

EMERALD COAST UTILITIES AUTHORITY
RFP NUMBER: CC2014 24
ALTERNATIVE ENERGY FACILITY
TO INCLUDE DESIGN, SUPPLY AND CONSTRUCTION OF ECUA FACILITY
November 11, 2014

ADDENDUM NUMBER 6

Prospective Bidders:

This addendum is issued to clarify questions received regarding this project. Please note the following questions and responses.

- ① On page 27, Section 6.7.1: This includes a representation that each Proposer has read the draft Service Contract. Per 4.5.1, no draft service contract is to be provided prior to the submittal deadline. Accordingly, Proposer requests the reference to the draft service contract throughout the RFP be deleted.

Response: Agreed, a purchase order will be issued and ECUA's standard terms and conditions will prevail.

- ① Section 6.7.8 Ownership and Disclosure at page 29. We are concerned about this provision given the level of detail and highly sensitive and proprietary information requested in the RFP. We would prefer this Section be deleted or, at the very least, provide that the ECUA's use of the information etc. submitted not be done without the express written consent of the proposer. Please clarify.

Response: No change in ECUA specifications.

- ① Section 6.8.4 - Financial Proposal: This Section requests a substantial amount of detail that goes beyond industry standard when seeking delivery of a system that is to be financed by the party proposing the facility. The nature and purpose of the RFP process is to use competition and subsequent negotiations to obtain the most favorable terms for the ECUA. . Asking for what is essentially a 20-year pro-forma for this type of project is concerning. The financial data incorporate provisions for a certain amount of business risk, which risks are included in the responsibilities the successful proposer will carry throughout the project. We respectfully ask ECUA to revise the requirement to provide the level of detail currently sought in this Section 6.8.4.

Response: No change in ECUA specifications.

- ① On page 35, Section 7.1 Proposal Bond: Since no draft contract was provided prior to Proposal submission, the only opportunity to draw on the Proposal Bond should be a refusal by the selected Proposer to negotiate in good faith. Synagro agrees to negotiate in good faith if selected by the ECUA for this project; however we note that any proposer will have committed substantial time, effort and money preparing its proposal. Given the high threshold to draw on the Proposal Bond and the investment by each Proposer pre-submittal, Synagro is suggesting that the Proposal Bond requirement either be waived or the bond be returned as soon as ECUA notifies all proposers of the preferred proposal and initiates negotiations with that proposer. Please advise.

Response: Proposal Bond is waived.

- ① On page 36, Section 7.2 Performance Bond and Guarantees: A Letter of Credit in addition to a performance bond is not industry standard. Synagro is prepared to provide a performance bond for 100% of the annual operating contract value. Please confirm that this is acceptable to ECUA.

Response: No change in ECUA specifications.

- ① Section 7.3, at page 36. The indemnity provision of 7.3 is incomplete and inconsistent with Section 7.18 and Form PF-12. In addition, Section 7.18 rolls property damage, personal injury, violations of law and intellectual property indemnification into one clause. Typically, tort claims (property damage and personal injury) are addressed together and the other indemnifications are addressed individually. For tort claims, Synagro is prepared to negotiate appropriate indemnity clauses for each of these items including to indemnify the ECUA parties, but only to the extent of Contractor's negligence and not for such indemnified parties' own negligence (sole or contributory) or willful misconduct. In addition, a reciprocal indemnity will be requested from the Authority. Please reconcile and re-issue.

Response: No change in ECUA specifications.

- ① Section 7.3, Page 37 Insurance and Indemnity Requirements indicates, "The selected Proposer shall have, and maintain if selected as Contractor, the Required Insurance (as defined below), which shall be on an "occurrence" basis, from companies licensed to write policies in Florida, with an A.M. Best rating of "A" or higher, and acceptable to ECUA." Synagro's General Liability and Pollution carrier is not Admitted in Florida, but they have written policies for Synagro projects in Florida and those policies have been accepted in Florida on a non-Admitted basis. Please confirm that polices written on a non-Admitted basis by our current carrier will be acceptable.

Response: No change in ECUA specifications.

- ① Synagro's available insurance coverages will not exactly mirror the requirements of the RFP as described in Section 7.3; however when our Excess Insurance is added, we will fall within the requirements. The following outlines our current coverages:

Insurance Type	Coverage Provided
Worker's Compensation	Statutory
Employer's Liability	\$1,000,000
General Liability which included Contractor's and Professional Liability	\$1,000,000 per incident/\$2,000,000 aggregate
Automobile Liability	\$2,000,000 combined single limit
Pollution Liability	\$1,000,000 per incident/\$2,000,000 aggregate
Excess coverage (covering all of the above)	\$25,000,000

Please confirm that the ECUA will consider these coverages adequate.

Response: ECUA will accept the insurance coverages stated above.

- ① Section 7.7: Payments to Contractor and Monthly Report at page 39 indicates that ECUA will not pay for any waste streams required by the Contractor for the completion of the startup and acceptance testing phase. This is atypical for most similar projects; usually the customer will pay for the management of these waste streams at either an agreed upon rate or at the proposed rate once acceptance testing is complete. Please consider changing this.

Response: ECUA will pay for any materials delivered and accepted.

- ① Section 7.7: Payments to Contractor and Monthly Report at page 39 provides for payment of monthly invoices "(a) if [ECUA is] satisfied the payment request is accurate..." Usually such requirements provide that undisputed amounts are paid and Synagro would appreciate the ECUA's modification of this clause.

Response: ECUA will pay undisputed amounts.

- ① Section 7.9: Assignment of Services, page 40. Synagro desires to reserve the right to assign any contract pursuant to the RFP to an affiliated company, including a Special Purpose Entity which might be formed for this project. Please confirm ECUA's acceptance of this.

Response: No change in ECUA specifications.

- ① Section 7.10: Non-Performance and ECUA's Remedy at page 40 indicates that, "To the extent Contractor's performance is interrupted by a Force Majeure event, ECUA may utilize another contractor to perform the services set forth in the Service Contract and pay for those services accordingly." For the period of time during which Synagro owns and operates the AEF and/or co-composting facilities, we cannot allow third-party contractors to work within these facilities unless such third-parties are under our control and supervision. Please clarify.

Response: Any other contractor contracted by ECUA would not use these facilities.

- ① Form GF-1, page 49-51. There are numerous references to the “attached form of Contract,” which form is not included with the RFP. Synagro requests that this Form be corrected and revised to reflect that those conditions outlined in the form be modified to reflect that no form of Contract is provided and that forfeiture of the Proposal Bond is limited to a bidder’s failure to negotiate in good faith. Please advise.

Response: Agreed.

- ① Form GF-1, page 49, third paragraph states, in part, “The Proposer recognizes that the Proposer will not be entitled to any additional compensation by reason of...or on account of interference by ECUA’s or by any other Contractor’s activities which affect the work of this Contract.” The waiver of additional compensation for interference by ECUA or its other contractors is problematic and is not part of Section 7.16 of the RFP. Synagro requests this item be deleted from Form GF-1.

Response: Agreed.

- ① Form PF-12, page 78, requires the Proposer to indemnify ECUA; however, there is nothing for a proposer to indemnify until such time as a definitive contract is in place and we expect the Indemnification will be negotiated and set forth in the final contract. Please remove this form.

Response: No change in ECUA specifications.

- ① Form PF-18, pages 87 and 88, has a number of references to the Proposer’s and the Guarantor’s commitments, but those commitments should be subject to execution and delivery by both the Proposer and the ECUA of a definitive Service Contract and references to the RFP should be references to the Service Contract. Please revise the form to reflect this. Additionally, we believe the title of PF-18 is inconsistent with the body (Letter of Interest vs Letter of Intent) and should probably be changed. What “other economic information” is ECUA seeking; please define? Separate letters should probably be worded differently for the Proposer and the Guarantor; please clarify. Finally, we understand the requirement for the Project team to maintain their roles applies to the period from bid submittal to contract execution, at which time the contract terms will apply. Please confirm.

Response: Letter of Interest should be Letter of Intent.

The economic information mentioned refers to any additional economic information the vendor feels is relevant to submit with the proposal.

No change in ECUA specifications.

Separate letters already provided (PF 18 and PF 19)

ECUA denies the extension request for an additional 2 weeks.

Should you have any further questions, please be aware that November 14th is the last day to submit them to my attention.

Regards,

Amy Williamson, CPPB, FCCM
Senior Purchasing Agent