

Committee Report

Environment Committee



Committee Meeting Date: January 10, 2023

For the Metropolitan Council: January 25, 2023

Business Item: 2023-16

Stipends for the Fourth Incinerator

Proposed Action

That the Metropolitan Council authorize the Regional Administrator to issue a stipend in the amount of \$260,000 to each responsive and responsible short-listed proposer that is not awarded the design-build contract for the Metro Plant Fourth Incinerator project (Contract #21P055) up to a total of \$780,000.

Summary of Environment Committee Discussion/Questions

CM Wulff: Did anyone have any negative feedback on stipends or was everyone in favor of it?

Staff responded: I did not hear any negative feedback. It's about paying the proposers for their time. It is an innovative and effective way to get them to engage. Based on my research with other public agencies and associations I didn't hear any negatives. I did hear negative if you didn't offer one because there was less likelihood that you would get the rigor to prepare a comprehensive proposal to be forwarded to the process.

CM Wulff: In your study with people did the preparer said they wanted to keep their intellectual property or did they generally take the money.

Staff responded: The only additional consideration that's different than this proposal that I heard throughout the research was asking the proposers what they felt the value of their preparation cost were.

CM Vento: Can you clarify the wording of the fourth bullet in the presentation?

Staff responded: If we are unable to award a contract all responsive and responsible, non-selected proposer will receive the stipend. It's meant to offset the cost of providing a proposal.

CM Fredson: With the total being capped at \$780,000 I'm assuming you don't see any scenario where more than four entities would apply for this. What would happen if more than four applied?

Staff responded: There is a limited number of experienced design build teams as well as incinerator system suppliers. Based on our walk through we think there are two teams seriously interested in proposing on this project. We plan on short listing three.

CM Fredson: Do you anticipate any pushback from legislation?

Staff responded: We feel that we are on comfortable legal ground. The Council has statutory authority to do design build.

CM Vento: do you anticipate the possibility the stipends might be used for other upcoming projects?

Staff responded: Maybe, it depends on the projects. This is unique situation that is part of a design build contract and the Council does few design-build projects.

CM Sterner: Are there any DBE goals in the request for proposals?

Staff responded: Yes, there will be. I don't think they have been established yet. This is a non-PFA project, we will have MCUB goals for this project.

Motion by CM Vento seconded by CM Wulff. Motion carried.



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District(s), Member(s):	District 13, Council Member Chai Lee
Policy/Legal Reference:	FM 14-2 Expenditures for the Procurement of Goods, Services, and Real Estate Policy, FM 14-1a Procurement Procedure, and Minnesota Statutes § 471.371
Staff Prepared/Presented:	Rene Heflin, Manager Plant Engineering, 651-602-1077 Dan Abelson, Associate General Counsel, 651-602-1713 Jody Jacoby, Director Contracts and Procurement, 651-602-1144
Division/Department:	Environmental Services / Wastewater Planning & Capital Project Delivery

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Background

The Metro Plant Fourth Incinerator Project will be constructed using the design-build delivery approach, where the Design Builder retains responsibility for process performance. The fourth incinerator must meet new sewage sludge incinerator air emissions standards which are stricter than the current permit limits for the existing three incinerators. If the stipend is approved, the stipend information will be included in the solicitation package.

There are several reasons why staff believe a stipend is beneficial in this procurement. First, there is a limited market for a specialized project of this size and there is a large concurrent project by the Metropolitan St. Louis Sewer District (MSD) to construct seven incinerators which could impact the number of available proposers. MSD is offering a 0.2% stipend to proposers. Second, short-listed proposers will expend significant time and effort to complete a design-build proposal (potentially \$800,000 to \$1,000,000). The stipend mitigates short-listed proposer's financial risk. Finally, as a condition of receiving the stipend, the short-listed proposer will give the Council the right to use ideas and information in the proposal which may benefit the Council in this or future projects.

The structure of the recommended stipend is modeled after the approach the Minnesota Department of Transportation takes with design-build projects under Minnesota Statutes § 161.3426.

Rationale

The rationale for offering an incentive include: (1) Increasing chance of receiving multiple proposals; (2) Ensuring process is equitable and recognizes time and effort short-listed proposers

put into their proposals; (3) Giving the Council the right to use information in proposals; and (4) Enhancing the quality and innovation of proposals. FM 14-2 provides that the authorization to award procurements of goods or services valued at more than \$500,000 be approved by the Council.

Thrive Lens Analysis

This action advances the Thrive Outcome of Stewardship by efficiently and effectively preserving our regional wastewater treatment plant assets.

Funding

Funding is provided in the authorized capital program.

Small Business Inclusion

The Office of Equity and Equal Opportunity (OEEO) has not yet set a goal on this 3-step procurement. However, prior to the issuance of the Design-Build RFP, OEEO will review the project for a Metropolitan Council Underutilized Business goal.





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Rene Heflin, Dan Abelson, Jody Jacoby



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Background

**Cake
Receiving**

Dewatering

**Fourth
Incinerator**

**Energy
Recovery**

**Air Pollution
Control**



The fourth incinerator will be constructed using fixed-price design-build delivery with a performance guarantee to meet strict emission limits.

Rationale

1. Increases likelihood of receiving multiple proposals

Limited market for a specialized project of this size and there is a large concurrent project by the Metropolitan St. Louis Sewer District (MSD) to construct seven incinerators which could impact the number of available proposers.

2. Ensures equitable process

Mitigates financial risk of completing design-build proposal (\$800,000 to \$1,000,000).

3. Enables use of information submitted

Proposal ideas and information may benefit the Council in this or future projects.

4. Invites quality and innovative proposals.

Encourages the qualified design-build teams to propose creative and comprehensive solutions.

MnDOT Approach/Council Approach

MnDOT Approach

- MnDOT Statute ([Minn. Stat. § 161.3426](#)) requires minimum 0.2% per team stipend on Design-Build transportation projects.
- If proposer accepts the stipend, MnDOT gets the right to use any idea or information contained in the proposal.
- Intended to offset a portion of Design-Builder proposal costs.

Council Recommended Approach

- Council does not have a statutory requirement like MnDOT
- Staff recommend a stipend of \$260,000 per unsuccessful responsive and responsible proposer.
- Council has the right to information submitted in proposals.
- If the Council chooses not to award after proposals are due, all responsive and responsible proposers are eligible for the stipend.
- Finance has reviewed and stipends are an approved capital expense.

Stipend Research

Professional Organizations

- Water Collaborative Delivery Association (WCDA) states owners should offer a reasonable stipend to unsuccessful shortlisted proposers when the proposal preparation requires a significant level of effort.
- Design-Build Institute of America (DBIA) believes that stipends are one means for encouraging participation in a proposal process.

Other Utilities

- Received feedback from City of Norfolk, VA that has used stipends before.
- MSD project offered stipend of 0.2% per team (\$1M) during proposal development based on feedback from potential teams.

Schedule

Event	Date
Issue Design-Build Request for Proposal (RFP)	June 2023
Anticipated Design-Build Notice to Proceed (NTP)	January 2024
Construction	2024 - 2026

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Questions

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