its bid was received. As a result, B&W requests that City Council allow its bid to be withdrawn under advice from legal counsel per the attached letter.

This is the second time that these parts have gone out for bid. On January 12, 2010, City Council rejected the single bid received and directed staff to rebid the parts. As City

Council may recall, the same bidder submitted a bid that was deemed to be non-responsive because it did not supply a bid bond and a signed Offer Form. In addition, the bidder took numerous exceptions to the City of Ames terms and conditions.

At that time, staff believed that at least one other bidder would be interested in bidding on this if we decided to rebid. Purchasing staff confirmed with a previous supplier of these parts that it did not bid because its facility was closed over the holidays.

Following the January 28th bid due time on this rebid, Purchasing staff contacted the other two potential bidders who did not respond. One of two indicated that it mailed its bid. Unfortunately, the bid was never received and was apparently lost in the mail. The other company felt it was a *"waste of their time"* to submit a bid because of the City of Ames bidding process and they *"could not meet fully"* the City of Ames *"terms and conditions specified for this package."* Their response to Purchasing staff inquiry is attached.

The potential bidders for these parts are very large international companies. On this bid, the City's terms & conditions were reduced to only those applicable to the procurement of parts. These bidders would still not agree fully to the City's terms & conditions. Staff is still receiving additional terms and conditions from Babcock & Wilcox on both bids. These same terms and conditions contributed to Alstom deciding against submitting a bid.

Another key factor contributing to the difficulty of the procurement of these mill parts is that the mill they are being purchased for is over thirty years old. Over the years the supply base has been reduced significantly as many companies decided that it was no longer profitable for them to make or supply these parts. This is one of the primary reasons we have only received a bid from the original equipment manufacturer (B&W) the last two times these parts went out for bid. **An additional difficulty in preparing bid drawings and specifications is that staff cannot get or produce drawings for these parts because they are proprietary to the original equipment manufacturer. Foundries and fabricators may be able to bid if drawings and additional technical information can be provided.**

Since this second bid process, Purchasing staff has spent considerable time searching for other potential bidders for these parts. Electric Services staff is trying to develop their own drawings and additional technical information about the parts. In addition, staff will now issue requests for proposals instead of an invitation to bid, which was the process used the previous two times. A request for proposal allows more flexibility in negotiation of terms and conditions that can be mutually agreed upon and it offers more versatility on what different sources are available. The City Attorney and City Risk Manager are also being consulted to assist with terms and conditions that may be acceptable to bidders while still protecting the City.

The City Council should note that Limitations of Liability and Consequential Damages continue to be two areas bidders find objectionable. Terms and conditions exist to protect the City from damage to our equipment and failure of the supplier/contractor to supply the parts/complete the work as contracted. Staff may come back to Council asking for the waiver or modification of some of the City's standard terms and conditions in order to secure these critical parts.

ALTERNATIVES:

- 1a. Allow Babcock & Wilcox to withdraw its bid.
- b. Direct staff to attempt to secure the critical mill parts through the issuance of a request for proposal process.
2. Decline the bidder's request to withdraw its bid.
3. Reject the bid and order mill parts on an as-needed basis.

MANAGER'S RECOMMENDED ACTION:

Purchase of these mill parts in advance of major maintenance work will reduce the risks of delays on planned mill rebuilds, and also help reduce downtime due to unplanned mill equipment failures. Having a coal mill fail and remain down for an extended period increases the risk of incurring significant power cost increases to the Electric Utility should we need to purchase power at a high-cost time.

In order to secure these critical parts for the Power Plant, it may become necessary for staff to ask the City Council to waive or modify several of the City's standard contractual terms and conditions. This will be recommended only if it appears to be absolutely necessary in order to secure these parts.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, allowing Babcock & Wilcox to withdraw its bid and directing staff to rebid through issuance of a request for proposal.

The Babcock and Wilcox Company
c/o The Hesler Company, Inc.
PO Box 8207
Prairie Village, KS 66208

Tel 913-642-6060
Fax 913-642-1040

DATE: February 10, 2010

TO: Ames City Council
c/o Casey Bassett, C.P.M.
City of Ames
515 Clark Avenue
Ames, Iowa 50010

FROM: Mike McGuire
The Babcock and Wilcox Company
c/o The Hesler Company

SUBJECT: BID WITHDRAWL
Invitation To Bid 2010-138 (Due January 28, 2010)
B&W Quote 60961
Unit #8 Coal Mill Parts

To Whom This May Concern,

Please be advised that we are respectfully withdrawing our proposal for the above referenced contract. We are withdrawing our bid because we did not include all of our exceptions to the City of Ames Terms & Conditions. It is being withdrawn on advice of our legal counsel.

We apologize for any inconvenience. We look forward to providing a compliant bid for this inquiry, should you decide to release it for bids at a future date.

Sincerely,



Michael E. McGuire
THE HESLER COMPANY, INC.
Authorized Representative For
The Babcock and Wilcox Company

Casey,

Sorry for the delay in getting back too you.

Per the recent bid package, we could not meet fully with your terms and conditions specified for this package. We would like to discuss this in further detail when there is more time between new packages being released.

One other thing, Alstom has been bidding on B&W equipment with your plant for 8+ years and never been awarded anything. I know it is not because of cost, we are more then competitive with the majority of B&W sites we currently sell parts too on EL64 - EL-76 Model Mills. Sometimes when this happens, our Product Groups look at it as a waste of time due to price shopping, etc... there is alot of time and money that go into our bidding processes. We will be happy to entertain any future bids that you would like to include us in.

Please note that your designated "Customer Service Manager" through ALSTOM has changed. His contact information is below. If you can't get ahold of Jack, please do not hesitate to contact me.

Jack Mazeika
Customer Service Manager
ALSTOM Power, Inc.
(630) 248-1092
jack.mazeika@power.alstom.com

Best Regards,

Jerry Lazenby
Customer Service Manager
ALSTOM Power, Inc.
(219) 688-2231
<http://www.service.power.alstom.com>

Jerry,

Just a follow up on the e-mail sent to you below. For our future reference could you please explain how come Alstom did not bid on these parts?

Thank You,

Casey Bassett, C.P.M.
Procurement Specialist II
City of Ames
515 Clark Avenue
Ames, Iowa 50010
515-239-5126
515-239-5325 fax
mail to: cbassett@city.ames.ia.us

Jerry,

We had the bid opening for the parts below and I noticed that we did not receive a bid from Alstom. Could you please explain how come Alstom did not provide a bid?

Thank You,

Casey Bassett, C.P.M.