



Memorandum

TO: John Stufflebean, Director
Environmental Services Department

FROM: Gerald A. Silva,
City Auditor

SUBJECT: *REVIEW OF ALLIED WASTE
EXPENDITURES FOR THE
PERIOD OF APRIL 1, 2006
THROUGH MARCH 31, 2007*

DATE: June 8, 2007

Background

The San Jose/Santa Clara Water Pollution Control Plant (WPCP) removes screenings, grit, and grease from the waste water that flows into the WPCP. The WPCP relies on a contractor to provide 1) WPCP with containers to store the screenings, grit, and grease on-site and 2) the hauling and disposal of these materials. On May 18, 2004, the City Council approved the execution of a one-year service order and four one-year options to renew with Allied Waste (BFI) for the above services at an annual cost of \$150,000. The City Council approved a motion to have the City Manager request the City Auditor's Office to review BFI's expenditures prior to the Administration approving the additional four one-year renewal options; this is the third City Auditor's Office annual review. The City Council motion also required City staff to ensure BFI was properly disposing of materials.¹

In May 2005, the City Auditor's Office performed its first review of BFI expenditures for the period of June 1, 2004 through May 31, 2005.² The City Auditor's review concluded that BFI (1) did not always submit landfill receipts on a timely basis, (2) had inconsistently charged the City for transport costs, (3) had not complied with the City's prevailing wage policies, and (4) provided non-compliant containers. Additionally, the City Auditor found that the City executed a service agreement with BFI that was not consistent with the Request for Quotation and executed two open purchase orders with overlapping time periods.

¹ According to WPCP staff, and in accordance with California Code of Regulations Title 22, Division 4.5, Chapter 11, a waste material analysis to ensure non-hazardous disposal is currently in process. Accordingly, the analysis will be provided to the City Council under separate cover. WPCP staff estimates the analysis to be completed within 90 days.

² The service agreement dates between the City and BFI for the City Auditor's May 2005 review were June 1, 2004 through May 31, 2005. At the time of the review, BFI had not submitted invoices for the month of May 2005.

In May 2006, the City Auditor's Office performed its second review of BFI expenditures for the period of June 1, 2005 through May 31, 2006.³ The City Auditor determined that BFI (1) had submitted all landfill receipts on a timely basis, (2) complied with the City's prevailing wage policies, and (3) provided the WPCP with compliant containers. In addition, the City Auditor concluded that BFI had appeared to undercharge the City for waste bin transport costs. Specifically, BFI transported 276 waste bins of WPCP materials to the Newby Island Sanitary Landfill site and should have charged the City \$32,844. Instead, BFI invoiced the City only \$27,226 in transport costs which appeared to result in an underpayment of \$5,618.

In response to the City Auditor's May 2006 review, BFI charged the City \$5,618 in transport costs on its June 2006 invoice.⁴ Additionally, BFI charged the City \$4,246.68 for 23 transports it provided the WPCP in April and May of 2006. If BFI had properly charged the City in accordance with its service agreement with the City, it would have charged \$2,737 (23 transports multiplied by \$119). Accordingly, it appears that BFI overcharged the City \$1,509.68 for transport services it provided in the months of April and May 2006.

Objectives, Scope, And Methodology

In accordance with its 2006-07 Approved Audit Workplan, the City Auditor's Office conducted its third annual review of BFI's expenditures for the period April 1, 2006 through March 31, 2007.⁵ Specifically, we limited our review to verifying that 1) the Environmental Services Department (ESD) and BFI were adhering to the billing and payment specifications stated in the Grit Screening Disposal Contract and 2) the amounts BFI invoiced the ESD were in accordance with the specified bid amounts stated in BFI's quote, which BFI submitted on March 15, 2004.

³ The service agreement dates between the City and BFI for the City Auditor's May 2006 review were June 1, 2005 through May 31, 2006. At the time of the review, BFI had not submitted invoices for the months of April and May 2006.

⁴ At the time of the City Auditor's May 2006 review, BFI's April and May 2006 invoices were not yet available in the City's Finance Department. Accordingly, the City Auditor included April and May 2006 in the May 2007 review.

⁵ We reviewed invoices submitted to the City for services BFI provided during the months of April and May of 2006 which correspond to service agreement dates between the City and BFI for June 1, 2005 through May 31, 2006 and invoices submitted for services provided during the months of June 2006 through April 2007 which correspond to service agreement dates between the City and BFI for June 1, 2006 through May 31, 2007.

In order to verify that BFI performed contractual services in accordance with the service order and correctly billed the City for WPCP waste hauling and disposal we:

- Reviewed the supporting documentation that BFI submitted for payment for services provided from April 2006 through March 2007;
- Interviewed WPCP staff;
- Interviewed Finance Purchasing staff;
- Interviewed Office of Equality Assurance management; and
- Interviewed Allied Waste (BFI) staff.

We performed our review in accordance with generally accepted government auditing standards. The City Auditor's Office thanks the staff of the ESD, Office of Equality Assurance, BFI International Disposal, and the Finance Department for their assistance during our review.

BFI Expenditures For The Period Of April 1, 2006 Through March 31, 2007

We verified that BFI invoiced the City \$73,553.18 for services provided during the period of June 1, 2006 to March 31, 2007, disposed of 1,301.48 tons of grit, grease, and screenings, and transported 138 bins from the WPCP to the Newby Island Sanitary Landfill. The City Auditor determined that BFI (1) had submitted all landfill receipts on a timely basis, (2) complied with the City's prevailing wage policies, and (3) provided the WPCP with compliant containers. However we noted the following issues regarding the City's administration of and BFI's billing for the hauling and disposal of grit, grease, and screenings at the WPCP:

- BFI overcharged the City \$1,509.68 for hauling services it provided in April and May of 2006;
- BFI charged an estimated \$1809.84 in environmental, fuel recovery, and administration fees which are not in accordance with the contract between the City and BFI; and
- BFI inappropriately increased from \$37.85 to \$38.22 the amount it charged the City per ton of waste material disposed which resulted in a \$439.84 overcharge to the City.

BFI Overcharged The City \$1,509.68 For Hauling Services It Provided In April And May Of 2006

As mentioned earlier, at the time of the City Auditor's May 2006 review, BFI's April and May 2006 invoices were not yet available in the City's Finance Department.

Accordingly, the City Auditor's Office calculated in its May 2007 review BFI's April and May 2006 invoices. We found that BFI charged the City \$4,246.68 for 23 transports it provided the WPCP in April and May of 2006. If BFI had properly charged the City the

amounts allowed per its service agreement with the City, it would have charged \$2,737 (23 transports multiplied by \$119). As a result, it appears that BFI overcharged the City \$1,509.68 for transport services it provided in the months of April and May 2006.

BFI Charged An Estimated \$1,809.84 In Environmental, Fuel Recovery, And Administration Fees Which Are Not In Accordance With The Contract Between The City And BFI

We found that BFI charged the City transport fees which included additional amounts charged for environmental and fuel recovery fees. Given that these transport fees were presented as lump sums on most of BFI's monthly invoices, it is unclear how much BFI charged per transport, environmental fee, and fuel recovery fee. In total, BFI charged the City \$18,157.46 in transport fees for the period of June 1, 2006 through March 31, 2007. Given that BFI submitted 138 landfill receipts for the same period, BFI should have charged \$16,422 for 138 transports in accordance with the service agreement.⁶ BFI also appears to have charged \$57.28 in environmental and fuel recovery fees on its April 2006 invoice. In addition to the environmental and fuel recovery fees, BFI charged the City \$17.10 in administration fees for the period of April 1, 2006 through March 31, 2007. According to Finance Purchasing staff, environmental, fuel recovery, and administration fees are not allowed per the service agreement. Therefore, we estimate that BFI overcharged the City \$1,809.84 in unallowable transport, environmental, and fuel recovery fees.

Additionally, according to Finance Purchasing staff (1) the rates BFI is allowed to charge per transport and per ton of waste disposed will be increased by the Consumer Price Index and reflected in the service agreement between the City and BFI for the period of June 1, 2007 through May 31, 2008 and (2) although BFI is not entitled to charge the City a fuel recovery fee, the City may allow future environmental fees if BFI can provide evidence of the actual cost it incurs for these fees.

BFI Inappropriately Increased From \$37.85 To \$38.22 The Amount It Charged The City Per Ton Of Waste Material Disposed Which Resulted In A \$439.84 Overcharge To The City

BFI disposed of 1,301.48 tons of screenings, grit, and grease at the Newby Island Sanitary Landfill and charged the City \$49,700.86 for the period of June 1, 2006 through March 31, 2007. On July 6, 2006, BFI increased the rate it charged the City per ton from \$37.85 to \$38.22 per ton, an increase of 37 cents. According to ESD and Finance Purchasing staff, BFI did not notify the City about the rate increase. Additionally, according to the City's Request for Quotation (RFQ), "Contractor agrees that the prices quoted are final for the first three years of the proposed contract." Therefore, BFI's rate

⁶ The service agreement dated June 1, 2006 through May 31, 2007 allows BFI a transport charge of \$119.

increase is not in accordance with the City's RFQ. If BFI had charged the City in accordance with the RFQ, it would have charged \$49,261.02 or \$439.84 less than the \$49,700.86 it charged the City.

Corrective Action

As a result of unallowable fees and increases, BFI overcharged the City a total of \$3,759.36 for the period of April 1, 2006 through March 31, 2007. We spoke with the City's BFI representative who stated BFI is looking into the above charges and will credit the City accordingly. Additionally, corrective action would be taken to prevent future billing errors.

We discussed the results of our review with the ESD, OEA, and Finance Department staff who agreed with our review results. We incorporated staff comments into this memorandum.

Conclusion

BFI overcharged the City \$3,759.36 for hauling services it provided during the period of April 1, 2006 through March 28, 2007. BFI stated it intends to credit the City for the overcharges and will take corrective action to prevent future billing errors.



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