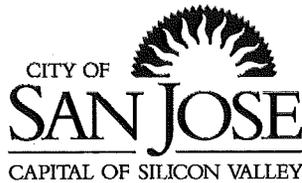


SUPPLEMENTAL

COUNCIL AGENDA: 04-05-11

ITEM: 7.1



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean
Scott P. Johnson

SUBJECT: REPORT ON RFPs FOR
COMMERCIAL SOLID
WASTE SYSTEM

DATE: 04-01-11

Approved

Date

4/1/11

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

Since the publication of the original Report on the RFPs for the Commercial Solid Waste System, staff has been made aware of additional questions which are addressed below.

DISCUSSION

Question 1: Why did the City not elect to request a Best and Final Offer?

The Collection Franchise RFP included the option for a Best and Final Offer (BAFO) process if additional information or clarification was necessary to make a decision. The RFP stated that proposers "are cautioned that the BAFO is optional and at the sole discretion of the City. Therefore, Proposers should not assume that there would be an additional opportunity to amend their technical or cost proposals after the original submission of technical and cost proposals. Proposers may not request an opportunity to submit a BAFO." In essence, a BAFO should not be viewed as an opportunity to re-propose. Rather, staff might consider a BAFO in cases where there was an opportunity to standardize services offered in the top two or three closely-ranked proposals, especially in cases where one of the finalists received a higher technical rating and the other a higher cost rating. This BAFO situation was not the case in this procurement. Allied was the clear leader in both technical and cost scoring for the collection franchise RFP. Moreover, the RFP process was a lengthy process with considerable due diligence and staff had all the information necessary from the top-rated proposers from clarifications and oral interview process to make a final recommendation.

Question 2: Why were San Mateo County agreements with Allied ended?

Some questions have been raised about how Allied's collection services for South Bayside Waste Management Authority (SBWMA) were ended. Allied provided collection and processing services to SBWMA's member jurisdictions (serving most of San Mateo County) through agreements that expired on December 31, 2010. In November 2007, the SBWMA issued RFPs for new service providers; Allied proposed but ultimately was not the highest ranked proposer. Allied continued to provide service to SBWMA through the set term of their agreements until collection service transitioned to the new service provider, Recology, on January 1, 2011. SBWMA staff reported that Allied worked cooperatively with Recology to provide program outreach and container refurbishing in the six months prior to the start of Recology's service start.

Question 3: What are the impacts of staff's recommendation on current commercial franchised haulers?

Currently, there are 21 commercial solid waste haulers that have franchise agreements to operate in the City. Of these, six provide regular garbage collection services with four of these collecting 85% of the waste; the remaining fifteen haulers largely collect construction and demolition waste and provide temporary debris box services. The four largest haulers that collect commercial garbage also have significant operations outside of San José's. Allied is the second-largest publicly traded waste services company in the nation with operations in 40 states. Recology Silicon Valley is the largest privately held waste hauler in the United States, with operations throughout Northern California. Privately-owned GreenWaste Recovery, one of the partners in the company recommended for citywide commercial organics processing, provides solid waste services in several Bay Area cities. Lastly, GreenTeam is owned by Waste Connections, the fifth-largest publicly-traded waste company in the nation with operations in 23 states. In addition, two of these companies have large contracts with the City for residential collection: GreenWaste Recovery provides the City \$27 million in residential solid waste services annually and GreenTeam provides \$24 million. The services proposed in the Commercial Solid Waste RFP process exclude construction and demolition waste collection, providing opportunities for the remaining 20 haulers not recommended in this procurement process to continue to operate commercially in San José.

Question 4: How will the City mitigate customer rate increases?

Maximum customer rates for the services provided by Allied will be established by Council before the July 2012 service start date. These maximum rates may be adjusted annually during the fifteen-year term of the agreement through a Council approval process. The franchise agreements will include a prescribed methodology, with very detailed instructions and limitations, on how rates are adjusted each year. The franchisee will be limited to only those adjustments allowed per the agreement and cannot charge customers more than the maximum rates established by Council.

Question 5: How will the City ensure contractor performance?

The Collection Franchise agreements will contain comprehensive and detailed performance standards and will include administrative charges that will be assessed in the event of non-performance. Staff has eighteen years of experience managing performance-based contracts in the residential solid waste system and will enforce all performance standards in the new commercial franchise agreements.

Question 6: What was the process for vetting data assumptions used by proposers?

In assessing the technical and cost proposals for the Collection Franchise, the evaluation process included a thorough analysis of data and assumptions presented by each proposer. Throughout the procurement process, staff advised proposers that the City could not provide all data related to the commercial solid waste system and proposers would need to make certain assumptions based on their own knowledge and experience. Particularly with the transition from a nonexclusive franchise system to an exclusive system where the City has limited information, it is appropriate for proposers to use and be responsible for their own assumptions for the following reasons: first, there will be significant changes in the methods of collection and processing from those now used in the City; second, unlike most RFP processes, the City has only partial data to provide proposers for the number of business accounts, tonnages and total volumes of material and did not have route maps or other information showing the most efficient ways to collect. Thus, proposers had to apply their industry expertise to develop assumptions driving their proposed service plans, costs, and collection routing. Analysis of proposals included review of key proposal assumptions by staff familiar with collection operations and industry expert consultants. A factor in that review was consideration of the role that Allied and Recology play as the largest service providers under the current nonexclusive system, with a combined market share in excess of 70%. These two proposers provided very similar assumptions in the key areas of total tonnage and total volume. Their tonnage assumptions varied by about 3% and their volume assumptions by about 7%. In addition, proposers were asked during the evaluation process several rounds of clarifying questions regarding their assumptions, including detail for how the assumptions were developed and the relative certainty of the individual proposers regarding their accuracy.

HONORABLE MAYOR AND CITY COUNCIL

04-01-11

Subject: Supplemental - Report on RFPs for Commercial Solid Waste System

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COORDINATION

This memorandum was coordinated with the City Attorney's Office.

/s/

JOHN STUFFLEBEAN
Director, Environmental Services

/s/

SCOTT P. JOHNSON
Director, Finance Department

For questions regarding the procurement process please contact Mark Giovannetti, Chief Purchasing Officer, at 408/535-7052 and for questions regarding the Commercial Solid Waste Program, please contact Jo Zientek, Deputy Director, Integrated Waste Management Division, at 408/535-8557.