



MEMORANDUM

To: Zero Waste Advisory Commission
From: Sam Angoori, P.E, Interim Director, Austin Resource Recovery
Date: February 8, 2017
Subject: **Organics Processing Contract**

The purpose of this memo is to respond to inquiries made at the November 9, 2016 Zero Waste Advisory Commission meeting regarding item 3d-Organics Processing.

Background. During the FY2017 budget approval process, the City Council approved the Department's proposed budget, including plans to expand curbside composting starting in FY2017 to additional Austin Resource Recovery (ARR) customers. Staff informed Council that the Department would contract with a third party organics processor to manage the combined yard trimmings and food scraps. On May 30, 2016 the City released the request for proposal (RFP) that would provide the City with organic material processing for an additional 38,000 customers to be added to the curbside composting program.

Staff will carefully document challenges and successes along the way and making adjustments as needed. ARR's goal is a successful expansion, first to the new 38,000 customers, then to the remaining customers each year.

ZWAC Questions. At the November 2016 ZWAC meeting, Commissioners had several questions regarding the competitive bidding process, scoring, processing methods, and general timeline for implementation. Responses to questions posed to ARR and Purchasing staff are provided in the attachment. Due to confidentiality restrictions on City staff and the ensure the vendor complies with the Anti-Lobbying ordinance, questions for the vendor can be made from the dais during a public meeting posted in accordance with the Texas Open Meetings Act. The vendor may choose, but is not required, to respond to questions regarding their bid.

Contingency Plan. In particular, ZWAC Members asked about the Department's contingency plan if the proposed vendor is unable to successfully process the material. Staff initially hoped that the contract would be awarded to more than one vendor. However, only one vendor submitted a proposal. The RFP required the vendor to include a contingency plan in their proposal. The vendor may choose to explain their contingency plan at the meeting, if asked. If the proposed vendor is unable to process the material, the Department would find an alternative vendor immediately through the emergency purchasing process.

Staff Recommendation. Staff recommends approval of the proposed vendor.

Next Steps. Council consideration is scheduled for March 2, 2017.

Questions to ARR Staff:

1. Can this service be awarded to a service provider without competitive bid under the state authorized "Health & Safety" clause?

Staff Response: No. City purchasing policy requires competitive bidding. Per the City Charter, "Before the city makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition unless exempted by state statute." (City of Austin FSD Purchasing Office, Operating Policies and Procedures Manual, Purchases Over City Manager's Authority).

2. What is a time frame to implement this in a timely basis?

Staff Response: Staff's goal is to expand the curbside compost program starting June 2017. A final, executed contract must be completed as soon as possible to ensure that education/outreach materials clearly identify all items that can be included in the expanded service. For example, pilot customers expressed concern that compostable plastic bags could not be accommodated in the pilot service to address the "ick factor." The current RFP includes an option to include compostable plastic bags.

3. Is this honoring highest and best use of end product?

Staff Response: Yes. Based on statements made during the November 2016 ZWAC meeting, staff interprets this question to involve concerns about combining curbside compost with biosolids. The contract can be negotiated to prohibit combining compost collected from the City's curbside collection program with biosolids. ZWAC and Council can include this criteria as part of their recommendation.

4. Can a longer lead time be applied to accommodate new potential bidders who may arise from a new bid?

Staff Response: ARR prefers to have multiple locations for efficiency of service. A new RFP can be launched at any time to add additional vendors and a longer lead time could be incorporated. Please keep in mind the solicitation process can take anywhere from 6 to 9 months.

5. Why did only one company bid?

Staff Response: Staff was disappointed to receive only one bid. A few potential vendors who did not submit a proposal in response to the RFP explained that the venture involved too much risk for the vendor. The risk arises because the program expansion depends on Council to approve the corresponding budget, rates, and equipment purchases every year, introducing too much variability. Another potential vendor who processes a small amount of compost noted they would not expand due to potential complaints from neighbors.

In reference to Staff's response regarding the risk a vendor incurs to bid on this contract, what date would be reasonable to note as a benchmark for being stable enough?

Staff Response: Based on conversations with vendors who chose not to bid, full implementation of the curbside composting service and if continued service is certain, the contract would be considered "stable" by other potential vendors. Full implementation is planned for by 2020.

6. ZWAC Commissioner requests an answer from a 3rd unbiased party on the TDS landfill contract:

Staff Response: The TDS landfill contract is intended for trash disposal and yard trimmings. It does not contain pricing for food scraps. To obtain that pricing information, the City relies on the solicitation process as stated in the response to question 1.

7. Two ZWAC Commissioners noted favoring a “stop and review” at contract “renewals.” Commissioners generally expressed frustration about the RFP process and amount of time/detail provided to Commissioners prior to request for action.

Staff Response: Staff understands the Commission’s concerns regarding the solicitation process and is evaluating options to provide more detailed guidance in advance of requesting action on a contract or renewing a contract. Several options being considered to provide the Commission with more guidance regarding purchasing policies and future contracts:

- Providing and maintaining a list of contracts, including a short description of services and their expiration dates. Staff is planning a presentation in April to describe each contract and give ZWAC an opportunity to decide which contracts they would like to learn more about, identify key concerns and issues prior to issuance of an RFP. On an ongoing basis, staff could alert ZWAC 12 months prior to the contract’s expiration, provide a copy of the key components of the contract, and request feedback on any additional issues/concerns staff should explore when developing the next RFP.
- Notifying ZWAC when a RFP is released and providing copy of the RFP along with a list of vendors included in the notification.
- Meeting with commission members, either 1 on 1 or in small groups, to discuss RFPs that are scheduled for consideration.
- During the next creation of committees, recommending a committee focused on contracts.

Question to Corporate Purchasing regarding evaluation of pricing costs:

1. Is pricing competitiveness considered?

Staff response: Yes, total evaluated cost was one section of the evaluation criteria.

2. Can the contract be awarded for a shorter term than noted in the bid solicitation?

Staff response: Yes ZWAC can recommend to Council to award the contract for a shorter term than requested in the RCA.

3. For low score items, is there a pathway toward addressing those concerns in the final contract?

Staff response: Yes. Any items within the advertised scope as well as terms necessary for the operation of the project can be negotiated with the vendor, but the vendor must agree in the final contract documents.

4. What are our options if the proposer does not want to add new elements in contract?

Staff response: If the City and the proposer are unable to negotiate any contractual items, the City can move forward with the contract without the contract revisions or resolicit.

5. Can the evaluation matrix be released to ZWAC for review?

Staff response: The matrix is released along with the solicitation documents. ZWAC can provide their concerns and recommendations to staff to consider as a part of the contract development.

6. Process Question: How wide of net was cast for bids?

Staff response: The RFP was sent to all vendors that were registered under commodity code 98859 on the City's Vendor Connection site. There were 53 vendors notified.

Questions to the Vendor identified at the November ZWAC meeting that may be addressed by the vendor at the next public meeting:

1. What is the address of vendor's processing site?
2. What is the vendor's contingency plan?
3. Use of food waste. Will it be composted alone? Are there plans to combine the food waste with biosolids to make dillo dirt?
4. Will the vendor's site size be increased to handle the expected increased volume over the years of ARR expansion to additional customers? Are there plans to obtain additional land/sites elsewhere to handle the increased volume over the years of ARR expansion to additional customers?
5. Will plastic be screened out of the food waste prior to decomposition? Or is it only screened out after the material has decomposed?
6. Where/to who will the end product be marketed?
7. Where will non-compostable contaminants go?