



Showdown Over \$450 Million Trash Contract Likely; City Council Meets Today

by Matt McDaniel

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San Angelo's landfill at dusk. This is the entrance. (LIVE! Photo/Joe Hyde)

In Brief:

- The City Council will consider entering into negotiations with current waste manager Republic Services for a new contract after Request for Proposals
- Texas Disposal Systems says they barely had time to read the proposal, and they want San Angelo to hear about their ideas



Mayor Morrison Responds

Mayor Dwain Morrison said that the committee looked at all of the responses to the RFP, and his understanding is that Republic's bid was much more comprehensive than TDS's.

The committee that included three San Angelo City Councilmen was augmented by city staff and lead by City of San Angelo Operations Director Shane Kelton.

Because only three councilmen were on the committee, it did not constitute a quorum. This avoided creating a circus surrounding the RFP recommendation process, said Morrison, because the notices for public meetings were not required.

Originally, the city council voted to appoint each other, that is, each member of city council only, to the committee. "This process is too important to not be on the committee," Charlotte Farmer said during that February meeting.

At the first meeting in March, council learned that by having all seven members on the selection committee be city councilmen would not work, according to Morrison. This is when the decision was made to form the committee in its present form.

"They graded each line of response on a points system, and both companies were graded on the same system," Morrison explained. "According to the selection committee, Republic has the best proposal, and the recommendation to select Republic will be presented to council Tuesday," Morrison said.

"Nothing has been decided yet and we haven't done anything yet. Nothing will be done until the council takes a vote on it Tuesday morning," Morrison said.

On the landfill:

Bob Gregory explained to San Angelo LIVE! back in November that the City of San Angelo was not earning enough revenue on its landfill operations to fund expansion or to meet EPA and TCEQ environmental standards. The deficit eventually was going to come out of the San Angelo taxpayers' pocket when the dump was full and more acres would be necessary to expand the landfill.

Morrison agrees with that assessment, and said that he supported the RFP process in order to get a closer look. "I always felt that there's more value in the landfill than we were realizing in the existing contract," he said.

Morrison believes that the new bid for contract with Republic addresses those concerns.

It looks like there's going to be a showdown today at the City Council Chambers.

At stake is a contract worth \$450 million over the next decade-- and one of the bidders is crying 'Foul!'

Item eighteen on today's agenda is the consideration of allowing city staff to enter into negotiations with current-waste management provider Republic Systems after a city committee reviewed proposals early last week.

The Council bowed to public pressure last year to open garbage collection and landfill management to competitive bids for the first time in 37 years through the Request for Proposal process.

Texas Disposal Systems got their submission in before the deadline along with Republic, which were reviewed by the committee consisting of three Council members and city employees.

Bob Gregroy, president of Texas Disposal Systems, is headed to the meeting; he thinks the proposals his company put together deserve more than two-business days' worth of consideration.

"They opened the proposals at 2 o'clock Friday and they were drafting a letter to us the next Tuesday...I think this too important to rush that way," Gregory said.

On Friday TDS received a letter from City Operations Director Shane Kelton, informing them of the City's decision to negotiate with Republic.

He said his company was operating under the impression they would have a chance to show their presentation, which he said outlines several innovative ideas to help to expand the life-expectancy of the city landfill and improve services currently available.

"It was stated in the Council meetings that we would be able to make our full presentation to the entire City Council," he explained. "Now they may come in tomorrow and say 'Wait a minute guys...you jumped the gun...we were going to negotiate with Republic on this, and with you guys on something else'....but I think everybody who saw that article in the paper probably thought the same thing we did; that Republic could come to council in two weeks with a finished contract and it's a done deal...where does that leave everyone who wanted to see competition and improved services."

Gregory feels it would be a mistake for the Council to approve a new contract with Republic before everybody has heard what TDS has to say.

Gregory sent an email to SanAngeloLIVE! just after 5 p.m. on Monday, which asks, in essence, "Why the Rush?"

The email was lengthy and included five attachments, one of which raises serious questions about Republic's business practices.

Attachment One is a copy of the City Council agenda which listed the item to consider authorizing city staff to enter into negotiations with Republic.

Attachment Two is a Memo from Kelton that details the RFP and lists the criteria on which respondents were judged on both sides of the RFP.

The following attributes were listed in the memo as deciding factors: Financial Impact of the Proposal; Operational Experience of the Respondent; Financial Qualifications / Stability of the Respondent; Adherence to the Specifications; and lastly, Additional Beneficial Criteria.

According to Kelton's memo, Republic beat out TDS on points for trash pickup and landfill management and they were subsequently selected for recommendation to Council.

Attachment Five was a copy of Page 5 of the RFP wherein details of evaluation criteria are spelled out.

Attachment Three consisted of the letters from Kelton to both respondents informing them of the City's decision, dated March 25th.

Attachment Four was a copy of the cover letter submitted to the City by TDS introducing their proposal.

That letter contained frank statements regarding problems at the landfill and overbilling of commercial clients by Republic that were identified by TDS during the RFP process.

"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 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 completely depleted.... This creates a major hurdle for any other operator wanting to assume the operation... it's a serious, and very costly problem."

The letter goes on to include a comprehensive list of areas where TDS feels it can do better, and spells out the challenges facing San Angelo vis a vis the landfill, pointing out their experience in dealing with similar problems in Alpine.

Body of email From Bob Gregory, March 31

This is the first TDS has heard from the City since City staff opened the sealed Republic and TDS response proposals at 2:00PM on Friday, March 21, 2014.

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.

The City had indicated that the top proposers would be given an opportunity to make presentations to the City Council detailing their proposals. Instead, an item has been placed on the Council Agenda for [Tuesday] requesting authorization to negotiate new contracts exclusively with Republic. No details have been 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 on Tuesday 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. Although TDS tried to meet with all of the Council members in the six month period prior to the issuance of the RFP, Councilmember Wardlaw refused to meet with TDS representatives, and Councilmember Farmer cancelled meetings and was unable to arrange her schedule to meet with us. 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. 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 representatives will be present at Tuesday's City Council meeting and will request that the City Council not approve Agenda Item 18 and thereby not direct City staff to negotiate exclusively with Republic. Instead, we will request 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.

Sincerely,

Bob Gregory, Texas Disposal Systems

Gregory speculated about what could have swayed the committee .

"I think what you're going to hear tomorrow is that Republic offered a large amount of money to the City--to pay for their past environmental liability," he said. "If you have a situation where the committee saw a great-big check—say six-to-nine million dollars—that may have blinded them to everything else...I don't know.

"And when you get into Republic's overcharging of commercial accounts...we will be wondering if they overcharged thier customers enough to pay for that."