Agenda Date: 4/17/2006
Agenda Placement: 6A
Continued From: 3/20/2006 regular meeting

Upper Valley Waste Management Agency
Board Agenda Letter

TO: Board of Directors

FROM: Jill Pahl - Manager
Upper Valley Waste Management Agency

REPORT BY: Belinda Yamate, Secretary, 253-4471

SUBJECT: Request for Proposals

RECOMMENDATION

REQUEST FOR PROPOSALS (Continued from 3/20/2006 regular meeting)
DISCUSSION AND POSSIBLE ACTION ITEM: Staff to present the Board with an updated request for proposals for development of alternative rate methodologies for Upper Valley Disposal Service and Clover Flat Landfill.

EXECUTIVE SUMMARY

In December the franchisee agreed to develop alternative rate methodologies by July 1. Almost 2 years was spent to agree on the rates that were set in December. One of the main purposes of the rate methodologies was to make the rate reviews simpler. This has not been the case.

The changing nature of the services provided as well as disagreement on the interpretation of the rate methodology, contributed to the prolonged rate review process. The background summarizes the rate methodology areas of concern.

Staff and the franchisee met to review a proposal from the franchisee on how to revise UVDS's rate methodology. Staff is reviewing this proposal and working on converting the example into text that clearly states what is intended.

Simply put the proposal looks at five allowable expenses, on which the franchisee receives an operating ratio, and four recoverable expenses, for which no operating ratio is received, these items will be treated the same as the current methodology. Everything else falls into a category of fees that will simply have a percentage of consumer's price index applied to it.

At this time, staff is moving forward with this proposal for UVDS.

A discussion of CFL's rate methodology changes must wait until resolution of the Napa-Vallejo Waste Management Authority's transfer station operator and disposal site(s) for two reasons. One, the Authority may act on the Agency's request to dispose of waste in CFL. Second, section 6.11(b) of the CFL franchise states:

"If, as the result of an unexpected change in the laws, markets or technologies applicable to the solid waste handling services, the continued existence of the agreement would result in an increase in landfill rates greater than fifteen percent (15%) higher than those disposal or transfer station rates charged at other solid waste facilities in Napa County, Agency may in its discretion and after no less than one year written notice to contractor and after consultation with contractor unilaterally terminate this agreement without obligation to contractor for any additional losses, which were not approved by the Agency, incurred by contractor as a result of termination...."

At the current CFL tipping fee of $54, a tipping fee at the transfer station could be no lower than $47. The market indicators suggest that the new operator's rate might be lower than $47, but a final determination has not been made.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The goals of the existing rate methodology are:

- To provide a fair and reasonable return to the Contractor.
- To minimize the regulation and calculations for the Rate Setting Agency.
- To provide incentives for the Contractor to reduce its expenses.
- To allow the customers to benefit from reductions in expenses.

Currently expenses are categorized as Allowable, Recoverable or Nonrecoverable. An operating ratio 'band' is used over a three year period. The base year rate is set with only intermediary cost of living changes averaged over the three year band. Issues have risen over the following areas:

- Wages and benefits for Officers.
- Financial account categories set up and use.
- Leased equipment and property between franchisee related companies.
- Depreciation/appreciation of property, including land.
- Entertainment and promotional expenses.
- Nonbusiness related travel.
- Consulting expenses limits and escalations.
- Workers compensation insurance, insurance and benefits for stockholders.
- Interest expense allowance.
- Net revenue definition.

- Rate package submittal and review deadlines.
- Different financial formats needed for different uses.
- Different interpretations on the revenue surplus/deficiency account and how its used.
- Adjustments to the operating ratio bands.
- Timeliness of financial reviews.
- The percentage of consumer price index allowed.
- Intercompany allocations.
- Buffer lands.

If the Agency decides to accept the proposed rate methodology for UVDS, many of these items will no longer be an issue. However, the remaining items that will still be considered for an annual review will need to be tightened up so that we have a clear resolution about how rate reviews will be conducted in the future.

SUPPORTING DOCUMENTS

None

Recommendation: Approve

Reviewed By: Jill Pahl