



ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM

June 6, 2018

To: Jerome D. Schad, Chairman and Mark S. Carney, Vice Chairman and Terrence McCracken, Secretary to the Authority

From: Margaret A. Murphy, Associate Attorney

Subject: Award of Contract for Hydrofluorosilicic Acid to ControlChems

In February of this year, five companies submitted bids relating to the purchase of hydrofluorosilicic acid, used to add fluoride to the water system. Although all companies proposed products meeting the minimum requirements as set forth by the AWWA, one of the five bidders, ControlChem, provided a superior product and consequently, submitted the highest bid.

On April 5, 2018, the previous Board of Commissioners rejected all of the bids submitted in February and directed a new bid solicitation be posted based on the superior, more expensive product. At the last board meeting held on May 31, 2019, Secretary Terrence McCracken reported several bidders have expressed their dissatisfaction with the prior Board's action.

During the May 31, 2018 meeting, Commissioner Mark Carney asked me whether rejecting these bids was proper. During my response, I indicated to Commissioner Carney, the Authority could reject any "request for proposal." After the meeting, Paul Riester informed me that I had mistakenly responded to Commissioner Carney as if these companies had responded to an RFP, instead of a bid solicitation.

In any case, the Board has the authority to reject responses either to an RFP or a bid solicitation. Under its enabling legislation, the Board may reject all bids if it is in the best interest of the authority. Pub. Auth. Law § 1069 ("If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted.")