

SOUTHEAST ALASKA POWER AGENCY

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May 10, 2021

Delivery via Email to Infinitytreecare@gmail.com

Hans C. Murray, d/b/a Infinity Tree Care
Post Office Box 1171
Valdez, Alaska 99686

Southeast Alaska Power Agency Notice of SEAPA **REVISED 2021 Vank Island Transmission Line Brushing Contract**

RESPONSE TO APPEAL

Dear Mr. Murray:

Receipt of Infinity Tree Service's (ITS) appeal of the Southeast Alaska Power Agency's (SEAPA) notice of ITS's non-responsive bid is acknowledged. An opportunity to address ITS's appeal is available during SEAPA's regular meeting on May 13, 2021 from 9AM to 5PM under Agenda Item 7A of New Business. The meeting will be held electronically via Zoom. You may participate by dialing 1.888.475.4499 (Meeting ID #961 6185 4900) or we can send you a Zoom invitation to participate online. Please let us know 24 hours in advance if you would like to be included on the Zoom invitation. A copy of the Agenda is attached for your convenience.

Please be advised that although ITS submitted the lowest bid, we intend to object to its appeal based on, but not limited to, the following:

- Page 11 of the Request for Proposals (RFP) states the following:

The Agency reserves the right to accept other than the apparent lowest-priced bid and to reject any bid in whole or in part, or to reject all bids, with or without notice or reasons, waive any informalities, and if no bid is accepted, to abandon the work or to have the work performed in such other manner as the Agency may elect. SEAPA also reserves the right to terminate this RFP and issue a subsequent solicitation and/or remedy technical errors in the RFP process. This RFP does not commit SEAPA to enter into any contract, award any services related to this RFP, nor does the RFP obligate SEAPA to pay any costs incurred in preparation or submission of a proposal or in anticipation of a contract. If selected, respondent will be required to comply with the requirements established herein, unless otherwise agreed to in writing by SEAPA and respondent.

- ITS's bid did not include a completed Contractor's General Questionnaire and Safety Program/Record as required. The RFP stated that "The bid proposal must include the following items:"
 7. *Contractor's General Questionnaire Form.* Bidders must complete and submit the attached *Contractor's General Questionnaire Form (Attachment 7 hereto)*.
 13. *Safety Program/Record.* Bidders must submit with their bids a description of their active, ongoing safety accountability program, list any site areas of concern, and state their approach for these areas of concern. Add a description of leading and lagging (include recordable lost time incident records for the last five years)

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indicator use and reference any Safety Award(s) or documentation of being recognized for any Safety Program.

Both items asked for information that we deem material elements of the solicitation, and SEAPA's RFP provided clear notice of this required information. As noted on page 11 of the RFP, bidders were advised that they would be scored on their Safety Program/Record, which was worth 20 points and the Contractor's General Questionnaire asked specific questions about financing and equipment availability which enables SEAPA to determine a Contractor's capacity to respond to the work, also a part of the scoring criteria, together with completeness and quality of bid proposal documents.

- The RFP states that "Any proposal or modification to a proposal received after the due date will not be considered and will be deemed non-responsive." The other two bidders timely submitted all bid documents as required. SEAPA has a duty of fairness to compliant bidders and as such acceptance of ITS's late filed bid documents after the bid due date gives ITS an unfair advantage over other bidders.
- SEAPA is not responsible to advise bidders whether they have submitted all required documents prior to the bid due date. The RFP states:

Bidders shall deliver their bid and are responsible for assuring receipt of their bid by Owner prior to the deadline for submittals no later than:

May 5, 2021 at 4:00 p.m. Alaska Daylight Time (AKDT)

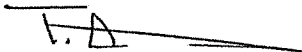
Preparation of Bid | Bid Requirements

Before submitting a bid, each bidder must examine the bid documents thoroughly and become familiar with any weather and shipping conditions that may, in any manner, affect cost and/or delivery. Failure to do so will not relieve the successful bidder of the obligation to complete the contemplated work. Each bid must be submitted as required by these instructions and include the forms prescribed herein. Bids shall be submitted complete, including all bid forms and other documents as required. Complete sets of bidding documents shall be used in preparing bids; neither SEAPA nor the Owner's Representative assume any responsibility for error or misinterpretations resulting from the use of incomplete sets of bidding documents. (Emphasis added.)

ITS's bid was received on May 4, 2021 at 11:11AM. On May 5, 2021, ITS inquired whether the bid had been received. SEAPA's Contracts Administrator responded in an email that date at 1:10 PM that the email containing ITS's documents was received "yesterday" and that "Bids will be opened at 4 p.m. today". Until bids are opened, SEAPA does not know whether all documents required by the RFP are included in a bidder's submittal.

Please also be advised that the RFP states "The Board shall hear any appeal, and responses or information from other Bidders." The two other bidders will be notified of ITS's appeal and are entitled to provide responses or other information before SEAPA's Board of Directors at the upcoming meeting.

Sincerely,



Trey Acteson, Chief Executive Officer
Southeast Alaska Power Agency
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Attachment:
SEAPA Agenda Re 05.13.2021 Regular Board Meeting