

Memorandum

TO: Honorable Mayor and City Council **FROM: Gerald A. Silva,**
City Auditor

SUBJECT: City Auditor Review of Recycle **DATE: August 18, 2006**
Plus RFP Protest

Per City Councilmember Chavez's request during the City Council's August 11, 2006 study session, we have reviewed the Recycle Plus RFP protest process. According to the RFP, an unsuccessful proposer can dispute the award recommendation to the Chief Purchasing Officer by submitting in writing their protest detailing the grounds, factual basis, and providing all supporting information within ten days of the announcement. Failure to submit a timely written protest to the Chief Purchasing Officer will bar consideration of the protest.

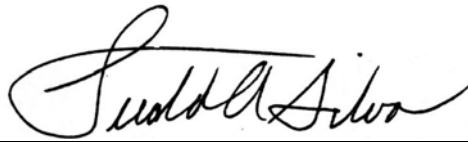
Purchasing received protests from CWS, Garden City Sanitation, and Eagle Recycling. City Auditor Office staff reviewed the three protests and discussed them with City staff. We should note that although Eagle Recycling failed to submit its protest in a timely manner, as a courtesy, City staff met with Eagle Recycling representatives to explain why their proposal was disqualified. The Chief Purchasing Officer, the Purchasing Agent responsible for the RFP and an ESD Acting Deputy Director met with CWS and Garden City Sanitation representatives to review and respond in writing to their protests. City Auditor Office staff was present for these meetings and observed the proceedings and the interchange between the companies and City staff. In addition, City Auditor Office staff reviewed City staff's written responses to the protests.

We should also note that unlike some other jurisdictions, Purchasing does not have formal internal policies and procedures for reviewing and resolving RFP protests. For example, we found that other jurisdictions have formal guidance on how a Chief Purchasing Officer should review and resolve protests. We have provided the City's Chief Purchasing Officer with the other jurisdictions' formal protest procedures and guidance.

In our opinion, City staff conducted its review of the three RFP protests generally in accordance with other jurisdictions' best practices and treated the three companies fairly and consistently. Further, we found City staff's conclusions regarding the three protests to be reasonable and factually-based. We also found that Purchasing should develop

policies and formal procedures and guidance for reviewing and resolving protests and incorporate the best practices of the other jurisdictions into those formal procedures and guidance.

Finally, we should note that the City Auditor's Office did not participate in the protest evaluation process. The City Auditor's Office participation was in an advisory capacity only and should not be interpreted as performing a management or policymaking function.

A handwritten signature in black ink, appearing to read "Gerald A. Silva", written in a cursive style. The signature is positioned above a horizontal line.

Gerald A. Silva
City Auditor

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GS:lg