

11-18-04
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MEMORANDUM

TO: Toby Futrell, City Manager
Joe Canales, Deputy City Manager

FROM: Juan Garza, General Manager
Austin Energy

DATE: October 13, 2004

SUBJECT: Seaholm PCB/Mercury Remediation Project: Bid Solicitation No. PW04200069:

This solicitation provides remediation services for the Seaholm Power Plant Final Remediation Project. This work consists of removal, handling and disposal of hazardous materials (e.g. lead based paint, PCB's, mercury) in accordance with local, state, and federal laws.

Bids for this project were opened on August 26, 2004. Five (5) bids were received with Marcor Remediation, Inc. submitting the low bid. Three (3) of the five (5) companies submitting bids were deemed non-responsive by the Department of Public Works, Project Management Division for failing to submit complete bid packages. Bid results were as follows:

<u>Bidder</u>	<u>Bid Amount</u>
Marcor Remediation, Inc.	\$1,279,245.00
PSC Industrial	\$2,250,471,100.00
SEMS, Inc.	Deemed Non-Responsive
Eagle Construction & Environmental Services	Deemed Non-Responsive
Barackey Construction, Co.	Deemed Non-Responsive

Project specific goals were:

MBE: 8.26% WBE: 6.83%

Marcor Remediation Inc. participation amounts were:

MBE: 4.89% WBE: 0.00%

The Department of Small and Minority Business Resources (DSMBR) determined the Compliance Plan submitted by Marcor Remediation, Inc. did not comply with the MBE/WBE requirements as stated in the solicitation documents and were therefore deemed non-compliant. Specifically, Marcor Remediation, Inc. failed to achieve the requirements of City Code in the following sections:

- Section 2-9-22 (B) "Achievement of Goals or documentation of Good Faith Efforts applies to every Contract for which Goals are established" "The Bidder shall submit a Compliance Plan detailing its achievement of the Goals or its Good Faith Efforts to meet the Goals."

- Section 2-9-22 (E) "Where the Bidder cannot achieve the Goals, its Compliance Plan shall document its Good Faith Efforts to achieve the Goals" "The Department of DSMBR will determine whether the Bidder has made such Good Faith Efforts. In making this determination, DSMBR will consider, at a minimum Bidder's efforts in doing the following:
- 1) "Soliciting through reasonable and available means the interest of certified M/WBEs with Significant Local Business Presence (SLBP) who have the capability to perform the work of the contract. The Bidder must solicit this interest within sufficient time to allow the M/WBEs to respond to the solicitation. The Bidder must take appropriate steps to follow up initial solicitations with interested M/WBEs. The Bidder must state specific verifiable reason for not contacting each certified firm with a significant local presence."
 - 2) It is the Bidder's responsibility to make a portion of the work available to M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with available M/WBE subcontractors and suppliers, as to facilitate their participation.

DSMBR's review of Marcor Remediation's compliance plan revealed that Marcor did not achieve the M/WBE goals established for this solicitation. In addition, Marcor did not perform the required Good Faith Efforts by failing to solicit all M/WBE firms identified in the SLBP as listed in the projects availability list. Marcor Remediation documents submitted with their Compliance Plan did not explain why six (6) of the thirteen (13) WBE firms or nine (9) of the forty-four (44) MBE firms identified on the projects availability list were not solicited. Based on this effort, DSMBR has determined Marcor Remediation did not comply with the requirements of the MBE/WBE procurement ordinance, by (1) not achieving the M/WBE participation goals or (2) by not performing the required Good Faith Efforts.

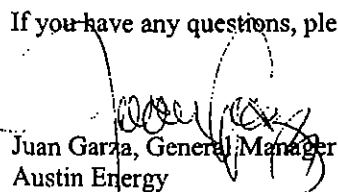
However, it appears the interests of the City of Austin would be best served by awarding the remediation contract to the low bidder, Marcor Remediation Inc., for the following reasons:

- 1) Marcor's bid proposal is \$388,755 dollars less than Austin Energy's estimated cost of \$1,668,000.00.
- 2) Marcor's bid is significantly lower than the second identified bidder.
- 3) Due to the unique nature of the remediation work involved in this project, availability of properly trained personnel in the immediate area is limited. General tradesmen may lack specific skills and/or training required for performance of the trade in a hazardous environment, and techniques involved differ significantly from those employed in an uncontaminated environment.
- 4) The bid opening date for this project was extended by two weeks to allow for increased participation of additional contractors. Any further delay of this construction work could adversely impact the progress of the planned Redevelopment Contracting of Seaholm. The solicitation for redevelopment for Seaholm indicated that all remediation activities would be completed and reviewed by the EPA within 18 months.
- 5) Marcor Remediation, Inc. has been in existence since 1980 and maintains offices throughout the continental United States including a local presence. Based on our discussions with

Marcor, they exhibit the ability to perform and provide qualified personnel and equipment in the execution of the work identified under this solicitation. Their personnel and facilities are backed by modern, well-maintained construction and remediation equipment. They possess a strong reputation for professionalism and hands on expertise.

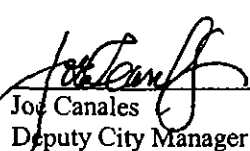
For these reasons, it is considered to be in the best interest of the City to proceed with the award of this bid to the apparent low bidder Marcor Remediation, Inc. Please sign below to indicate your concurrence or non-concurrence with our recommendation to award the construction contract for the Seaholm Power Plant Remediation Project to Marcor Remediation Inc.

If you have any questions, please call me at 322-6002.


Juan Garza, General Manager
Austin Energy

I Concur:

I Do Not Concur:


Joe Canales
Deputy City Manager

10-21-04
Date

Joe Canales
Deputy City Manager

Date


Toby Futrell
City Manager

10/21/04
Date

Toby Futrell
City Manager

Date

After all signatures have been obtained, please return to Steve Jones, Austin Energy.