

ERIE COUNTY WATER AUTHORITY

BIDDER'S PROPOSAL

FOR

**FURNISHING AND DELIVERING OF HYDROFLUOROSILICIC ACID
TO THE ERIE COUNTY WATER AUTHORITY
FOR USE IN THE TREATMENT OF WATER
FOR TWO YEARS FROM MARCH 15, 2018 THROUGH MARCH 14, 2020.**

ECWA PROJECT No. 201800015

The Bidder agrees to perform all the following work described in the Documents for the following unit prices or lump sums. The Bidder also agrees that the unit price or lump sum price bid shall be full compensation for furnishing all labor, materials, tools, profit, and equipment necessary to perform the work as shown and specified.

NOTE: the Quantities for the unit price items are unpredictable and the OWNER has inserted certain quantities in the proposal to be used solely for purpose of comparison of bids. The Bidder will not be entitled to any adjustment in the unit price bid as a result of changes in any of these items ranging from zero to any quantity. The Bidder shall make no claims for anticipated profits, for loss of profits, or for other damages as the result of changes in the quantities purchased.

In case of discrepancy, written unit figures shall govern.

<u>DESCRIPTION</u>	<u>ESTIMATED QUANTITY</u>	<u>COMPUTED TOTALS</u>
<p>ITEM 1 For furnishing, delivering, and unloading, FOB destination solution of 25% Hydrofluorosilicic Acid, all in accordance with the specifications, to:</p> <p>Item 1a Sturgeon Point Water Treatment Plant, for the unit price of:</p> <p>_____ Dollars and _____ Cents (\$ _____) per ton liquid (2,000 pounds)</p>	720 Liquid Tons	\$ NO BID

~~* Solvay Fluorides, LLC "NO BID - UNDER PROTEST". See Attachments~~

Item 1b Jerome Van de Water Water Treatment Plant,
for the unit price of:

_____ Dollars
and _____ Cents
(\$ _____) per ton liquid (2,000 pounds) 250 Liquid Tons **\$ NO BID**

*** Solvay Fluorides, LLC "NO BID - UNDER PROTEST!"**

COMPUTED TOTAL FOR ITEM 1 (1a + 1b):

_____ Dollars
and _____ Cents **\$ NO BID**

*** Solvay Fluorides, LLC "NO BID - UNDER PROTEST". See Attachments**

ATTENTION OF THE BIDDERS IS CALLED TO THE FOLLOWING:

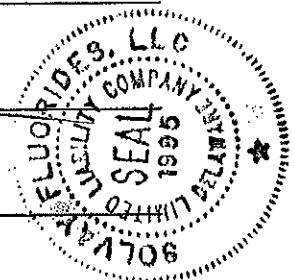
SECTION 2875 & 2878 OF THE PUBLIC AUTHORITIES LAW WHICH REQUIRES A BIDDER'S CERTIFICATE OF NON-COLLUSION. SUCH CERTIFICATE IS PART OF THE BID OR PROPOSAL FORM, AND UNLESS COMPLIED WITH SUCH BID WILL NOT BE ACCEPTED.

Bidder certifies that he is not in arrears to the Erie County Water Authority or the County of Erie upon any debt or contract, nor is he a defaulter as surety or otherwise upon any obligation of the Erie County Water Authority or the County of Erie.

Solvay Fluorides, LLC
Contracting Company

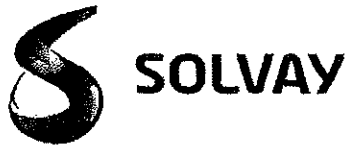
Per: *Mark Young*

Date: May 7, 2018



(SEAL)

State Delivery (if applicable):



April 19, 2018

Erle County Water Authority
Attn: Mr. Joseph T. Burns
Secretary to the Authority
295 Main Street, Room 350
Buffalo, NY 14203-2434

Dear Mr. Burns,

Solvay Fluorides, LLC is writing you in response to your letter dated April 9, 2018 RE: Rejection of Bids Furnishing and Delivering of Fluorosilicic Acid to the Erie County Water Authority for use in the treatment of water for two years from March 15, 2018 through March 14, 2020 Project No. 201800015.

While we were not the lowest bidder on the bid referenced above Solvay is very concerned about the basis for the rejection and the revised specifications that are contained in the re-advertised Project. Solvay is formally requesting a formal review of the actions taken by the Authority.

We believe that the Authority is taking action that is not in the best interest of the Authority or its community.

Solvay is a past supplier to the Authority and has been one of the largest manufacturers and marketers of Fluorosilicic Acid for over 40 years and have been long time members of the AWWA Standards Committee on Fluoridation that set the Standards for drinking water additives.

The basis of our concern is as follows:

We find that in the revised bid documents dated March 28, 2018 The Technical Specifications (PS5-1) in Section 2. Character of Hydrofluorosilicic Acid have been revised to set source requirements and impurity limits to specifically favor one specific bidder for this requirement. In fact we are not aware of any other bidder in North America that can meet the Authority's revised specifications.

The highest bidder (by over \$270 per ton) on the rejected bid is a company called Control Chem based in Canada. This Canadian distributor is importing Fluorosilicic Acid from Spain for water fluoridation in the Toronto, Canada market. The Spanish product is a co-product of the reaction of calcium fluoride (fluorspar ore) with sulfuric acid for the production of hydrofluoric acid. Control Chem is marketing this product as being superior to fluorosilicic acid that is produced from any other process. Control Chem also has told some customers that their product is from "virgin" raw material. This is very misleading. The truth is that at least 98% of all fluorosilicic acid added to municipal water supplies in the US and Canada is a co-product of phosphoric acid production manufactured from phosphate ore.

Solvay Fluorides, LLC
3737 Buffalo Speedway, Suite 800, Houston, Texas 77098-3007
P.O. Box 27328, Houston, Texas 77227-7328 T: 713 525 6700 F: 713 525 7005
www.solvay.com

It is the source of the ore being processed that determines the level of impurities in the product as each ore body has different level of contaminants. All ore is "virgin" and this is the reason that the AWWA and NSF Std. 60 requirements do not stipulate the process or origin of the fluorosilicic acid but rather set limits on impurities contained in the product.

By the Authority setting specifications that requires bidders to "furnish fluorosilicic acid manufactured from calcium fluoride production made from virgin raw materials" it would appear the Authority is following the false narrative promoted by Control Chem.

Furthermore, by the Authority specifying that bidders meet revised product specifications such as heavy metals as lead at 0.001% maximum, lead as PB <1.0 mg/L, and Arsenic <3.0 mg/L they are again catering to the published marketing specifications of Control Chem.

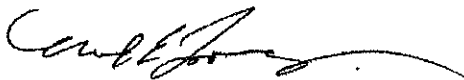
Solvay and other suppliers of fluorosilicic acid have product that is well below the contaminant levels set by AWWA and NSF Std. 60 and the New York State Department of Health.

It would seem that the Authority's Chemist and Chief WTPO, John Mogavero, has tailored the new specifications on fluorosilicic acid to favor Control Chem and eliminate other suppliers to participate in a true competitive bid process.

It is our hope that the information we have provided clarifies any misconceptions you have received and will motivate Erie County Water Authority to once again revise its specifications for Project 201800015.

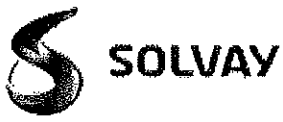
Thank you for considering this protest and taking the appropriate action.

Sincerely,



Mark E. Looney
Solvay Vice President Sales and Marketing

Cc: John Mogavero
Gary Murray
Shari Zajdel



Ruffino, Cherie <cherie.ruffino@solvay.com>

***URGENT REVIEW* Protest Letter for re-advertised Fluorosilicic Acid Project No. 201800015**

Looney, Mark <mark.looney@solvay.com>

Thu, Apr 26, 2018 at 4:04 PM

To: jburns@ecwa.org

Cc: centralpurchasing@ecwa.org, gmurray@ecwa.org, Shari Zajdel <szajdel@ecwa.org>, "John J. Mogavero" <jmogavero@ecwa.org>, "Ruffino, Cherie" <cherie.ruffino@solvay.com>

Dear Mr. Burns,

Solvay sent an email with a letter attachment to you and other ECWA individuals on April 19, 2018 regarding the change in specifications for the upcoming bid Project No. 201800015 for supply of Hydrofluorosilicic Acid. The revised bid is due on May 8, 2018 and in it's current form will limit consideration to only one possible bidder.

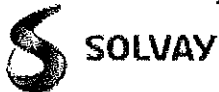
We request that ECWA provide us with a response on the concerns expressed in our letter and hopefully indicate that you have reconsidered the restrictive nature of the new specifications.

Again, I would like to summarize our concerns. The first is that now the product is defined that it must come from a specific manufacturing process with a specific raw material and the second is that the impurity levels are now set at unnecessarily low values and tailored to match only one potential bidder. Not one municipality that we are aware of in the US or Canada has specifications for impurities as low as you have set which are the published specifications of this supplier. Specifically, your new arsenic spec is 3 ppm. The AWWA and NSF Std. spec for arsenic in HFS solution calculates to 152 ppm maximum. The lowest arsenic specification that we are aware of is the City of Boston which is 20 ppm. I believe that there are several potential bidders that can meet this specification including Solvay. A 3 ppm specification on arsenic is unrealistic and locks ECWA to only supplier of product and from the first bid results you can see they were the highest priced bidder. With only one qualified bidder you will be paying a substantial premium for your HFS supply forever with no real justification.

I thank you and your ECWA staff for taking the time to review this situation. I look forward to hearing back from you by May 1 with your comments and actions forward.

Best regards,

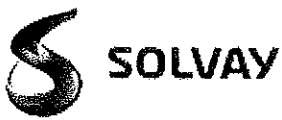
Mark E. Looney
Vice President Sales and Marketing
Solvay Fluorides, LLC
GBU Special Chem
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e-mail: mark.looney@solvay.com



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Ruffino, Cherie <cherie.ruffino@solvay.com>

***URGENT REVIEW* Protest Letter for re-advertised Fluorosilicic Acid Project No. 201800015**

Shari Zajdel <szajdel@ecwa.org>

Fri, Apr 27, 2018 at 10:28 AM

To: Joseph Burns <jburns@ecwa.org>

Cc: centralpurchasing <centralpurchasing@ecwa.org>, Gary Murray <gmurray@ecwa.org>, "John J. Mogavero" <jmogavero@ecwa.org>, "Ruffino, Cherie" <cherie.ruffino@solvay.com>

Hi Joe, I previously printed this out and put it in your "in" box. You did not direct me to do anything with this as of today. I am copying everyone on this e-mail just to make sure this is addressed.

Thank you.

Shari

From: Looney, Mark [mailto:mark.looney@solvay.com]

Sent: Thursday, April 26, 2018 5:05 PM

To: Joseph Burns

Cc: centralpurchasing; Gary Murray; Shari Zajdel; John J. Mogavero; Ruffino, Cherie

Subject: Re: *URGENT REVIEW* Protest Letter for re-advertised Fluorosilicic Acid Project No. 201800015

Dear Mr. Burns,

[Quoted text hidden]

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