



TO: Interested Parties

FROM: Christopher W. Skaggs, Executive Director
Northeast Maryland Waste Disposal Authority

DATE: January 22, 2021

RE: Addendum No. 2 to the Request for Proposals for the Processing & Recycling of Recovered Materials for the Mayor and City Council of Baltimore, Maryland, issued December 22, 2020

Below are responses to the RFP questions received from interested vendors.

Per Section 3.4 of the RFP, by submitting a proposal, a Proposer agrees to accept the terms substantially in the form of the Service Agreement. Attached is a marked revised draft of the Service Agreement reflecting the proposed changes agreed to by the Authority. Proposed changes not included in the revised draft were rejected.

QUESTIONS AND RESPONSES

1. What is the City's current \$/ton cost?

Response: *The processing fee is \$87.11 per ton. The City receives a rebate on this cost based on the MPI that month.*

2. Could you please provide the average trailer weights of recyclables for the past year?

Response: *In the past year, trailer weights of recyclables have ranged from an average of 8 to 12 tons per load.*

3. Would the Authority reconsider an adjustment for the transportation and disposal rate for the plant residue to enable vendor to provide pricing for each of the 5 possible years of the agreement?

Response: *If Proposer is proposing a market-based proposal, there will be no adjustment to the residue rate within the blended rate calculation. Section 5.3 (b) of RFP does allow Proposers to propose a standard operating protocol for heavily contaminated loads (based on visual volumetric basis) delivered to the Processing Facility (or Processing Facilities). Any proposed transfer and disposal rate for rejected tonnage (based on visual volumetric basis) shall be a fixed rate (no CPI adjustment) for the term of contract (including renewal terms).*

4. Will the Authority please explain why the revenue share calculation would still require the inclusion of any item that both parties agree to remove from the list of acceptable items?

Response: *The Acceptable Material items list under this RFP is consistent with most Maryland jurisdiction recycling programs. If a Member Jurisdiction agrees to remove item(s) from its recycling program, it effectively reduces the volume of the applicable item(s), through active education, within the recovered material list that the Company has to process over time. The applicable item will still be an acceptable item at the Processing Facility and not count against the Member Jurisdiction's residue rate, under a market-based cost proposal. For example, if Glass and Plastics (with resin codes 3-7) were removed from the curbside recycling program, the items will still have the value per the applicable index outlined in Service Agreement, if proposing under the market-based cost proposal.*

5. Will the Authority please provide the list of vendors that have submitted questions to this solicitation?

Response: *The Authority may provide a list of vendors that have submitted a proposal upon the Authority's Board approving award of contract(s).*

6. Will the Authority be willing to remove plastic containers with resin codes 3 through 7?

Response: *Plastics containers with resin codes 3 through 7 are considered Acceptable Material. Note per Schedule 1 to Service Agreement, any changes to the Acceptable Material List must be agreed upon, in writing, by both Parties. If the City agrees to remove an item from the List, this item will not count against the City's residue rate. The item agreed to be removed will still have the value per the applicable index outlined in Service Agreement under a market-based proposal.*

7. Will the Authority be willing to change the "four (4) 12-month renewal terms at the Authority's sole discretion" to read "four (4) 12-month renewal terms upon mutual agreement"?

Response: *No. The Authority's rules and regulations (see Northeast Maryland Waste Disposal Authority Act, Sec. 3-921, Annotated Code of Maryland), as well as established case law (see Mayor and City Council of Baltimore v. Bio Gro Systems, Inc. (Md. 1984)), require a competitive bidding process for contracts. Once the Authority enters a contract, it must be able to rely on the receipt of services for its Member Jurisdictions.*

8. Will the Authority allow for a cost associated with an additional sort test?

Response: *Sort Tests apply to market-based proposals. If a market-based proposal is proposed per Service Agreement, the sort tests will be performed at the Company's cost and per Schedule 3 of Service Agreement.*

9. Under 3.2 Transportation and Processing- does this constitute an exclusive agreement, or will the Authority award to multiple vendors? If to multiple vendors, how will that determination be made to split the material?

Response: *The Authority reserves and has the sole discretion to award a Service Agreement with one or more Companies. The evaluation committee's decision to award one exclusive Service Agreement or multiple Service Agreements (including how to split the material) will be based on Proposer's Technical and Cost Proposals. The Authority makes no representation or guarantee as to the quantity of recyclables delivered under the Service Agreement. The City is not obligated to deliver the full quantity of material to one Company Processing Facility.*

10. Under 3.3 Contract Term - requesting that the Authority change the renewal notification to 90 days notification, from 30 days.

Response: *The Authority will update the renewal notification to 45 days. The Authority shall give the Company 45 days' notice of its intent to renew the Service Agreement for each annual option period.*

11. Proposal Requirements 5.3 b. - provision specifies that the handling of excessive residue limits the respondent to charging no more than the transportation and disposal used in the revenue share calculation. Will the Authority enable the respondent to charge additional fees to manage the handling of the excessive residue given that the City's transfer delivery vehicles do not enable the respondent to reload the excess residue back on the City vehicles?

Response: *There will be no additional or excess fees for managing residue other than what is included within the RFP. The City is paying for the management of residue through the Processing Facility Residue Transportation and Disposal Rate included within the blended rate calculation under a market-based proposal.*

12. The Authority requests the vendor provide specific threshold for loads that are deemed to be excessively contaminated loads and a process to handle. Will the Authority enable the processor to charge additional fees if the sort test demonstrates that the residue rate is above the vendors limitation for residue content?

Response: *There will be no additional fees, if the sort test demonstrates that the residue rate is above the vendors limitation for residue content. See response to Question 11 above. The RFP also allows the Proposer, as an option, to propose a Transfer and Disposal Rate for rejected tonnage under an approved standard operating protocol for heavily contaminated loads.*

13. Would a change in the city's minimum wage rate be considered a change of law, thus enabling the processor to secure an adjustment to the processing fee?

Response: *Complying with the current living wage requirement and the local hiring law, as applicable, would not be considered a change in law under the Service Agreement. Per Section 14 of the Service Agreement, a Change in Law occurs if there is an increase or decrease in a fee to transport, process or dispose of acceptable material imposed by Applicable Law, which the Company is obligated to pay.*

14. What is the current price per ton being charged to Baltimore City by Waste Management Recycle America under the current processing and recycling agreement?

Response: *See response to Question 1 above.*

15. The solicitation indicates that when the curbside recycling is delivered to Transfer Stations located within the City for unloading it is screened for “non-processibles” prior to being transferred to Waste Management’s location for processing. Can you please describe the “screening of non-processibles” process that occurs? What exactly is screened out?

Response: *There is minimal screening at the transfer station, but staff will pull out any obvious items that are not accepted. Staff is not emptying plastic bags of material, but they would pull out any large non-accepted items. The City does have some screening from collection crews; they do not collect items that are obviously not accepted or recycling bins full of trash. The City is planning to roll out an anti-contamination campaign which will include tagging of contaminated containers on the collection route, with the goal to stop picking up overly-contaminated items.*

16. Is this contract subject to the local hiring requirement as outlined in section 2.10 Local Hiring of the RFP? If so, must the processing location hire locally, or does that fact that a proposer has other businesses within Baltimore City that currently hire and employ Baltimore City residents meet this requirement?

Response: *This contract is subject to Baltimore City’s Local Hiring Law (“Law”). [Baltimore City Code Article 27-2](#) states that the Local Hiring Law applies to every contract for more than \$300,000 made by the City, or on its behalf, with any person. The Law requires businesses and all of their subcontractors to:*

- *Meet with MOED within two weeks after the contract award to complete an Employment Analysis*
- *Post new jobs with MOED only for a period of seven days*
- *Utilize MOED’s recruitment services for new hires*
- *Meet the goal: 51% of all new hires for City funded contracts must be Baltimore City residents*
- *Submit monthly employment reports with information on the number of current workers, new workers and the number of Baltimore City residents working on the project*

Exceptions may be made by the Mayor’s Office of Employment Development (MOED) to waive or lower the requirement that at least 51% of the new jobs must be filled by Baltimore City residents. These exceptions may be found within the Baltimore City Code, Article 27-6, but are also provided below:

- *A good faith effort to comply has been made by the beneficiary;*
- *The beneficiary is located outside the Baltimore Standard Metropolitan Statistical Area and none of the contract work is performed inside the Baltimore Standard Metropolitan Statistical Area;*
- *The beneficiary has entered into a satisfactory special workforce development training or placement arrangement with MOED; or*

- *There are insufficient numbers of Baltimore City residents in the labor market who possess the skills required by the new jobs needed to be filled for the contract or project.*

The fact that a proposer has other business within Baltimore City has no impact on compliance. The rules regarding any new job openings created by the contract award are:

- *MOED needs to know at least seven days in advance of new job openings to have a chance to send over any candidates, though there's no obligation to hire those specific candidates*
- *At least 51% of new hires need to be Baltimore City residents. There is no residency requirement in the law for existing employees.*

Please visit <https://moed.baltimorecity.gov/employer-services/hiring-strategies-local> if you have additional questions on the requirements of the law.

17. What is the current standard operating protocol for heavily contaminated loads delivered to the Waste Management Recycle America location?

Response: *Waste Management will take photos of the loads and the trucks to send to the City and will charge a fee for disposal. The City then investigates the claims by reviewing trailer logs at their facility.*

18. Have any loads of recyclables been completely rejected by Waste Management Recycle America during the term of the current contract, and if so, what rate was charged to transfer and dispose of completely rejected loads of recyclables?

Response: *There was one occasion in the past two years in which a dumpster had trash at the bottom, so that load was rejected with a rate of \$90 per ton for disposal.*

19. Once notified of receipt of a heavily contaminated load, is there a specific protocol that is exercised by the Northeast Maryland Waste Disposal Authority or Baltimore City (i.e., photo documentation required, a sort characterization of the contaminated material, a waiting period for someone from either the Authority or Baltimore City to arrive at the processing location to verify, etc.?) Please explain what is required under the terms of the current contract with Waste Management Recycle America.

Response: *Photos of the truck and the load should be taken when the material is off-loaded. The processing facility should have an acknowledgement form for the City driver, or City's vendor, to sign stating that the material did come from their vehicle. The photos and copy of the form should be sent electronically to the City the day of the load arriving, as soon as possible.*

20. According to Form C-2, Commodity Share Percentages, it appears that the last waste characterization was completed almost 2-years ago, and that the percentages of OCC, Plastics 3-7 and scrap metal were not developed from that last waste characterization on February 19, 2019. Where did the percentages of OCC (21.98%) and the percentage of 3-7 Plastic (8.17%) come from if not from the February 19, 2019 waste characterization? Is this from older, historical data that may no longer be accurate? What is the basis of the data for OCC and 3-7 Plastics?

Response: *The Commodity Share Percentages were estimated based on the results from the February 19th sort and other Authority member jurisdictions' more recent 2019 sort test data (specifically for the ratio of OCC to Mixed Paper; and the ratio of residue to plastics 3-7).*

21. Has the curbside collection of recycling resumed, or is it still suspended due to COVID-19?

Response: *Curbside recycling collections resumed on January 19, 2021.*

22. Are Baltimore City's recyclables currently being delivered to Waste Management Recycle America's facility on Quad Avenue for processing, or are they going to their facility located at 7175 Kit Kat Road for processing?

Response: *Recyclables are currently direct hauled to the City's Northwest Transfer Station where the material is unloaded and transferred by the City in tractor trailers to Waste Management's Facility located at 7175 Kit Kat Road for processing. When the City's transfer station is unavailable, the City has utilized the Quad Avenue facility for transferring. Some processing does occur at the Quad Avenue Facility as well.*

23. May a proposer add an additional/alternative proposal to their submission to the Authority/Baltimore City which includes the transportation of the collected recyclables, as well as the processing? Could this be a separate line item included with a bid from a qualified proposer that the Authority would consider for review?

Response: *No. This RFP is for processing and recycling only.*

24. The RFP states the contract would be from 6/1/21 to 6/30/22 with four 12-month renewal terms at the Authority's sole option. Could you please make the renewal terms mutual.

Response: *See response to Question 7 above.*

25. Can you please make annual adjustments based on CPI Water/Sewer/Trash.

Response: *The CPI applied to the Service Fees will be the CPI for all urban consumers Baltimore-Columbia-Towson, MD area.*

26. Could you please strike the following from the performance bond form (page 26). Non-renewal of the surety should not constitute a claim on the bond as it is the Principals responsibility to provide a subsequent bond. Also, the body of bond says that a duly authorized rep can sign on behalf of a corporation with a power of attorney, BUT the signature block is title specific calling for President and Corporate Secretary. Since there's conflicting info, would you please verify that, if awarded, the bond can be signed by Attorney-in-Fact with effectively dated power of attorney.

Response: *The non-renewal or cancellation of the bond would constitute a default under the bond if the Principal has not provided a replacement bond. The performance bond provided is the "Form of Performance Bond." The actual bond can be signed by an Attorney-in-Fact, as a duly authorized representative of the corporation, with the requisite effective power of attorney.*

27. Appendix D, Waiver of Damages. This blanket waiver seems to also waive any claims a contractor might have under the agreement (payment for example). Can you please remove “any agreement entered into for services described in the RFP” from this waiver.

Response: *Appendix D, Waiver of Damages will not be amended. However, to clarify, the waiver of damages is not a waiver of payment for services for which the Company would be entitled under a resulting agreement from this RFP.*

28. Remedies for Default. Section 7, Sample Agreement: Can you please allow the Contractor receive notice and an opportunity to cure before the Authority suspends for breach.

Response: *See last sentence of Section 6 (Termination) – Each Party will have 30 days within which to cure a breach of contract, after receiving written notice of default from the other Party.*

29. Indemnification. Sample Agreement, Page 8, Section 11: Indemnity should be limited to the extent caused by fault of the Contractor. Can you please add “to the extent” in front of “resulting from” and add “negligent or willful” in front of “act or omission.”

Response: *There will be no changes to Section 11.*

30. Changes in Market Conditions. Can we please add “If market conditions develop that limit or inhibit Contractor from selling some or all of the Acceptable Material, Contractor may at its option and upon notice to the Authority (i) redefine Acceptable and Unacceptable Materials, (ii) suspend or discontinue any or all Services, or (iii) dispose of the Acceptable Material (as currently defined) in a landfill and update the pricing to the Authority accordingly. Any such actions, if taken, may be reversed or further changed as market conditions dictate.

Response: *All items under the Acceptable Material List (Schedule 1 of Service Agreement) shall remain acceptable items at the Processing Facility (or Facilities) for the term of the Service Agreement (including any renewal periods). Per the definition of Recovered Materials, any changes to the Acceptable Material List must be agreed upon, in writing, by both parties.*

31. Can you please provide the current contract processing cost/ton and rebate structure.

Response: *See response to Question 1 above.*

Attachment