



City of Austin

Purchasing Office

P.O. Box 1088, Austin, TX 78767

August 31, 2018

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

Texas Landfill Management, LLC
ATTN: Adam Gregory
P.O. Box 17126
Austin, TX 78760

Subject: Protest Decision – IFB CDL2003REBID2 – Beneficial Reuse of Biosolids

Dear Mr. Gregory:

The City of Austin Purchasing Office has reviewed your protest dated August 22, 2018. Based on the reasons set forth below, the City finds the Protest contains no legal or factual grounds to substantiate the claims raised. The grounds for your protest are insufficient to schedule a hearing and your protest is denied.

Background

- On August 13, 2018 the City of Austin's Purchasing Office (Purchasing) published solicitation IFB CDL2003REBID2 for Beneficial Reuse of Biosolids.
- On August 15, 2018, the City held a Pre-Bid Conference regarding IFB CDL2003REBID2, at which Texas Landfill Management, LLC (TLM) was in attendance.
- On August 22, 2018 Purchasing received a protest from TLM.

TLM Claim – 1

TLM believes the scope of work and associated required pricing for IFB CDL2003REBID2 is substantially identical to the scope of work and associated required pricing of RFP CDL2003REBID, thus staff's release to Synagro's lobbyist of TLM's RFP CDL2003REBID response irreconcilably advantages the incumbent vendor and perhaps other respondents.

City Response – 1

There is no requirement that new solicitations be substantially different than previously cancelled solicitations. That said, in this case the previous solicitation was a Request for Proposals (RFP), which is inherently different than the current solicitation which is an Invitation for Bids (IFB). Unlike an RFP, which differentiates offerors based on their proposed approach to provide the services needed by the City, their qualifications and their price, the IFB prescribes the specific services to be performed and only differentiates offerors based on price. Although there may be similarities between the previous solicitations scope and pricing requirements, the competitive process within which these requirements are applied is completely different.

TLM Claim – 2

Staff's decision, as announced at the August 15, 2018 pre-bid conference, not to evaluate the "Local Business Presence" of IFB CDL2003REBID2 respondents is inconsistent with the inclusion of the "Local Business Presence" form in the solicitation package as well as previous City Council direction.

City Response – 2

“Local Business Presence” has been removed from the solicitation per Addendum 5, issued August 30, 2018 and included the removal of the Local Business Presence form.

TLM Claim – 3

If staff decides to evaluate "Local Business Presence" in conjunction with IFB CDL2003REBID2, staff's refusal to revise the definition of "Local Business Presence" to reflect the recommendation of the City Council's Waste Management Policy Working Group will preserve a disadvantage for companies who would meet a revised definition consistent with the Working Group recommendation as compared to those who would not.

City Response – 3

Please see City Response – 2.

TLM Claim – 4

Staff's decision to exclude grinding services from the scope of work and associated required pricing for IFB CDL2003REBID2 will result in duplicative, inefficient operations.

City Response – 4

The requirements set forth in the solicitation's scope of work are based on the City's needs as determined by the customer department, Austin Water. In accordance with the solicitation's instructions, section 0600 Price Sheet – Category 3 Information Only-Optional Additional Services or Products, offerors may include in their bid any prices for additional related products or services.

Determination

I find there to be no legal or factual grounds to sustain any of the protest's claims. For these reasons the protest is denied. This decision is final.

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

Sincerely,



James Scarboro
Purchasing Officer

cc: Matthew Duree, Procurement Manager
Shawn Willett, Deputy Procurement Officer