



## MEMORANDUM

**Date:** March 15, 2016

**To:** Honorable Mayor and Members of the City Council

**From:** Laura Doud, City Auditor

**Subject:** **Recyclable Collection Services Contract**

As you are aware, concerns have been raised surrounding the procurement process of the recyclable collection services contract. While I am not implying that inappropriate activity occurred, after listening to the issues discussed at the March 8<sup>th</sup>, 2016 City Council meeting, I can understand how there may be concerns regarding the fairness or transparency of the procurement process. These concerns are heightened due to the amount (up to \$42 million) and term (10 years) of the contract. In this memorandum, I am raising my concerns regarding this procurement process based on the information available to me. Please note that my office does not have access to the Request for Proposal and other procurement related documents.

### Scope of Work

Based on the March 8 Council meeting discussion, my primary concern is whether there was clarity within the RFP with respect to the desired scope of work and the criteria to which respondents were evaluated. This concern is based on the following issues:

- a) City staff contact with proposers after submission for clarification of proposal information and for proposal revisions is not abnormal in an RFP process. However, requesting revisions to proposals four times, as stated by one proposer, could warrant the question of whether the scope of work was inclusive and clear.
- b) While I understand that this was an RFP process rather than a sealed-bid process, there was a very wide disparity in proposed pricing among the top four proposers, which raises the question of whether there was clarity in the requested services to be performed. The first year annual costs for the highest cost proposals (\$6.22 million and \$6.15 million for the 7-year and 10-year term options, respectively) is nearly double that of the lowest cost proposals (\$3.48 million and \$3.33 million, respectively).

c) At the March 8<sup>th</sup> Council meeting, City staff presented the factors that made Waste Management the best choice. However, many of the reasons explained appear to be the result of Waste Management being the incumbent vendor:

- No transition plan required
- No disruption in services
- Twenty-two years of service in the City of Long Beach

None of these reasons appear to fall within any of the evaluation criteria, as stated in the March 8<sup>th</sup> memo (R-20) from City staff to the Mayor and City Council. Too much weight given to experience working with the City creates a potential barrier for other companies to do business with the City.

#### RFP Protests

This RFP process had two protests (a letter of concern and a formal protest) submitted by two proposers to the City. While it is not unusual for the Business Services Bureau to oversee the review of RFP protests, the Bureau is the agency leading and administering the RFP process. Therefore, it can be argued that the Bureau is not independent and its findings should not be considered as such.

#### Urgency of Action

At the March 8<sup>th</sup> Council meeting, it was communicated that the submitted proposals are set to expire in April 2016 and that there was a necessity to ensure the contract is in place expeditiously, suggesting the urgency for Council to take immediate action. However, this contract originally expired at the end of 2012 after ten years. The contract was extended for a full year thereafter but, in January 2014, reverted to a month-to-month agreement. Since it has been over three years since the original contract expired, the expiration of the existing contract should not be a leading reason for immediate action on this matter.

While it is unfortunate that this procurement process has taken so long and the numerous proposal revisions have required a tremendous level

of work for all parties involved, the amount and term of this recycling contract warrant a higher level of scrutiny by Council, so that its members are confident in their decision to award. That decision should be based neither on the expiration of the existing contract nor the expiration of the proposals. Furthermore, as noted by the City Attorney and City Manager at the March 8<sup>th</sup> Council meeting, requesting proposers to extend the validity of their proposals and pricing is a viable option for the City.

In conclusion, as stated at the March 8<sup>th</sup> Council meeting, my office is willing to review the procurement process for this recyclable collection services contract and could reasonably complete the audit work within no more than six months. This timeframe should allow my office to conduct a thorough audit that complies with Government Auditing Standards. Whether this audit is initiated or not, I urge you to seek and obtain sufficient information from City staff to ensure that you have the confidence that this contract was awarded to the best qualified vendor based on a fair, objective and transparent process.

cc: Patrick H. West, City Manager  
Charles Parkin, City Attorney