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**R-19**

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June 14, 2016

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HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Receive and file report by PFM Group, Inc., reviewing the City's Request for Proposals process for contract recycling services. (Citywide)

**DISCUSSION:**

On March 22, 2016, the City Council requested this Office to select an appropriate consultant to conduct a review of the process used by the City in its request for proposals ("RFP") for contract recycling services and to have the consultant prepare and provide a report on the subject to this Council. Based on the consultant's review and findings, the City Council will decide whether to award a contract as previously recommended by staff or to direct the City Manager to reject all proposals and conduct a new process.

This Office interviewed three well-qualified firms in connection with the request and selected the PFM Group to perform the review. Their report is attached. The report and findings will be presented to the City Council at its meeting of June 14, 2016 by Russ Branson, Director at PFM Group. He will be available to answer questions.

**SUGGESTED ACTION:**

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By

AMY R. WEBBER  
Deputy City Attorney

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Attachment



**The PFM Group**

Public Financial Management, Inc.  
PFM Asset Management LLC  
PFM Advisors

# **CITY OF LONG BEACH, CA**

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## **REVIEW OF THE RECYCLING SERVICES RFP PROCESS**

# **FINAL REPORT**

June 14, 2016

**THE PFM GROUP**  
[www.pfm.com](http://www.pfm.com)

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# Executive Summary

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The City of Long Beach (City) engaged Public Financial Management (PFM) to provide an independent review of the proposal and evaluation process for RFP PW15-091 for Recyclables Collection Services. In addition to the review of the RFP process, PFM was directed to review and comment on the written and verbal protests and comments from the vendors.

The following findings reflect PFM's independent conclusions regarding the City's development, execution, and evaluation of RFP PW15-091. These findings are based on a detailed assessment of documents provided by the City, as well as supplemental interviews conducted with various internal and external stakeholders in the RFP process.:

- The City has three options in moving forward with the recycling services RFP:
  - Accept the staff recommendation and award to Waste Management;
  - Follow the HF&H low-cost recommendation and award to EDCO; or,
  - Reject all proposals and re-issue RFP PW15-091.
- Although several issues were identified with the implementation of the RFP process used by the City, the major concerns raised by Republic Services in the letter of protest and EDCO in the letter of comment letter do not justify the reissuance of the RFP. All vendors received fair treatment during the process, and the recommendation made by the evaluation committee was made in accordance with the framework of the RFP provisions.
- The recommendation received from the City's consultant to support the RFP process was developed after thoughtful review of the technical and cost proposals submitted by the vendors in July 2015, and the subsequent alternative cost proposals received from the requests for information. **Based on PFM's review, it is recommended that the City award to either Waste Management or EDCO.** Either choice is within the bounds of the HF&H evaluation and recommendation.
- Although irregularities in the RFP process did occur, the issues did not unduly hinder the proposal or evaluation process. Each vendor was provided ample opportunity to clarify the RFP process and ask any further questions regarding an individual proposal. Although the intended first-year compensation in the Republic Services cost proposal was not clear to the evaluation team, the corrections to the tables used in the RFP evaluation do not move Republic Services to a position of being recommended for award of the contract.



# Introduction

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In April of 2015, the City of Long Beach issued a request for proposal (RFP) for non-commercial recycling services in the City. The recycling contract covers both collection and processing and provides an exclusive right to provide these services for the chosen vendor. For the past twenty-two years, the City has utilized the services of Waste Management (WM) for recycling collection and processing. RFP PW15-091 for Recyclables Collection Services was released on April 21, 2015 and responses were due to the City by July 1, 2015. The City engaged HF&H Consultants, LLC (HF&H) to support the Purchasing Division by assisting in the construction of the RFP and providing technical expertise during the evaluation process. Four proposals were submitted:

- USA Waste of California, dba Waste Management of Los Angeles (“Waste Management”);
- Arakelian Enterprises, Inc., dba Athens Services (“Athens”);
- Consolidated Disposal Service, LLC, (“Republic Services”); and,
- EDCO Waste & Recycling Services (“EDCO”)

Over the course of the next several months, the City, in conjunction with HF&H, completed a review of the four proposals, and after requesting additional information and asking for cost quotes on three additional service options, City staff recommended contract award to Waste Management. The selection was made in January 2016 and presented to City Council for approval on March 8, 2016. In the intervening period of time, Republic Services entered an official protest over the award. EDCO submitted a comment letter to clarify information included in the proposals, but did not file a protest with the City. City Council has not yet acted on the staff selection, and at the March 22, 2016 Council meeting, directed the City Attorney to cause a review of the process to be conducted and return to the City Council for further action consistent with the review.

PFM was engaged to provide an independent review of the RFP process and to review and comment on the written and verbal protests and comments from the vendors.

## SCOPE OF REVIEW

The City Attorney’s Office directed PFM to review the following items related to the RFP process for recycling services:

1. All written protests and comments;
2. Verbal allegations made at the March 8, 2016 City Council meeting by vendors;
3. RFP forms as to whether they were confusing or otherwise problematic;
4. Information submitted by proposers and whether the information was properly utilized, specifically including numeric values used during the evaluation of proposals;
5. Steps in the RFP process, including the requests for additional information, including the role of the consultant that was used to assist in the process, and
6. Comments on how the City can change its process for future RFPs.



# Introduction

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During this review, PFM was asked to provide opportunities for the four vendors who submitted proposals to make statements on the process, and to contact City staff and consultants regarding their roles in synthesizing and analyzing the information provided in the proposals. In addition, PFM was directed to review all available documentation provided by and to the City. During the course of the evaluation, PFM received over 60 electronic documents totaling over 1,400 pages of material.

This report provides the results of this review. In summary, although there were several issues identified during the course of the RFP process used by the City, the major concerns raised by Republic Services in the letter of protest and EDCO in the letter of comment do not justify the rejection of all proposals and the reissuance of RFP PW15-091. All vendors received fair treatment during the process, and the recommendation made by the evaluation committee was made in accordance with the framework of the RFP provisions.



# Findings and Recommendations

## FINDINGS

The following represent the findings from PFM’s review of the City’s recycling RFP process:

**Table 1: Summary of Findings**

Finding	Impact on Process
1. The City’s RFP outlined a reasonable process to solicit, review, and select a vendor for recycling collection and processing services. The process allowed each vendor to fairly present their services to the City.	Positive
2. The RFP process included strict parameters to ensure an even playing field for all vendors, including: <ul style="list-style-type: none"> <li>a. Limited access to City staff;</li> <li>b. Set date for submission of clarifying questions; and,</li> <li>c. Forms to show financial data.</li> </ul>	Positive
3. The RFP also included provisions for the City to change stated parameters if it was beneficial for the City to do so.	Positive for City/adds uncertainty for vendors
4. The financial exhibits required for inclusion in the cost proposal lacked clarity in the recycling cost and revenue portions; however, only Republic Services completed this section incorrectly—relative to providing accurate pricing. There were at least three opportunities to seek clarification on how to properly show the financial data, which Republic did not take advantage of.	Minimal ( <i>City’s inclusion of proper pricing did not change the recommended outcome</i> )
5. Over the course of the evaluation of the proposals, the City made several changes to the RFP parameters. In particular, the City: <ul style="list-style-type: none"> <li>a. Answered questions submitted by Waste Management 10 days after the deadline for such submission;</li> <li>b. Requested vendors to provide three additional cost proposals based on changes suggested by Waste Management;</li> <li>c. Did not require vendors to submit revised financial exhibits for the 10-year cost proposals to show detailed financial information; and,</li> <li>d. Communicated at least one cost proposal request outside of the RFP communication protocol</li> </ul>	<ul style="list-style-type: none"> <li>a. Minimal</li> <li>b. Significant (<i>Changed likely outcome from initial cost proposals</i>)</li> <li>c. Moderate (<i>Makes it difficult to compare proposals</i>)</li> <li>d. Minimal (<i>All vendors understood the request and submitted proposals</i>)</li> </ul>



# Findings and Recommendations

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Finding	Impact on Process
6. The evaluation criteria outlined in the RFP were all considered by HF&H in the evaluation process. Factors were given no specific weight, and all vendors were determined to be qualified to provide the services. Issues relating to processing (e.g., residue rate) were listed, but it is not clear that differences were considered in the final recommendation. In the end, cost and disruption to customers with a transition were the primary factors utilized to determine the recommended vendor.	Moderate ( <i>The criteria used in choosing a vendor were reasonable and considered all listed factors; however, it was not clear how different factors were utilized in the final recommendation</i> )
7. In an effort to choose a vendor by the end of 2015, City staff neglected to fully follow the processes laid out in the RFP: <ol style="list-style-type: none"> <li>a. All communication through City Contact</li> <li>b. Requiring detailed financial data for all cost proposals</li> </ol>	Moderate

## RECOMMENDATIONS

The City has three options in moving forward with the recycling services RFP:

1. Accept the staff recommendation and award to Waste Management;
2. Follow the HF&H low-cost recommendation and award to EDCO; or,
3. Reject all proposals and re-issue RFP PW15-091.

While the RFP process used by the City was not executed perfectly, the major issues raised by Republic Services in their protest and EDCO in their comment letter do not justify re-issuing the RFP. All vendors were treated fairly in the process, and the staff recommendation is made within the bounds of the RFP structure.

The HF&H November 24, 2015 “Evaluation of Recyclables Collection Services Proposals” provided the following conclusion to its review:

“The City has received proposals from four qualified companies that are successfully providing the requested services in other cities. All of the proposed core services are similar. Of the four proposals received, the EDCO and Waste Management proposals are the most cost effective, and both have very good references from the Cities they serve, with EDCO’s references providing a slightly higher overall rating. If the City desires to award the contract to the lowest-cost proposer and reduce current costs, then the EDCO proposal is the most favorable. Alternatively, if the City is highly satisfied with Waste Management and desires to continue services with a known entity and avoid a service provider transition, albeit at a higher cost, then the Waste Management proposal is favorable.”





## Findings and Recommendations

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HF&H's recommendation is supported by the technical and cost proposals and subsequent alternative cost proposals. **Based on PFM's review, it is recommended that the City award to either Waste Management or EDCO.** Either choice is within the bounds of the HF&H evaluation and recommendation.

Although irregularities in the RFP process did occur, the issues did not unduly hinder the proposal or evaluation process. Each vendor was provided ample opportunity to clarify the RFP process and ask any further questions regarding an individual proposal. Although the intended first-year compensation in the Republic Services cost proposal was not clear to the evaluation team consisting of City staff and HF&H consultants, the corrections to the tables used in the RFP evaluation do not move Republic Services to a position of being recommended for award of the contract.

Recommendations for future RFPs are provided in the report section titled "Recommendations to Improve the RFP Process."



# Overview of the Request For Proposal

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In general terms, the City has two options when seeking contract services from outside vendors: a bid process or an RFP process. A bid is most often used for purchasing items or services that can be easily quantified and measured. When using the bid process, the City is required to select the bid from the qualified vendor with the lowest price. In contrast, the City has more latitude in selecting a vendor when using the RFP process. In this process, the City can make use of a broader set of selection criteria, of which price is a single factor.

## KEY RFP REQUIREMENTS

While an RFP offers a great deal of flexibility in the evaluation and selection of vendors and negotiation of a final contract, the City laid out a set of rules and conditions in RFP PW15-091 that were meant to provide boundaries for the proposers, as well as the City. Some of the key RFP provisions related to this review are discussed below.

Key "Scope of Project" Provisions	RFP Section
Proposed compensation to be provided on a flat monthly rate, adjusted annually.	3
Compensation adjusted annually based on changes in the Consumer Price Index (CPI) <sup>1</sup> and the gate rate at the Southeast Resource Recovery Facility (SERRF).	3
Contractor to replace all carts in the fourth year of contract up to 110,000 carts. Any carts over that amount will be reimbursed by the City.	3
Required guaranteed maximum residue rate, with liquidated damages for failure to achieve the guarantee.	3
California Redemption Value (CRV) payments above \$700,000 in each calendar year to be remitted to City.	3
50% of net recycling revenue in each calendar year to be remitted to the City.	3

The required [Scope of Project](#) provisions in the RFP described the required terms of the project on which a vendor was to base the technical and cost proposals. When the RFP was released, vendors raised concerns over two key items, specifically the [contract term](#) and the [cart replacement requirements](#). The initial response from the City was that there would be no change in these provisions. Over time, these items became variables used by the City to reduce the cost of the final contract.

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<sup>1</sup> The RFP states that the City would use the United States Bureau of Labor Statistics (BLS) Consumer Price Index for All Urban Consumers (CPI-U) all items index, U.S. city average, to adjust the monthly rate.



# Overview of the Request For Proposal

Key “Submittal Instructions” Provisions	RFP Section
“Unless specifically authorized elsewhere in this RFP, the City Contact is the City’s only point of contact and source of information for this procurement... These rules are designed to promote a fair, unbiased, and legally defensible procurement process.”	4.1
“Unless otherwise specifically noted in this RFP or authorized by the City Contact, all Proposer communication with the City will be between the Respondent’s Representative and the City Contact. <b>All such communication that may be relied upon must be in writing (by mail or email).</b> ” <sup>2</sup>	4.1.1
“The City will not be responsible for or bound by (1) any oral communication or (2) any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the City Contact.”	4.1.5
“If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the proposal and specific references made to the tab, page, section and/or paragraph where the supplemental information can be found.”	4.9
Proposals must be submitted in two distinct parts: <ul style="list-style-type: none"> <li>▪ Narrative, or technical proposal</li> <li>▪ Cost proposal</li> </ul>	4.10

The **Submittal Instructions** outlined the rules governing contact with the City, the required components of the proposals, and the critical path of the steps to be taken to submit the proposals. These provisions also became a point of contention between the vendors and the City. Three key points in these instructions were:

1. The “City Contact” is the only point of contact or source of information to be relied upon;
2. All communication must be in writing; and,
3. The City will not be bound by communication that happens outside of this process.

These rules describe the primary means of communication with the City, which specifically stated who the information comes from (the “City Contact”), and how information is to be delivered to the City (in writing). These rules were included in the RFP to create a single point of contact with the vendors, and to protect the vendors against receiving differing or inconsistent information.

In order to evaluate technical capabilities apart from the cost proposal, the City required the vendors to submit two separate proposals. By separating the technical proposal from the cost proposal, the City allowed the selection team to focus the first portion of the evaluation on the qualifications of each vendor. In the evaluation report submitted to the City, HF&H indicated

<sup>2</sup> Emphasis added by PFM.



# Overview of the Request For Proposal

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that all vendors were deemed to be qualified to respond to the RFP. Once the qualifications of each vendor were confirmed, the cost proposal became a critical component of the evaluation criteria.

Key “Proposal Evaluation and Award Process” Provisions	RFP Section
Evaluation Criteria: <ul style="list-style-type: none"> <li>▪ Proposer Qualifications</li> <li>▪ Technical Qualifications               <ul style="list-style-type: none"> <li>○ Maximum residue rate</li> <li>○ Implementation plan</li> <li>○ Reasonableness of operations</li> </ul> </li> <li>▪ Exceptions to the Terms and Conditions</li> <li>▪ Financial Resources</li> <li>▪ Proposed Compensation               <ul style="list-style-type: none"> <li>○ Cost of service relative to other proposals</li> <li>○ Reasonableness of compensation—logically consistent with operational assumptions</li> </ul> </li> </ul>	5.1
“The City may contact the references provided in the proposal (see Section 4.12, C.2); contact any proposer to clarify any response; contact any current users of a proposer’s services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The City shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of the City of Long Beach.”	5.3
“The City reserves the right to request clarification of any proposal term from prospective contractors.”	5.4

The [Proposal Evaluation and Award Process](#) included provisions to establish criteria for evaluation of the proposals, to outline processes to request additional information from the vendors, and to describe the notification and award process. One area of dispute between the vendors and the City arose around the City’s requests for additional information, which were used to receive cost proposals for the alternative scenarios involving changes to the contract term and the cart replacement requirements. During the City Council meeting on March 8, City staff referenced Section 5.3 of the RFP to support the City’s right to request cost proposals for the alternative scenarios. Furthermore, this section was highlighted to reinforce the evaluation criteria used in the RFP process, which allows the City to consider multiple criteria, in addition to price, when awarding the contract to a vendor.



# Overview of the Request For Proposal

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Key “Terms, Conditions, Exceptions” Provisions	RFP Section
Contract term of 7-years with optional extension of three years on a month-to-month basis The contract term would not exceed ten years.	13.1
“The City reserves the right to alter, amend, or modify any provision of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.”	13.2
The City will not be obligated to accept the lowest priced proposal.	13.5
“Any irregularities or lack of clarity in the RFP should be brought to the Purchasing Division designee’s attention...no later than the deadline for submitting questions per the schedule...”	13.6
“The City reserves the right to negotiate final contract terms with any proposer selected.”	13.23

The key provisions of the [Terms, Conditions, and Exceptions](#) are critical to the protest issues and questions raised about the RFP process. The terms included in the RFP provided the option to extend the 7-year term by three years; however, the full 10-year term was not guaranteed in the original RFP language. The section also provided the City with the ability to alter RFP terms in two specific instances: 1) At any time (Section 13.2), and 2) During contract negotiations (Section 13.23). Additionally, these terms made clear that the lowest price would not guarantee an award of the contract. Lastly, irregularities or clarifications were required to be raised by May 22, 2015, the deadline for submitting questions to the City (Section 13.6).



# Cost Exhibit Forms

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In addition to the technical proposal, RFP PW15-091 required each vendor to submit a separate cost proposal to provide operational and financial data to be considered during the evaluation process. These forms were submitted as Exhibits I to IV (see [Appendix C](#)), and were intended to provide the City with information regarding:

1. An estimation of the types of routes used by the vendors and the hours per route;
2. A proposed monthly and first-year contract cost;
3. A detailed revenue and expense proposal to determine the revenue needed from the City to execute the contract and to provide the City with estimated revenues from CRV payments and recyclable materials sales remitted to the City<sup>3</sup>; and,
4. A summary of components of the cost proposal in dollar amounts and as a percent of total estimated costs.

Each vendor was required to include these exhibits in the July 1, 2015 proposal submittal. However, the City did not require, or request, for the exhibits in the subsequent requests alternative cost proposals. Two vendors provided the supporting exhibits for the alternative price proposals. Waste Management submitted Exhibits II to IV for the alternative scenario with carts replaced on an “as needed” basis in the initial cost proposal submission received on July 1, 2015. Following the City’s requests for additional information on August 5 and September 29, Republic Services provided revised Exhibits I to IV for each of the alternative proposals.

The City’s RFP, as borne out in the financial forms, requested each vendor to provide a single first-year fixed price to the City for the collection of recyclable materials. During the term of the contract, the first-year price would escalate based on annual changes in the BLS the Consumer Price Index for All Urban Consumers (CPI-U) all items index, U.S. city average, and the gate rate charged at the SERRF. As a part of the annual fixed price, the vendor was required to remit all CRV revenues in excess of \$700,000 and half of the net recycling revenue to the City. The revenue assumptions used by the vendors impact the final fixed price charged to the City. For a given proposal, higher net recycling revenue would decrease the overall cost of the vendor’s price and increase the revenue remitted to the City.

Actual revenue remitted to the City will depend on a combination of the vendor’s capabilities in processing recycling materials and commodity prices for recyclable materials. Over the past several years, the market for recyclable materials has been relatively volatile, and commodity prices have declined for several categories of materials. The table on the following page shows the trends in composite market indices developed by the Global Recycling Network, an industry source for commodity pricing. Each composite index is comprised of several types of materials.

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<sup>3</sup> RFP PW15-091 required CRV payments over \$700,000 per year and 50% of revenues from the sale of recyclable materials to be remitted to the City.



## Cost Exhibit Forms

**Table 2: Commodity Price Changes in Recycling**

Composite Index <sup>4</sup>	1-Year Trend	2-Year Trend
Curbside Recycling	-10.34% ↓	-13.48% ↓
Recycled Plastics	-7.92% ↓	-12.99% ↓
Scrap Glass Recycling	12.59% ↑	30.13% ↑
Scrap Metals	-9.82% ↓	-26.65% ↓
Waste Paper	-6.79% ↓	0.12% ↑

As shown in **Table 2** above, the composite indices for most of the recyclable materials, with the exception of scrap glass recycling, have declined over the past year. Three of the five composite indices exhibited greater declines over a two year period, and the waste paper index was nearly unchanged. Industry news sources further confirm the trend of lower commodity prices for recyclable materials.<sup>5</sup>

The revenue from recycling, as well as the payments to the City, are included in each vendor's calculation of the "annual revenue requirement" submitted in Exhibits III and IV. This calculation does not guarantee any amount of recycling revenues to the vendor or the City. If a vendor assumes high recycling revenues, the annual fixed price proposal to the City will be reduced, and the projected revenues remitted to City will be increased.

One area of contention with the RFP forms focused on the types of revenues requested in the cost proposal exhibits. The RFP requested vendors to submit the gross cost of recycling processing, and the net recycling revenue. This became a point of confusion for Republic Services, as discussed later in this report. While other vendors used the same forms, they made adjustments in their numbers to account for the different types of revenues. However, the

<sup>4</sup> Global Recycling Network. Composite Recycling Indices. Accessed May 10, 2016. Available at <http://www.grn.com/>.

<sup>5</sup> Boulanger, Robert. Waste360.com. December 10, 2015. "Post-Consumer Recyclable Materials Prices Continue on Roller Coaster Ride." Available at: <http://waste360.com/commodities-pricing/post-consumer-recyclable-materials-prices-continue-roller-coaster-ride>.

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## Cost Exhibit Forms

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lack of uniformity in other vendors' responses is an indication of a lack of clarity in this portion of the forms.

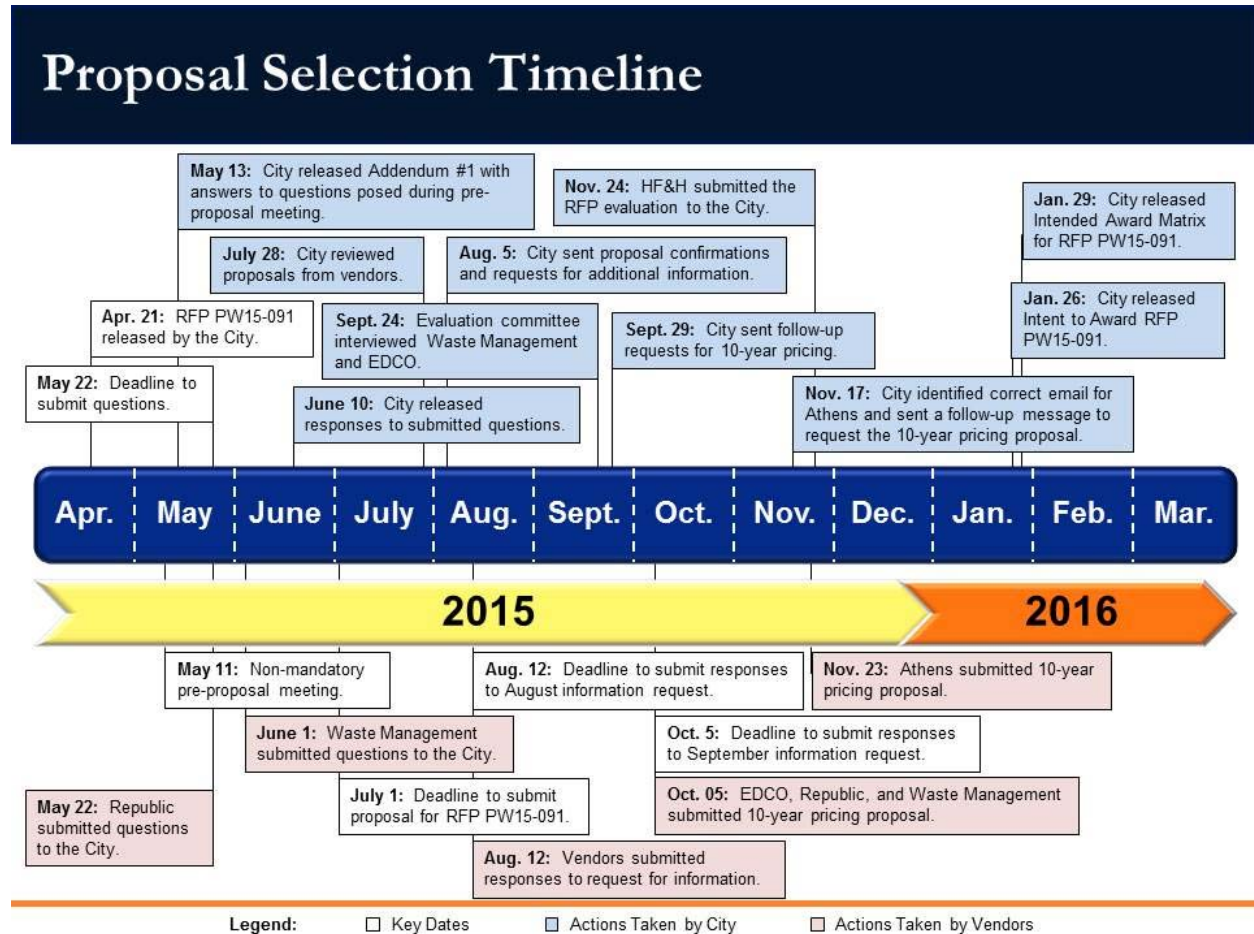




# Proposal Selection Timeline

The timeline of events for the evaluation process of RFP PW15-091 is complex, and unfolded over a period of approximately nine months before a final recommendation was presented to the City Council.

The exhibit below provides the timeline in the RFP proposal selection process.



Anomalies in the process began to occur when the City requested an alternative cost proposal in messages sent to vendors on August 5, 2015 to confirm the receipt of the proposals. In the August communication, the City requested revised price proposals if the cart replacement requirement was changed to an “as needed” basis. Vendors were requested to submit supporting calculations in the form of revised cost exhibit forms. Of the four vendors, Republic Services provided the revised exhibits in full. Athens and EDCO did not offer revised cost proposals; however, EDCO pointed to their alternative cart replacement structure. The request mirrored the alternative cost proposal provided by Waste Management in their initial technical and cost proposal submissions. As a result, Waste Management was not asked to provide a revised cost proposal in the August information request.



## Proposal Selection Timeline

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Approximately six weeks later, all vendors were subsequently contacted by the City to provide two additional cost proposals for a 10-year contract term, and scenarios showing the costs with and without guaranteed cart replacement in year 4 of the contract. None of the vendors was required to submit revised exhibits included in the initial cost proposals; however, it should be noted that Republic Services included revised exhibits for the new scenarios. This expanded contract option also resulted in hour-long interviews for Republic Services and Athens, who were not included in the September 24, 2015 interviews.



## Vendor Comments and Protests

There were several issues raised by vendors regarding the process of the City in executing RFP PW15-091. The discussion below addresses the major issues identified with the RFP process. **Appendix D** provides a complete list of written and verbal comments, the City's response, and PFM's view on each issue raised.

1. **Alternative cost proposals:** The City requested a single cost proposal in the original RFP to be submitted by the July 1, 2015 deadline. By the time City staff chose the recommended vendor for the contract in January 2016, the City had requested three alternative cost proposals. In the last two cost proposals, the vendors were not required to complete Exhibits I to IV as they were in the subsequent cost proposals. Republic Services did submit these in any event. Athens did not submit detailed supporting information as required in the second alternative cost proposal.

Over the course of the three months following the initial proposal date, the City requested the alternative cost proposals from the vendors. The August 2015 request for additional information was submitted to the vendors in response to an alternative cost proposal provided by Waste Management in the initial RFP submission. The September 2015 request for additional information was submitted to vendors in order to obtain cost proposals for a 10-year contract term. During the pre-proposal meeting on May 11, 2015, Republic Services submitted a question to request whether the City would consider a 10-year contract term. In the "RFP Questions & Answers" document released by the City on June 10, 2015, the City stated that there would be "no change" to the RFP provisions in regards to the contract term. However, the City reconsidered its position following the completion of the first round of vendor interviews on September 24, 2015. The City received additional suggestions to consider a 10-year contract term, and City staff decided to submit requests for information from the vendors to determine if further savings could be achieved with the longer contract term. The result of these costs proposals is provided in **Table 3** below.

**Table 3: First Year Pricing by Cost Alternative**

Vendor	7-Year Term			10-Year Term		
	Year 4	As Needed	Difference	Year 4	As Needed	Difference
<b>Athens Services</b>	6,889,000	6,216,000	(673,000)	6,781,000	6,146,000	(635,000)
<b>EDCO</b>						
Evaluated (Low)	3,484,000	3,484,000	0	3,400,000	3,194,000	(206,000)
Evaluated (High)	3,484,000	3,484,000	0	3,400,000	3,325,000	(75,000)
<b>Republic Services</b>						
Evaluated	7,377,000	6,822,000	(555,000)	7,085,000	6,762,000	(323,000)
Intended	4,745,000	4,259,000	(486,000)	4,454,000	4,131,000	(323,000)
<b>Waste Management</b>	4,614,000	3,807,000	(807,000)	3,700,000	3,500,000	(200,000)

**Analysis:** City staff and the consultants from HF&H indicate that the alternative cost proposals were requested in order negotiate the best possible annual fixed price for the



## Vendor Comments and Protests

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City's rate payers. In Sections 5 and 13 of the RFP, the City reserved the right to change the RFP provisions for the benefit of the City. These requests appear to fall within the terms outlined in these provisions. Several items of note in regards to the requests for the alternative cost proposals include:

- The request for the 10-year alternative cost proposals did not require the same level of financial disclosure as did the cost proposal required in the original proposal submission and the 7-year contract with cart replacement as necessary. It was reported by City staff that the evaluation team encountered time constraints to complete the selection process. This was cited as the primary reason that the same standard was not required for all cost proposals.
- The lack of detailed cost data makes it difficult to track the changes in contract prices for each of the vendors.

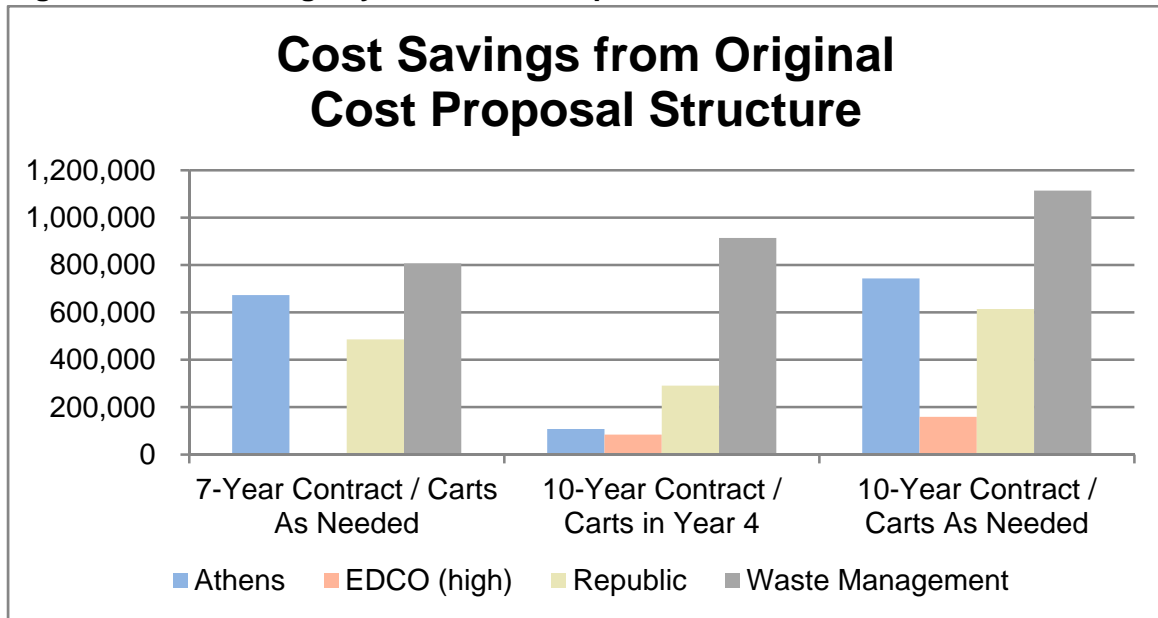
When Waste Management estimated the costs of changing the terms of the 7-year contract to replace carts on an as needed basis, the proposals yielded a reduction in cost of approximately \$807,000. However, under the terms of the 10-year contract, the proposed savings of replacing the carts on an as needed basis resulted in a reduction of approximately \$200,000.

**Figure 1**, on the following page, shows the savings by vendor in each subsequent cost proposal when compared to the cost proposal submitted in the response to the RFP on July 1, 2015. As this chart shows, Waste Management had the largest reductions in cost for all proposals; however, under a 10-year contract term and the requirement to replace carts on an as needed basis, Waste Management's reduction in cost is not congruent with the other vendors. Because no detailed cost sheets were required for the 10-year proposal, the source of the differences in the cost proposals cannot be determined. Given the limited information available in the alternative proposals, it is difficult to understand the assumptions used to estimate the Waste Management cost savings.



# Vendor Comments and Protests

**Figure 1: Cost Savings by Alternative Proposal**



- Finally, it should be noted that while the provisions in the RFP allowed the City to negotiate the additional cost proposals with the vendor, the City provided all of the vendors with the opportunity to prepare cost proposals for the alternative scenarios. Furthermore, the City offered opportunities for the vendors to discuss the details of the cost proposals for the alternative scenarios. The City interviewed Waste Management and EDCO in response to the August 2015 request for additional information, the City subsequently provided a one-hour in-person discussion with Republic Services and Athens to review the 10-year contract options in response to the September 2015 request.

**Impact on RFP Process:** Under each of the alternative scenarios, the rank order of the cost of proposals remained unchanged. (EDCO lowest, Waste Management second lowest, Republic Services third, and Athens highest). However, the successive cost proposals improved Waste Management’s cost position significantly and narrowed the gap between the firm’s proposals the proposals submitted by EDCO.

**Conclusion:** The City specifically stated in the RFP that cost would not be the determinative factor in choosing a vendor to provide recycling services. Furthermore, the RFP provided the City the ability to change provisions of the RFP if in the best interest of the City. The resulting lower cost proposals show that the alternative cost proposal requests were in the best interest of the City and ratepayers. Although the City did not receive revised cost exhibits from all vendors in the requests for cost proposals with alterations to

## Vendor Comments and Protests

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the contract term and the cart replacement requirements, the alternative cost proposals should be considered responsive and should not invalidate the evaluation of the RFP.

2. **Unclear financial forms:** Republic Services has claimed that the exhibits required for the cost proposal were unclear and led to a misunderstanding of how to show their proposed first-year fixed cost to the City.

**Analysis:** The confusion experienced by Republic Services was caused by the firm's interpretation of Exhibit III from the RFP. This exhibit requested detailed expenses and revenues from each vendor in order to calculate the annual revenue requirement. The City's intended the Exhibit to provide the first year fixed cost of the contract.

Republic Services stated that the firm misinterpreted the gross cost of recycling processing and the net revenue received by the firm from this activity. The gross cost listed on Exhibit III of each of the cost proposals submitted by Republic Services showed the firm's expected internal cost allocation for the recycling plant owned by the firm. The revenue listed, as instructed in the form, was entered as net revenue. This figure was shown net of costs to process the recyclable materials. As a result, the calculation inflated the "Total Revenue Requirement" for Republic Services to include both payment from the City and expected recycling revenue that would offset the cost of material processing.

Exhibit II required the proposer to enter the total first year compensation, and a footnote stated that the figures should include all revenue sources. In the next row, the proposer was required to enter the total first-year revenue requirement from row 22 of Exhibit III. As explained in the footnote for row 22, the proposer was asked to explain any differences "between its proposed first-year compensation and its estimated first-year revenue requirement." Republic Services did not show any difference in the estimated first-year compensation and the first-year revenue requirement from Exhibit III. The firm appears to have been confused by the first footnote included in Exhibit II, which required the first-year compensation to be "inclusive of all compensation." Instead of showing a difference between the two figures and providing an explanation, Republic Services included its fee to the City in an asterisk on Exhibit II, which was net of expected recycling revenues.

HF&H indicated that the cost exhibit forms were intended to provide guidance to each vendor in preparing the cost proposal to ensure that the submittal included all of the anticipated revenues and expenses as described in the provisions of the RFP. Exhibit II was intended to show the proposed first-year compensation. In order to provide supporting details for the first-year compensation, Exhibit III was intended to provide vendors with the opportunity to show the assumptions used to arrive at the proposed first-year compensation figure. The estimates provided in Exhibit III were supposed to reflect the operations described in the vendor's technical proposal.



## Vendor Comments and Protests

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The instructions included for each exhibit could be interpreted in various ways by the proposers and result in confusion regarding the information requested by the City. However, it is important to note that:

- The other three vendors did not make the same mistake as Republic Services, and adjusted their numbers to reflect the total expected costs and revenues. However, the vendors did not use uniform methods to adjust the costs and revenues, which make it difficult to compare the numbers included Exhibit III.
- Republic Services did not submit questions to the City in writing in order to request clarification of the exhibits, as required by the provisions of the RFP. Instead, the firm indicated that staff members contacted the City by phone to request clarification. However, the request was made after the May 22, 2015 deadline to submit questions to the City. The phone request was not confirmed by City staff.
- After the initial review of each proposal, City staff prepared summaries of the proposals and submitted them to the vendors for review. In the request, the City staff requested each vendor to confirm the details of their proposal and to explain any inaccuracies in the presentation of data. In the summary of the Republic Services proposal, the City included the firm's first-year compensation amount of \$7,376,537, but the summary did not show an acknowledgement of the asterisk which showed the actual first-year compensation being proposed.

Republic Services did re-state their intended first-year cost to the City in their response to the City's proposal confirmation; however, they did not ask for clarification over their confusion of Exhibit III even though the City did not recognize their first-year cost in that confirmation.

**Impact on RFP Process:** Although the exhibits required to complete the cost proposal contained some confusing aspects, Republic Services encountered two opportunities to request clarification from City staff: 1) during the period allowed to submit question, and 2) in response to the City Evaluation Summary Review when there was no indication from the City that they had seen or were incorporating Republic's actual cost proposal.

The "Proposed First Year Monthly Compensation" requested in Exhibit II appears to be clearly asking for the price to be charged the City for the recycling services contract. Republic Services did not correctly interpret this portion of the exhibit, and the firm did not get clarification from the City on this very important point. This had a negative impact on Republic Services in the RFP review process; however, even when the intended cost proposal is taken into account, the firm was not the low-cost bidder. After Republic Services submitted the letter of protest, the City incorporated the firm's intended proposed cost in its overall evaluation criteria of the cost proposals. The tables used in the analysis by City staff



## Vendor Comments and Protests

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were corrected to show the proposed first-year compensation included by asterisk in Exhibit II of the Republic Services submittals.

**Conclusion:** There were several opportunities to clarify the instructions to complete the exhibits for the cost proposal, as well as to provide a clearer indication of the cost to be charged to the City in the proposal. Republic Services did not take advantage of these opportunities to ensure that the firm's proposal was evaluated in the proper context. The issues related to the interpretation of the cost proposal exhibits should not invalidate the RFP process.

- 3. Consideration of recycling revenue:** Republic Services raised an issue regarding the evaluation of recycling revenues and the consideration of the revenues in the overall determination of lowest-cost vendor. In the protest letter submitted to the City, the firm noted that their expected revenue to the City of \$741,000 (inclusive of \$270,000 in CRV and \$471,000 in net recycling revenue) was the highest provided by any vendor.

**Analysis:** The projected recycling revenue from Republic Services was the highest among the proposing vendors. This has the simultaneous effect of lowering their overall cost to the City and increasing the projected recycling revenue that could be provided to the City. The following is the net reduction in costs (net recycling revenue less allocation to the City) associated with the proposals from each vendor:

- Republic, (\$1.17 million);
- Athens, (\$943,000);
- EDCO, (\$836,00); and,
- Waste Management's (\$680,000)

As noted in the "Cost Exhibit Forms" section of this report, the recycling revenue amounts are not guaranteed, and inclusion of the recycling revenue in the proposals serves to transfer the risk associated with this revenue to the vendor.

Even with the higher recycling revenue assumption in the Republic Services proposal, the firm remained third highest cost across all cost proposals (see **Table 3**). Because the recycling revenues are not guaranteed to the vendor, the City included them broadly within the total cost evaluation. Furthermore, City staff did not treat these revenues as guaranteed sources for use by the City.

**Impact on the RFP process:** The City's goal in this RFP was to request a single annual cost for recycling services. The projected recycling revenue was not specifically stated in the evaluation criteria outlined in the RFP provisions. Under the structure of the RFP, revenue collected by the vendor for recyclable materials and revenue remitted to the City are not guaranteed to either party. Overall, the analysis conducted during the evaluation process by the City staff and the consultant was within the RFP methodology.





## Vendor Comments and Protests

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**Conclusion:** The higher amount of revenue to be remitted the City in the cost proposal submitted by Republic Services is offset by higher assumed total recycling revenue. Even with this deduction, the proposed first-year fixed compensation from Republic Services was third highest in every cost proposal. The intended cost proposal should be annotated in the evaluation of the cost proposals, which has already been completed by City staff, and the results should not invalidate the recommendations made by the evaluation committee.

- 4. Cart-replacement requirement:** Waste Management included an alternative scenario in the firm's technical and cost proposals submitted on July 1, 2015. The alternative scenario proposed revisions to change the cart replacement requirements to an as needed basis, which was consistent with the current contract requirement. The alternative cost proposal resulted in significant changes to the proposed first-year compensation, which was decreased by approximately \$807,000. All other proposers were requested to provide a similar quote in August 2015.

**Analysis:** The original requirement to replace carts in year four of the contract had the effect of putting all vendors on an even playing field and allowed the City to evaluate all proposals under a similar set of assumptions. As the current vendor for recycling services, Waste Management has detailed records of existing cart conditions and the expected need for replacement over the next seven to ten years. This information was not provided to the other vendors, thus providing Waste Management an advantage in estimating the costs of cart replacement. Under the terms outlined in the RFP, there was no reason for the other vendors to request this information because all carts were required to be replaced in year four of the contract. When the City submitted the August 2015 request for additional information to receive cost proposals with the new cart replacement requirement, vendors were given a seven day turnaround. This did not allow the vendors enough time to conduct due diligence to obtain cart-condition information.

**Impact on RFP Process:** The vendors were not provided enough operational information to develop well-defined cost proposals when the City requested the alternative cost proposal with the changes to the cart replacement requirements. The change in cart replacement requirements shifted the advantage to Waste Management because the firm had greater access to information regarding the current condition of the carts. It should be noted that at least one of the vendors conducted a field review of the carts to determine their condition. However, a visual inspection of the carts would not be a perfect substitute for first-hand experience with the City's carts.

**Conclusion:** According to Section 13.2 of the RFP, the City had the right to request vendors to develop new cost proposals under the new cart replacement requirements. Although the change in requirements may have been favorable to Waste Management given the firm's access to information regarding the condition of the carts, the firm was not the low-cost vendor under the proposed terms. This change should not invalidate the RFP process;



# Vendor Comments and Protests

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however, the difference in information when pricing this option clearly put vendors at a disadvantage when compared to Waste Management.

5. **Sole communication through City Contact:** The City required all communication with vendors to come through the designated City Contact. For the purposes of executing RFP PW15-091, the City designated Michelle King as the City Contact. However, the request for additional information issued on September 29<sup>th</sup>, which requested cost proposals under a 10-year contract term, was sent by Jim Kuhl, the Manager of the Environmental Service Bureau. It has been stated by Mr. Kuhl and Jason MacDonald, Business & Purchasing Service Manager, that Mr. MacDonald authorized this change in RFP procedure due to a staffing shortage in the Purchasing Department<sup>6</sup>.

**Analysis:** According to the terms of the RFP, the City should have issued the request for the 10-year cost proposals through the City Contact. However, none of the vendors raised issues regarding the City Contact when responding in writing to the City's request, and all of the vendors provided cost proposals for the 10-year contract term.

Prior to the City requesting cost proposals for the 10-year contract term, the City had narrowed their proposal consideration to EDCO and Waste Management, and City staff had already performed interviews with these vendors. By allowing Republic Services and Athens to provide cost proposals for the 10-year term, the City provided the firms an opportunity to compete for the contract that they would not have otherwise received.

**Impact on RFP Process:** There does not appear to be any impact on the RFP process. This does reflect a departure from the rules laid out in the RFP, but the impact of this departure is *de Minimis*.

**Conclusion:** The RFP should not be re-issued due to this change in communication protocol.

6. **Evaluation of proposals on listed criteria:** A concern was raised regarding the selection criteria used by the City in evaluating the technical and cost proposals. As listed above, there were five overall criteria used in the RFP process:

1. **Proposer's Qualifications.** All proposers were deemed qualified to provide services to the City.
2. **Technical Qualifications.** Specifically, maximum residue rate, implementation plan, and operations.
3. **Exceptions to the Terms and Conditions.** The exceptions are a starting place for negotiations and would not necessarily be granted by the City.
4. **Financial Resources.** Stability, insurance, etc.

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<sup>6</sup> There is no documentation of the circumstances of this request, or reference to this in Mr. Kuhl's email to the vendors.



# Vendor Comments and Protests

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5. **Proposed Compensation.** Cost-of-service relative to other proposers and reasonableness of compensation.

**Analysis:** HF&H prepared an “Evaluation of Recyclables Collection Services Proposals” for the City dated November 24, 2015. In the evaluation, HF&H included all five criteria listed above. In the discussion of the “Key Terms of the RFP,” HF&H’s stated that: “All of the proposed core services are similar;” therefore, their analysis primarily focused on the cost proposals. The consultants recommended that the City should choose EDCO “if the City desires to award the contract to the lowest-cost proposer and reduce current costs.” Alternatively, HF&H indicated that “if the City is highly satisfied with Waste Management and desires to continue services with a known entity and avoid a service provider transition, albeit at a high cost, then the Waste Management Proposal is favorable.”

Some items in the stated criteria were discussed in the HF&H report; however, it is not clear how they fit into the overall recommendation. For example, EDCO had a lower residue rate, but it is not determined what value that holds for the City.

**Impact on RFP Process:** HF&H utilized the evaluation criteria described in the “Proposal Evaluation and Award Process” section of the RFP. Although the evaluation team did not assign weights to specific selection criteria, they do appear to have been consistent in the evaluation of each vendor.

**Conclusion:** The evaluation process appears to have been fair and unbiased. The recommendations provided to the City provide latitude in making their final selection as outlined in the RFP. Although HF&H’s analysis focused on the cost proposals of each vendor, the terms of the RFP indicated that price alone would not be used as the final selection criteria.

7. **Perceived favoritism of Waste Management:** As the current vendor for recycling services with a long tenure of providing services to the City, Waste Management had significant advantages in constructing technical and cost proposals for RFP PW15-091. Specifically, the firm had:

- An understanding of the intricacies of all of the recycling routes in the City;
- Current and ongoing investments in capital;
- A long-term, positive relationship with the City staff and customers; and,
- Detailed knowledge of the cart condition and expected replacement timing.

In particular, the knowledge of the recycling routes in the City would have provided an advantage to the firm because the selection of Waste Management would not require the transition costs associated with the selection of an another provider. However, all of these advantages are enjoyed by any vendor who currently provides services to the City. Additionally, this familiarity can also work against an existing vendor if they have not been providing acceptable service.



## Vendor Comments and Protests

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Therefore, the City should have been careful to maintain the structure of the RFP process as tightly as possible in order to minimize the impact of any advantage that may have benefited Waste Management.

**Analysis:** As documented above, there are several ways in which the natural advantages of Waste Management were expanded by the structure of the RFP process:

- The City chose to request cost proposals for both of Waste Management's suggestions for alternative cart replacement requirements and contract terms. In contrast, the City chose not to pursue any of the alternative scenarios proposed by EDCO. These alternative scenarios included an up-front payment for cart replacement, and a 15-year contract term. In addition, the suggestion for a 10-year contract term submitted by Republic Services in May was dismissed in the City's response to vendors' questions in the "Questions & Answers" document released on June 10, 2015.
- The pricing of the carts on an as-needed basis favored Waste Management's detailed knowledge of the existing cart inventory.
- The lack of detailed cost tables from the 10-year contract proposal prevented the City from evaluating the source of potential cost savings identified for the cart as-needed cart replacement requirements.
- Questions from Waste Management were submitted after the May 22, 2015 deadline indicated on the cover page of the RFP. However, the City included responses to Waste Management's questions in the "Questions & Answers" document released on June 10, 2015. In contrast, Republic Services reported being told that questions would not be answered after the May deadline when staff members called the City to request clarification about the exhibits to be included in the cost proposal.

Overall, it appears that City staff members were careful to offer each vendor the opportunity to provide cost proposals for the alternative cost replacement requirements and the contract term. When examined individually, none of the issues above rise to a level of impropriety on the part of City staff. However, when examined together the issues point to a process that appears to favor Waste Management.

**Impact on the RFP Process:** No actual impact has been identified; however, it appears that the Waste Management alternative proposal suggestions were the driving force behind the alternative cost proposals requested by the City.

**Conclusion:** The City's evaluation process was designed to create a level playing field between all vendors responding to RFP PW15-091. Although City staff intended to obtain the best price for City customers, the methods used in executing the RFP process have raised concerns from two of the four vendors. In the end, the criteria used to select Waste Management for continued operation of the City's recycling contract is consistent with the purpose of the RFP and within the latitude provided to the City in the RFP process.



# Vendor Comments and Protests

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## **FINDINGS AND CONCLUSIONS**

As noted in the analysis above, there were several areas of concern raised by stakeholders in the RFP process. The concerns identified in the previous section represent the major issues raised by vendors in the protest and comment letters submitted to the City and public comments provided during City Council's consideration of the RFP. For the complete listing of the written and verbal comments, along with the City's response and PFM's analysis, please consult **Appendix D**. During the course of the evaluation of the RFP process, PFM did not identify instances of malfeasance conducted on the part of the evaluation committee, or occasions when a single vendor received undue favoritism during the process. Furthermore, the departures from the provisions outlined in the RFP did not result in significant violations of the terms accepted by the vendors when they submitted their proposals for review. When the major issues are evaluated in whole, none indicate that the City should reject the proposals received from the vendors and re-issue the RFP.



## Recommendations to Improve the RFP Process

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The analysis in the previous sections raised a number of concerns focusing on the execution of the proposal and evaluation process of RFP PW15-091. None of the issues escalated to a level that would suggest that the RFP should be re-issued. However, the issues identified by the City's stakeholders in the RFP process present the City with the opportunity to improve the transparency of the RFP process that leads to sound and objective decisions in the procurement of goods and services. These recommendations are intended to provide the City with a framework to reinforce existing practices and make adjustments to the processes reviewed in PFM's analysis. The process followed by the City in the recycling RFP was reasonable in design, but somewhat flawed in execution. To avoid this, PFM recommends the following suggestions for future RFPs:

- PFM recommends that the City **maintain the boundaries and guidelines outlined in the RFP provisions**. Departures from the provisions in RFP PW15-091, particularly those related to the contract terms and the rules governing communication with vendors, resulted in several of the issues raised by vendors. Although the City reserves the right to alter the provisions of the RFP if such changes would benefit the City, City staff should be vigilant in following the terms issued in the RFP. In many cases the City will encounter the need to modify specific provisions of the RFP; however, the City should be consistent in applying the basic terms describing points of contact, key submission dates, and evaluation criteria. The City can avoid this by taking more time to be clear about their final objectives before issuing the RFP.
- PFM recommends that the City **clarify the instructions provided in cost exhibit forms** provided to vendors. Although three of the four vendors correctly prepared the financial data for the cost exhibit forms, misinterpretation on the part of one vendor caused the evaluation team to review financial information that was not intended to represent the final first-year compensation in the vendor's cost proposal.
- PFM recommends that the City should **consider the use of a weighted point system** to determine the recommended vendor in an RFP process. By using a weighted point system for the evaluation of proposals, the City can plainly summarize the analysis of the various components of technical and cost proposals. In developing the criteria to be used in the evaluation of an RFP, the City should clearly define the elements to be included in the evaluation and, when practical, identify the elements that will receive the most significant weight.
- PFM recommends that the City **continue to engage consultants to support the RFP development and review processes** when the circumstances of an RFP warrant such use. Proposals that require significant technical knowledge of a subject area may require the City to engage contracted professionals to support City staff to develop and evaluate the RFP.



# Conclusions

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RFP PW15-091 for Recyclables Collection Services outlined a logical process to provide the City with the highest level of service at the lowest possible cost. This process included the opportunity for the City to explore different service-delivery options as desired to effectuate a contract that is in the City's best interest.

During the RFP process, City staff members attempted to identify attractive service options that could lower the cost of service from vendors and to complete the selection process given the limited time period to negotiate a new contract before the expiration of the contract extension provided to Waste Management under the current agreement. As a result of the compressed timeline, City staff set aside the established process outlined in the RFP in order to complete the necessary steps of the evaluation. In particular, this manifested itself in two key areas:

1. The City did not require the detailed financial information included in the exhibits for the cost proposals for the alternative cost scenarios for cart replacement requirements and the contract term, and
2. The City communicated critical information for the 10-year contract proposal from the Jim Kuhl, Environmental Services Manager, and did not send the request through the designated City Contact.

The City has three options in addressing the concerns raised about the RFP process as well as those identified in this review:

1. Accept the staff recommendation and award the contract to Waste Management;
2. Choose another vendor from the four who submitted proposals; or,
3. Re-issue the RFP and start the entire process over.

Based on the PFM review, it is recommended that the City choose either Waste Management or EDCO based on the factors outlined in the HF&H evaluation provided to the City on November 24, 2015. Following the selection of a recommended vendor, the City should direct staff to begin contract negotiations. Although irregularities in the process did occur, the issues did not unduly hinder the proposal or evaluation process. Each vendor was provided ample opportunity to clarify the RFP process and any further questions regarding the individual proposal. Although the intended first year compensation in the Republic Services cost proposal was not clear to the evaluation team consisting of City staff and HF&H consultants, the corrections to the tables used in the RFP evaluation did not move Republic to a position of being recommended for award of the contract.



## Appendix A – Persons Contacted for Interviews

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Contact	Affiliation
Johnnie Perkins	Athens Services
Craig Beck	City of Long Beach
Jason MacDonald	City of Long Beach
Michelle King	City of Long Beach
Jim Kuhl	City of Long Beach (Former Employee)
Diko Melkonian	City of Long Beach
Steve South	EDCO Waste Services, LLC
Laith Ezzet	HF&H Consultants, LLC
Travon Grant	Republic Services, Inc.
Rick Davis	Davis Group—Republic Services
Janine Hamner	Waste Management, Inc.





## Appendix B – Documents Provided by the City

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Document Title	
City and Consultant Contact Information	October 2015 Response – Waste Management, Inc.
Vendor Contact Information	To/From/For Dated Jan. 28, 2016
RFP PW15-091	Letter to City Council Dated Feb. 9, 2016
RFP Questions & Answers	To/From/For Dated Mar. 1, 2016
RFP Addendum #1	Letter to City Council Dated Mar. 8, 2016
Questions Submitted by Waste Management, Inc.	Letter from City Council Dated Mar. 8, 2016
Questions Submitted by Athens Services	Mar. 8, 2016 City Council Meeting Minutes
Proposal Confirmation – Athens Services	Transcript from Mar. 8, 2016 City Council Meeting
Proposal Confirmation – EDCO Waste Services, LLC	Presentation from the Mar. 8, 2016 City Council Meeting
Proposal Confirmation – Republic Services, Inc.	Memo from the City Auditor's Office Dated Mar. 15, 2016
Proposal Confirmation – Waste Management, Inc.	Mar. 22, 2016 City Council Meeting Minutes
Technical Proposal – Athens Services	Letter to City Council Dated Apr. 21, 2016
Cost Proposal – Athens Services	EDCO Waste Services, LLC Comment Letter Dated Feb. 1, 2016
Proposal Evaluation – Athens Services	EDCO Waste Services, LLC Comment Letter Dated Mar. 10, 2016
Technical Proposal – EDCO Waste Services, LLC	Republic Services, Inc. Protest Letter Dated Feb. 1, 2016
Cost Proposal – EDCO Waste Services, LLC	City Response to EDCO Waste Services, LLC Dated Mar. 8, 2016
Proposal Evaluation – EDCO Waste Services, LLC	City Response to Republic Services, Inc. Dated Mar. 8, 2016



## Appendix B – Documents Provided by the City

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Document Title	
Technical Proposal – Republic Services, Inc.	Request to Extend Bid Proposal – Athens Services
Cost Proposal – Republic Services, Inc.	Request to Extend Bid Proposal – EDCO Waste Services, LLC
Proposal Evaluation – Republic Services, Inc.	Request to Extend Bid Proposal – Republic Services, Inc.
Technical Proposal – Waste Management, Inc.	Request to Extend Bid Proposal – Waste Management, Inc.
Cost Proposal – Waste Management, Inc.	City Staff Correspondence Dated Mar. 8, 2016
Proposal Evaluation – Waste Management, Inc.	Correspondence with HF&H Dated May 13, 2015
August 2015 Response – Athens Services	Correspondence with HF&H Dated Mar. 16, 2016
August 2015 Response – EDCO Waste Services, LLC	City Staff Comments on RFP Process
August 2015 Response – Republic Services, Inc.	Administrative Regulation AR8-4
August 2015 Response – Waste Management, Inc.	City of Long Beach Charter Article XVIII – Contracts
October 2015 Response – Athens Services	HF&H Evaluation of Recyclables Collection Services Proposals
October 2015 Response – EDCO Waste Services, LLC	Notice of Intent to Award Dated Jan. 26, 2016
October 2015 Response – Republic Services, Inc.	To/From/For Dated Jan. 5, 2016
Email Confirmation for October 2015 Response – EDCO Waste Services, LLC	Option 1 Cost Proposal for Oct. 2015 Response – Republic Services, Inc.
Email Confirmation for October 2015 Response – Republic Services, Inc.	Option 2 Cost Proposal for Oct. 2015 Response – Republic Services, Inc.
Revised Certificate of Compliance for Oct. 2015 Response – Republic Services, Inc.	Revised Exceptions for Oct. 2015 Response – Waste Management, Inc.



# Appendix C – RFP Cost Exhibits

EXHIBIT I

**PROJECTED ROUTES AND ROUTE HOURS**

Proposing Company:

Instructions: Fill in boxes outlined in bold.

Row	Route Type	Routes Per Day					Total Route Days/Week	Hours per Route Per Day (1)	Total Route Hours Per Week (2)
		Mon	Tues	Wed	Thurs	Fri			
1	Cart Recycling Routes						-	-	
2	Bin Recycling Routes						-	-	
3	Scout						-	-	
4	Other: _____						-	-	
5	Other: _____						-	-	
6	<b>Total</b>	-	-	-	-	-	-	-	

(1) For example, 8, 9 or 10 hours per day.

(2) Total Route Days/Week multiplied by Hours Per Route per Day.

**Failure to complete and submit this form will result in the proposer's proposal being deemed non-responsive.**

5/13/2015

City of Long Beach



# Appendix C – RFP Cost Exhibits

EXHIBIT II

**SUMMARY OF ESTIMATED FIRST-YEAR COMPENSATION**

Proposing Company:

Instructions: Enter proposer's name in the above bolded box, and proposed monthly compensation in the bold box below.

Row	Service Category	Proposed First Year Monthly Compensation <sup>(1)</sup>	Proposed First Year Annual Compensation (12 months) <sup>(1)</sup>
1	Estimated First-Year Compensation	<input style="width: 100%; height: 15px;" type="text"/>	\$ -
2	Estimated Total First-Year Revenue Requirement (from Exhibit III, Row 22)		\$ -
3	Difference Between Revenue Requirement and Rate Revenue (2)		\$ -

(1) Inclusive of all compensation.

(2) Proposer shall explain any difference between its proposed first-year compensation and its estimated first-year revenue requirement.

Failure to complete and submit this form will result in the proposer's proposal being deemed non-responsive.

5/13/2015

City of Long Beach



# Appendix C – RFP Cost Exhibits

EXHIBIT III

**PROJECTED REVENUE REQUIREMENT FOR THE FIRST TWELVE MONTHS OF AGREEMENT**  
 Proposing Company: \_\_\_\_\_

Instructions: Fill in boxes outlined in bold.

Row		Total Annual Revenue Requirement
1	<b>Collection and Processing</b>	
2	Truck Operating Costs (a)	
3	Transfer Station and Transport, if applicable	
4	Recyclables Processing Facility Cost (MRF)	
5	SERRF Gate Rate costs for residue disposal (b)	
6	Container Depreciation/Amortization Costs	
7	Used Oil and Oil Filter Containers and Disposal/Processing Costs	
8	Subtotal: Collection and Processing	\$ -
9	<b>Recycling Revenues</b>	
10	Less CRV Revenue (c)	
11	Less Recyclable Material Sales Revenues (excluding CRV) (d)	
12	Subtotal: Recycling Revenues	\$ -
13	General, Administrative and Profit	
14	Annualized Auditing Fee (e)	\$ 15,000
15	Amortized City Contracting Fee (f)	\$ 21,429
16	Outreach Fee	\$ 120,000
17	CRV Payments over \$700,000/year, to City (g)	\$ -
18	50% of Recyclables Material Sales Revenues, to City (h)	\$ -
19	Environmental Impairment Liability Insurance	
20	City of Long Beach Business License Fee	
21	Other	
22	<b>TOTAL ANNUAL REVENUE REQUIREMENT</b>	\$ -
23	<b>Recyclables Tons Collected</b>	
24	<b>Collection and Processing Cost per Ton Collected</b>	\$ -
25	<b>Recycling Revenue per Ton Collected</b>	\$ -
26	<b>Total Revenue Requirement per Ton Collected</b>	\$ -

(a) Includes driver/helper/supervisor wages and benefits, vehicle depreciation and maintenance, vehicle insurance, fuel, uniforms and other route costs.

(b) Includes actual disposal costs at SERRF, excluding transfer, transport and MRF costs to be included on Row 3.

(c) Total CRV revenue received. Enter as a negative value.

(d) Include total net recyclables commodity sales revenue projected to be received excluding CRV. Enter as a negative value. 50% of this figure will automatically be calculated on Row 18 as remittance to City.

(e) \$35,000 every second year, assuming 3 audits during seven year term.

(f) \$150,000 amortized over the seven year base term of the agreement.

(g) Row 10 less \$700,000. All revenue above \$700,000/year to be remitted to City.

(h) 50% of Row 11. 50% of net recyclables revenues to be remitted to City (excluding CRV).

Failure to complete and submit this form will result in the proposer's proposal being deemed non-responsive.

5/13/2015

City of Long Beach



# Appendix C – RFP Cost Exhibits

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EXHIBIT IV

## COST COMPONENTS AND COST WEIGHTINGS

Proposing Company: \_\_\_\_\_

Instructions: The following chart should automatically calculate based on entries on Exhibit III. Confirm the accuracy of the calculations.

Row	Cost Components	Annual Dollar Amount	Percentage of Total Costs
1	SERRF Gate Rate costs for residue disposal (references Row 5 from Exhibit III)	\$ -	0%
2	All Other (Row 3 minus Row 1)	\$ -	0%
3	Total Annual Revenue Requirement (references Row 22 on Exhibit III - should tie to Row 1 on Exhibit I)	\$ -	0%

Failure to complete and submit this form will result in the proposer's proposal being deemed non-responsive.

5/13/2015

City of Long Beach



# Appendix D – Vendor Comment and Protest Matrix

	Vendor Submission	City Response	PFM Analysis
<p>Republic Services Letter of Protest February 1, 2016</p>	<p>"The bid analysis that was emailed to Republic Services after the Notice of Award was released on January 27, 2016 misrepresented the "Fixed Monthly Fees Charged to the City" on the Third/Fourth bid requested by the City for a "10 Year Contract with Cart Replacement in Year 4" by several million dollars."</p>	<p>"Staff revised the proposal matrix (attached) to include both the price Republic entered into the 'Total Cost to City' space on the proposal form, and the price that appeared in a footnote on the proposal form which they contend is the correct amount. Additionally, the matrix was modified to include all "enhanced services" included in Republic's proposal.</p> <p>The tables below show the first year annual cost for both the 7-year and 10-year options with cart replacement as needed. Republic is not the most competitive proposal in either option, even after adjustments are made to account for the price that appeared as a footnote on their proposal form."</p>	<p>The cost exhibit forms provided in the RFP were confusing to Republic Services. In Exhibit II, the firm excluded approximately \$2.6 million of recycling revenues in the "Total Estimated First-Year Compensation" that were not listed on the form. Recycling revenues were meant to be net of processing costs or fees or if processing fees were included, to use gross revenues. Republic Services attempted to address the difference between the figures with an asterisk to indicate the proposed first-year cost to the City in Exhibit II. In Exhibit III, the firm provided the detailed revenue and expense data to support the proposal.</p> <p>Republic Services stated that a representative of the firm requested clarification regarding the cost exhibit forms by phone after the May 2015 deadline for submitting questions. In the "Submittal Instructions" provisions of the RFP, the City stated that all questions must be sent in writing prior to the deadline. Even with the adjustment in fees, compared to other vendors, Republic was the third lowest.</p>
	<p>"In the Questions and Answers document released by the City of Long Beach dated June 10, 2015, Republic Services asked if the City would consider allowing the RFP respondents to bid on a 10 year contract (in addition to the 7 year contract the RFP required) that would allow for the customary depreciation of the carts that the RFP required to be purchased in year four. The answer from the City was "No change."</p>	<p>"The first clarifications provided did indicate that staff had made a determination that no change was requested for consideration. Subsequently, due to further analysis of the pricing and proposals received, staff did issue a request for additional cost proposals, which Republic responded to and provided a response."</p>	<p>HF&amp;H stated that the recommendation for a 10-year contract came from Waste Management during the September 24, 2015 interview. Further discussions with the City's former Environmental Services Manager indicated that City staff reconsidered the suggestion to pursue the 10-year contract term following the recommendation provided by Waste Management. City staff determined that the longer contract term could have provided potential cost savings to the City because two vendors had suggested the 10-year term. Staff subsequently requested the additional cost proposals. All four vendors responded to the request with proposed first-year compensation requirements. It should be noted that Republic Services was the only vendor to provide revised cost exhibit forms to support the cost proposals, even though they were not required.</p>
	<p>"After the RFP response and Cost Forms were submitted on July 1, 2015 the City requested three additional Cost Proposals, including the final request dated September 29, 2015. The last request was not from the authorized City contact Michelle King from the Division of Procurement, but from the Environmental Services Bureau Manager Jim Kuhl. Because these bids were generated outside the prescribed procurement process and were not insulated from potential external influence, the only Cost Proposal that ensures integrity is the original Cost Proposal submitted with the original RFP response."</p>	<p>"The Purchasing Manager authorized the direct communication from the Environmental Services Bureau Manager in order to expedite the process. This concern was not raised during the RFP process."</p>	<p>When the City submitted the September 2015 request for the alternative cost proposals through the Environmental Services Manager, the City departed from the rules of contact set out in Section 4.1 of the RFP. Although all four vendors responded to the request, the level of detail requested in the responses was not consistent with the proposals received in the initial July 2015 submissions. Republic Services was the only vendor that provided revised cost exhibit forms with the alternative cost proposals in August and September. As a result, the City had limited information with which to compare the details of the cost proposals.</p>
	<p>"The award was based off the fourth Cost Proposal for a "10 Year Contract with Cart Replacement Year 4" (per number 1 above) was the bid that was given the award by the City despite the Question and Answers document date June 10, 2015 that specifically respond to a question by Republic Services that a "10 Year Contract with Cart Replacement Year 4" would not be considered."</p>	<p>"The award was based on the cost proposal for a 10 year agreement with cart replacement as needed up to 110,000 carts."</p>	<p>The "Questions and Answers" document released by the City on June 10, 2015 stated that there were no changes to the contract term of the RFP. In Section 13.2 of the RFP, states that "[t]he City reserves the right to alter, amend, or modify any provisions of this RFP... at any time prior to the award of a contract...if it is in the best interest of the City to do so."</p>



# Appendix D – Vendor Comment and Protest Matrix

	Vendor Submission	City Response	PFM Analysis
Republic Services Letter of Protest February 1, 2016	"In the Question and Answers document released by the City of Long Beach dated June 10, 2015: Question #14, How will the evaluation process distribute weighting for review of proposals, i.e., will each section of the five selection criteria receive a percentage of the total score? Answer: The evaluation will not be conducted on a weighted point system. Without clear differentiators in place, Republic Services would like clarification in regards to how the City conducted its evaluation process."	"Each proposal is evaluated against the criteria as stated in the RFP specifications. The City's specifications state that during the RFP process and until City Council determines award, the information requested is not available. Staff would be able to share the evaluation committee's report following any awarded contract by City Council.  5.2 Proposals shall be kept confidential until a contract is awarded."	The HF&H review considered all aspects of the evaluation criteria in making the recommendation to the City. As indicated by City staff, the evaluation team did not use a weighted point system. After determining that each vendor was qualified to respond to the RFP, City staff and the consultants focused the evaluation on the cost components of the proposals. The final recommendation was based primarily on the cost proposal provided by each firm and the potential customer impact from a transition.
	"Republic Services is requesting the City only allow the first submitted bids (sealed bids) as a reference for review of all RFP's. In addition we are requesting for the City to utilize the correct numbers submitted by Republic Services stated as \$4,745,316 Annual Compensation & \$741,000 Annual Recyclables to City. Please reference submitted proposal forms Exhibit sheets 1, 2, 3 & 4 for additional detail. We believe these two offers will be competitive."	"In Section 5 of the RFP specifications, starting on page 23, it states that the City reserves the right to request clarification from prospective contractors. Additionally, the City and its consultant have reviewed the additional pricing provided by Republic and the analysis indicates that neither total amount results in the best value for the City."	As noted in PFM's analysis of Issue #1, Republic Services used asterisks to indicate the intended first-year compensation in Exhibit II of the cost proposal forms. City staff revised the figures included in the tables submitted by the evaluation committee to support the selection of the recommended vendor. After revising the figures, Republic Services was not identified as the lowest-cost bidder.
	"The evaluation/unique proposal features document distributed displays inconsistencies with Republic Services enhancements versus the approved and agreed upon version with the procurement department. We are requesting the documents be reviewed and re-submitted as originally agreed upon."	"Following the meeting with Republic representatives, City Staff has included all proposal features from all proposers. Staff had previously selected the items that differentiated each proposal from the others."	As noted in PFM's analysis of Issue #1, City staff revised the matrices in the analysis used by the evaluation committee to support the selection of the recommended vendor.
	"This RFP requires vendors to offer first year cost and monthly recyclable sales to the city. According to the summary we received from procurement, we do not believe this number was evaluated or reviewed equally as it ties into each bidder's overall proposal pricing. Republic Services has offered a higher annual recyclable net sale to the city of \$741,000. We are able to offer this increase due to many factors. Some factors include 1. We own our processing facility versus the current solution 2. Improved technology that allows for Republic Services to capture additional materials 3. An increase in recyclable commodities for additional revenues."	"Staff reviewed this claim and it was accounted for in the evaluation committee's review of the analysis of Republic's proposal."	The recycling revenue is included in Exhibit III of the cost forms. The higher City revenue is the result of a higher expected recycling revenue amount, which reduces the first-year revenue requirement Recycling revenues are not guaranteed. In evaluating Republic's proposal, while they were lower in the net processing costs, they were higher in collection costs, resulting in their higher net cost to the City.
EDCO Waste Services Letter of Comment February 1, 2016	"EDCO would replace <u>all</u> 110,000 carts (not simply "as required") for a First Year Cost of \$3,399,925 for a ten year base term and provided the option of reducing the base rate an additional \$50,000 by eliminating the Anti-Scavenging grant (October 5, 2015 Information Request Summary response)."	"In Staff's review of this proposal, the analysis determined that the City would have accepted the \$50,000 grant, so the pricing reduction was not relevant to any comparison."	As stated in PFM's analysis of Issue #6 of the protest letter submitted by Republic Services on February 1, 2016, the evaluation committee reviewed all aspects of the technical and cost proposals submitted by the vendors. During the evaluation process, the evaluation team determined that the removal of the \$50,000 would not significantly impact the firm's cost proposal. Neither HF&H or the City calculated the value differential between replacement of all carts versus replacement as needed.
	"EDCO would replace <u>all</u> 110,000 carts (not simply "as required") for a First Year Cost of \$3,483,925 for a seven year base term (July 1, 2015 initial RFP submittal)."	"In Staff's review of this proposal, it was determined that this was not an option that provided staff with the best value. In reviewing the proposals and the alternative base terms, the analysis that staff performed with the consultant indicating that the as needed model was best suited for Long Beach."	As stated above, the evaluation conducted by City staff and the consultants considered all aspects of the technical and cost proposals submitted by vendors. In comparing costs between EDCO and Waste Management, the City did not calculate the value of EDCO's full cart replacement versus Waste Management's replacement as needed.
	"EDCO proposed the alternative of providing <b>the City of Long Beach a lump sum payment in the amount of \$5,220,000 on June 1, 2016</b> (the projected start of the Agreement) for replacement carts. This was available for the lower seven year term, or inclusive of options, a ten year term. As proposed, any City approved cart replacements would be drawn down against these funds and <b>any unused funds would remain with the City</b> (August 12, 2015 Evaluation Summary response)."	"In Staff's analysis of this option, it was determined that at an estimated cost of \$52 per cart, and \$10 in replacement handling fee, that this option would leave the City short in potentially replacing all 110,000 carts is necessary."	As stated in the City's response to EDCO, City staff analyzed the potential fiscal impact of the cart replacement proposal in regards to the replacement of 110,000 carts with the lump sum payment to the City. City staff determined that the cart replacement proposal as outlined by EDCO would place too much risk on the City for cart replacements.





# Appendix D – Vendor Comment and Protest Matrix

	Vendor Submission	City Response	PFM Analysis
Waste Management Comments at the City Council Meeting March 8, 2016	Waste Management raised concerns that the Council motion to review the RFP process would result in a decision to re-bid the RFP.	City Council also expressed these concerns during the March 8 meeting. Following the discussion among Councilmembers and City Staff, as well as the public comments received during the meeting, the City Auditor prepared a memorandum that highlighted a number of concerns regarding the RFP process. During the March 22 meeting, Councilmembers, in consultation with City Staff, decided that an independent review of the RFP process would be required to determine that the process was conducted fairly and all information included in the proposals was presented accurately.	Although irregularities in the RFP process have been identified, these issues did not hinder the proposal or evaluation processes. Each vendor received ample opportunities to clarify the RFP process and any further questions regarding the individual proposal. Although the intended first-year compensation proposed by Republic Services was not considered during the evaluation process, the corrections made by City staff did not improve the firm's standing to be the lowest-cost bidder in the initial cost proposal or the subsequent alternative cost proposals. Therefore, PFM recommends that the City choose either Waste Management or EDCO based on the factors outlined in the HF&H evaluation provided to the City on November 24, 2015.
	Waste Management believed that HF&H had a well-deserved reputation in the solid waste industry. The firm also stated that HF&H has managed the RFP process for other jurisdictions without any issues.	During the March 8 City Council meeting, City Staff members also expressed that HF&H was selected to manage the RFP process based on the firm's extensive experience in the industry.	PFM believes that the City chose HF&H to support the development and review of the RFP based on the firm's long track record supporting other cities in similar RFP processes. PFM does not believe that the independent analysis provided by HF&H was compromised during the evaluation process.
	Waste Management believed that the vendors proposals had received reviews by HF&H and City staff, which would allay concerns that the bids required an independent review.	As mentioned above, City Council determined that an independent review of the RFP process would be required in order to ensure that the process was conducted fairly and all information included in the proposals was presented accurately.	As noted in PFM's analysis of Waste Management's comments above, there were several irregularities in the RFP process identified by City staff and other stakeholders in the process. Although the City departed from the procedures outlined in the RFP provisions, these anomalies did not improperly affect the proposal and evaluation processes.
	Waste Management believed that the review would undermine the City's RFP process, and the decision to review the process may invite bidders to protest future results of RFP processes.	These concerns were also raised by City Councilmembers during the March 8 meeting.	PFM believes that the review of the City's RFP process presents the opportunity to reinforce existing practices and make adjustments to improve the process in future RFPs. These changes are intended to improve the transparency of the RFP process and facilitate clear communication with vendors and other stakeholders in the process. These recommendations are discussed in detail in the full report of PFM's analysis.
EDCO Waste Services Comments at the City Council Meeting March 8, 2016	EDCO noted that the vendor's price proposal included the replacement of 100% of the City's carts, and that all other proposals included plans to replace carts on an "as needed" basis.	As mentioned in the City's response to the comment letter submitted by EDCO, this element was included in the review of the proposal conducted by City Staff and HF&H. In the analysis, City Staff and the consultant determined that the "as needed" approach would meet the needs of the City of Long Beach.	The evaluation committee, composed of City staff and consultants from HF&H, appears to have taken this element into consideration during the evaluation process. However, it does not appear that the evaluation committee assigned the component a weight when comparing cost proposals. Although EDCO included these enhanced features in the proposal submitted to the City, the City reserved the right to modify the provisions of the RFP and to consider multiple criteria during the evaluation of proposals. During the evaluation process, City staff determined that the City would be best served by the replacement of carts on an as needed basis.



# Appendix D – Vendor Comment and Protest Matrix

	Vendor Submission	City Response	PFM Analysis
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Republic Services Comments at the City Council Meeting March 8, 2016</p>	<p>Republic alleged that the City could be accused of "price shopping" by requesting multiple price proposals for the RFP. The representative believed that the first bid should be the only valid price proposal because it was received in a sealed envelope.</p>	<p>At the conclusion of the City Council meeting on March 8, City Staff explained the difference between the bid process and the RFP process. If the recyclable materials contract were to be awarded under a bid process, the City would have been required to award the contract to the lowest responsive bidder. However, proposals for the recyclable materials contract were solicited through the RFP process, which allows the City to consider other aspects during the evaluation process. City Staff responded that the final determination to award the contract was reached in conjunction with the City's contracted consultant hired to oversee the RFP process.</p> <p>In order to support the position, City Staff cited language from page 23, Section 5.3 of RFP PW15-091, which states, "The City may contact the references provided in the proposal (see Section 4.12, C.2); contact any proposer to clarify any response; contact any current users of a proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The City shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of the City of Long Beach."</p>	<p>Section 13 of the RFP provides the City with the right to modify the provisions of the RFP if the changes are determined to be beneficial to the City. Furthermore, Section 13 also reaffirmed the city's ability to choose a recommended vendor for the contract from multiple criteria, of which price would be one factor. Although the City did not require the vendors to submit revised cost proposal exhibits for the alternative 10-year cost proposal, this departure from the provisions of the RFP did not compromise the evaluation of the proposals in order to select the vendor to be recommended to City Council. While relative costs changed in these proposals, the cost-rank of each vendor never varied.</p>
	<p>Republic believed that the proposed price was misrepresented in the evaluation of the cost proposals.</p>	<p>As noted in the City's response provided to Republic in the letter dated March 1, 2016, both price proposals did not represent the best value to the City in terms of competitive pricing. City Staff included the revised price proposals in a memorandum to City Council on March 1.</p>	<p>City staff revised the tables used in the selection of the recommended vendor for the contract. After the revisions were incorporated into the tables, the intended first-year compensation figures did not change the position of the cost proposals submitted by Republic Services. In all scenarios, the firm was the third lowest-cost bidder out of four.</p>
	<p>Republic questioned the practice of excluding the estimated recycling revenue in the cost proposals. The firm stated that its cost proposal offered approximately 40% higher expected revenues when compared to the other cost proposals received by the City.</p>	<p>Although this issue was not addressed during the City Council meeting on March 8, City Council had the opportunity to discuss the estimated recycling revenues included in the proposals during the March 22 meeting. In the subsequent meeting, the representative from HF&amp;H noted that there is significant volatility in the recycling commodities market, and all proposals would include varying assumptions about the state of the market over the term of the recyclable materials contract. The representative concluded that it would not be prudent to include the estimated revenues from recyclable materials as an offset to the price proposals because the proposals would not include a standard set of market assumptions. Ultimately, the vendor selected for the contract would participate in the open market for recyclable materials, and the City would realize the same level of recycling revenues regardless of the vendor chosen to provide the services.</p>	<p>The City included the net recycling revenues and share to the City in the evaluation of the cost proposals submitted by the vendors. Furthermore, recycling revenue remitted to the City will vary depending on the conditions of the markets for recyclable materials, and is not guaranteed. The figures included in the vendors' cost proposals were driven by the assumptions used by each vendor to forecast the commodity prices for the materials. Given the fact that the vendor selected to provide recycling services for the City would participate on the open market for each commodity, City staff and the consultants determined that the City would realize a similar level of revenues regardless of the vendor chosen to provide the service.</p> <p>The claims for more efficient processing were made by most of the vendors. The City did not weight these claims heavily in the evaluation process.</p>
	<p>Republic believed that the proposal enhancements were not accurately represented in the summary provided by HF&amp;H.</p>	<p>City Staff reiterated the response provided to Republic in the letter dated March 1, 2016. As stated above, after Staff met with representatives from Republic, the matrix was updated in a memorandum to City Council on March 1 to include all of the features stated in the proposal submissions. The previous version of the matrix showed the unique features of each proposal and excluded similarities.</p>	<p>City staff revised the matrices in the analysis used by the evaluation committee to support the selection of the recommended vendor.</p>



# Appendix D – Vendor Comment and Protest Matrix

Vendor Submission		City Response	PFM Analysis
<p>Republic Services Comments at the City Council Meeting March 8, 2016</p>	<p>Republic believed that the City violated the procurement process when the firm received an email from the Director of the Environmental Services Department.</p>	<p>City Staff stated that the Purchasing and Business Services Manager authorized the Environmental Service Bureau Manager to contact the bidders in order to "ensure the City moved in a timely manner toward award."</p> <p>In order to support the position, City Staff cited language from page 23, Section 5.3 of RFP PW15-091, which states, "The City may contact the references provided in the proposal (see Section 4.12, C.2); contact any proposer to clarify any response; contact any current users of a proposer's services; solicit information from any available source concerning any aspect of a proposal."</p>	<p>According to the provisions of the RFP, the City should have communicated the request for the 10-year cost proposal through the designated City Contact. However, when responding to the request for information, none of the vendors raised objections in writing regarding the change in point of contact. Although the change reflects a departure from the provisions of the RFP, the impact does not appear to have significantly impacted the evaluation process.</p>
	<p>Republic was concerned that the evaluation process did not include an evaluation of each firm's sustainability practices and the capacity to process types of recyclable materials.</p>	<p>As noted in the City's response provided to Republic in the letter dated March 1, 2016, all proposal features were included in the evaluation process by City Staff and the consultant.</p>	<p>Although the specific sustainability practices and processing capabilities were not referenced in the proposal evaluation matrix included in the report from HF&amp;H and the memos transmitted to City Council recommending the selected vendor for the contract, City staff indicated that all features of the vendor proposals were considered during the evaluation process. The various factors included in the evaluation criteria were not assigned specific weights by the evaluation team. Stated sustainability practices were not independently verified.</p>
	<p>Republic was concerned that the City did not conduct a site visit during the evaluation process.</p>	<p>City Staff stated that the City retained the right to conduct site visits during the evaluation process, and that Staff chose to exercise this right.</p>	<p>As noted by City staff in the response during the City Council meeting, City staff chose not to exercise the right to conduct site visits during the evaluation process. Furthermore, the evaluation criteria described in Section 5 of the RFP did not note that site visits would be included in the evaluation of vendor proposals. Although such visits may have been part of the City's standard evaluation practice, they were not conducted during the execution of this RFP.</p>
<p>EDCO Comment Letter March 10, 2016</p>	<p>"For clarification, the City should be aware that the gross revenues associated with this Agreement are well in excess of \$70,000,000 over a ten year term. While the amount paid by the City is currently projected to be in the \$35,000,000 dollar range, the remaining revenues are created from the sale of the collected recyclables (i.e. the \$35,000,000 would be correct if the recyclable commodities had no value). This information is contained in Exhibit III of all submittals."</p>	<p>During the City Council meeting on March 22, a representative from HF&amp;H described the analysis of recycling revenues that was conducted during the evaluation process. The representative stated that each vendor developed unique assumptions regarding the state of the commodity markets for recyclable materials during the proposed contract term for the RFP. Because of the variability associated with returns in the commodity markets, and the wide range of assumptions that may have been used by the vendors, the proposed revenues were included in the analysis of each proposal, but were not used as one of the primary factors to determine the selection of the recommended vendor.</p>	<p>EDCO is correct in describing the impact of including the projected gross revenues on the total dollar amount associated with the contract. Although the \$35.0 million figure only states the potential cost to the City, as estimated by projections using the first-year compensation figures provided by the vendors, this perspective was ultimately considered during the selection of a vendor for recommendation to City Council. As stated in PFM's analysis of Issue #3 from the Republic Services comments at the March 8, 2016 City Council meeting, the estimated recycling revenues remitted to the City are largely driven by vendors assumptions regarding the movement of commodity prices for recyclable materials. Given the uncertainty around projecting these figures, the recycling revenues were considered during the analysis of each proposal, but they were not the primary factor used to determine the recommended vendor.</p>
	<p>"Thank you for correcting the EDCO pricing to \$3,399,925 in the PowerPoint presentation to the City Council. However, we note there still remains no information provided in any report explaining the distinction between <u>EDCO's proposal to replace all 110,000 carts</u> per the terms of the RFP, versus alternative proposals that have a 'carts replaced as needed' methodology."</p>	<p>City staff corrected the proposed first-year compensation shown in the PowerPoint presentation shown to City Council on March 8, 2016.</p>	<p>As noted in PFM's analysis of Issues #1 and #2 of the comment letter submitted by EDCO on February 1, 2016, City staff determined that the cart replacement on an as needed basis would better serve the needs of the City. There is no analysis of the impact of this on customers or long-term recycling operations.</p>



# Appendix D – Vendor Comment and Protest Matrix

	Vendor Submission	City Response	PFM Analysis
<p>EDCO Comment Letter March 10, 2016</p>	<p>"In addition, EDCO is hopeful that when the item returns to the City Council, a detailed assessment of all proposals, consistent with the Proposal evaluation and Award Process in Section 5 of the RFP, will accompany the recommendation. In addition to the Proposed Compensation described in Section 5.1.5 of the RFP and raised in our February 1, 2016 correspondence, this would include, <i>but not be limited to</i>, data on the following identified elements in the RFP:</p> <ul style="list-style-type: none"> <li>• <u>Jurisdiction Satisfaction</u> – As described in Section 5.1.1 of the RFP, the satisfaction of proposer references with services received is a noted criteria. The City either has or should conduct Municipal Reference evaluations for inclusion in the Evaluation.</li> <li>• <u>Waste Diversion</u> – As described in Section 5.1.2 of the RFP and documented in Section 4.1.1.0 of the Agreement, the City has requested a guaranteed proposed maximum residue rate that is a noted criteria. These levels are reflective of the recycling processing component of the scope of work and should be included in the Evaluation."</li> </ul>	<p>At the time of PFM's analysis of RFP PW15-091, the City had not drafted a response letter to the comments received from EDCO in the letter dated March 10, 2016.</p>	<p>As noted in PFM's analysis of Issue #5 of the protest letter submitted by Republic Services on February 1, 2016, the report submitted by HF&amp;H considered all aspects of the evaluation criteria in making the recommendation to the City. The reports submitted to the City on November 24, 2015 included a review of the maximum residue rate for each proposal. In addition, the report also noted that HF&amp;H conducted reference checks for each of the lowest cost proposers, which included EDCO and Waste Management.</p> <p>The issue of waste diversion (as represented by the guaranteed residue rate) was included in the HF&amp;H evaluation. While it is not clear how HF&amp;H included this factor, they did recommend EDCO as the low-cost vendor. Staff chose to recommend Waste Management due to factors related to lack of transition and its unique features. Waste diversion was not mentioned by staff in their report to Council.</p>
<p>Republic Services Comment At the City Council Meeting March 22, 2016</p>	<p>Republic urged City Council to consider the capacity to increase the tonnage of recycled materials during the evaluation process. The firm suggested that the review should consider the performance of the vendors' materials recovery facilities, processing techniques, and community outreach programs to increase the diversion of materials.</p>	<p>As noted in the City's response provided to Republic in the letter dated March 1, 2016, all proposal features were included in the evaluation process by City Staff and the consultant.</p>	<p>The report submitted by HF&amp;H considered all aspects of the evaluation criteria in making the recommendation to the City. Although the evaluation considered the additional elements of each proposal, the final recommendation was largely based on the cost of each proposal and the responsiveness to the City's service criteria outlined in the RFP. The proposal evaluation used most of the selection criteria to determine the qualifications of a vendor to be considered more than to differentiate qualified vendors.</p>



# Appendix E – City Regulations Related to the RFP Process

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## CITY OF LONG BEACH MUNICIPAL CHARTER

### ARTICLE XVIII. - CONTRACTS

#### Section 1800. - FORM AND EXECUTION.

The City shall not be and is not bound by any contract, except as otherwise provided herein, unless the same is made in writing, by order of the City Council, and signed by the City Manager or by another officer authorized to do so by the City Manager. The approval of the form of the contract by the City Attorney shall be endorsed thereon before the same shall be signed on behalf of the City. The City Council, by ordinance duly adopted, may authorize the City Manager, or any commission or agent of the City, with the written approval of the City Manager, to bind the City without a contract in writing for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council. The Board of Harbor Commissioners and the Board of Water Commissioners may authorize contracts, in writing or otherwise, without advertising for bids, for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council.

#### Sec. 1801. - BIDS FOR CONTRACTS TO BE CALLED.

All contracts, except as otherwise provided in this Charter, or by general law, for the City or any of the departments or public institutions thereof, must be made by the City Manager with the lowest responsible bidder whose bid is in regular form, after one publication of a notice calling for bids in a daily newspaper of general circulation in the City. Said notice shall contain a brief description of the services, supplies, materials, equipment or labor required, the amount of bonds required of the successful bidder, and state the hour and day on which said bids will be opened.

The foregoing notwithstanding, the Director of Library Services, in accordance with procedures provided by and with the written approval of the City Manager, and with such faithful performance bonds, if any, as the City Manager may deem reasonably necessary, is authorized to contract on behalf of the City, without advertising for bids, for the purchase of books, pamphlets, government documents, serials, continuations, periodicals, recordings, videotapes, films, or an on-line acquisition system, and such other similar goods and services furnished to the City Library all in an amount not to exceed that set by the City Council each year in the annual budget for such goods and services.

The City Council, by resolution adopted by the affirmative vote of five members of the City Council, may authorize the City Manager to enter into a contract on behalf of the City, in writing or otherwise, without advertising for bids for services, supplies, materials, equipment or labor for actual emergency work.



# Appendix E – City Regulations Related to the RFP Process

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(Amended by Prop. 2, 4-13-1982, eff. 5-18-1982)

## **CITY OF LONG BEACH MUNICIPAL CODE** **TITLE II – ADMINISTRATION AND PERSONNEL**

### CHAPTER 2.84 - CONTRACTS

#### DIVISION I. - GENERAL SUPPLIES AND MATERIALS

##### 2.84.010 - Authority of City Purchasing Agent and others to contract.

The City Purchasing Agent, with the written approval of and in accordance with procedures provided by the City Manager, and such faithful performance bonds as the City Manager may deem reasonably necessary, is hereby authorized to bind the City through the issuance of a purchase order without advertising for bids for the purchase of services, labor, supplies, materials, goods, or other valuable consideration furnished to the City for amounts not exceeding one hundred thousand dollars (\$100,000.00) and, if the purchase will be reimbursed by state or federal grant funds relating to homeland security, for amounts not exceeding five hundred thousand dollars (\$500,000.00). For non-state or federal grant related purchases exceeding one hundred thousand dollars (\$100,000.00), but not exceeding two hundred thousand dollars (\$200,000.00), the City Purchasing Agent is authorized to issue a purchase order if the award is based on an Invitation to Bid (ITB) or a Request for Proposal (RFP) process, which results in at least three (3) bids or proposals conducted in conformance with this Code and applicable law and purchasing procedures as promulgated by the City Purchasing Agent.

Other persons, categorized as managers in each City department and as delegated authority by the City Purchasing Agent, may make purchases, but only within the limits set forth in this Section and only in accordance with regulations and any additional limitations as set forth by the City Purchasing Agent.

(ORD-12-0020, § 1, 2012; Ord. C-7922 § 1, 2004; Ord. C-7650 § 1, 1999; Ord. C-6454 § 1, 1988; Ord. C-5745 § 1, 1981; Ord. C-5378 § 1, 1978; prior code § 2730)

##### 2.84.020 - Nondiscrimination in City contracts and purchase orders.

All contracts and purchase orders between the City and other persons and entities of any kind shall contain language which prohibits discrimination in employment and discrimination with respect to performance under the contract or purchase order on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, AIDS, HIV status, age, disability, or handicap, subject to federal and State laws, rules and regulations.

(ORD-08-0015 § 1, 2008; Ord. C-7863 § 1, 2003)

