

# Building



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**C**OMPETITIVE BIDDING FOR solid waste services can sometimes prove fatal for weak-hearted cities and lead to expensive lawsuits. For most jurisdictions, deciding whether to renew a contract with an existing waste services provider or conduct a competitive process is a big decision that is made infrequently. Limited in-house experience compounded by the high-value and long-term nature of waste contracts can make an already challenging process seem overwhelming. However, the city of Napa, Calif.,

has proven that the request for proposal (RFP) and contracting process does not need to be daunting. By ensuring a fair RFP process, the city has avoided potential pitfalls that can arise during competitive contracting.

### **A Sturdy Foundation**

Napa's administrators believe that a strong solid waste program results from a partnership between the city and contractor. The city's existing solid waste services contract had been in place for nearly 100 years and was coming to

an end in September 2005. Even with contract amendments, changes in state mandates for recycling and disposal reporting had made the existing contract outdated. The city wanted a new agreement that built a strong foundation for the entire waste management program.

Napa's first step was to decide whether to extend its solid waste service provider's contract or begin competitive proposals. City officials believed asking for proposals would allow them to judge whether the city was receiving the best service and

# Bridges

One California city proves the competitive RFP process does not have to go tumbling down.

**RE-INVIGORATING RECYCLING:** Napa's new contract, obtained through a successful RFP process, ensured that diversion programs were maintained and new recycling programs, such as food waste, would be implemented. Pictured on left (L-R) are Rosalie Mule, CIWMB board member; Jed Christensen, city of Napa finance director; Jill Techel, city council member; Kevin Miller, city of Napa recycling coordinator; and Rosario Marin, CIWMB chair.

Photo courtesy of city of CalRecovery Inc.

value. Updating the contract also would allow the city to update financial incentives for the contractor to recycle.

Under the old contract, garbage hauling was the waste service provider's primary function. But California law requires municipalities to maintain a 50 percent recycling diversion rate. Napa's 57 percent diversion rate was starting to decline. With the new contract, the city hoped to increase recycling and reduce the profit margin for disposal-related services.

To smooth the contracting process,

Napa hired a solid waste consultant. "Most city administrators only will encounter [the RFP, contract bidding process] once or twice in a career," says Mark Prestwich, assistant to the city manager. Thus, the city recycling coordinator and finance director worked with experts to manage the project and remained actively involved during the process.

The consultant, EcoNomics, Santa Barbara, Calif., was familiar with Napa's operations and solid waste services contracts. This allowed them to assemble a

capable project team, including:

- An attorney specializing in municipal solid waste (MSW) contracts (Hanson Bridget Law Firm, San Francisco);
- An engineering consulting firm specializing in MSW facility operations (CalRecovery, Concord, Calif.);
- A bond consultant to assist with purchasing a materials diversion facility (MDF);
- An additional consultant specializing in program implementation and regulatory compliance; and
- A media consultant to disseminate

information about the RFP process to Napa residents and businesses.

### Avoiding Stress Points

Among the first tasks the project team had to tackle was negotiating ownership of the MDF. Napa owned 50 percent of the facility with its existing solid waste contractor.

The site consists of the material recovery facility (MRF), composting facility, construction and demolition (C&D)

recycling, and wood processing areas. To maintain a fair RFP process, the city knew it would need full ownership of the MDF. If the existing contractor remained a co-owner, it would have an unfair advantage over other parties interested in bidding on the project.

The city eventually purchased the MDF — requiring a bond issue of \$7 million dollars — while keeping in mind that it wanted to own, not operate, the facility.

### Setting Its Sights

Among the other items the city knew it wanted in the RFP and contracting process were:

- A fair and transparent RFP and contracting process;
- To protect city council members from potential appearances of impropriety;
- To award the contract on schedule and give the winner adequate time to take over the service;
- To create the Evaluation Committee as a subset of two of the five council members, allowing decision-makers to determine the weighting of criteria;
- To ensure that “process” was paramount during the proposal evaluation and contract award, and that performance is the focus afterward;
- A clear and logical contract;
- A pay-for-performance and incentives-based contract;
- To provide uniform service throughout the community, including at schools; and
- To ensure both residential and business customers are satisfied with the new contract programs and service.

On the other hand, the city did not want:

- A RFP process that had the perception of being unfair;
- An unclear RFP that forced proposers to guess what the city wanted;
- Proposals submitted by companies that had no intention of meeting city requirements, thereby wasting the involved parties’ resources;
- Proposers lobbying council members or staff outside of public meetings;
- Proposers offering prices that were lower than the written proposal to win the contract;
- The public accusing council members or project team members of having a conflict of interest due to stock ownership or other concerns;
- Articles or advertisements that published misinformation about the process;
- To receive proposals that varied greatly and made comparisons difficult;
- Greatly increasing rates that would cause rate shock and revolt; and
- Ending up with a contract that did not allow the city to effectively manage or penalize the contractor if problems arose.

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### Reaching Out and Across

Based on those goals, the project team developed strategies to ensure all participating waste companies received the same information at the same time. The city also developed procedures to ensure decision makers, including the Napa City Council and evaluation committee, received identical information concerning companies' proposals simultaneously. And the city was committed to a fair, open and legally defensible evaluation process.

Additionally, to aid waste companies in the proposal process, the city:

- Included background information on the Napa area, demographics and other data in the RFP;
- Hosted a mandatory pre-proposal conference and MDF. With this, companies were simultaneously provided with the same information.
- Developed a city point-of-contact to whom companies could direct questions.
- Simultaneously distributed copies of questions and answers as an addendum to the RFP to companies.
- Ensured proposers understood and agreed to follow the RFP protocol. Companies were required to sign an agreement form acknowledging their consent. Failure to follow protocol may disqualify a company from the process. City council members were warned about potential conflicts of interest. By approving the protocol, city council members imposed rules on themselves.

### Closing the Divide

The city issued the RFP by July 2004, and by Dec. 7, 2004, the city awarded the solid waste contract to Napa Recycling & Waste Services, Napa, Calif.

The RFP proposals were "data-driven," giving no advantage to current or former contractors, says Jill Techel, a city council member.

The contract, which begins Oct. 1, 2005, requires a 10-year term with the possibility of four one-year renewals. The total contract value is approximately \$150 million dollars for the initial 10-year contract.

Napa says although the contracting process was not flawless, the city met its goals. Some of the innovations that resulted were:

■ **Electronic Communication** — The city communicated information without paper, such as via e-mail, CD, or through the city's Web site.

■ **RFP Title** — By titling the RFP, "A Contract for Diversion Services and Residual Management," the city notified companies that the contract was focused on solid waste diversion.

■ **MRF now called MDF** — The city renamed the MRF an MDF, to better describe the many diversion activities at that facility beyond the typical MRF (e.g., C&D, composting)

■ **Focus Groups** — Before writing the RFP, the project team held focus groups of business owners and residents that helped the city to understand what services customers liked, disliked and



(L-R) Photos courtesy of city of Napa and CalRecovery Inc.

**ONE:** The city wanted to encourage e-waste collection events in the new contract using financial incentives. The city-owned MDF includes a source-separated wood processing and C&D recovery area.

wanted in the future.

■ **Uniform Service** — The city and the school district adopted a memorandum of understanding so schools would be included in the franchise contract and receive the same recycling services as the city.

■ **Application Fee** — Waste companies were required to submit a \$10,000 application fee, which was nonrefundable. This guaranteed that companies were serious about the contract and also contributed to review costs.

■ **Contract Forms** — To submit a proposal, companies had to complete 69 forms, which allowed the city to make exact comparisons of proposed programs and costs.

■ **Trust but Verify** — In the final contract, the city has developed requirements allowing officials to verify information. For example, city staff will work at the scalehouse to ensure waste tonnages are being properly allocated. Also, the contractor and city staff offices will be housed together at the MDF to improve communication and encourage a collaborative, team feeling.

■ **Incentives-Based Contract** — The final contract indicates the five ways the contractor is paid. This includes a diversion incentive, where if a 50 percent diversion rate is attained, the contractor's compensation increases. The opposite is true if the diversion rate drops below 50 percent. Additionally, the contractor keeps 30 percent of all marketed materials.

■ **Media** — The city was proactive in meeting with the press to keep the public informed.

■ **Sticking to the Schedule** — The contract was signed and awarded on schedule, 10 months prior to the existing contract's expiration date.

While some companies raised concerns about an arduous and complicated RFP process, Napa believes its steps guaranteed a smooth contracting process that will lead to a successful solid waste program. All three proposals that were submitted demonstrated a serious effort to win the contract, and the city is proud of its RFP results.

To download copies of the RFP documents, visit: <ftp://www.cityofnapa.org/Public/GIS/2004DiversionServicesRFP/>. For questions about the RFP process, e-mail: Kevin Miller, Napa waste reduction and recycling coordinator at [kmiller@cityofnapa.org](mailto:kmiller@cityofnapa.org). **WA**

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