

March 2006



Recycle 202 Workshop:

Recycling Procurement and Contract Issues



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Sample Language

- Sample contract language is included within the workbook
 - R. W. Beck developed vast majority of language for multiple clients in past
 - In isolated incidents, language comes from other public documents

Sample Language: *The Contractor shall comply with all the federal, state, and local requirements of transportation, storage, processing and disposal, including obtaining all necessary permits, licenses and approval. The Contractor shall notify the City of any change in the status of the license or registration. In addition, the Contractor must report to the City any violation received during the term of the Contract within one week of the violation.*



Procurement Overview



Recycling Procurement- A Complex Process

- Many detailed issues to consider
 - Ultimately, contract success is dependent on whether all details are adequately addressed
- Procurement structure frames long-term relationship with contractor

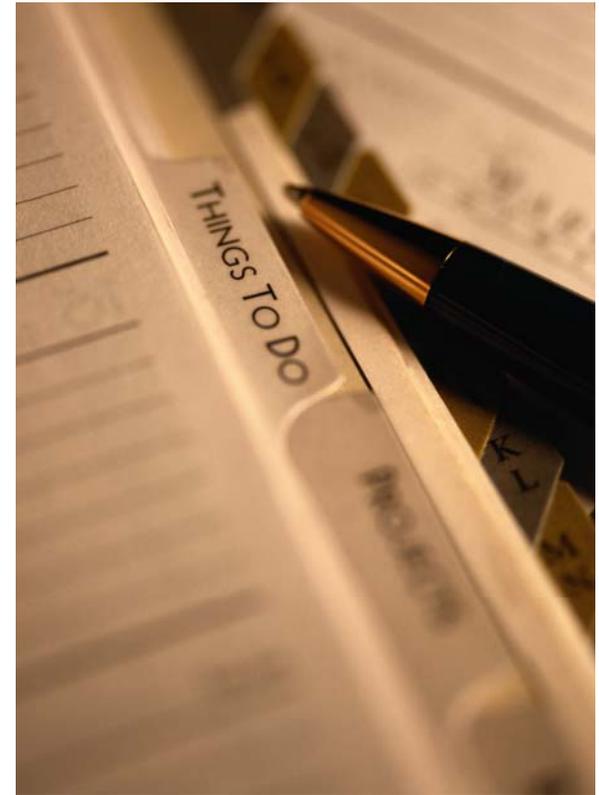


Procurement Process Timeline



Implementation Timeline

- Ample time required for implementation
- Time necessary depends on contractor's needs
 - Development of new facilities may require 18 months
 - Purchase of equipment may require 3 to 12 months
- Talk to bidders beforehand to understand timing needs



Overview of City's Contracting Options

	City Processing	Private Processing
City Collection	No Procurement Necessary	Processing Procurement
Private Collection	Collection Procurement	Collection and Processing Procurement



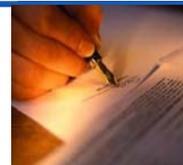
Curbside Collection Contract Design



Greater Detail Yields Better Contracts



- Contracts should address all conceivable collection and/or processing issues before they occur
- Problems more easily addressed within contract than outside contract



Five Elements of Contract Design

- General Contract Design
- Contract Design for Collection
- Contract Design for Processing
- Separate versus Integrated Contracting
- Compensation Structure Options



General Contract Design



Standard Language

- Each City has its own standard language and requirements to be included in all its contracts
 - Work with City legal and purchasing department to ensure that all standard language is included within procurement documents
- This workshop focuses on recycling specific issues



RFB versus RFP

- City may elect to issue a Request for Bid (RFB), Request for Qualifications (RFQ) or a Request for Proposal (RFP)
- City's legal and purchasing departments are in best position to make this determination
 - Issuance of RFP allows the City more of an opportunity to engage in negotiations with bidders prior to contract award



Bond Requirements Protect City

- Bid bonds are collected upon if bidder reneges on bid to provide service after submission
 - Typically have a value of at least \$50,000



Bond Requirements Protect City

- Performance bonds or letters of credit
 - Collected if contractor fails to perform contract
- Value should be at least equal to the estimated costs to the City of non-performance
 - Typically have a value of at least \$500,000



Safety and Environmental Compliance

- Contractor must comply with all applicable laws relating to the transportation, storage and processing of recyclables
- The Contractor must report any violation to the City in a timely manner

Sample Language: *The Contractor shall comply with all the federal, state, and local requirements of transportation, storage, processing and disposal, including obtaining all necessary permits, licenses and approval. The Contractor shall notify the City of any change in the status of the license or registration. In addition, the Contractor must report to the City any violation received during the term of the Contract within one week of the violation.*



Insurance

- Contractor should carry insurances relating to: general liability, automobile liability, worker's compensation, environmental impairment liability, professional liability, and excess commercial general liability

Sample Language: *The Contractor shall have at a minimum the following insurance coverage requirements:*

- *General Liability Insurance - \$1,000,000 minimum per occurrence combined single limit for bodily injury and property damage.*
- *Automobile Liability Policy - \$1,000,000 per occurrence combined single limit for bodily injury and property damage (collection only).*
- *Worker's Compensation: Statutory limits for Worker's Compensation - \$500,000 in each of the following: Each accident/disease-policy limit/disease-each employee.*
- *Environmental Impairment Liability (EIL) and/or Pollution Liability - \$1,000,000 per occurrence.*
- *Professional Liability Insurance - \$1,000,000 per occurrence.*
- *Excess Commercial General Liability- \$10,000,000 during the term of the Contract.*
- *Health insurance for employees (if applicable).*



Materials to Collect/Process

- City must determine recyclables to be collected and processed
- Factors to consider when determining recyclables collected include:
 - Market prices of various recyclables
 - Effect of recyclable collection on processor's equipment (i.e. glass may damage processing equipment)
 - Environmental effects of not recycling the material

Sample Language: *Recyclable items to be collected under the program include: old newspaper (ONP), old magazines (OMG), old corrugated containers (OCC), household office paper and mail (HOPM), steel food cans, aluminum cans and plastics #1 and #2. The residential curbside recycling program will not collect glass Recyclable Materials. All Recyclable Materials will be collected using a single-stream collection method.*



Adjustments to Contract

- Contract should be designed to adjust to changes in the value of money over time
 - Generally, the contract's value should parallel changes to the Consumer Price Index
- The contract may also adjust to account for improvements in diversion over time
 - A processor's recyclable tonnage target may increase each year



Common Contract Add-Ons

- Collection of special events
- Collection of drop-off sites
- Language allowing other municipalities to apply terms of contract at option of processor

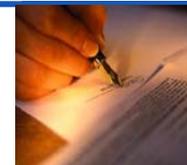


Contract Design for Collection



Collection Contract Provisions

- Key collection contract provisions relate to:
 - Contract length
 - Days/hours of collection
 - Collection vehicles
 - Customer complaints
 - Personnel
 - Unacceptable materials
 - Damage to property
 - Containers
 - Collection method
 - Fuel adjustment



Contract Length

- Longer contracts allow contractors more time to recover the costs of the purchase of collection vehicles, potentially reducing annual contract cost
- Appropriate contract length is dependent upon the City's assessment of the need of bidders to invest in collection equipment
- Talk to bidders to understand their contract length needs
 - Example: If there is a strong local private sector presence in collection in the area, there is less of a need for a long term contract than there would be in a location lacking such a presence

Sample Language: *To allow the Contractor ample time to prepare to serve, the Contract will be awarded on an estimated date of December 20, 2005 and will begin no later than January 8, 2007. The Contract may begin at an earlier date mutually agreed upon by the City and the Contractor. Any Contract entered into by the City under this RFB will be in effect until January 8, 2022.*



Days/Hours of Collection

- Contract may specify that recyclables are to be collected on the same day as refuse collection
- Collection should take place during the same hours as the City's refuse collection
- Recyclable collection should only be postponed in the event of severe weather at the discretion of the City
- Any skipped collections due to holidays should be made up in accordance with City's collection schedule

Sample Language: *Recyclable collection operations will take place between 5 AM and 5 PM on the same day as the City's scheduled refuse collection... Recycling collection services may be postponed in severe weather at the discretion of the City... When the scheduled collection day falls on a City holiday, collection on that day's route and subsequent day's routes will be adjusted based on the yearly refuse collection calendar published by the City.*



Collection Vehicles

- Contractor is required to have enough vehicles and back-up vehicles to execute contract terms
- City may opt to limit collection vehicle age
- Vehicles must be designed to prevent spillage and must be in compliance with US EPA noise emission regulations
- Vehicle weights when loaded must not exceed vehicle license limitations

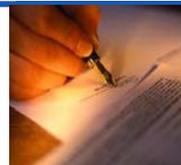
Sample Language: *The Contractor shall provide a fleet of collection vehicles sufficient in number and capacity to efficiently perform the work required by the Contract in strict accordance with its terms. The Contractor shall have available sufficient back-up vehicles for each type of collection vehicle used to respond to complaints and emergencies... All Vehicles used by the Contractor in providing collection of Recyclable Materials under the Contract shall be designed to prevent leakage, spillage or overflow. All vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations... The Contractor shall also ensure that gross vehicle weight of all vehicles, even when loaded, does not exceed vehicle license limitations.*



Customer Complaints

- Customer complaints should be directed to the City's call center (or a third party call center) and forwarded to contractor
- All complaints should be resolved quickly by contractor
- After resolution of complaint, the contractor should report back to City

Sample Language: *All service complaints shall initially be directed to the City's Customer Service Department. All legitimate complaints shall be resolved within 24 hours. The City will generate an electronic work order outlining all complaints received... The work order will then be electronically submitted to the Contractor for resolution. The Contractor will resolve each customer complaint by the close of the following business day. Upon resolution of the customer complaint, Contractor will close the work order and resubmit to the City.*



Personnel

- Contractor required to have sufficient personnel to fulfill contract
- All drivers must have a valid Commercial Drivers License
- Contractor responsible for training employees to operate safely and to not collect hazardous or medical waste

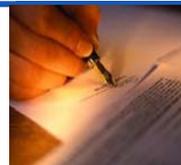
Sample Language: *The Contractor shall retain sufficient personnel and equipment to fulfill the requirements and specifications of this Contract. The Contractor will provide a Route Manager to oversee the recycling route drivers servicing the City...The Contractor shall provide notice to the City in the event that the Route Manager or any other key personnel provided in response to this RFB change...The Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as may be necessary to provide the services required in a safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of waste collection vehicles and must have in effect a valid Commercial Drivers License, of the appropriate class, issued by the Texas Department of Public Safety.*



Unacceptable Materials

- Contractor responsible for identifying and not collecting any materials excluded from City's recycling program
- Contractor may be required to leave a tag on recyclables not collected explaining why collection did not take place
- More of a challenge with single-stream collection

Sample Language: *The Contractor is not expected to open individual containers to check for contaminants. However, if the Contractor identifies a contaminated container, the Contractor shall leave any materials set out which are not being collected under the City's curbside recycling program. In addition, the Contractor shall leave an "education tag" indicating acceptable materials and the proper method of preparation. This education tag will be developed by the City in cooperation with the Contractor. The education tag will require residents to remove refuse from recyclables by the next business day. The driver shall record the addresses of residences given "education tags" on forms acceptable to the City. Contractor shall report the addresses to the City at the end of day.*



Damage to Property

- Contractor responsible to replace or repair all property damaged in collection
- Property damage should be addressed in a timely manner at no charge to the property owner

Sample Language: *The Contractor shall take all necessary precautions to protect public and private property during the performance of this Contract. Except for reasonable wear and tear, the Contractor shall repair or replace any private or public property which is damaged by the Contractor. Such property damages shall be addressed for repair or replacement, at no charge to the property owner, within forty-eight (48) hours with property of the same or equivalent value at the time of the damage. If the Contractor fails to address the repair or replacement of damaged property within forty-eight (48) hours, the City may, but shall not be obligated to, repair or replace such damaged property, and the cost of doing so shall be deducted from payment to be made to the Contractor.*



Recyclable Collection Containers

- City or Contractor may have responsibility to supply containers
- If Contractor is assigned responsibility,
 - Contractor must maintain enough inventory to serve City
 - City may specify the size and appearance of containers to contractor

Sample Language: *The Contractor must provide 64-gallon Recyclable Materials Storage Containers for the collection of Recyclables. The Contractor will maintain a new and replacement inventory, service, and repair, and maintain sufficient Recyclable Materials Storage Container inventory to meet supply needs for the entire term of the contract. The City will not provide a staging area for Recyclable Materials Storage Container distribution. Recyclable Materials Storage Containers should be blue and have the recycling symbol molded into the container. Recyclable carts should have the following inscription: “Property of (COMPANY NAME)” and clearly provide the Contractor’s phone number. In addition, stickers containing text and pictures describing acceptable Recyclable Material should be affixed to Recyclable Material Storage Containers.*



Collection Method

- Collection may be single-stream, dual-stream, or source-separated
- Trend toward single-stream collection:
 - Diversion will be maximized
 - Collection costs will be minimized
 - Contamination may be an issue
- However, processors may not currently have the ability to process single-stream

Sample Language: *It will be the responsibility of the Contractor to collect the curbside Recyclable Materials of all single-family residential households within the City using a single-stream collection method.*



Fuel Adjustment

- Fuel cost key driver of collection costs
- Contract may be adjusted to account for changes in fuel prices
 - Tie fuel component of contract to market index (i.e. Light Sweet Crude on NYMEX)

Sample Language: *Annual compensation shall be made to the Contractor to cover fuel cost increases beyond the control of the Contractor which exceed the general consumer price inflation/deflation indices described above. Fuel cost increases shall be based on the odometer readings of the vehicles, the miles of travel estimated for the routes and disposal locations assigned to the vehicles, and the weighted average of fuel price in the year compared to the weighted average of fuel price in the previous year. All interpretations of the fuel cost adjustment calculation shall be made by the City. Documentation satisfactory to the City must be provided before any fuel cost compensation will be made.*



Other Collection Contract Provisions

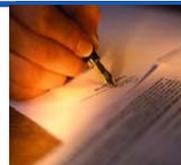
- City responsibilities- describe all City customer service responsibilities
- Cleanup responsibilities- contractor to clean up spillage
- Protection of utility property- contractor must not damage utilities
- Audits- City has the right to audit contractor's financial records
- Enforcement- City to enforce recycling code
- Delivery- Recyclables must be delivered to specified location



Contract Fees Incentivize Performance



- Assessed to ensure adequate performance
- Fees may be charged for violations including:
 - Missed curbside collection
 - Failure to clean up spilled material
 - Failure to meet reporting requirements
 - Placing recyclable material in garbage containers
 - Failure to respond to customer complaints



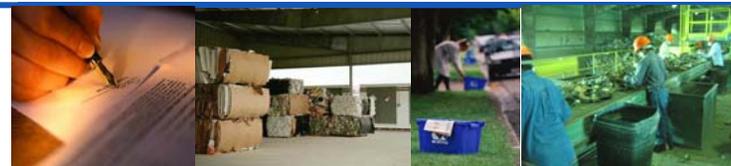
Collection Contract Reporting Requirements

- Contractor should report to City:
 - Gross weight of materials collected
 - Total number of set-outs
 - Total households served



Collection Reports Yield Knowledge

- Data allows the City to:
 - Monitor changes in tonnage and participation
 - Identify opportunities for improvement
 - Example: If diversion plateaus, improve public education messaging



Contract Design for Processing



Processing Contract Provisions



- Key processing contract provisions relate to:
 - Contract length
 - Service requirements
 - Contamination
 - Capacity
 - Public Education



Contract Length

- Appropriate contract length is dependent upon the need of bidders to invest in processing equipment
- Longer contracts allow contractors more time to recover the capital costs
- Talk to bidders to understand their contract length needs

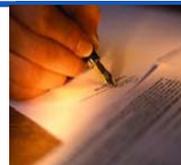
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Service Requirements

- Processor must accept recyclable materials at a location within close proximity to the City
- Processor's facility must meet minimum clearances to allow hauler's vehicles to enter
- Turn around time should be limited by the contract.

Sample Language: *The primary processing facility must be located within a thirty (30) mile radius of City Hall...The unloading site at the processing facility must allow unloading of a minimum of two collection vehicles at the same time. The minimum clearances are as follows: 26 feet in height for unloading, 12 feet in width for door entry and exit by 14 feet in height for door entry and exit of vehicles... The Contractor selected to process the City's Recyclable Materials shall assure a truck turn around time not to exceed 15 minutes after the initial weigh-in, barring any unique, infrequent circumstances beyond the Contractor's control.*



Contamination

- Contamination rates vary by community
- Contracts historically set a “reasonable” level for contamination that was City’s responsibility
- Ideally, responsibility is exclusively assigned to processor
 - Recognizes monetary value to reducing contamination
 - Gives the processor strong incentive to invest in efficient processing equipment and contribute to public education

Sample Language: *The City will provide or pay for the disposal of the first 1,000 tons of contaminants/residuals during each year of the Contract at a disposal site of the City’s choosing. The disposal of contaminants/residuals beyond the first 1,000 tons in each year of the Contract will be the responsibility of the Contractor. The Contractor shall dispose of residuals and contaminants at a qualified disposal facility. The Contractor shall be responsible for hauling the residuals and contaminants to the disposal facility. The Contractor shall assure that Recyclable Materials collected under the City’s curbside recycling program are not landfilled except for process residuals.*



Capacity

- The processor must have the capacity to process all of the City's recyclable tonnage throughout the term of the Contract.

Sample Language: *The Contractor shall assure that adequate recyclable material processing capability will be provided for all materials collected.*



Public Education

- City may encourage or require processor to contribute to public education
- Contractor's support of public education should be coordinated by City
 - Ensures uniform messaging
 - Prevents redundancies

Sample Language: *The City will be responsible for coordinating all public education programs and outreach relative to the services and as requested by citizens... The Contractor [is encouraged] to voluntarily contribute to the public education program funded by the City*



Other Processing Contract Provisions

- Preparedness to serve- ability to accept recyclables after start date
- Personnel- Contractor must provide enough staff to fulfill contract
- Revenue sharing- methodology for calculating any payments to City
- Recyclable characterization- City has right to perform audits of the recyclable stream
- Disposal- City may require contractor to use its landfill for disposal (if applicable)



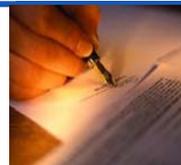
Processor Reporting Requirements

- Contractor should report to City:
 - Date, truck number, ticket number and net weight of all incoming loads
 - Recyclable Materials processed, by recyclable type
 - Tons of residuals disposed
 - Purchasers of recyclables
 - Revenue generated from sales



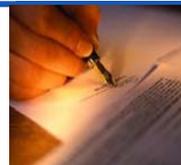
Processing Reports Yield Knowledge

- Data allows the City to:
 - Understand participation levels and contamination levels across areas of City
 - Target public education message in a particular area of City
 - Understand commodity market conditions
 - Ensure City is receiving proper level of revenue sharing (if applicable)



Revenue Sharing

- Revenue sharing involves the City and the processor sharing the revenue generated from the sale of recyclables.
- Under revenue sharing, processor will typically sell recyclables on the open market.
- The processor will then pay the City its share of revenue earned on each ton.



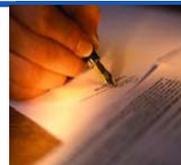
Revenue Sharing Example

Recyclable Sales Price:	\$100 per ton	\$100 per ton
Tons Sold:	<u>X 50 tons</u>	<u>X 100 tons</u>
Total Revenue:	\$5,000	\$10,000
Processor's Revenue Share:	<u>X 50%</u>	<u>X 50%</u>
Total Processor Revenue:	\$2,500	\$5,000
Total City Revenue :	\$2,500	\$5,000



Revenue Sharing Drives Diversion

- As share of revenue to Contractor increases, Contractor has greater incentive to:
 - Contribute to public education
 - Process recyclables more efficiently
 - Identify other means of increasing diversion



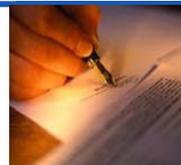
Processing Terminology

- **Floor Price**

- The price at which the processor guarantees each commodity will be sold. Floor pricing may be used in conjunction with revenue sharing.

- **Market Indices**

- Commodity market indices track the price of recyclable commodities on a month to month basis. Market indices may be used to calculate the amount of revenue the processor must share with the City.



Common Market Indices

Commodity	Index
Old Newspaper (ONP)	Official Board Markets (OBM), ONP #6.
Old Corrugated Cardboard (OCC)	Official Board Markets (OBM), OCC #11).
Household Office Paper and Mail (HOPM)	Official Board Markets (OBM), Mixed Paper #1.
Old Magazines (OMG)	Pulp & Paper Week.
Aluminum Cans or Scrap	American Metal Market (AMM), Aluminum.
Tin Cans or Scrap	American Metal Market (AMM), Tin.
Plastics #1	Waste News, Plastic #1.
Plastics #2	Waste News, Plastic #2.



Revenue Sharing Example Using Indices

Recyclable Index Price:	\$110 per ton
Tons Sold:	<u>X 50 tons</u>
Total Index Calculated Revenue:	\$5,500
City's Revenue Share:	<u>X 50%</u>
Total City Revenue:	\$2,750

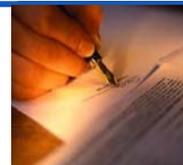


Total Processor Revenue = Actual Sales Revenue - \$2,750



Market Indices Protect City

- Market indices may be used to calculate City's share of revenue
 - Indices provide protection from the sale of recyclables at below market prices



Separate versus Integrated Contracting



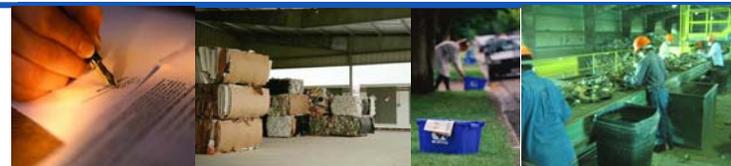
Separate vs Integrated Collection and Processing

	City Processing	Private Processing
City Collection	No Procurement	Processing Procurement
Private Collection	Collection Procurement	Collection and Processing Procurement



Separate vs Integrated Collection and Processing

	Separate Collection	Integrated Collection
Hauler's Incentive to Maximize Diversion	Weak	Strong
Total Cost to City	May be more expensive	May be less expensive
Contract Length	Flexible	Must be same for both services



Evaluation of Separate versus Integrated Processing

- City may create procurement documents to allow for contractors to bid to provide one or both services
- City should compare best integrated bid with best separate collection and processing scores
 - If scores are similar, City may opt to select integrated bid due to stronger incentive for collection contractor to maximize diversion



Compensation Structure Options



Compensation Structure- A Historical Overview

- Historically, many contracts have not been structured to maximize diversion
- These compensation structures include:
 - Fixed fee collection and processing
 - Fee per ton processing
 - Declining revenue sharing



Fixed Fee Collection

- Contractor is paid a fixed fee for collecting and processing recyclables
 - Example: Collection contractor paid \$2 per household per month, regardless of whether the household participates in recycling
- Contractor profit is maximized when stops on collection route are minimized
 - No incentive to drive diversion



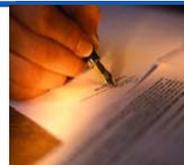
Fee Per Ton Processing

- Processor earns a fixed fee for each ton processed
 - Processor has some incentive to process high volumes
 - Processor has no incentive to produce materials sold at the highest price



Declining Revenue Sharing

- Revenue sharing decreases after a target has been reached
 - Beyond target, less incentive to drive diversion and to produce high quality recyclables



Opportunity to Improve Compensation Structure for City and Contractor

- Many recyclable contracts do not incentivize diversion by the Contractor
- A new compensation structure is needed which gives incentive to the Contractor to divert



Ideal Compensation Structure

- Contractor's revenue sharing percentage should increase as tonnage diverted increases
 - Maximum incentive to drive diversion and to produce materials sold at high prices



Proper Revenue Sharing Creates Public/Private Partnership

- Under proper structure, City and Contractor become partners
- Both have incentive to:
 - Maximize diversion
 - Minimize contamination



Drop-off Collection Procurement



Drop-off Procurement Decision

- Many of same processing issues apply to drop-off
- Explore options available in local marketplace
 - Identifying a “critical mass” of bidders may be a challenge
- Consider partnering with other communities to procure a joint drop-off facility/system



Key Issues to Consider in Selecting Vendor

- Materials marketing
- Experience with operating drop-off facilities
- Safety and Environmental Issues
- Cost



Pre-bid Meeting



Pre-bid meeting



- Meeting provides an opportunity to:
 - “Sell” prospective bidders on benefits of contract
 - Address questions raised by prospective bidders
 - Consider amendments to contract



Evaluation Process



Evaluation Process

- City sets evaluation criteria in RFP
- Proposals assigned points by City for each criterion
- Evaluators may include procurement staff, solid waste staff, and outside consultants



Sample Evaluation Criteria

Cost	40 points
Business Plan	30 points
Experience	20 points
Completeness of Proposal	10 points
Maximum Total Points	100 points



Sample Bid Evaluation

	Firm A	Firm B	Firm C	Firm D
Cost	25	35	30	40
Business Plan	25	20	20	15
Experience	15	15	10	5
Completeness of Proposal	10	10	5	10
Total Points	75	80	65	70

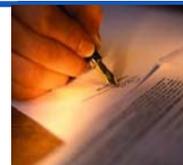


Contract Negotiations and Award



Contract Negotiations

- City may begin negotiations with parties receiving highest total evaluation scores before awarding contract
- Negotiations may involve one or more than one party providing each service
 - Example: The City may enter into negotiations with two bidders to provide collection service and one bidder to provide processing service



Contract Award



- City may elect to award a contract to highest scoring proposal
- Otherwise, the City may re-bid contract or provide service in-house to all or part of City



Managed Competition

- City opts to compete to provide collection services during bid process
- Given complexities involved, cities should strongly consider hiring an outside consultant



Questions or Comments?

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