



Moody/Via

RESOLUTION NO. 6679

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

**REQUEST FOR PROPOSAL (RFP) NO. 6169
NC9 AT GRADE RECLAIM FEEDER**

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.

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; and

WHEREAS, the Board of Directors concurs with management’s recommendation that all proposals for RFP No. 6169 are legally non-responsive for the proposed scope of work.

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. 6169 are rejected and Management is authorized to negotiate and enter into a contract or contracts for this project, subject to review and approval of the final contract or contracts by the District’s General Counsel.



MEMORANDUM

DATE: December 6, 2024

UO-2024-024

FROM: S. A. Eidem

TO: T. R. Via

SUBJECT: Nebraska City Station Coal Handling at Grade Reclaim Feeder Equipment

1.00 GENERAL

Request for Proposal (RFP) No. 6169 is for the procurement contract for two coal handling at grade reclaim feeders, excluding installation, for the Nebraska City Station. A separate contract will be acquired for installation of the units and supporting equipment. Installation is planned to occur in the summer/fall of 2025.

Coal handling operations currently reclaims coal delivered by train freight via means of the Bucket Wheel Reclaimer (BWR), which places the coal onto the main conveyor to Nebraska City Station Unit 1 and Nebraska City Station Unit 2. Due to the age of the BWR, finding replacement parts is becoming more difficult and is requiring longer lead times creating a reliability risk for the station. If the BWR fails, it would become operationally prohibitive to supply coal to the units and to clear the trestle for additional train deliveries. The addition of two reclaim feeders will provide a redundancy to the coal handling operations and allow for two bays to be cleared out, coal to be delivered, and time to repair BWR if necessary with minimal impact to station operations.

The RFP was advertised on October 17, 2024. Two letters of clarification were issued. Bids were received and opened on November 14, 2024. Three companies submitted bids. The Engineer's estimate for this work was \$3,300,000. The bid prices are as follows:

Cogar Manufacturing, Inc.	\$2,695,985
FLSmidth, Inc.	\$2,333,662
McLanahan Corp.	\$3,582,840

2.00 COMPLIANCE WITH CONTRACT TERMS AND CONDITIONS

OPPDP's legal counsel noted the proposal provided by Cogar Manufacturing, Inc. (Cogar) submitted an exception excluding the provision of a Performance and Payment Bond making the proposal legally non-responsive.

OPPDP's legal counsel noted that the proposal provided by FLSmidth Inc (FLSmidth) submits extensive exceptions to OPPDP's standard commercial terms which materially modified the commercial risks for OPPDP making the proposal legally non-responsive. In addition, FLSmidth's proposal included reference to "final commercial negotiations for the equipment" which is also not allowed under sealed bid and makes FLSmidth's proposal legally non-responsive.

T. R. Via
December 6, 2024
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OPPD's legal counsel noted that the proposal provided by McLanahan Corp. (McLanahan) submits extensive exceptions to OPPD's standard commercial terms which materially modified the commercial risks for OPPD and reserves its right to revise its pricing if OPPD elects to use its standard commercial terms, as modified by McLanahan's proposed exceptions. Such a reservation makes McLanahan's proposal legally non-responsive.

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 all of the proposals submitted in response to the RFP 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.

4.00 RECOMMENDATION

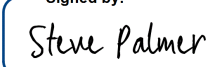
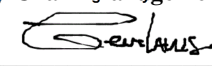
Based on non-compliance with the commercial terms and condition requirements of this RFP, it is recommended that all proposals received for RFP No. 6169 be rejected by the Board of Directors and that District Management be authorized to enter into a negotiated materials contract or contracts for two coal handling at grade reclaim feeders.

DocuSigned by:

Scott A. Eidem, P.E.

S.A. Eidem, P.E.

Director, Engineering Services
Utility Operations

<p align="center">TABULATION OF BIDS Opened at 2:00 p.m., C.S.T., Thursday, November 14, 2024, in Omaha, Nebraska</p>		<p align="center">REQUEST FOR PROPOSAL NO. 6169</p> <p align="center">NC9 at Grade Reclaim Feeder</p>			<p align="right">Signed by:  C171422F76EE422... Director</p> <p align="center">Supply Chain Management</p> <p align="right">  SEC5B86907EE4F6 Compiled by and Certified Correct</p>
<p align="center">Anticipated Award Date December 19, 2024</p>					
<p align="center">ENGINEER'S ESTIMATE</p> <p align="center">\$3,300,000.00</p>					
<p align="center">BID ITEM</p>		BIDDER'S NAME & ADDRESS			
		FLSmidth Inc 7158 S FLSmidth Drive Midvale, UT 84047	Cogar Manufacturing, Inc PO Box 498 Pearisburg, VA 24134	McLanahan Corp 200 Wall Street Hollidaysburg, PA 16648	
		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>\$2,333,662.00</u></p>	<p><u>\$2,695,985.00</u></p>	<p><u>\$3,582,840.00</u></p>	
2.	<p><u>Completion Guarantee(s)</u></p> <p>Completion of NC9 at Grade Reclaim Feeder : July 3, 2025, 6:00 p.m.</p>	<p><u>Guaranteed Completion Date</u></p> <p><u>01/10/2026</u></p>	<p><u>Guaranteed Completion Date</u></p> <p><u>07/03/2025</u></p>	<p><u>Guaranteed Completion Date</u></p> <p><u>1st/ 2nd week August 2025</u></p>	

November 25, 2024

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

RE: Request for Proposal No. 6169 – Nebraska City Reclaim Feeder

Ladies and Gentlemen:

We have reviewed the three (3) proposals received in response to the District's RFP No. 6169 and provide the following legal opinion.

The proposal of Cogar Manufacturing, Inc. ("Cogar") submits an exception excluding the provision of a Performance and Payment Bond making the proposal legally non-responsive. Since the Cogar proposal was legally non-responsive, the Board of Directors should not consider the proposal for the award of this contract.

The proposal of FLSmidth Inc. ("FLSmidth") submits extensive exceptions to OPPD's standard commercial terms which materially modified the commercial risks for OPPD making the proposal legally non-responsive. In addition, FLSmidth's proposal included reference to "final commercial negotiations for the equipment" which is also not allowed under applicable Nebraska Revised Statutes and; therefore, also makes FLSmidth's proposal legally non-responsive. Since the FLSmidth proposal was legally non-responsive, the Board of Directors should not consider the proposal for the award of this contract.

The proposal of McLanahan Corp. ("McLanahan") submits extensive exceptions to OPPD's standard commercial terms which materially modified the commercial risks for OPPD and reserves its right to revise its pricing if OPPD elects to use its standard commercial terms, as modified by McLanahan's proposed exceptions. Such a reservation makes McLanahan's proposal legally non-responsive. Since McLanahan's proposal was legally non-responsive, the Board of Directors should not consider the proposal 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 all three (3) proposals for RFP No. 6169 and authorize Management to negotiate an acceptable contract. We recommend

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

Very truly yours,



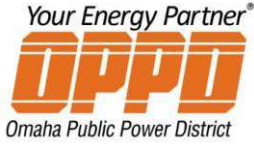
Troy F. Meyerson
FOR THE FIRM

3179644

Nebraska City Station Coal Handling Reclaim Feeder Equipment



Representative
equipment installed
at a non-OPPD
facility



Board Action

BOARD OF DIRECTORS

December 17, 2024

ITEM

Nebraska City Station Common Coal Handling at Grade Reclaim Feeder Equipment

PURPOSE

Board of Directors' authorization to reject the proposals received for RFP No. 6169, and for the District to enter into a negotiated contract for the procurement of two coal handling at grade reclaim feeders for the Nebraska City Station.

FACTS


- a. Adding at grade reclaim feeders will provide Bucket Wheel Reclaim Feeder redundancy allowing coal to be cleared under the trestle without the time-consuming use of heavy construction equipment.
- b. The Coal Handling at Grade Reclaim Feeder Equipment will be procured and installed in 2025. Installation for the units will be under a separate 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. 6169 and allow District Management to enter into a negotiated contract or contracts for coal handling at grade reclaim feeder equipment.

RECOMMENDED:

APPROVED FOR BOARD CONSIDERATION:

Signed by:

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

Signed by:

 AC399FDCE50247E...
 L. Javier Fernandez
 President and Chief Executive Officer

TRV:sae

Attachments: Letter of Recommendation
 Tabulation of Bids
 Legal Opinion
 Resolution