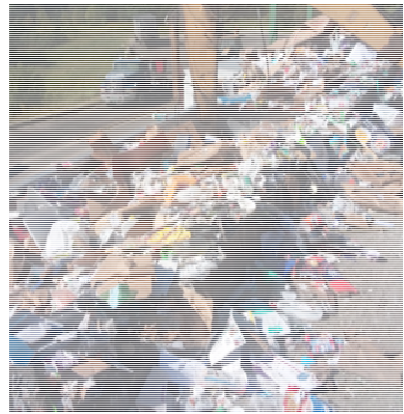


Procurement Considerations for Transfer Station Operations, Material Hauling, and Material Processing and Marketing

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1 PROJECT DESCRIPTION

Upper Moreland Township (Township) is an Act 101 mandated recycling community. The Township collects refuse and single-stream recyclable materials curbside from about 7,000 households every week. The Township is part of the Montgomery County Recycling Consortium (Recycling Consortium), comprised of seven (7) municipalities within Montgomery County. The Recycling Consortium transfer station consolidates recyclable materials originating from the Township and each of the other six (6) municipalities before being transported to a single-stream processor.

The Township and Recycling Consortium members have experienced problems at the transfer station, including long wait times to tip recyclables. Additionally, under the recently executed contract extension, the processing rate for recyclable materials will increase from \$98.78 per ton to \$135/ton, and the cost to dispose of residue in recyclables will increase from \$80 to \$84 per ton.

Recycling technical assistance is requested to review the Recycling Consortium's contract and procurement documents and identify specifications and requirements that could benefit the Recycling Consortium's future procurement process and resulting contract(s). This project is one of several recycling technical assistance studies addressing recycling issues in Montgomery County. It expands upon recent technical assistance studies that introduced issues and opportunities relating to the contractual arrangements for transfer station operations and recyclables processing.

2 SUMMARY OF WORK

This section summarizes the work activities performed as part of this recycling technical assistance project by key task. This project provides the Recycling Consortium with preliminary guidance relating to the approach to procurement document preparation, key elements and content to address and include within procurement documents, and strategies to employ to leverage the procurement process. This scope of work does not include the development of final specifications, final procurement documents, or final contracts.

Task 1 – Data Collection

MSW Consultants obtained and reviewed background information to guide the development of recommendations to improve procurement documents and contracts relating to transfer station operations and the hauling and processing of single-stream recyclables. MSW Consultants obtained and reviewed the following information:

- Solicitation documents
- Contract
- Financial data and invoices
- Land use agreement

Task 3 – Procurement Documents/Contract Review

MSW Consultants reviewed transfer station implementation documents, including procurement documents, contract, land use agreement, and other related information. This review revealed deficiencies and opportunities to improve upon prior procurement documents that shaped recommendations included in Task 4.

Task 4 – Recommend Solicitation/Contract Improvements

Based on document reviews completed in Task 2, and as informed by other Consortium recycling studies, MSW Consultants developed recommendations for requirements and provisions to facilitate new solicitation and contract(s) the Consortium anticipates issuing and executing in 2021.

Task 5 – Final Report

This final report provides preliminary recommendations to improve the procurement process and contract(s) relating to transfer station operations and hauling and processing of recyclables.

3 CURRENT PROGRAM

SUMMARY

Township staff and Township-owned packer trucks collect solid waste, single-stream recyclable materials, and yard waste from households. In 2019, the Pennsylvania Department of Environmental Protection (PADEP) awarded Section 902 recycling grant funds to the Township to purchase 96-gallon recycling containers for all households and two (2) side-load collection vehicles. The Township operates two collection routes, four days per week for a total of eight routes (Tuesday through Friday). Township single-stream recyclables include paper, cardboard, aluminum and steel cans, and glass and plastic containers. After collection, the Township delivers recyclables to the Recycling Consortium Transfer Station at 1030 Fitzwatertown Road in Abington Township. The transfer station is less than five miles from Upper Moreland Township, which is convenient and efficient compared to direct hauling to a regional single stream processor.

Table 1 presents Upper Moreland Township recycling totals for 2019, along with the recycling data from the other six (6) Recycling Consortium members. In 2019, Upper Moreland Township delivered 2,029 tons of single stream recyclables to the Recycling Consortium transfer station for consolidation.

Table 1. Recycling Consortium Material Quantities (2019)

Recycling Consortium Member	Households Serviced	Recycling Totals (tons)	Annual Lbs./HH
Abington	18,200	2,909.87	319.77 ^[1]
Cheltenham	9,467	3,008.16	635.50
Hatboro	2,200	660.35	600.32
Springfield	6,900	2,221.59	643.94
Upper Dublin	8,500	2,802.98	659.52
Plymouth	4,900	1,265.09	516.36
Upper Moreland	7,200	2,029.41	563.73
Consortium Totals	57,367	14,897.45	519.37

[1] Abington's annual per household recovery is low because the paper is diverted to another processor.

4 PROCUREMENT DOCUMENTS REVIEW

The Recycling Consortium procurement documents include the prior solicitation (bid), the previous five (5)-year contract executed with JP Mascaro & Sons, Inc., and the six (6)-month contract extension executed in October 2020. Key observations regarding the Recycling Consortium’s procurement process and contract include:

- **Bundled Service Contract Structure** - The procurement documents and agreement are structured to award one contractor three service components:
 - 1) Transfer station operations,
 - 2) Hauling services, and
 - 3) Recyclables processing/marketing.

While there are advantages to bundling services, such as attracting a competitive price for contract of significant monetary value, these advantages can be lost when a limited number of vendors compete on a level playing field for the services requested.

- **Limited Competition** - In the 2015 solicitation, only two companies submitted bid responses: JP Mascaro & Sons, Inc. and ReCommunity. **Table 2** below shows the bid pricing by the respondents.

Some recycling processors may not have the capability or interest to operate a transfer station or haul from the transfer station to their processing facility. The Recycling Consortium may have unintentionally limited its ability to select the cost-effective service providers for transfer station operation, hauling and recyclable material processing by the bundled procurement structure. There is a risk that if the current bundled procurement structure is repeated in 2021, only one or two vendors may respond. The risk of limited competition may be elevated (compared to 2015) considering the extremely volatile recyclables market and COVID-19 pandemic.

Table 2. Bid Pricing - 2015

	ReCommunity	J.P. Mascaro & Sons	Difference
Commingled Pricing:			
Total per Ton Bid Price	\$57.89	\$34.57	(\$23.32)
Total per ton x 3,300 tons	\$191,037.00	\$114,081.00	(\$76,956.00)
Single-Stream Pricing:			
Total per Ton Bid Price	\$47.24	\$30.92	(\$16.32)
Total per ton x 12,100 tons	\$571,604.00	\$374,132.00	(\$197,472.00)
Total Commingled + Single-Stream	\$762,641.00	\$488,213.00	(\$274,428.00)

- **Limited Data and Aggregated Costs** - An unintended consequence that resulted from the bundled procurement structure used in 2015, is forfeiture of valuable data including

separate costs for operations, hauling and processing. Consequently, the Recycling Consortium has limited information to convey to prospective service providers in its subsequent procurement documents. Invoices billed to the Recycling Consortium aggregate the costs for transfer station operations (including labor, utilities, and other miscellaneous costs), transportation, and fixed recyclables processing fees, so there is no way to discern the cost for each service.

- **Roles and Responsibilities are Not Adequately Clarified** - Roles and responsibilities of a Recycling Consortium program manager, including administration and contractual/contractor oversight of transfer station operations, are not clear and include the following:
 - The entity who is responsible for managing transfer station finances, including responsibilities relating to Contractor invoicing and pursuit of financial penalties that may be applied to the Contractor is not stated.
 - Contractor non-compliance activities that may result in liquidated damages or contract deductions and the process for recovering financial penalties from the Contractor are not included.
 - Operator requirements to submit monthly, quarterly, and/or transfer station operations reports are not included in the contract. The contract does not require the Contractor to conduct and report daily transfer station inspections relating to safety, equipment, scale operations, security, etc.

5 PROCUREMENT RECOMMENDATIONS

The following recommendations are suggested to develop specifications and contract documents for the transfer station operations, material hauling, and material processing and marketing.

GENERAL

- **Structure Procurement with Three (3) Separate Services and Contracts** - Request contract services for these separate service components so the Recycling Consortium can evaluate and select the best contractor for each service:
 - Transfer station operation
 - Material transportation
 - Material processing and marketing

Develop narratives describing each proposed service with specifications and contractual requirements for transfer station operations, material hauling and material processing. Include language to clarify that the Recycling Consortium may reject any bid for any reason so the Recycling Consortium can award service contracts to one or more vendors in a manner that is in the overall best interest of the Recycling Consortium.

- **Expand Procurement Document and Contract Details** - Add details (compared to the previous documents) that describe the essential services required for contract performance.. Services include transfer station operating requirements, reporting

requirements, non-compliance resolution, contract deductions, and breach of contract terms. Establish data transparency, accountability, and enforceability to confirm the contractor(s) provides the services as specified and the data received informs the Recycling Consortium and benefits future procurements.

- **Specify Reporting Requirements and Invoice Formats** - Include reporting and invoice specifications so that the combination of transfer station operating reports, recycling reports, and invoices provide the Recycling Consortium with transparency and full-cost accounting. Provide explicit pricing instructions relating to consumer price indexes that are fair to the processor and Recycling Consortium. For example, pricing could correlate to contamination/residue rates and include incentives for reducing residue rates.
- **Legal Review** - Have all procurement documents and contracts reviewed by legal counsel prior to finalization and signature.

TRANSFER STATION OPERATIONS

- **Specify Transfer Station Operation Performance Requirements** - Detail the primary operating requirements pertaining to operating methods, efficiency, safety, cleanliness, and overall performance expectations set by the Recycling Consortium, including the method of resolving operating non-compliance issues. Language relating to transfer station operations compliance should correlate to regular site inspections conducted by the Recycling Consortium such as those included in the Transfer Station Site Inspection Checklist in **Appendix A**.
- **Evaluate Transfer Station Operating Cost Responses Against Alternatives** - If competition to operate the transfer station is limited, the resulting price for this service may be high. Compare transfer station operating cost responses to alternatives, including operating the transfer station through the Recycling Consortium, through a designated member municipality, or by forming an authority (which has legal authority to levy fees).
- **Specify Expected Facility Improvements and Request Solutions** - Prospective contractors should be notified of expected operational changes (i.e. installation of compactors) since they will be impacted (e.g., temporary shutdown, changes to operating procedures, etc.). This type of operational change warrants the use of a Request for Proposals (RFP) over a bid, as the RFP process offers more flexibility for the contractors to propose various solutions.
- **Update Hours of Operation** – Include in the procurement documents the plan to extend operating hours to at least 5:00 pm on weekdays to improve flexibility for transfer station operations and hauling.

MATERIAL HAULING

- **Update Hauling Specifications** – Confirm hauling services can be procured separately and provide details of hauling expectations with the following considerations:

- Trailer provision by the Recycling Consortium, the hauler, or the transfer station operations contractor
- Timing and frequency of hauling
- Equipment specification such as minimum age, capacity and type of trailers and cabs
- Other hauling services, including trash removal from transfer station.

MATERIAL PROCESSING AND MARKETING

- **Update the Single Stream Recycling Composition** - Require JP Mascaro, Inc., in accordance with its existing contractual obligation to perform a composition audit of collected materials so that this data can be included in the procurement documents. This information is necessary for obtaining material processing costs where a consumer price index is utilized for pricing. It is recommended this audit, and future audits, be conducted and/or verified independently by a qualified consulting firm.
- **Streamline Procurement Pricing and Invoicing by Eliminating “Commingled”** - Currently, invoices have pricing for single stream and commingled materials, since Abington Township markets paper separately. Consider eliminating “commingled” from procurement documents and invoices, since the materials are mixed, and processors have to process this mix. The material composition provided to processors should reflect the mix of materials from all seven (7) Consortium members.
- **Request Pricing for Separate Streams of Paper and Commingled Containers** – Request pricing for the processing and marketing of separate loads of paper and commingled containers should Consortium members modify collection operations to implement a dual stream recycling program.

CONTRACT DEDUCTIONS

Develop section on “contract deductions”, or liquidated damages, to support effective contract management and contractor performance. Structure the contract deductions with these best practices in mind:

- **Set Practical and Fair Deductions** - Prospective vendors may increase pricing based on the number, type, and monetary values associated with contract deductions. Develop contract deductions for the items deemed essential to contract performance. Excessive or punitive deduction may discourage some contractors from responding and may reduce competition or inflate costs. Consider these questions to keep contract deductions proportionate:
 - How severe is the failure to perform?
 - How frequently does the failure occur?
 - Is the contractor working in good faith to correct the issue, and does the penalty afford a realistic timeframe for resolving the compliance issue?
 - Which staff person(s) representing the Recycling Consortium will be responsible for managing and resolving contract performance issues, and how much time and resources will be utilized? NOTE: Under the current contract, in part due to a lack of responsibility assigned to specific persons and because the contract enforcement

procedures are vague, the Recycling Consortium has not effectively resolved several outstanding non-compliance issues.

- What resources are available for compliance resolution?
 - What are realistic cost estimates for the failure, including staff administrative time?
 - Do proposed deductions double-count performance failures? The Contractor should not be penalized for two performance standards for one provision.
- **Base the Deduction Amounts on Realistic Estimates** – Consider the nature of the violation and the administrative time to resolve the deficiency for setting assessment value – do not assign monetary values arbitrarily or as a deterrent.
 - **Specify how Contract Deductions shall be Applied to Invoices and Payments** - Apply deductions in a subsequent invoice payment and after a specified timeframe for corrective action is exceeded. Include language explaining the procedure for determining the validity of contract deduction charges. The designated Recycling Consortium contract manager shall notify the contractor in writing of violations. The contractor should have two weeks to contest the violations in writing with a request to meet to discuss the stated violations. The Contractor should also have the right to appeal to the Consortium. The Consortium’s written decision shall be final. Sample language for the contract deductions is in **Appendix B**.
 - **Non-Compliance Resolution and Cost Recovery** - Specify the procedures the Recycling Consortium may take if the contracting entity does not resolve a performance issue within the specified timeframe. Strategies can include the Recycling Consortium hiring a contractor and/or allocating municipal staff to correct the problem. The Consortium should define the method to recover the incurred costs from the contractor.

OTHER ADMINISTRATIVE AND OPERATIONAL CONSIDERATIONS

As the Recycling Consortium considers the next steps, numerous decisions relating to the transfer station may impact procurement timing and specifications, including:

- **Transfer Station Upgrades** - Transfer station upgrades, such as installation of compactors (recommended in a separate recycling technical assistance study), should be addressed within procurement documents.
- **Designated Recycling Consortium Oversight** - Some of the Recycling Consortium’s relevant responsibilities have not been clearly established and dedicated to specific municipalities and persons. Therefore, the Consortium should establish or clarify responsibilities to resolve these items before procurement documents are released and integrate these details into the procurement documents. The procurement documents should clarify the persons within the Recycling Consortium responsible for contractor oversight including transfer station inspections, compliance, reporting, payments, and similar administrative tasks.
- **Recycling Consortium Operation of the Transfer Station** - Considering the volatility of the waste and recycling industry and markets, including the inability to control some costs and

actions by contractors, the Recycling Consortium should consider staffing and assuming control of transfer station operations. The legal mechanism to do this should be evaluated and could include the formation of a municipal authority. The benefit of transfer station operation directly by the Consortium is the ability to know and manage costs and assure the facility's proper management that reflects the best interests of Upper Dublin Township (as host) and other Consortium members.

- **Allocation of Performance Grant Funds** - The Recycling Consortium should consider allocating a portion of annual Act 101 Performance Grants to help offset transfer station costs. This allocation could be established as an enterprise fund leveraged to manage transfer station operating and maintenance costs and/or costs relating to material transportation and processing. Since performance grant awards are based on recycled tons, the share contributed by member municipalities could be calculated and equitably applied.

6 CONCLUSIONS

Previous procurement documents did not optimize competition for transfer station operations, material hauling and material processing services. The specifications and contract management also did not assure the contractor met expected performance requirements. Considering the substantial cost increases experienced under the six-month contract extension and rapidly escalating recycling costs nationwide, it is critical the Recycling Consortium develop technically and legally sound procurement documents that: 1) manage market competition to secure fair pricing for each service needed, 2) enhance performance by contractors and minimize Recycling Consortium liability, and 3) improve data recovery and transparency for the services provided. Improving procurement documents is not a stand-alone solution. As soon as possible, the Recycling Consortium needs to address administrative items including responsible parties for transfer station operation oversight and financials, confirm facility upgrades, and confirm a sustainable funding strategy for the transfer station.

Attachment A
Transfer Station Site Inspection Checklist

Appendix A

Transfer Station – Site Inspection Checklist

Site Location: **995 Fitzwatertown Road**

Inspected By:

Inspection Date:

Note: Checked boxes means conditions are satisfactory.

1. **Basin Area Maintained:** Comment:

2. **Inlet Maintenance/Filters Cleaned:** Comment:

3. **Grass Mowing Completed:** Comment:

4. **Site Cleaning Completed:** Comment:

5. **Scale Calibrated:** Comment:

6. **Scale Reports submitted and complete:** Comment:

7. **Wall / Structure Condition Satisfactory** Comment:

8. **Scale structure/equipment in satisfactory working condition:** Comment:

9. Fencing/gate in satisfactory condition: Comment:

10. Satisfactory winter access maintained (i.e. deicing and snow plowing): Comment:

11. Water supply/hose bib protected: Comment:

12. Fuel/oil spills, clean up and incident reports performed: Comment:

13. Fuel/oils storage containment areas used properly: Comment:

14. Storage trailers in satisfactory condition: Comment:

15. Satisfactory site safety measures/conditions maintained: Comment:

Attachment B
Sample Contract Deduction Language

SAMPLE CONTRACT DEDUCTIONS

The Contractor shall meet or exceed the performance standards established in the Contract. Performance standards shall correlate to Contract Deductions applied to the Contractor for failure to meet the performance standards. The Contract Deduction for each offense and violation of the Contract is specified below. Contract Deductions will be applied and deducted from the monthly Contract price if the standard is not met. Contracts Deductions and the corresponding deduction amounts relating to Contractor performance shall be as follows:

1 General Contract Deductions

- Failure to maintain and/or submit all documents and reports required under the provisions of this Contract on time shall result in a _____ (\$____.00) per incident charge.
- Failure to submit invoices by the 15th of each month shall result in a _____ (\$____.00) per incident charge.
- Failure or neglect to correct chronic equipment problems (chronic shall mean three (3) instances of the same or similar problem with equipment/trucks within a twelve-month period) shall result in a _____ (\$____.00) charge for each occurrence after the second.
- Failure to provide employees with the required attire, and any necessary and additional PPE per warranted conditions, and to ensure the use of proper footwear for employee safety shall result in a _____ (\$____.00) per incident, per day, charge.

2 Transfer Station Operations

- Failure to be open Monday through Friday, 7:30 am – 3:30 pm other than stated holidays shall result in a _____ (\$____.00) per incident charge.
- Failure to maintain required staffing levels shall result in a _____ (\$____.00) per incident, per day, charge.
- Failure to maintain flow so that there is no more than a 20-minute wait for municipal vehicles to off-load recyclables shall result in a _____ (\$____.00) per incident charge.
- Failure to perform and report on the annual single-stream test (audit) shall result in a _____ (\$____.00) per incident charge.
- Failure to control litter shall result in a _____ (\$____.00) per incident charge.
- Failure to control noise shall result in a _____ (\$____.00) per incident charge.
- Failure to prevent dust issues shall result in a _____ (\$____.00) per incident charge.
- Failure to weigh trucks and provide weight ticket to a driver shall result in a _____ (\$____.00) per incident charge.
- Failure to move full trucks away from tipping wall, causing damage to tipping wall shall result in a _____ (\$____.00) per incident charge.

- Failure, in the event of emergency conditions, to make provisions to protect the public from danger, loss of life or property, or damage shall result in a _____ (\$____.00) per incident charge.

3 Hauling

- Failure to collect transfer trailers within ___ hours of notification shall result in a _____ (\$____.00) per incident charge.
- Failure to notify City staff of spillage of any amount of petroleum products or polluting materials and/or to immediately take action to clean up the spill shall result in a _____ (\$____.00) per incident charge.
- Failure to maintain properly licensed vehicle operators shall result in a _____ (\$____.00) per incident, per day, charge.
- Failure to deliver recyclables to the designated recyclables processing facility shall result in a _____ (\$____.00) per incident charge.

4 Recyclables Processing

- Failure to be open Monday through Friday, ___ am - ___ pm other than stated holidays shall result in a _____ (\$____.00) per incident charge.
- Failure to maintain flow so that there is no more than a ___-minute wait for vehicles to off-load recyclables shall result in a _____ (\$____.00) per incident charge.
- Failure to perform and report on an annual recyclables audit shall result in a _____ (\$____.00) per incident charge.
- Failure to accept recyclables with less than ___% contamination shall result in a _____ (\$____.00) per incident charge.
- Failure to provide photographic and written documentation of contamination above ___% of rejected loads of recyclables shall result in a _____ (\$____.00) per incident charge.
- Failure to weigh trucks and provide weight ticket to a driver shall result in a _____ (\$____.00) per incident charge.

PROCESS FOR CONTRACT DEDUCTIONS

Payment Schedule: On or before the 15th day of each month, the Consortium shall remit to the Contractor payment for services provided in the previous month and invoiced by the Contractor pursuant to Exhibit “___.” The Consortium will retain from such remittance any contract deductions for violations listed above.

Contract Deductions: The Contract Manager shall notify the Contractor in writing of the Consortium’s intent to impose any contract deductions to the Contractor for violations listed above. The Contract Manager shall provide the Contractor with an itemized written list of each instance in which the Contractor failed to meet the performance standards specified in this Agreement. This list will include the nature of the failure, date, time, location, and any other available and applicable information. Such itemized list will be provided to Contractor monthly, on or before the tenth (10th) calendar day of each month. The Contractor shall have two (2) weeks following receipt of such list to

contest same as set forth herein. In the event Contractor wishes to challenge such an assessment, it shall follow the following procedures. Within ten (10) calendar days after receiving such notice, request in writing an opportunity to be heard by the Contract Manager to present its explanation and any basis on which the Contractor believes any recorded failure to perform within this Agreement's standards is inaccurate. The Consortium shall notify the Contractor in writing of any action taken concerning the claim of the Contractor. The Contractor may further appeal to the Consortium, in writing, the Consortium's decision, who shall conduct a review of all of the facts and circumstances. The Consortium shall provide its decision in writing. The decision by the Consortium shall be final.