

RFP CDL2003REBID - BENEFICIAL REUSE OF BIOSOLIDS: FULL PRIVATIZATION OF ALL CITY BIOSOLIDS COMPOSTING INCLUDING DILLO DIRT PROGRAM

ORIGINAL RFP ISSUE DATE WAS 4/4/16; TEXAS LANDFILL MANAGEMENT, LLC. (TLM) DID NOT RESPOND BASED ON OUR OBJECTION TO A VARIETY OF FACTORS, INCLUDING STAFF'S FLAWED INTERPRETATION AND DEMONSTRATED MISAPPLICATION OF THE ANTI-LOBBYING ORDINANCE (ALO).

AFTER CONTROVERSY OVER STAFF'S EFFORT TO IMPOSE CITY BIOSOLIDS POLICY VIA THE RFP PROCESS AND MULTIPLE VIOLATIONS OF THE ALO BY SYNAGRO, COUNCIL DIRECTED STAFF ON 12/15/16 TO REBID THE CONTRACT FOLLOWING A POLICY REVIEW PROCESS; SYNAGRO'S ALO VIOLATIONS WERE WAIVED BY COUNCIL RETROACTIVELY, ALLOWING SYNAGRO TO COMPETE FOR CDL2003REBID.

COUNCIL'S WORKING GROUP WAS CREATED ON 3/23/17 AND ISSUED POLICY RECOMMENDATIONS ON 7/21/17; HOWEVER STAFF HAS YET TO BRING ANY WORKING GROUP RECOMMENDATIONS TO ZWAC OR COUNCIL FOR APPROVAL.



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9/2017: STAFF ENGAGED STAKEHOLDERS IN PRE-BID DISCUSSIONS TO REVISE THE SOLICITATION'S SPECIFICATIONS TO MORE CLOSELY MATCH THE WORKING GROUP'S BIOSOLIDS POLICY RECOMMENDATIONS; HOWEVER CITY STAFF REFUSED TO SEEK SOLICITATION INPUT FROM THE ENTIRE ZWAC.

THE REBID SOLICITATION WAS ISSUED ON 10/9/17 WITH RESPONSES DUE ON 11/16/17 (THE ALO REMAINS SUSPENDED FOR ALL WASTE SOLICITATIONS PER CITY COUNCIL ACTION ON 4/16/17, THUS TLM RESPONDED).

STAFF RECOMMENDED AWARDING THE CONTRACT TO SYNAGRO ON 11/27/17 AFTER AN IRREGULARLY ABBREVIATED 5-DAY EVALUATION AND SCORING PROCESS (STAFF DID NOT SEEK ADDITIONAL INFORMATION FROM VENDORS OR CONDUCT ANY SITE VISITS OF VENDOR FACILITIES); AS THE LOW-PRICE BIDDER, TLM FILED A FORMAL BID PROTEST ON 12/11/17.



RFP CDL2003REBID - BENEFICIAL REUSE OF BIOSOLIDS: TLM PROTEST OF CONTRACT AWARD RECOMMENDATION

TLM PROTESTS STAFF'S RECOMMENDED AWARD OF CDL2003REBID TO SYNAGRO BASED ON THE FOLLOWING:

- 1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM'S PROPOSAL IN QUALITATIVE EVALUATION CATEGORIES.**
- 2. IMPROPER DISTRIBUTION OF POINTS TO OTHER RESPONDENTS IN THE QUANTITATIVE 'PRICING' CATEGORY.**
- 3. IRREGULAR AND UNJUSTIFIED REMOVAL OF 'LOCAL BUSINESS PRESENCE' SCORING CRITERIA.**



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: BUSINESS CAPACITY AND EXPERIENCE CATEGORY

THE PERCEIVED WEAKNESSES IDENTIFIED BY CITY STAFF AT THE TLM-REQUESTED 11/30/17 DEBRIEF:

- THE TLM PROPOSAL “DID NOT DEMONSTRATE ADEQUATE EXPERIENCE SPECIFIC TO BIOSOLIDS COMPOSTING”;

- THE TLM PROPOSAL SHOWED A “LACK OF RECENT LARGE MUNICIPAL BIOSOLIDS PROJECTS”; AND

- THE TLM PROPOSAL SHOWED A “LACK OF ORGANIZATIONAL STRUCTURE AND PERSONNEL TO BRING ONLINE MULTIPLE COMPARABLY SIZED OPERATIONS SIMULTANEOUSLY.”

THESE STAFF-PERCEIVED WEAKNESSES RESULTED IN A DEDUCTION OF 35% OF THE AVAILABLE CATEGORY POINTS (TLM WAS AWARDED 13 OF 20 POINTS).



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: BUSINESS CAPACITY AND EXPERIENCE CATEGORY

FACT 1: TLM HAS PROVIDED LARGE-SCALE BIOSOLIDS COMPOSTING TO GOVERNMENT ENTITIES FOR 16+ YEARS, PRODUCING AND SELLING HUNDREDS OF THOUSANDS OF TONS OF CONSUMER-QUALITY BIOSOLIDS COMPOST PRODUCTS, INCLUDING THROUGH SIX OWNED AND OPERATED “GARDEN-VILLE” RETAIL LOCATIONS.

FACT 2: THE TLM LEADERSHIP TEAM FEATURES CERTIFIED COMPOST EXPERTS WITH DECADES OF EXPERIENCE, INCLUDING JIM DOERSAM, THE CITY OF AUSTIN’S FIRST BIOSOLIDS REUSE MANAGER AT HORNSBY BEND AND THE ORIGINAL INNOVATOR OF DILLO DIRT.

FACT 3: TLM WAS RECENTLY CONTRACTED BY THE SAN ANTONIO WATER SYSTEM (SAWS) TO COMPOST 80,000 TONS OF BIOSOLIDS ANNUALLY, AND HAS BEEN RECEIVING BIOSOLIDS MATERIAL AT OUR TDS-CONSTRUCTED FACILITY SINCE 1/3/18.

FACT 4: TLM – AN AFFILIATE OF THE TDS FAMILY OF COMPANIES WITH 1,000+ EMPLOYEES – HAS SUFFICIENT ORGANIZATIONAL STRUCTURE AND PERSONNEL TO BRING ONLINE MULTIPLE COMPARABLY SIZED OPERATIONS SIMULTANEOUSLY.



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: BUSINESS CAPACITY AND EXPERIENCE CATEGORY

RE: A “LACK OF ORGANIZATIONAL STRUCTURE AND PERSONNEL TO BRING ONLINE MULTIPLE COMPARABLY SIZED OPERATIONS SIMULTANEOUSLY”...

FACT 5: STAFF NEVER REQUESTED THAT THIS BE DEMONSTRATED IN THE SOLICITATION’S SCOPE OF WORK OR DURING ANY PRE-BID COMMUNICATION; THUS THE APPARENT BASIS FOR POINT DEDUCTIONS WAS PREMISED ON EVALUATION CRITERIA THAT DID NOT EXIST IN THE SOLICITATION.

REGARDLESS, IF THE POINT DEDUCTION WAS BASED ON THE RECENT AWARD OF THE SAN ANTONIO WATER SYSTEMS (SAWS) CONTRACT...

FACT 6: ...THE SAWS CONTRACT IS NOT SIMULTANEOUS WITH THE COA CONTRACT AND IS ALREADY WELL UNDERWAY WITHOUT ANY DIFFICULTY.



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: PROPOSED SOLUTION AND SCHEDULE CATEGORY

THE PERCEIVED WEAKNESSES IDENTIFIED BY CITY STAFF AT THE TLM-REQUESTED 11/30/17 DEBRIEF:

- “SPILL RESPONSE PLAN NOT INCLUDED” IN THE TLM PROPOSAL;**
- “DETAILED SCIENTIFIC INFORMATION INSTEAD OF SITE AND OPERATIONS PLAN - NOT SITE SPECIFIC”;**
- “DID NOT ADEQUATELY DEMONSTRATE AN UNDERSTANDING OF THE CURRENT SITE LAYOUT”; AND**
- “LACK OF DETAILS PROVIDED ON MATERIAL VOLUMES ONSITE AND/OR PRODUCED.”**

THESE STAFF-PERCEIVED WEAKNESSES RESULTED IN A DEDUCTION OF 40% OF THE AVAILABLE CATEGORY POINTS (TLM WAS AWARDED 12 OF 20 POINTS).



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: PROPOSED SOLUTION AND SCHEDULE CATEGORY

FACT 7: TLM PROPOSED TO HAUL ONLY STABLE, MATURE COMPOST FROM THE SITE; THUS WITH NO PROPOSED TRANSPORT OF CLASS B SLUDGE, NO “SPILL RESPONSE PLAN” IS NECESSARY. NONETHELESS TLM’S PROPOSAL DID INCLUDE A DETAILED DESCRIPTION OF ITS COMPANY-WIDE SPILL PREVENTION, CONTROL AND COUNTER-MEASURES (SPCC) PLAN.

FACT 8: TLM HAS A DETAILED KNOWLEDGE AND UNDERSTANDING OF THE HORNSBY BEND SITE BASED ON MANY YEARS OF PROVIDING ON-SITE GRINDING SERVICES TO THE CITY OF AUSTIN, AND AS CERTIFIED BY TLM’S ACCEPTANCE OF THE SOLICITATION’S SCOPE OF WORK.

FACT 9: TLM HAS A DETAILED KNOWLEDGE OF THE MATERIAL VOLUMES PRODUCED BY THE CITY AND THE BULKING AGENT REQUIRED FOR OUR PROPOSED COMPOSTING PROCESS.

FACT 10: TLM’S PROPOSED OPERATING PLAN IS SITE SPECIFIC.



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: MARKETING PLAN CATEGORY

THE PERCEIVED WEAKNESSES IDENTIFIED BY CITY STAFF AT THE TLM-REQUESTED 11/30/17 DEBRIEF:

- TLM PROVIDED “NO INFORMATION ON MARKETING CURRENT PRODUCTS PRODUCED AT MUNICIPAL FACILITIES”;

- TLM PROVIDED “NO DETAILS ON SUPPLY AND DEMAND OR LESSONS LEARNED”; AND

- “NO PRODUCT DESCRIPTIONS GIVEN ON SPECIFIC CITY OF AUSTIN BIOSOLIDS PRODUCTS AND HOW THESE PRODUCTS WILL BE INCORPORATED IN THE CURRENT PRODUCT PORTFOLIO.”

THESE STAFF-PERCEIVED WEAKNESSES RESULTED IN A DEDUCTION OF 12% OF THE AVAILABLE CATEGORY POINTS (TLM WAS AWARDED 15 OF 17 POINTS).



1. UNFOUNDED DEDUCTIONS OF POINTS FROM TLM IN QUALITATIVE EVALUATION CATEGORIES: MARKETING PLAN CATEGORY

FACT 11: TLM HAS SUCCESSFULLY MARKETED AND DISTRIBUTED 100% OF THE BIOSOLIDS COMPOST PRODUCTS PRODUCED FOR GOVERNMENT ENTITIES OVER 16+ YEARS.

FACT 12: TLM PROPOSED TO COMPOST AND MARKET 100% OF THE CITY'S CLASS B BIOSOLIDS INTO STABLE, MATURE, CURED AND 3/8 INCH SCREENED BIOSOLIDS PRODUCTS, AND SPECIFICALLY PROPOSED TO PRODUCE DILLO DIRT AS OUR PRIMARY COA BIOSOLIDS COMPOST PRODUCT.

FACT 13: TLM GUARANTEED TO MARKET 100% OF THE BIOSOLIDS COMPOST PRODUCTS PRODUCED VIA THE COA CONTRACT.



2. IMPROPER DISTRIBUTION OF POINTS IN THE QUANTITATIVE 'PRICING' CATEGORY

ACCORDING TO THE 11/30/17 DEBRIEF, STAFF DID NOT EVALUATE THE FINANCIAL BENEFIT OF TLM'S PROPOSAL TO PROVIDE BRUSH AND YARD TRIMMINGS GRINDING SERVICES TO THE CITY (CURRENTLY CONDUCTED BY ARR).

BASED ON INFORMATION PROVIDED DURING PRE-BID COMMUNICATION, TLM'S PROPOSAL TO PROVIDE GRINDING SERVICES WOULD SAVE THE CITY APPROXIMATELY \$1M PER YEAR. (TLM PROPOSED TO PROVIDE GRINDING SERVICES AT \$9.11 PER TON, COMPARED TO THE FY2017 ARR-REPORTED COST OF \$36.22 PER TON.)

BASED ON THE RFP FORMAT OF THE SOLICITATION, TLM EXPECTED STAFF TO EVALUATE ALL ASPECTS OF ALL PROPOSALS; FAILURE TO EVALUATE TLM'S GRINDING SERVICES PROPOSAL THUS CREATED AN INACCURATE COMPARISON OF THE VALUES OF THE COMPETING PROPOSALS.

AS THE LOW-COST BIDDER, TLM RECEIVED 40 OF 40 PRICING POINTS; HOWEVER OTHER RESPONDENTS' PROPOSALS WOULD HAVE RECEIVED FEWER POINTS THAN THEY DID IF TLM'S GRINDING SERVICES PROPOSAL HAD BEEN PROPERLY EVALUATED.



3. IRREGULAR AND UNJUSTIFIED REMOVAL OF 'LOCAL BUSINESS PRESENCE' (LBP) SCORING CRITERIA

THE ORIGINAL REBID RFP ISSUED ON 10-9-17 INCLUDED 'LOCAL BUSINESS PRESENCE' (LBP) SCORING CRITERIA; HOWEVER THE SOLICITATION WAS AMENDED WITHOUT EXPLANATION ON 10-21-17 TO REMOVE LBP CRITERIA.

STAFF INDICATED ON 11-9-17 THAT LBP SCORING CRITERIA WAS REMOVED "AS RECOMMENDED BY THE WORKING GROUP AND AT THE REQUEST OF THE ASSISTANT CITY MANAGER."

HOWEVER THE COUNCIL'S WORKING GROUP RECOMMENDED REVISION, NOT REMOVAL, OF LBP CRITERIA: "WITHIN WASTE MANAGEMENT MATRICES, REVISE THE DEFINITION OF LOCAL TO MORE ACCURATELY REFLECT LOCAL BUSINESS PRESENCE. THE CURRENT POINT ALLOWANCE FAVORS BUSINESSES WITH OFFICES WITHIN THE CITY LIMITS ... IT PENALIZES BUSINESSES WITH HEADQUARTERS JUST OUTSIDE THE CITY LIMITS BUT WITH SUBSTANTIAL BUSINESS PRESENCE IN THE AUSTIN AREA."

STAFF REMOVAL OF LBP CRITERIA HAD THE OPPOSITE EFFECT, REWARDING NON-LOCAL RESPONDENTS BY DENYING LBP POINTS TO LOCAL RESPONDENTS WITH MAIN OFFICES JUST OUTSIDE AUSTIN'S CITY LIMITS (TLM AND WALKER AERO ENVIRONMENTAL).



RFP CDL2003REBID - BENEFICIAL REUSE OF BIOSOLIDS: TLM REQUEST OF CITY STAFF

- 1. PLEASE RE-EVALUATE TLM'S RFP RESPONSE AND RE-ALLOCATE POINTS WITHIN THE QUALITATIVE EVALUATION CATEGORIES BASED ON THE 13 FACTS PROVIDED.**
- 2. PLEASE RE-EVALUATE ALL RFP RESPONSES AND RE-ALLOCATE POINTS TO OTHER RESPONDENTS IN THE QUANTITATIVE 'PRICING' CATEGORY BASED ON A FULL ANALYSIS OF THE ENTIRE TLM PROPOSAL, INCLUDING OUR PROPOSAL TO GRIND BRUSH AND YARD TRIMMINGS AT A REDUCED COST TO THE CITY.**
- 3. PLEASE APPLY REVISED 'LOCAL BUSINESS PRESENCE' SCORING CRITERIA EXACTLY AS RECOMMENDED BY THE COUNCIL'S WORKING GROUP AND RE-ALLOCATE POINTS TO ALL RESPONDENTS ACCORDINGLY.**
- 4. PLEASE ALLOW THE TOP 2 BIDDERS TO MAKE PUBLIC PRESENTATIONS TO ZWAC, WWC, AND CITY COUNCIL FOR RECOMMENDATIONS AND FINAL AUTHORIZATION FOR CONTRACT EXECUTION.**

ALTERNATIVELY, PLEASE RE-SOLICIT CDL2003REBID AS AN INVITATION TO BID (IFB) WITH SPECIFIC REQUIREMENTS.

