



THE REGIONAL MUNICIPALITY OF NIAGARA SPECIAL COUNCIL AGENDA

CL 17-2019

Thursday, October 17, 2019

4:00 p.m.

Council Chamber

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

Pages

1. CALL TO ORDER

2. ADOPTION OF AGENDA

2.1 Changes in Order of Items

3. DISCLOSURES OF PECUNIARY INTEREST

4. CHIEF ADMINISTRATIVE OFFICER'S REPORT(S)

4.1 PW 61-2019

Base Level Service for Waste Management Collection Contract

3 - 14

5. CLOSED SESSION

5.1 Confidential PW 62-2019

A Matter of Commercial and Financial Information, supplied in confidence to the municipality, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization - Financial Information Supporting Waste Management Collection Contract Procurement Process

6. REPORT FROM CLOSED SESSION

7. BY-LAWS

7.1 Bill 2019-75

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A by-law to adopt, ratify and confirm the actions of Regional Council at its special meeting held on October 17, 2019.

8. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisory Coordinator at 905-980-6000 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

Subject: Base Level Service for Waste Management Collection Contract

Report to: Regional Council

Report date: Thursday, October 17, 2019

Recommendations

1. That as part of the 2019-RFP-156 Request for Proposal for Niagara Region Curbside Collection, Haulage of Garbage, Recycling, and Organics process, based on the economic and environmental benefits and extending existing landfill capacity, Regional Council **APPROVE** the Every-Other-Week (EOW) collection scenario for garbage collection for all residential properties and for those Industrial, Commercial & Institutional (IC&I) and Mixed-Use (MU) properties located outside Designated Business Areas (DBAs), as a Base Service; and
2. That Report PW 61-2019 and Council's resolutions **BE CIRCULATED** to the Local Area Municipalities (LAMs) for their information.

Key Facts

- The Council-approved collection scenario of EOW or Weekly applies to garbage only for all residential properties and for those IC&I and MU properties located outside DBAs; regardless of scenario chosen, recycling and organics collection will continue on a weekly basis.
- Current garbage container (bag/can) limits would double for affected sectors, on an EOW basis and Low Density Residential (LDR) properties (1-6 residential units) may still purchase garbage tags for their additional garbage containers above the limit.
- The Council approved collections scenario (frequency) consisting of either Weekly and EOW service will apply to both:
 - **Collection Area One** (the Town of Grimsby, the Town of Lincoln, the Town of Pelham, the City of Thorold, the Township of Wainfleet and the Township of West Lincoln); and
 - **Collection Area Two** (the Town of Fort Erie, the City of Niagara Falls, the Town of Niagara-on-the-Lake, the City of Port Colborne, the City of St. Catharines, and the City of Welland).
- Following Council's approval of EOW or Weekly collection scenario, short-listed proponents (i.e. those who met the minimum technical threshold) will be provided the opportunity to submit their Best and Final Offer (BAFO) which must be less than or equal to their original proposed financial submission.

- Proponents will then be ranked on a combination of both the technical score (70%) and BAFO pricing (30%), and the successful proponents for Collection Area One and Collection Area Two will be invited to enter a final round of negotiations with Niagara Region regarding the possibility of an earlier start date.
- Any delay in the procurement process could impact the start date of the Contract (Monday, October 19, 2020), as successful proponents will require at least twelve (12) months to acquire vehicle resources.

Background

Niagara Region's Negotiated Request for Proposal (NRFP) was released on Thursday, August 1, 2019 and closed on Tuesday, September 17, 2019. As per resolutions previously approved by Council from Confidential Report PW 43-2019, Niagara Region is using a multi-stage process to conduct the evaluation, selection and negotiation process for the NRFP. Proponents meeting or exceeding the minimum threshold for Part A Rated Criteria, which included focus on Experience, Performance History, Capability and Implementation Plan, were subsequently evaluated on Part B Rated Criteria, which focused on Staffing Plan, Work Plan and Vehicles/Equipment.

At the conclusion of the technical evaluation process, Procurement Staff opened the financial submissions of those proponents who met or exceeded the minimum threshold for Part B. In consultation with the Program Financial Specialist (PFS), Procurement then calculated average pricing for base and enhanced services.(presented in Confidential Report PW 62-2019).

Staff is seeking Council's assistance with this next stage in the process which is garbage collection frequency (EOW or Weekly) for residential properties and for those IC&I and MU properties located outside DBAs. With this direction from Council, Staff will enact the next phase of the process which is to invite all short-listed proponents to submit their BAFO at less than or equal to their original submitted pricing for Council's chosen scenario.

Pursuant to the BAFO process, short-listed proponents will be ranked on a combination of both Rated Criteria (70%) and BAFO pricing (30%), separately for Collection Areas One and Two. In the event of a tie in a Collection Area, the selected proponent will be the proponent with the lowest price. In the event that a single proponent is the top-ranked proponent for both Collection Area One and Collection Area Two, that proponent will be the selected proponent for Collection Area Two only and the second-ranked proponent for Collection Area One will be the selected proponent for Collection Area One. The highest ranking proponent for each Collection Area will be invited to enter a final round of negotiations with Niagara Region as per the steps in the procurement process presented in the confidential report PW 62-2019. Negotiations are expected to conclude on Wednesday, November 6, 2019 and staff will present a report to Council on Thursday, November 14, 2019 naming successful proponents and including detailed

pricing breakdown for information. The upcoming report will also require Council to provide direction with respect to optional services, as listed on page 3 of this report, to be included in the Contract.

As stated above, this remains an active procurement process, with two remaining phases in the prescribed procurement process (BAFO and Final Negotiations) and information about proponents, including proponents' names or status with respect to Part A and Part B Rated Criteria, is not included in this report. Average pricing for proponents surpassing the minimum threshold in Part A and Part B is provided in Confidential Report PW 62-2019, as noted above.

Financial Considerations

The base service level for curbside collection is applicable in all twelve (12) LAMs. Contract-related costs of EOW and Weekly collection scenarios are detailed in Confidential Report PW 62-2019. This choice has an impact on the Contract price and is the only factor related to cost that Council must consider in the scope of this report, but other factors will influence final cost of the Contract. These additional factors are provided for information below.

Optional Services

Proponents submitted pricing for a number of optional services, costs of which were not included in the evaluation of proposals or analysis for report recommendations. Costing and staff recommendations for inclusion of the following optional services will be provided in a report for Council approval on November 14, 2019:

- Recycling Collection at Festivals and Special Events
- Organics Collection at Festivals and Special Events
- Delivery of Roll-offs for Special Events Recycling
- Smaller Collection Vehicles
- Digital Video Recorder Requirements
- Recycling Collection at Educational Facilities
- White Goods Collection as a base service
- Brush, and Leaf and Yard Waste Collection as a base service

Some optional services would be at the cost of the LAMs that choose to select them:

- Bulky Goods Collection as an Enhanced Service (Weekly or EOW) – This service is an expansion to include Multi-Residential (MR) properties
- White Goods Collection as an Enhanced Service (Weekly or EOW) - This service is an expansion to include MR properties, and will be available only if Council chooses to maintain White Goods Collection as a base service for LDR

- In-Ground Collection
- Additional Curbside Collection of Garbage (in DBA's, in addition to already enhanced limits)

Additional enhanced services that municipalities may choose to include are outlined below under Governmental Partner Considerations.

Price of selected options is subject to BAFO and will impact annual contract costs, and as such, itemized costs will be included in the subsequent report to Council on November 14, 2019, to assist in the decision making process.

Two Collection Areas

As the Contract is split into two areas, there is duplication of some overhead costs, such as offices, maintenance yards, Infrastructure Technology (IT), Human Resources (HR) and management that might lead to an increase in total cost for both Areas One and Two. The benefit of having two contractors, outweighing the additional cost, is that in the event of collection issues in one area, there is potential back-up in the area to reduce delays to residents.

Annual Increases and Escalations

On an annual basis, contract prices are adjusted to account for increases in the cost of living, based on the Ontario Consumer Price Index (CPI). Other factors contributing to a potential increase in overall contract cost since the previous collection contract in 2010 include wages, fuel, household count increases, and vehicle/technology costs:

- Labour: General increases in labour costs and, in addition, Niagara Region has included a requirement for successful proponents to pay all employees not less than the living wage as set by the Ontario Living Wage Network as approved in PW 22-2019. This requirement was not included in the previous Contract.
- Fuel Costs: Cost of fuel has risen significantly since the previous Contract. Niagara Region encourages proponents to propose alternative technologies and fuel sources. The Contract includes annual escalations for diesel fuel prices based on the Southern Ontario Average Pricing published by the Ontario Ministry of Energy and Infrastructure.
- Vehicle Costs: There may currently be increased competition for vehicle procurement due to the number of municipalities that are currently acquiring, or planning to acquire, fleet for new contracts. In general, costs for vehicles and associated technology have risen since 2009 due to an increase in:
 - Pollution control requirements
 - Insurance costs
 - Exchange rate and tariff volatility

Experience in Other Municipal Contracts

Other municipalities have experienced an increase in costs for new contracts or extension of existing contracts as a result of the current market conditions (as noted earlier in this report).

Late last year, the City of Thunder Bay extended their existing contract for recycling collection and processing by 18 months at an annual cost which is approximately double (or a 114% increase) the previous annual costs.

In February 2019, the County of Peterborough awarded a new contract for recycling collection and processing starting November 1, 2019 which saw an overall 39% increase in the annual contract costs and specifically a 56% increase in collection services costs.

The City of London also recently awarded a new contract for recycling collection citywide and garbage and yard waste collection in a portion of the City of London in August 2019 and commencing in August 2020. For the recycling collection contract, the costs increased by 20%, based on 2019's projected cost compared to 2021's projected cost and for the garbage and leaf and yard waste collection contract, the costs increased by approx. 31.3%, based on 2019's projected cost compared to the projected cost in 2021.

The Continuous Improvement Fund (CIF) noted that many municipalities have recently encountered increased contract costs and contractors were regularly reporting labour cost increases up to 15%, processing cost increases over 35% and insurance increases in the magnitude of seven (7) to ten (10) times.

Financial Considerations of EOW versus Weekly Garbage Collection

EOW collection offers the following cost benefits related to Regional landfills:

- Extended site life for open Regional landfills, resulting in:
 - More revenue-generating capacity from the reduction of divertable materials being landfilled by residents and other service users who are participating in the curbside recycling and organics programs.
 - Deferred capital costs for new disposal infrastructure. As a point of reference, the Humberstone Landfill site vertical expansion will have a total cost of approximately \$11.2 million. The total cost to construct the Durham-York Energy from Waste facility was \$295 million and in 2018, the facility received 140,780 tonnes of waste at a net operating cost of approximately \$9.2 million.

- Cost avoidance/cost reduction in the landfill contract with Walker Environmental due to an increase in the diversion of waste from disposal. This more than likely will be offset by increased tonnages of food and organic waste collected at the curb from improved participation and capture rates, which would result in increased processing contract costs, unless the tonnages are reduced through food waste avoidance and other reduction initiatives.
- Long term cost reduction with care and control of landfill sites, due to reduction of organics being landfilled (resulting in improved leachate quality). Based on the Region's Landfill Liability Model, the contaminating life and monitoring would be reduced by approximately five (5) years and thus produce an estimated cost avoidance for the two Regional landfill sites of \$1.3 million.

Timing of the Province's Announcement to Transition the Blue Box Program to Extended Producer Responsibility

Report 32-2019 for Waste Management Planning and Steering Committee (WMPSC) describes the current provincial direction for a shift to extended producer responsibility (EPR) model for the Blue Box Program. Details for the program change are currently unknown, as is final timing for transition, although a phased, three (3) year approach from 2023 to 2025 was proposed by the Province's Special Advisor on Recycling and Plastic Waste in a publicly released report in August of 2019. Recognizing that collection and haulage of recycling material comprises a significant portion of the Contract, and that the Contract is effective during this proposed three (3) year window when Niagara Region's role in managing residential recycling programs could change, the Contract includes clauses related to early termination based on amendments to legislation and new regulations. The Contract has been structured so that select services can be removed (e.g. those related to recycling and haulage of recycling material) and clearly defined rules ensure fairness to both the Contractor and Niagara Region in the event of early termination due to legislation and/or regulation changes. Despite these precautions, proponents bidding on the NRFP likely considered the potential implications on their business and the timing of the Province's announcement may have impacted pricing submissions.

Pricing Differential Between Emterra Environmental (Emterra) and the Second Lowest Proponent in Current Collection Contract

Emterra's price was \$3.92 million lower compared to second lowest bidder for year 1 of the current collection contract. This differential further grows when the same increases over the life of the current contract, proportionate to the increases (in the form of contract escalations and incremental service additions) that Emterra Environmental has received, are applied to the second lowest bidder. The second lowest bidder's annual

cost for the current contract would be approximately \$26.0 million which is in contrast to the actual budgeted cost of \$21,239,467 in 2019.

Governmental Partner Considerations

LAMs will have the opportunity to choose enhanced services following a report to Council on November 14, 2019, which will include the successful proponent for each collection area and recommendations for optional services to be implemented. Following the Contract execution, LAMs will have a 120 day period to confirm desired services. Enhanced services will impact the overall price of the Contract but are paid for by LAMs, while being managed as part of the Region's overall Contract. Enhanced services are:

- Public Space Litter Bin Collection
- Public Space Recycling Bin Collection
- Containerized Garbage Collection
- Additional Curbside Collection of Garbage (in DBA)
- Additional Curbside Collection of Recycling (in DBA)
- Additional Curbside Collection of Organics (in DBA)
- Containerized Cardboard Collection
- Green Cart Switch Out Service

LAM positions with respect to EOW collection were presented in PW 20-2019:

- Seven (7) LAM Councils (Fort Erie, Grimsby, Lincoln, Pelham, Port Colborne, Thorold, Welland) voted to support EOW garbage collection.
- Four (4) LAM Councils (Niagara Falls, Niagara-on-the-Lake (NotL), Wainfleet, West Lincoln) voted to not support EOW garbage collection.
- One (1) LAM Council (St. Catharines) voted only to receive the proposed option for EOW garbage collection.

Additionally in the same report, it should be noted that the Niagara Region Accessibility Advisory Committee (AAC) identified a number of odour/health and safety concerns related to EOW garbage collection for those individuals living with various disabilities. Some of these concerns may be managed through the special set-out service, medical exemptions, targeted promotion and education pieces and a web/mobile application that will allow residents to sign up for collection reminders, indicating which materials will be collected each week.

Analysis

EOW Considerations

In summary, the key financial and environmental benefits of EOW garbage collection include the following:

- Extended site life for open Regional landfills, and more revenue generating capacity remaining
- Increase in the participation and capture rates in Niagara Region's diversion programs:
 - Nearly 50% of Niagara's LDR garbage bag contains organic waste and only 48% of Niagara's LDR households use the Green Bin program
 - Nearly 14% of Niagara's LDR garbage bag contains recyclable material and 82% of LDR households participate in Niagara's Recycling program
 - The average number of full container equivalents per household per set out across the region is 0.99.
 - IC&I and MU audits show the recycling and organics diversion programs are underutilized. Only 34% of IC&I and 61% of MU properties outside DBA participate in the recycling program. Only 11% of IC&I and 20% of MU properties outside DBA participate in the organics program
- Potential cost avoidance/cost reduction in the landfill contract with Walker Environmental due to an increase in the diversion of waste from disposal which may be offset by increased tonnages of food and organic waste collected at the curb and increased processing contract costs, unless the tonnages are reduced through food waste avoidance and other reduction initiatives
- Increased net processing revenue from the sale of more recyclables due to increased volumes, as markets improve in the future and increased industry stewardship funding for higher diversion of recyclables material (recovered tonnage portion of funding formula)
- Conservation of non-renewable resources
- Reduced use of energy and reduced pollution e.g. processing/manufacturing using raw material requires more energy and consumption of fossil fuels and involves emissions of air and water pollutants
- Net reduction in Green House Gas (GHG) emissions through increased composting and recycling and less collection vehicles on the road.
- Reduction of organics being landfilled will result in less methane emission, which reduces the landfill carbon footprint for climate change reduction
- Improved leachate quality, which lessens the potential for environmental impact
- Long term cost reduction with care and control of landfill sites

In addition to the above, another key consideration for EOW is that on April 30, 2018, the Ministry of the Environment, Conservation and Parks (MOECP) released the Food and Organic Waste Framework, which is comprised of two complementary components: Part A: Food and Organic Waste Action Plan; and Part B: Food and Organic Waste Policy Statement. The Action Plan outlines strategic commitments to be taken by the province to

address food and organic waste and municipalities are responsible for several actions in the framework, including Action 9: Province to ban food and organic waste from ending up in disposal sites (phased-in beginning 2022).

Summary of Stakeholder Consultation

Prior to issuing the NRFP, Niagara Region conducted stakeholder consultation and engagement in the two-phased “Let’s Talk Waste Niagara” as detailed in PW 3-2019, to determine which collection options, including EOW versus Weekly, should be evaluated for pricing:

- 1) Targeted Stakeholder Consultation
- 2) Broad-based Community Consultation

Metroline Research Group completed quantitative research to determine the level of support for proposed collection options, including EOW garbage collection. No clear LDR support for EOW garbage collection was demonstrated in the survey results, and LDR households were roughly split on supporting EOW garbage collection with slightly more leaning towards continuing their weekly collection. Despite these results, staff recommended in PW 3-2019 that, based on best practices and experience with EOW garbage collection in Niagara’s municipal comparator group (municipalities with populations greater than 300,000), that the EOW garbage collection be included as an option in the NRFP.

Summary of Experiences in Comparator Municipalities

EOW is considered a best practice and experiences in the comparator municipalities when switching to EOW include the following:

- Approximately 70% of Niagara Region’s thirteen (13) municipal comparators (Barrie, Durham, Halton, Markham, Ottawa, Toronto, Vaughan, Peel and Waterloo) provide EOW garbage collection service. Their residents have adapted to this change.
 - The Regional Municipality of Waterloo was the most recent of Niagara’s comparator municipalities to switch to EOW and Waterloo staff report TEW-WMS-18-01 First Year Update – New Waste Collection Contract (attached as Appendix A) demonstrates that residents have adapted well, increasing diversion not only with respect to organics but also in the Blue/Grey Box. The report states that “All curbside recycling programs have seen increases since the March 2017 new contract launch, and there has been a reduction of waste going to landfill:
 - blue box recycling: increased by 8 per cent

- green bin organics: increased by 120 per cent
 - yard waste: increased by 4 per cent
 - waste to landfill: decreased by 29 per cent”
- Municipalities reported waste diversion rate increases between 6% (Peel) and 16% (Durham). This diversion rate increase depended on whether the municipality introduced other diversion programs (i.e. organics) at the same time as EOW garbage.
- Experiences in other municipalities (i.e. Barrie, Durham, Halton, Markham, Ottawa, Peel, Toronto and Waterloo) have found that, generally speaking, switching over to EOW garbage collection did not contribute to any significant increases in illegal dumping, or increases in rodents, provided residents use their Green Bin and store their waste properly. Additional observations from Peel include:
 - A decrease in rodent complaints occurred after switching to EOW garbage collection. Participation in the organics program increased and the organic material that attracts the rodents is usually found in that cart, which is collected weekly. If residents did call in about rodents, the first question asked was if they were using their organics cart; 9 of 10 times they were not, and those calls are rarely received anymore.
 - A high number of illegal dumping calls do not occur, and it did not increase after the new EOW program.
- Municipalities reported that some residents/businesses initially complained about the reduction in garbage collection frequency, but these complaints did not persist more than a few months.

Service Impact

A switch to EOW collection should not be perceived as a reduction in service. Residents will still be able to set out two bags/containers every other week, changing only frequency of collection and not collection limits. To support the required behavioural changes accompanying a switch to EOW (increased use of Green Bin and Blue/Grey Box), Waste Management staff will develop a comprehensive social marketing and outreach/communication plan. Waste Management staff are in preliminary stages of the RFP for development and implementation of the plan, which will be reduced in scope if Weekly collection continues.

Alternatives Reviewed

Only Weekly and EOW collection scenarios were reviewed for this report. Maintaining the status quo of Weekly garbage collection is not recommended. Weekly garbage collection does not support Council's Strategic Priority of Environmental Sustainability and Stewardship: "Drive environmental protection and addressing climate change such

as through increasing waste diversion rates and reducing our carbon footprint”. A switch to EOW also reflects municipal best practice, bringing Niagara in-line with the 70% of our municipal comparators that have already switched to EOW collection.

The key financial and environmental implications of Weekly garbage collection include the following:

- Without the additional incentive to use the weekly organics and recycling collection, residents have less motivation to use diversion services, decreasing the site life for open Regional landfills and reducing long-term revenue generating capacity
- Reduced potential for continued increase in participation in Niagara Region’s diversion programs
- The Region’s Waste Diversion target of 65% by 2021 will need to be re-evaluated, as it is challenging to drive behavioural change solely with social marketing and Promotion and Education
- Limited options for cost avoidance/cost reduction in the landfill contract with Walker Environmental and potential annual cost increases may result instead
- Reduced potential for a net processing revenue increase from the sale of more recyclables as markets improve in the future and no increase in industry stewardship funding for higher diversion of recyclables material (recovered tonnage portion of funding formula)
- Stagnation of realized environmental benefits from lack of improvement in diversion program participation
- Service level convenience, in the form of increased frequency, is beyond the EOW standard in 70% of Niagara’s comparator municipalities

Relationship to Council Strategic Priorities

EOW collection supports Council’s Strategic Priority of Responsible Growth and Infrastructure Planning, specifically Objective 3.2: Environmental Sustainability and Stewardship.

Other Pertinent Reports

- PW 62-2019 Confidential PW 62-2019 Financial Information Supporting Waste Management Collection Contract Procurement Process
- PW 3-2019 Proposed Base Services for Next Collection Contract
- WMPSC-C 5-2019 Stakeholder Engagement Results on Proposed Collection Service Changes
- PW 20-2019 Base and Enhanced Services for Next Collection Contract

- PW 43-2019 A Matter of Advice that is Subject to Solicitor-Client Privilege under s. 239(2) of the Municipal Act, 2001 – 2019 Waste Collection RFP – Next Steps
- WMPSC 32-2019 Modernizing Blue Box Program
- WMPSC-C 28-2018 Ontario's Food and Organic Waste Framework Action Plan

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This report was prepared in consultation with Sherri Tait, Manager Waste Collection & Diversion (Acting), Sara Mota, Program Financial Specialist, Lydia Torbicki, Manager Waste Policy and Planning, Sterling Wood, Legal Counsel and Bart Menage, Director Procurement and Strategic Acquisitions and reviewed by Catherine Habermehl, Director Waste Management Services.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF
REGIONAL COUNCIL AT ITS SPECIAL MEETING
HELD OCTOBER 17, 2019

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the actions of the Regional Council at its special meeting held October 17, 2019, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
 - a) Any actions required by law to be taken by resolution; or
 - b) Any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: < >