



**MINUTES
SPECIAL MEETING
January 26, 2015**

1. Commissioner DaPuzzo called the special meeting to order at 8:01am.
2. Commissioner DaPuzzo read the statement in compliance with C. 231, PL 1975.
3. Roll Call: the following Commissioners were present: Bonagura, DaPuzzo, Gabbert, Kelaher, Plumley (arrived at 8:03am), Salazer and Chairman Chewcaskie via telephone. Commissioner DePhillips and Commissioner Kasparian were absent.
4. Salute to the Flag was led by Commissioner DaPuzzo.
5. Chairman's Remarks.

Acting Chair Commissioner DaPuzzo had no remarks.

6. Discussion on Rejecting Bids and Re-Bidding Contract No. 268 – Incinerator Emissions Upgrade project.

Authority General Counsel Leon Sokol, Esq. began the discussion by addressing concerns over the proper notice of the re-bid of Contract No. 268. He indicated that the Authority is operating under the statute that requires 10 day notice which is statute N.J.S.A. 40A:11-23.

Mr. Sokol explained that the bids from the January 7th bid opening were being rejected because Iron Hills Construction failed to confirm review and receipt of addendum no. 3 which is a material part of the bid and the law requires rejection if a bidder fails to meet a material requirement. The other two bidders, Stone Hill Contracting Co., Inc. and Industrial Furnace Company were more than 20% of the engineer's estimate. The Local Finance Board and case law support that when there is a substantial difference in the price you should re-bid.

Mr. Hurwitz discussed the timeline for the bids. The original bid opening was on January 7, 2015. The bid defect was detected the following day. The Authority's consultant said that we still had time to re-bid the project because of the 10 day requirement from date of notice to date of bid opening. An award of contract does not need to be made by that date, however the engineer needs to confirm that the Authority has an acceptable bid. Due to the issues detected in the three bidders' packages from the January 7th opening, the Authority opted to re-bid the project. We sent notice to the newspaper on January 14th with an advertisement in the newspaper for January 16th. It was arranged for the Engineer and Attorney to come to the Authority for the bid opening on January 27th to confirm there is an acceptable bid and then affirm we have an acceptable bid to the NJDEP. The NJDEP would then inform the NJEIT that we are in a position to accept the loan and

advise them of the dollar amount for the loan. If we fail to do so, then the Authority would have to borrow in the 2016 financing cycle for an NJEIT loan and receive interim financing until then which would cost more money. This project needs to be completed by March 2016, our air permit states that we need to be operating with a mercury collection system by then.

Commissioner DaPuzzo inquired if the Authority will be able to delay the bid opening for Tuesday January 27th due to the impending blizzard in the forecast. Mr. Sokol stated that a storm great enough to close the Authority offices would make it incapable for the Authority to receive bids and delivery of bids would be difficult if not impossible. Mr. Sokol advised that it makes the most sense to extend the opening to Wednesday January 28th so everyone can submit their bid and the Authority should notify everyone that it has been extended.

Commissioner DaPuzzo raised the issue that bidders using a delivery service such as UPS, FedEx, etc. may incur a delay in delivery due to backups within the delivery service systems from the storm.

Chairman Chewcaskie stated to make receipt as late as possible to anticipate delays within delivery service carriers, impassable roadways from companies hand delivering, etc.

Mr. Sokol added that bidders using a delivery service should provide the Authority with evidence that they submitted their bid in a timely fashion for submittal by due date.

There was a discussion regarding the bid bonds from the January 7th bid opening. Mr. Sokol advised that the bid bonds legally cannot be returned until the Authority has rejected the bids.

There was a discussion regarding bids coming in higher than the engineer's estimate again and would the Authority then reject those bids too and also if there is the ability to negotiate under the public contracts law.

Mr. Sokol further added that if the Authority were to reject the next set of bids again then the Authority would be in the next financing cycle for an NJEIT Loan. He was not certain however if Utilities have the ability to negotiate.

Commissioner DaPuzzo added that rejecting and then re-bidding for a third time is likely not going to produce any different results than the second bid opening.

Chairman Chewcaskie stated that first we need to reject the January 7, 2015 bids. Then a procedure can be established for the receipt of other bids. If those bids exceed the engineer's estimate then there we have to make a determination. Let's get the new bids and go from there. The NJDEP may give us consideration on timing with funding if they recognize the problems we have been facing.

It was discussed what time the bids should be due on Wednesday January 28th. Mr. Sokol advised to make the time noon and if a package is received after noon then the bidder should provide evidence that it was placed with the delivery service in sufficient time to

be delivered by noon. There was consensus that noon was a good time for the bid opening.

Mr. Hurwitz stated that the NJDEP needs to advise the NJEIT by Friday January 30th that we have an acceptable bid and what the dollar amount will be for the loan. The Authority's engineer and attorney will attend the bid opening so that notification and the necessary documents can be sent to the NJDEP before the close of business day of the bid opening.

7. Resolution No. 07-2015 – Rejecting Bids and Approving Re-Bid of Contract No. 268 – Incinerator Emissions Upgrade Project was offered by Commissioner Kelaher and seconded by Commissioner Gabbert. All Commissioners present voted in favor of passing Resolution No. 07-2015.

Resolution No. 07-2015 – Rejecting Bids and Re-Bidding of Contract No. 268 – Incinerator Emissions Upgrade Project: The Authority received bids for Contract No. 268 on January 7, 2015. The low bidder, Iron Hills Construction had a material defect in its bid package because it failed to acknowledge receipt of Addendum no. 3. The other two low bidders, Stone Hill Contracting Co., Inc. and Industrial Furnace Company submitted bids that substantially exceeded the Engineer's Estimate of Cost. The Authority's professional staff recommended that the bid of Iron Hills be rejected as non-responsive and for the Stone Hill and Industrial Furnace bids to be rejected in accordance with NJSA 40A:11-13.2, which authorizes rejecting all bids when "the lowest bid substantially exceeds the cost estimates for the goods or services." Further, the Authority applied to finance the project through the New Jersey Environmental Infrastructure Trust (NJEIT). In order to meet the deadlines for financing this year with the NJEIT the Authority must have received and recommended a responsive bid proposal to the NJDEP before January 30, 2015. It was determined to be necessary to receive those bids by January 27, 2015 in order to meet that deadline. The Authority staff placed public notice for a re-bid in the January 16, 2015 edition of the Record and Ridgewood News. The Authority Engineer notified via electronic mail all companies that expressed interest in bidding on the Project when it was first advertised. This resolution rejects the three bids received on January 7, 2015. This resolution also authorizes and ratifies the actions of the Authority staff for advertising the Project re-bid on January 16, 2015.

8. There were no public comments.
9. A motion was made by Commissioner Kelaher to adjourn the meeting at 8:27am. All Commissioners present were in favor of adjourning the meeting at 8:27am.


Alison Gordon, Secretary