

Ryan Hobbs

From: Gary Newton
Sent: Monday, May 02, 2016 4:52 PM
To: Bob Gregory; Paul Gregory; Adam Gregory; Ryan Hobbs
Subject: FW: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501
Attachments: Response to Anti-Lobbying.pdf

See attached response from Purchasing.

From: Pace, Joshua [<mailto:Joshua.Pace@austintexas.gov>]
Sent: Monday, May 02, 2016 4:45 PM
To: Gary Newton <gnewton@texasdisposal.com>
Subject: RE: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501

Gary,

Please see attached for the City's response to your letter regarding the Anti-Lobbying ordinance dated April 27, 2016.

Please let me know if you have any questions.

Thank you,

Joshua Pace
Buyer II
City of Austin
124 West 8th Street
Austin, TX 78701
512-974-3127
Joshua.Pace@austintexas.gov

From: Gary Newton [<mailto:gnewton@texasdisposal.com>]
Sent: Wednesday, April 27, 2016 3:42 PM
To: Pace, Joshua <Joshua.Pace@austintexas.gov>
Subject: RE: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501

Joshua, please see my formal reply to the City's response received earlier today.

From: Pace, Joshua [<mailto:Joshua.Pace@austintexas.gov>]
Sent: Wednesday, April 27, 2016 10:36 AM
To: Gary Newton <gnewton@texasdisposal.com>
Subject: RE: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501

Gary,

Please see the attached letter for the City's response to your original email regarding the Anti-Lobbying Ordinance.

Please let me know if you have any questions.

Thank you,

Joshua Pace
Buyer II
City of Austin
124 West 8th Street
Austin, TX 78701
512-974-3127
Joshua.Pace@austintexas.gov

From: Pace, Joshua
Sent: Monday, April 18, 2016 3:46 PM
To: 'Gary Newton' <gnewton@texasdisposal.com>
Subject: RE: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501

Gary,

The City is reviewing your email and, if necessary, we will issue a response in a future addendum. An addendum was released earlier today which extended to proposal due date to May 3.

Thank you,

Joshua Pace
Buyer II
City of Austin
124 West 8th Street
Austin, TX 78701
512-974-3127
Joshua.Pace@austintexas.gov

From: Gary Newton [<mailto:gnewton@texasdisposal.com>]
Sent: Friday, April 15, 2016 4:09 PM
To: Pace, Joshua <Joshua.Pace@austintexas.gov>
Subject: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501

Mr. Pace,

Since I have not heard anything from the City concerning my request set out below, I request the City postpone the response date for this proposal if the City cannot respond to this matter before the deadline on Tuesday April 19th at 2:00pm.

Please let me know what the City decides.

Sincerely,

Gary Newton
General Counsel

From: Gary Newton
Sent: Wednesday, April 13, 2016 4:36 PM

To: 'Joshua.Pace@austintexas.gov' <Joshua.Pace@austintexas.gov>
Subject: Anti-Lobby Ordinance Interpretation for RFP 2200 JXP0501

Mr. Pace,

Pursuant to our telephone conversation this afternoon, I am sending this communication to you regarding the Anti-Lobby Ordinance referenced in the above RFP Section 0400 Supplemental Provision 7(A) on page 3 of 5. The presence of that section purports to apply the anti-lobby restriction in the above referenced offer to sell unscreened compost. The wording in that section says "the policy defined in this Code applies Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures)." However, when I read that City Charter provision the Anti-Lobby Ordinance clearly only applies to situations where the City is expending funds of more than \$43,000 annually as adjusted by CPI.

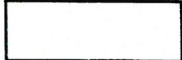
The City is not expending funds under the above referenced RFP. The City is selling unscreened compost for which it will be receiving a payment of funds in exchange. The Anti-Lobby Ordinance does not apply under the literal reading of the ordinance. Therefore, I am simply seeking written acknowledgment from the City before the April 19th proposal date that the Anti-Lobby Ordinance does not apply to this transaction despite the boiler-plate language included in the forms used by the Purchasing Office. I think a written clarification is appropriate to avoid any confusion among City representatives, offerors, or any other interested persons.

Please email me or call at 512-421-1305 to discuss.

Sincerely,

Gary Newton
General Counsel

Gary Newton
Texas Disposal Systems
www.texasdisposal.com
Office: 1 (512) 421-1305
Mobile: 1 (512) 619-3934
Fax: 1 (512) 243-4123



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City of Austin

Purchasing Office, Financial Services Department

P.O. Box 1088, Austin, TX 78767

April 27, 2016

Texas Disposal Systems, Inc.
Gary Newton
General Council
PO Box 17126
Austin, TX 78760-1712

Subject: Texas Disposal Systems, Inc. in connection with Solicitation RFP 2200 JXP0501,
Removal and Sale of Untreated Compost

Dear Mr. Newton:

After careful review, the City of Austin has determined that the anti-lobbying provision shall remain in effect for the above referenced solicitation; it is our practice that revenue and expenditure solicitations follow the same process. According to Austin City Code Section 2-7-111, a "director has the discretion to apply this Article to any other competitive process not covered by this Article."

If you would like to discuss this decision further, please contact me by phone at (512) 974-3127 or email me at Joshua.Pace@austintexas.gov.

Thank you for your interest in doing business with the City of Austin.

Sincerely,

Joshua Pace
Buyer II
City of Austin
Purchasing Office



TEXAS DISPOSAL SYSTEMS, INC. • TEXAS DISPOSAL SYSTEMS LANDFILL, INC.

P.O. BOX 17126
AUSTIN, TEXAS 78760-7126
512-421-1300
512-243-4123 (FAX)
www.texasdisposal.com

April 27, 2016

Joshua Pace, Buyer II
City of Austin
Purchasing Office
PO Box 1088
Austin, TX 78767

Re: Solicitation RFP 2200 JXP0501

Dear Mr. Pace,

I have studied the explanation sent to me today of how the anti-lobby ordinance applies to an offer by the City of Austin to sell unscreened compost. I respectfully disagree with the conclusion the anti-lobby provision can be applied to a sale of material by the Director as a "competitive process" not covered by Article 6 Anti-Lobbying and Procurement.

A reading of the entire Article 6 reveals the quote of the "competitive process" language in Section 2-7-111 is applied out of context. It is clear from the applicability Section 2-7-102 (B) (1) the purpose of the anti-lobby provision is "to provide the most fair, equitable, and competitive process possible for selecting any potential vendors in order to acquire the best and most competitive goods and services." So the "competitive process" referred to in Section 2-7-111 is only when the City is purchasing goods and services, not selling unscreened compost material.

Article 6 anti-lobby provisions only apply as written to purchases of goods and services that exceed the threshold dollar amount requiring City Council approval. The only reasonable interpretation of Section 2-7-111 is it gives the Director the discretion to apply the anti-lobby provisions to the purchase of goods and services that are below the amount requiring City Council approval and nothing more. There is no mention in Article 6 anywhere about the anti-lobby provisions applying to a situation where the City is selling a product.

Therefore, I wish to meet with the Director and legal counsel prior to the May 3, 2016, 2:00 p.m. response deadline to come to an agreement concerning TDS' obligations under Article 6.

Thank you for the opportunity to discuss this very important matter. Feel free to call me at 512-421-1305 if you have any questions.

Sincerely,

Gary Newton
General Counsel



City of Austin

Purchasing Office, Financial Services Department

P.O. Box 1088, Austin, TX 78767

May 2, 2016

Texas Disposal Systems, Inc.
Gary Newton
General Counsel
PO Box 17126
Austin, TX 78760-7126

Delivered by Email: gnewton@texasdisposal.com
and U.S. Postal Service

Subject: Texas Disposal Systems, Inc. in connection with Solicitation RFP 2200 JXP0501, Sale and Removal of Untreated Compost

Dear Mr. Newton:

As this solicitation is currently underway, the Purchasing Office respectfully declines your request to meet with the Director and legal counsel prior to the close date for the above referenced solicitation. The City Code allows for a Vendor to submit a complaint in regards to the process:

City Code Section 2-7-104 (B) allows for respondents to submit in writing a complaint regarding the process only to the authorized contact person, who will then "distribute a complaint to members of the city council or members of the City board, to the director of the department that issued the solicitation, and to all respondents of the particular solicitation."

A Vendor also has the option of filing a protest. Protest instructions can be found at: https://assets.austintexas.gov/purchase/standard_solicitation_instructions.pdf, under 17. Opportunity to Protest.

If you would like to discuss this decision further, please contact me by phone at (512) 974-3127 or email me at Joshua.Pace@austintexas.gov.

Thank you for your interest in doing business with the City of Austin.

Sincerely,

Joshua Pace
Buyer II
City of Austin
Purchasing Office