



**MEMO**

**DATE:** April 1, 2014

**To:** Mayor, City Council Members, and City Manager  
City of San Angelo

**FROM:** Bob Gregory  
Texas Disposal Systems

**RE:** April 1, 2014 City Council Agenda Item 18 on Landfill and  
Waste and Recycling Collection Contracts

On February 10, 2014, the City of San Angelo issued a Request for Proposals (RFP) for landfill operation and for collection services. It is the first time in 37 years that the City has opened these services to competition. TDS was very active in getting the City to open this service to competition, with the strong belief that TDS can provide better service to the City than it has received from its sole service provider, Republic.

TDS responded to the RFP on March 21, with 3 options for operating the landfill and 7 alternatives for solid waste and curbside recyclable materials collection. Each of these options created benefits for the City that it does not have under its existing contract with Republic. TDS was the only responder to the RFP, other than Republic.

City officials have indicated that the top proposers would be given an opportunity to make presentations to the City Council detailing their proposals. Instead, an item was placed on the Council Agenda requesting authorization to negotiate new contracts exclusively with Republic. No details were released about why Republic was selected, and TDS is prohibited by the February 11, 2014 City of San Angelo RFP from speaking to City Council members about the specifics of the RFP or the RFP responses until a contract is posted for approval on the City Council agenda. TDS is prohibited from similarly addressing City staff members until after the City Council approval of the one or more related contracts allowed per the RFP. We do not know whether the item proposed for Council action means all of TDS's proposal options have been reviewed and rejected, whether the issues and questions TDS has raised in the process are being ignored, and/or whether the RFP Review Committee has decided to not allow a TDS presentation of its proposal before the City Council prior to the Council's final vote to award contracts for these services.

What benefit could there possibly be from ending the competitive portion of the RFP process only a few days into the evaluation period? Strangely enough, this is similar to what two of the three Council members on the RFP Review Committee wanted to do on August 6, 2013, when their motion failed to award Republic a five year contract extension and instruct City staff to negotiate contract revisions after Republic had been awarded the contract extension. These same two City Council members (Wardlaw

and Farmer) also attempted, but failed, in their motion to deny TDS a hauler's license permit to drive on City roadways accessing the City landfill, and later against the City initiating this competitive RFP process. I sincerely question whether these two Council members are interested in seeing an open, competitive RFP proposal evaluation process, which could threaten the continuation of Republic's services in San Angelo, regardless of the problems described in the attached RFP cover letter found to be the fault of Republic.

The move to negotiate without public consideration of TDS's proposals raises significant concerns. First, it ignores the fact that Republic already has environmental responsibility and liability related to their operation of the City landfill for more than 37 years, and from being the primary hauler of waste into the landfill from the City and from numerous communities in the San Angelo area. Second, it fails to publicly answer questions TDS has asked about fees that Republic has been collecting from commercial customers for years, apparently without authorization. Any overcharges to commercial accounts within the City, above what is allowed the exclusive operator by City ordinance, among other things, should be documented and considered within the final evaluation of the contractor selection. This can only be done if the City staff is able to discuss these issues with TDS representatives in contract negotiations authorized by City Council and understands the issues and how they affect the more than 2,000 captive commercial and roll off accounts, which Republic bills directly. Based on information made public in the RFP process, in combination with a review of commercial rates approved by City ordinance, as well as actual copies of invoices from commercial customers located inside the City of San Angelo which illustrate billing for services substantially higher than approved City ordinance rates, we have reason to believe that Republic's invoice charges to commercial customers have been greater than approved by ordinance by an amount in excess of \$1,000,000 per year. It is our understanding, through a review of the past invoices of our related company, Acme Iron and Metal Co., that this process of charging additional fuel and environmental fees greater than that which is allowed by City ordinance has gone on for many years. TDS has specifically asked City staff for the ordinances supporting these fees but has not yet received the information. Our review of all past rate ordinance revisions that we could locate shows no such authorization for the significant amount of added fees Republic is now billing its San Angelo commercial accounts.

Some of the council members who were not placed on the RFP Review Committee specifically stated in a recent Council meeting that they were willing to back away from inclusion in the RFP Review Committee because they would hear presentations from the finalists and would be presented all the information in order to be fully informed prior to the vote. TDS respectfully suggests that the full Council and the public need to be given the opportunity to ask questions and to fully understand the proposals submitted before the Council votes to enter into contract negotiations with just one party. The Council and the public also need to be given the opportunity to review the final negotiated and posted contracts over an adequate time period prior to the City Council making a final decision.

Why are the Council and the public not being given the opportunity to hear presentations from both responders; TDS and Republic? Also, why should the City Council give the Republic representatives the impression that the selection of the City's contractor under the RFP process has been completed and that TDS will not even be interviewed or allowed to make a presentation to City Council? We can only assume that Republic has offered the City something that the RFP Review Committee found acceptable enough to cause them to look no further, and so significant as to not warrant the distraction of completing an RFP process. Hopefully, someone will clarify whether the RFP Review Committee (aka, selection committee and evaluation committee) has completed its work, and whether the three Council members on the committee will participate in the contract negotiations, going forward.

TDS requests that the City Council not approve Agenda Item 18, and thereby not direct City staff to negotiate exclusively with Republic. Instead, TDS requests that the City Council and staff post a separate

agenda item for City Council consideration at its next meeting, to direct City staff to negotiate contracts with both Republic and TDS, for both landfill and collection services, and to allow both respondents to make presentations of their proposals to Council prior to moving forward with any contract negotiations. This would allow the City to fulfill the intent of the RFP and enable the City Council to have a choice between two contractors when considering their final decision. This would also allow the public to understand the different things TDS brings to the table to benefit the City and its citizens.

TDS is proud to be part of the San Angelo community and believes the City took the right course when it decided to seek proposals for landfill operation and collection services. We hope the City Council will not end the process without open consideration and discussion of the RFP response proposals that were presented. Opening the process would give TDS an opportunity to show how it can provide noticeably different and noticeably better service to the citizens of San Angelo.

Attached you will find the following:

1. April 1<sup>st</sup> City Council Agenda, Page 5 (see agenda item 18);
2. April 1<sup>st</sup> City Council Agenda Item 18 backup document;
3. The "RFP Selection Notification" letters dated Tuesday, March 25, 2014, and received by email from Shane Kelton, RFP Review Committee Chairperson, at 3:43 PM on Friday March 28<sup>th</sup>;
4. The TDS March 21, 2014 cover letter, which accompanied the TDS RFP response proposal presentation, with specific areas of concern we hope to discuss with City staff and then to present to City Council in a formal presentation; and
5. The City RFP Evaluation Criteria, Selection Process, and Award of Contract and Reservation of Rights documentation.

SOLID WASTE”, MORE PARTICULARLY BY AMENDING ARTICLE 11.200, ENTITLED “WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN”, SECTION 11.202, ENTITLED “WATER CONSERVATION MEASURES”, TO REFLECT UNDER SAID SECTION THE MARCH 20, 2014 “CITY OF SAN ANGELO WATER CONSERVATION PLAN” ADOPTED BY CITY OF SAN ANGELO CITY COUNCIL HERETO; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE

(Presentation by Water Utilities Director Ricky Dickson)

18. Consideration of authorizing City staff to negotiate two separate contracts regarding Request for Proposal OP-01-14 with Republic Waste Services of Texas, Ltd for (1) the Lease and Operation of the San Angelo Sanitary Landfill and for (2) Waste Collection Services for the City of San Angelo

(Presentation by Operations Director Shane Kelton)

19. First Public Hearing and consideration of introducing an Ordinance amending Appendix A pertaining to Lake Nasworthy Lot Lease Fees

AN ORDINANCE AMENDING APPENDIX A, ARTICLE 6.00, SECTION 6.100 ENTITLED “LAKE NASWORTHY LOT LEASE FEES”, OF THE CODE OF ORDINANCES OF THE CITY OF SAN ANGELO, TEXAS, BY REPEALING AND RESTATING SAID ARTICLE IN ITS ENTIRETY TO PROVIDE FOR LAKE NASWORTHY AND SOUTH CONCHO RIVER LEASE FEES; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE

(Presentation by Real Estate Administrator Cindy Preas)

#### **G. FOLLOW UP AND ADMINISTRATIVE ISSUES**

20. Consideration of and possible action on matters discussed in Executive/Closed Session, if needed
21. Announcements and consideration of Future Agenda Items
22. Consideration of rescheduling the Tuesday, August 19, 2014 Regular City Council meeting to Thursday, August 21, 2014  
Announcement: Special Meeting on April 21, 2014 at 9:00 a.m.
23. Adjournment

The City Council reserves the right to consider business out of the posted order, and at any time during the meeting, reserves the right to adjourn into executive session on any of the above posted agenda items which are not listed as executive session items and which qualify to be discussed in closed session under Chapter 551 of the Texas Government Code.

Given by order of the City Council and posted in accordance with Title 5, Texas Government Code, Chapter 551, Friday, March 28, 2014, at 5:00 P.M.

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Alicia Ramirez, City Clerk

## City of San Angelo

## Memo

Date:	March 28, 2014
To:	Mayor and Councilmembers
From:	Shane Kelton, Director of Operations
Subject:	Agenda Item for April 1, 2014 Council Meeting
Contact:	Shane Kelton, Operations, 325-657-4206 x 1431
Caption:	Regular Agenda
	<u>Consideration of authorizing City staff to negotiate two separate contracts regarding Request for Proposals OP-01-14 with Republic Waste Services of Texas, Ltd for (1) the Lease and Operation of the San Angelo Sanitary Landfill and (2) Waste Collection Services for the City of San Angelo</u>
Summary:	<p>The Operations Department published a Request for Proposals (RFP) OP-01-14 for the lease and operation of the City of San Angelo Sanitary Landfill and for waste collections services for the City of San Angelo. A notice of the RFP was sent via certified mail to seven (7) vendors. Texas Disposal Systems (Creedmoor, TX) and Republic Waste Services of Texas, Ltd (Arlington, TX) responded with proposals for both portions of the RFP. An evaluation committee reviewed the proposals of each respondent and evaluated each according to criteria established within the RFP. The combined evaluation of the committee members ranked the proposals of each Respondent and found Republic Waste Services of Texas, Ltd's response to be the most beneficial for both the lease and operation of the City of San Angelo Sanitary Landfill and for waste collection services for the City of San Angelo.</p>

History:	<p>Chronology of events regarding RFP OP-01-14:</p> <ul style="list-style-type: none"> <li>February 11, 2014: RFP OP-01-14 Published</li> <li>February 11 – March 12, 2014: Opportunity for potential respondents to present questions and request clarifications regarding the RFP</li> <li>March 21, 2014: RFP Due Date. Two (2) Respondents submitted proposals: Texas Disposal Systems and Republic Waste Services of Texas, Ltd</li> </ul> <p>The Evaluation Committee met and conducted a review, evaluation, and ranking of each proposal based on the evaluation criteria established in the RFP. Such evaluation criteria were:</p> <table border="1" data-bbox="500 449 1395 711"> <thead> <tr> <th><b>Landfill Lease and Operation</b></th> <th><b>Waste Collection Services</b></th> </tr> </thead> <tbody> <tr> <td>• Financial Impact of the Proposal</td> <td>• Financial Impact of the Proposal</td> </tr> <tr> <td>• Operational Experience of the Respondent</td> <td>• Operational Experience of the Respondent</td> </tr> <tr> <td>• Financial Qualifications / Stability of the Respondent</td> <td>• Financial Qualifications / Stability of the Respondent</td> </tr> <tr> <td>• Adherence to the Specifications</td> <td>• Adherence to the Specifications</td> </tr> <tr> <td>• Additional Beneficial Criteria Submitted</td> <td>• Additional Beneficial Criteria Submitted</td> </tr> </tbody> </table> <p>The evaluation committee's consolidated review ranked the proposals submitted by both Respondents as follows:</p> <table border="1" data-bbox="453 829 1432 1094"> <thead> <tr> <th></th> <th>Republic Waste Services of Texas, LTD</th> <th>Texas Disposal Systems</th> </tr> </thead> <tbody> <tr> <td>Ranking for Lease and Operation of the Sanitary Landfill</td> <td>First</td> <td>Second</td> </tr> <tr> <td>Ranking for Waste Collection Services</td> <td>First</td> <td>Second</td> </tr> </tbody> </table>	<b>Landfill Lease and Operation</b>	<b>Waste Collection Services</b>	• Financial Impact of the Proposal	• Financial Impact of the Proposal	• Operational Experience of the Respondent	• Operational Experience of the Respondent	• Financial Qualifications / Stability of the Respondent	• Financial Qualifications / Stability of the Respondent	• Adherence to the Specifications	• Adherence to the Specifications	• Additional Beneficial Criteria Submitted	• Additional Beneficial Criteria Submitted		Republic Waste Services of Texas, LTD	Texas Disposal Systems	Ranking for Lease and Operation of the Sanitary Landfill	First	Second	Ranking for Waste Collection Services	First	Second
<b>Landfill Lease and Operation</b>	<b>Waste Collection Services</b>																					
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	Republic Waste Services of Texas, LTD	Texas Disposal Systems																				
Ranking for Lease and Operation of the Sanitary Landfill	First	Second																				
Ranking for Waste Collection Services	First	Second																				
Financial Impact:	The financial impact will be established through the negotiation process.																					
Related Vision Item (if applicable):	NA																					
Other Information/ Recommendation:	Staff recommends authorization to negotiate two separate contracts with Republic Waste Services of Texas, Ltd for: 1) Lease and Operation of the City of San Angelo Sanitary Landfill; and 2) Waste Collections Services for the City of San Angelo.																					
Attachments:	None																					
Presentation:	None																					
Publication:	None																					
Reviewed by Director:	Shane Kelton, Director of Operations, March 28, 2014																					
Approved by Legal:	March 28, 2014																					

**Subject:** FW: City of San Angelo RFP OP-01-14  
**Attachments:** Letter to Ryan Beard OP-01-14.pdf

**From:** [Kelton, Shane](#)  
**Sent:** 3/28/2014 3:43 PM  
**To:** [Ryan Beard](#)  
**Subject:** City of San Angelo RFP OP-01-14

Ryan,

Please find the enclosed notification letter in reference to RFP OP-01-14 "Lease and Operation of Sanitary Landfill and Waste Collection Services". The original letter has been mailed to you via the USPS.

Best Regards,

Shane Kelton

This message (including any attachments) is intended only for the use of the individual or entity to which it is addressed and may contain information that is non-public, proprietary, privileged, confidential, and may constitute attorney work product or be exempt from disclosure under one or more of the following sections of the Texas Public Information Act: SECS. 552.101, 552.103 or 552.107. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, notify us immediately by telephone and (i) destroy this message if a facsimile or (ii) delete this message immediately if this is an electronic communication. Thank you.



The City Of

# San Angelo, Texas

72 West College - Zip 76903

March 25, 2014

Mr. Ryan Beard  
c/o Texas Disposal Systems  
12200 Carl Road  
Creedmoor, TX 78610

**Re: RFP Selection Notification**

Mr. Beard,

The selection committee has completed its review of RFP OP-01-14 and will request authorization to enter into negotiations with Republic Services at the City Council meeting on April 1, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane Kelton".

Shane Kelton  
Director of Operations  
RFP Review Committee Chairperson





The City Of

# San Angelo, Texas

72 West College - Zip 76903

March 25, 2014

Mr. Kenneth Ramzinski  
c/o Republic Services  
1422 Hughes Street  
San Angelo, TX 76903

**Re: RFP Selection Notification**

Mr. Ramzinski,

The selection committee has completed its review of RFP OP-01-14 and will request authorization to enter into negotiations with Republic Services at the City Council meeting on April 1, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane Kelton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Shane Kelton  
Director of Operations  
RFP Review Committee Chairperson

**TEXAS DISPOSAL SYSTEMS**

TEXAS DISPOSAL SYSTEMS, INC. TEXAS DISPOSAL SYSTEMS LANDFILL, INC.

P.O. Box 17126  
Austin, TX 78760-7126  
512.421.1300  
512.421.1325 (FAX)  
[www.texasdisposal.com](http://www.texasdisposal.com)

March 21, 2014

City of San Angelo  
72 West College Avenue  
San Angelo, Texas 76903

Dear Mayor, Council Members and City Staff,

Texas Disposal Systems, Inc. and Texas Landfill Management, LLC (TDS) are pleased to present their responses to RFP No: OP-01-14 for Lease and Operation of Sanitary Landfill and Waste Collection Services.

As you know, the services that are the subject of this RFP have not been competitively bid in over 37 years, if ever. Thank you for allowing this Request For Proposal process. TDS is now prepared to meet with the Proposal Evaluation Committee as appropriate, and to discuss all aspects of the City's solid waste services program and the options we have proposed. I encourage each of you to carefully read all of the proposals submitted and to take the time necessary to understand the issues that City staff has been challenged with addressing for years.

Much was said publicly by certain Council members during the lead up to the issuance of this RFP, to the effect that Republic Services has been an excellent partner for the City, and perhaps the City should merely review the options that might be available before automatically extending the current contract for an additional five years in a manner similar to its current requirements. TDS has discovered numerous things over the past year and through this RFP process, which form the basis for me to respectfully suggest to you that this is not an appropriate characterization of how Republic, and its predecessor, have serviced the City since the Duncan family ceased to own Trashaway, Inc.

Due to the very short, but convoluted contract between Republic and the City, and the fact that it has not previously been subjected to the scrutiny normally associated with public review and evaluation that comes with a competitive bidding process, TDS' impression is there has been very little accountability for Republic and the predecessor companies Republic purchased. In this accountability vacuum, Republic has demonstrated a willingness to conduct its business with what appears to TDS to be a strong focus on its own bottom line that is incommensurate with the fiduciary responsibility that ought to be expected of a large company that has been entrusted with control of such a large and environmentally sensitive City asset, and is relied upon for the

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accurate direct billing of commercial services. As addressed more fully below and in the TDS proposal responses, it appears that there has been significant mismanagement of the landfill, as well as an apparent systematic over billing of the commercial accounts in the collection portion of the contract. One example involves the landfill permit soil balance calculation, which calls for a 297,900 cubic yard surplus of soil over the life of the site. Republic's management of the site has resulted in a soil deficit to the extent that landfill cover and closure soils appear to have been almost completely depleted a decade before Republic's most recent projected date the landfill will be filled. This creates a major hurdle for any other operator wanting to assume the operation of the existing landfill. This is a serious and very costly problem in and of itself, but perhaps indicates there may be additional unknown problems with the landfill. TDS found serious problems left by Republic at the City of Alpine landfill after TDS took over that contract from Republic on March 1, 2007. Please see the statement explaining those problems included within the TDS RFP response. As another example, it has become clear to us that Republic has billed the commercial customers in San Angelo significantly more than the amount stated in the City ordinance.

As demonstrated in our proposal, the City now has an option to select another operator and to begin addressing these problems, and finally have a contract that can be easily administrated and audited by City Staff.

TDS proposes to enter into good faith negotiations with the City, utilizing the RFP and the TDS response as a framework for a long term comprehensive agreement for TDS to provide collection, recycling, processing and disposal services to the City. Considering that the landfill entrance has to be moved and a new scale house, scale and entry roads must be built if another landfill operator is to operate the existing landfill because Republic owns those existing facilities; and because Staff has reported that Republic has buried waste on the site of the City landfill outside the authorized limits for waste disposal; and because insufficient daily, intermediate and final cover soils exist on the existing landfill site to complete the construction of the landfill; and because there are sincere questions remaining regarding the reported lack of waste compaction consuming the City's landfill capacity in recent years; and because there is a serious shortage of funds earmarked to cover the cost of landfill closure and post closure, and to address corrective action for off-site contamination migration; and because Republic apparently chose to charge San Angelo commercial customers more than the amount stated in the City ordinance which gave them exclusive service rights to those customers; and because of Republic's failure to offer a full range of container sizes and service frequency options, forcing commercial customers to subscribe to more service and in most cases pay more for that service than is necessary for their level of trash generation; we believe the time is ripe for a thorough evaluation of the past performance of Republic and the drafting of one or more contracts that meet the short term and long term needs of the City. My criticism is of Republic Services for the way they have taken advantage of the City. I am not criticizing City Staff, or the Mayor, or the

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Council in their efforts to manage the Republic contract and/or to protect the City's best interests.

TDS recognizes that the final agreements may not be precisely reflective of the City's RFP or of the TDS responses to the RFP, and TDS hopes the City will realize that the ideal situation for all parties will require a degree of flexibility. However, I am confident that if the City decides to complete the process, the end result will be worth the effort.

Thank you again, Mayor, Council Members and City Staff for your thoughtful consideration of the TDS proposals.

Respectfully,

A handwritten signature in black ink, appearing to read "Bob Gregory". The signature is written in a cursive, flowing style with a large initial "B".

Bob Gregory  
Chairman & CEO  
Texas Disposal Systems, Inc.

## 10. EVALUATION CRITERIA

The City will conduct a comprehensive, fair and impartial evaluation of all proposals received in response to this RFP. The City will appoint a selection committee to perform the evaluation. Each proposal will be analyzed to determine overall responsiveness and qualifications under the RFP. Criteria to be evaluated are included in the respective service Appendixes. The selection committee may select all, some or none of the Respondents for interviews. If the City elects to conduct interviews, Respondents may be interviewed and re-scored based upon the same criteria. The City may also request additional information from Respondents at any time prior to final approval of a selected Respondent. The City reserves the right to select one, or more, or none of the Respondents to provide services. Final approval of a selected Respondent is subject to the action of the City of San Angelo City Council.

- See Appendix C, C21 for Landfill Lease and Operations Evaluation Criteria
- See Appendix D, D18 for Waste Collections Services Evaluation Criteria

## 11. SELECTION PROCESS

- A. The City will evaluate and rank the proposals in relation to the published selection criteria within 45 days after the opening.
- B. The City reserves the right to revise the Request and request "Best and Final Offers" from the top candidates following the initial evaluation.
- C. The City then will select the proposal that offers the best value based on the published selection criteria and its ranking evaluation.
- D. Following the selection, the contract negotiation process begins and the City will negotiate first with the highest ranked offer. At this stage, the City may discuss modifications to the proposed scope, time and price. Modifications are not required, and if they are discussed but not agreed to by the City and the offeror, a final contract may still be negotiated and agreed upon based on the original response to the RFP. If the two parties are unable to reach a final agreement, the City will inform that offeror in writing that negotiations are ended.
- E. The City may then negotiate with the next ranked offeror. This continues in the order of the selection ranking until a contract is reached or all proposals are rejected.

## 12. AWARD OF CONTRACT AND RESERVATION OF RIGHTS

- A. City reserves the right to award one, more than one, or no contract(s) in response to this RFP.
- B. The Contract(s), if awarded, will be awarded to the Respondent(s) whose Proposal(s) is deemed most advantageous to City, pursuant to the evaluation criteria, as determined by the selection committee, upon approval of the City Council.
- C. City may accept any Proposal in whole or in part. If subsequent negotiations are conducted, they shall not constitute a rejection or alternate RFP on the part of City. However, final selection of a Respondent is subject to City Council approval.
- D. City reserves the right to accept one or more proposals or reject any or all proposals received in response to this RFP, and to waive informalities and irregularities in the proposals received. City also reserves the right to terminate this RFP, and reissue a subsequent solicitation, and/or remedy technical errors in the RFP process.
- E. This RFP does not commit City to enter into a Contract, award any services related to this RFP, nor does it obligate City to pay any costs incurred in preparation or submission of a proposal or in anticipation of a contract.
- F. If selected, Respondent will be required to comply with the Insurance and Indemnification Requirements established herein.