



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Manager's Office

DATE: September 3, 2009
BOARD MEETING DATE: September 29, 2009
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: None

TO: Honorable Board of Supervisors
FROM: David S. Boesch, County Manager
SUBJECT: 2008-09 Grand Jury Response

RECOMMENDATION:

Accept this report containing the County's responses to the following 2008-09 Grand Jury reports:

1. Trash Talk: Rethinking the Waste Management RFP Process by the South Bayside Waste Management Authority, and
2. Who's Watching Mid Coast Television (MCTV)

BACKGROUND/DISCUSSION:

The County is mandated to respond to the Grand Jury within 90 days from the date that reports are filed with the County Clerk and Elected Officials are mandated to respond within 60 days. To that end, attached is the County's response to the Grand Jury report on the Waste Management RFP Process by the South Bayside Waste Management Authority and Who's Watching MCTV both issued on July 10, 2009.

Acceptance of this report contributes to the Shared Vision 2025 outcome of a Collaborative Community by ensuring that all Grand Jury findings and recommendations are thoroughly reviewed by the appropriate County departments and that, when appropriate, process involvements are made to improve the quality and efficiency of services provided to the public and other agencies.



Trash Talk: Rethinking the Waste Management RFP Process by the South Bayside Waste Management Authority

Findings:

Staff is in general agreement with the Grand Jury's findings with the exception of the Findings listed below. Several of the responses below reference specific material prepared by the SBWMA Board, which are available on the SBWMA website (www.rethinkwaste.org) in their entirety. The specific sections or pages referred to below have been attached to this response for ease of reference.

Finding 4: In the evaluation process, the "reasonableness" points were not distinguished from the "competitiveness" points.

Response: Disagree. The "RFP for Collection Services" dated November 1, 2007 specified five (5) criteria that were used by the Selection Committee to evaluate the RFPs (sections 6.1 and 6.2). The "reasonableness" criteria was adequately addressed by the Selection Committee in the "SBWMA Collection Services RFP-Selection Committee Report: Evaluation and Scoring of Proposals" (pgs. 5-7, section 3.2) dated August 21, 2008.

Finding 5: Neither the individual members of the Evaluation Committee nor the individual members of the Selection Committee were required to report how many of the overall points assigned to each criterion were based on "reasonableness" or "competitiveness".

Response: Agree in part. The SBWMA staff reports titled "Collection Services" and "Facility Operations Services" reported the Evaluation Committee scores as a group; however, the individual Evaluation Committee and Selection Committee members' overall point ratings were included in the reports. The recommendations of both committees were consistent with each other.

Finding 6: The South Bayside Waste Management Authority's (SBWMA) consultant reported that Norcal's reference in San Jose was not checked.

Response: Agree in part. The Grand Jury Report indicates that SBWMA's consultant reported at a Menlo Park City Council meeting that effort was made to contact the City of San Jose; however, follow-up was not made. Staff was not present at the City of Menlo Park meeting and cannot confirm this statement. Although SBWMA's consultant may not have spoken directly with the City of San Jose, the experience that the City of San Jose had with Norcal Waste System ("Recology") was thoroughly discussed by both the Evaluation and Selection Committees.

Finding 7: South Bay Recycling (SBR) was the only proposer that did not provide for on-site management in its original cost proposal.

Response: Disagree. The original South Bay Recycling (SBR) proposal indicated that the operations management would occur at the site by a senior operations manager. SBWMA deemed this level of management to be inadequate, and required SBR to also assign executive and financial managers to this site instead of having these functions performed from their off-site headquarters.

Finding 8: SBR has asked the SBWMA to cover \$1.2 million for mistakes and omissions in its original proposal.

Response: Agree in part. SBR's proposal was evaluated positively by both the Evaluation and Selection Committees. Throughout the negotiation process, it was determined that SBR made errors in their cost estimates and were requested to modify their on-site management plan. At the direction of the SBWMA, SBR provided a revised proposal in late 2008 that addressed both of these issues. Cost is one of the eight evaluation criteria used in the Evaluation Committees recommendations. The \$1.2 million dollar figure is the sum of SBWMA-directed changes and also addresses SBR assumption errors.

Finding 9: It appears that SBWMA did not give sufficient consideration to SBR's notices of violation in the operation of its Southern California operations.

Response: Disagree. SBWMA contacted SBR and the County of Los Angeles' Local Enforcement Agent (LEA) to discuss and review the stated violations. These violations were taken into consideration during the evaluation and selection process. This issue was also discussed in depth at SBWMA board meetings on several occasions.

Finding 10: The Grand Jury could not confirm that the proposals were adequately evaluated or reflected a thorough analysis of the proposal content and contractor background.

Response: Disagree. The SBWMA and member agencies went to great lengths to ensure that open, transparent, competitive and effective procurement processes were pursued. The SBWMA staff reports relating to the RFPs for "Collection Services" and "Facility Operation Services" were extremely detailed in terms of the evaluation criteria used to select and recommend contractors for both services.

The SBWMA staff report for the August 28, 2008 board meeting included the six evaluation criteria categories that were considered during the evaluation and selection process for the Collection Service proposal review process. The evaluation processes was detailed in the, "SBWMA Collection Services RFP, Selection Committee Report: Evaluation and Scoring of Proposals", dated August 21, 2008 (sections 3.1 and 4.1-4.5). This addresses the evaluation and selection process for all RFP responses.

The March 18, 2009 Evaluation Committee Report titled "Facility Operations Selection" directly addresses the evaluation and selection process for the two short listed RFP responders, SBR and Hudson Baylor. This report provides a point-by-point analysis of nine (9) critical criteria between these two RFP responses (pgs. 2-12).

Recommendations:

The Grand Jury recommends that the South Bayside Waste Management Authority (SBWMA) and its Board and designate elected officials of the 12-member agencies [Atherton, Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, San Mateo, West Bay Sanitation District, and the San Mateo County Board of Supervisors (on behalf of the unincorporated portions of San Mateo County)] should:

- 1. Meet and reconsider pending contracts with Norcal and South Bay Recycling in light of information contained in this Grand Jury report.**

Response: Disagree. Both contracts were extensively reviewed, evaluated and considered at multiple SBWMA board meetings, which are public meetings, during the past 18 months. The SBWMA board voted to award the Collection Services contract to Norcal Waste System ("Recology") on August 28, 2008 by a 9-0-2-1 (yes-no-abstain-absent) vote. The County of San Mateo was one of the nine member agencies that voted in favor of the recommendation. The SBWMA Facilities Operations contract was awarded to SBR by the SBWMA board on April 23, 2009 by a 10-2-0-0 (yes-no-abstain-absent) vote. The County of San Mateo was one of the two member agencies that voted in opposition on this item.

Member agencies have the ability to select a different Collection Service Provider, however, the County of San Mateo voted in favor of the Collection Service Provider recommended through the RFP process.

- 2. In future Request for Proposal processes:**

- a. Clearly define and objectively and consistently apply the evaluation criteria.**

Response: Agree. This recommendation should be implemented as the Request for Proposal processes should be clearly defined, objective, and utilize consistent evaluation criteria.

- b. Provide for an appeals process before the final contracts are signed.**

Response: Agree in part. This recommendation may be implemented when appropriate. It is typical for County RFP's to include an appeal or a protest process. However, the RFP was a collaborative process, and it is

understood that some agencies do not include appeals or protests as a part of their RFPs.

c. Assure the proposers that alternate proposals will be considered.

Response: Agree in part. This recommendation can be implemented in future RFP processes, if and when the type of services being selected warrants alternate proposals.

d. Ensure that representatives from other jurisdictions are participants on the committees.

Response: Agree in part. This recommendation can be implemented, however, it is unclear whether the Grand Jury is suggesting that representatives from the SBWMA member agencies, or members of jurisdictional agencies outside of the SBWMA participate on the committees. It is preferred a review of proposals adequately involve a sufficient number of member agencies with subject matter expertise to ensure objective results.

e. Ensure that no one individual chair both committees.

Response: Agree in part. This recommendation can be implemented; however, it may depend upon the specific circumstances and whether it is more appropriate to have different individuals chair each committee.

3. Amend the Joint Powers Authority Agreement to include elected officials from member agencies onto the SBWMA Board of Directors.

Response: Agree. This recommendation could be implemented as the Joint Powers Authority Agreement includes provisions that allow for modification to the Agreement that stipulates participation by member agencies. The County of San Mateo supports further discussion that would provide the SBWMA with greater participation from elected officials during future decision-making processes.

Attachments:

“RFP for Collection Services”, Sections 6.1 and 6.2, dated November 1, 2007

“SBWMA Collection Services RFP-Selection Committee Report: Evaluation and Scoring of Proposals”, Section 3.2 (pgs. 5-7), and Sections 3.1 and 4.1- 4.5, dated August 21, 2008

“Facility Operations Services” (pgs. 2-12), dated March 18, 2009

JCP:AMS:JL

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