



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Management of Solid Waste Contracts under Transition to a Full Extended Producer Responsibility Model

Date: May 15, 2019

To: Infrastructure and Environment Committee

From: General Manager, Solid Waste Management Services

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report includes commercial or financial information that belongs to the City and has potential monetary impacts.

In addition, it involves a position, plan, procedure, criteria or instruction to be applied to any negotiation carried on or to be carried on by or on behalf of the City of Toronto.

SUMMARY

This report responds to the April 25, 2019 Infrastructure and Environment Committee direction to report back on item IE4.6 - Strategy for Future Solid Waste Management Processing Material Recovery Facilities (MRF) Service Contracts as it relates to transition to full extended producer responsibility.

RECOMMENDATIONS

The General Manager, Solid Waste Management Services recommends that:

1. City Council adopt the recommendations in Confidential Attachment 1 attached to this report.
2. City Council direct that the recommendations in Confidential Attachment 1 to this report remain confidential in their entirety as they relate to commercial or financial information that belongs to the City and has potential monetary value, and it involves a position, plan, procedure, criteria or instruction to be applied to any negotiation carried on or to be carried on by or on behalf of the City.

3. City Council direct the General Manager, Solid Waste Management Services, to report back to the Infrastructure and Environment Committee on the following items once Provincial regulations for transition of the Blue Box Program Plan to a full extended producer responsibility model under the *Resource Recovery and Circular Economy Act, 2016*, are known:

- a. The potential service levels impacts;
- b. Cost and rate implications;
- c. Any other relevant integrated solid waste management system considerations;
- d. A proposed consultation framework plan for stakeholders that considers any changes in Blue Bin Recycling service delivery; and
- e. Proposed next steps.

4. City Council authorize the General Manager, Solid Waste Management Services and/or designate to negotiate and enter into any new agreements or amending agreements (including but not limited to amending agreements to receive external funding) necessary for the City's continued waste diversion operations throughout the transition period under the *Waste Diversion Transition Act, 2016*, based in part on the recommendations on pricing set out in the Confidential Attachment 1, and on terms satisfactory to the General Manager, Solid Waste Management Services and each in a form satisfactory to the City.

FINANCIAL IMPACT

There are no immediate financial implications resulting from this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on April 25, 2019, the Infrastructure and Environment Committee referred Item IE4.6 Strategy for Future Solid Waste Management Processing Material Recovery Facilities (MRF) Service Contracts to the General Manager, Solid Waste Management Services with the request to report to the May 23, 2019 Infrastructure and Environment Committee Meeting.

The Infrastructure and Environment Committee decision document can be viewed at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.IE4.6>

At its meeting on April 24, 25, 26, and 27, 2018, City Council adopted Item PW28.8 entitled "State of Toronto's Blue Bin Recycling Program". Amongst other directions, City Council authorized the General Manager, Solid Waste Management Services and/or designate to negotiate and enter into any amending agreements (including but not limited to amending agreements to receive external funding) necessary for the City's continued waste diversion operations throughout the transition period under the *Waste*

Diversion Transition Act, 2016, based in part on the confidential recommendations on pricing set out in Confidential Attachment 1 to the report (March 22, 2018) from the General Manager, Solid Waste Management Services, and on terms satisfactory to the General Manager, Solid Waste Management Services and each in a form satisfactory to the City Solicitor.

The City Council Decision document can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PW28.8>

At its meeting on September 19, 2017, Public Works and Infrastructure Committee adopted item PW23.6, entitled "Municipal Principles to Guide Transition of the Blue Bin Program". This report for information indicated that staff would update Committee and City Council regarding the progress developing an amended Blue Box Program Plan under the *Waste Diversion Transition Act, 2016*; the final amended Blue Box Program Plan submitted to the Minister of Environment and Climate Change for the transition period under the *Waste Diversion Transition Act, 2016*; and regulations or policy statements focusing on designated material and new diversion Program Plans under the *Resource Recovery and Circular Economy Act, 2016*.

The Public Works and Infrastructure Committee Decision document can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PW23.6>

At its meeting on July 4, 5, 6 and 7, 2017, City Council adopted Item PW22.4 entitled "New Provincial Waste Management Framework Legislation - Bill 151: Waste-Free Ontario Act, 2016 - Update" and requested that the General Manager, Solid Waste Management Services report back to the September 19, 2017 Public Works and Infrastructure Committee, on a list of proposed principles that will guide the discussions and negotiations between the City and producers of designated materials collected in the City's waste diversion programs.

The City Council Decision document can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PW22.4>

At its meeting on June 10, 11, and 12, 2015, City Council adopted item PW5.4 entitled "Authority to Negotiate and Enter into Agreements for Waste Diversion Processing Capacity, Initiatives and Funding".

Included in the decisions adopted in PW5.4, Recommendation 3 authorizes the General Manager, Solid Waste Management Services, to negotiate and enter into agreements with contractors to support waste diversion initiatives to test the feasibility of implementing new diversion initiatives for terms up to one (1) year on the terms and conditions satisfactory to the General Manager, Solid Waste Management Services, Deputy City Manager and Chief Financial Officer and in a form satisfactory to the City Solicitor, provided that the total cost does not exceed the upper limit identified in Confidential Attachment 1 to the report dated April 22, 2015, from the General Manager, Solid Waste Management Services, and the Director, Purchasing and Materials Management Division.

The City Council Decision document can be viewed at:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PW5.4>

COMMENTS

Moving towards a full Extended Producer Responsibility Model for Ontario's Waste Management Systems

On November 30, 2016, the Lieutenant Governor proclaimed the *Waste-Free Ontario Act, 2016*, which enacted the *Waste Diversion Transition Act, 2016* (Schedule 2 to the Waste Free Ontario Act) and the *Resource Recovery and Circular Economy Act, 2016* (Schedule 1 to the Waste Free Ontario Act).

A fundamental component of the *Waste-Free Ontario Act, 2016* was the introduction of a legislative framework for full extended producer responsibility for designated wastes, including printed paper and packaging managed in Toronto's Blue Bin Recycling Program. Under a full extended producer responsibility model, producers are given full financial responsibility for the management of post-consumer waste from their packaging.

The Blue Box Program Plan currently operates under the *Waste Diversion Transition Act, 2016*, employing the model established under the former *Waste Diversion Act, 2002*. Currently, producers of printed paper and packaging are responsible for 50 per cent of the net costs of operating Ontario's Blue Box Program Plan. However, the process for deciding and determining what constitutes actual net costs to set the producer obligation has been inconsistent, challenging and has historically resulted in municipalities, including the City of Toronto, receiving less than the full 50 per cent of their actual net costs to deliver Blue Box recycling programs. Transitioning the existing Blue Box Program Plan to a new full extended producer responsibility model could potentially save the City of Toronto costs related to operating the Blue Bin Recycling Program.

Program Year	Blue Box Program Actual Net Costs (000s)	Blue Box Program Funding Payout as per Municipal Funding Allocation Model (000s)	Per Cent of Actual Net Costs
2017*	\$53,868	\$24,755	46
2016	\$56,593	\$23,455	41
2015	\$52,666	\$22,616	43
2014	\$49,678	\$21,113	43
2013	\$46,984	\$19,267	41

* 2017 amounts may be revised based on any prior-year adjustments.

As reported to City Council in September 2017, the City of Toronto, the Association of Municipalities of Ontario, the Municipal Waste Association and the Regional Public Works Commissioners of Ontario formed the Municipal Resource Recovery and Research Collaborative (the Collaborative) in February 2017. The Collaborative jointly advocates for a collective, smooth and timely transition to full extended producer responsibility to ensure key municipal priorities are communicated and advocated for during transition. Municipal guiding principles for the transition of the Blue Box Program Plan were reported to Council in September 2017 and include a requirement that transition does not negatively impact service levels for ratepayers.

Staff remain active in discussions with the Province and relevant stakeholders regarding the transition of the Blue Box Program Plan to full producer responsibility. Consultation with Toronto stakeholders, residents and ratepayers on impacts to the City's integrated waste management system has not yet been undertaken as details for the Blue Box Program Plan Wind Up remain unknown.

Progress on Transitioning to Extended Producer Responsibility for Non-Blue Box Programs

Although progress in transitioning the Blue Box Program Plan to a full extended producer responsibility model has been slower than initially expected, other product stewardship programs operating under the *Waste Diversion Transition Act, 2016* have started to transition. As part of this process, the City of Toronto actively participates in all consultation activities related to transition of these other programs to ensure the City's interests are reflected in the emerging programs.

Ontario's Minister of Environment, Conservation and Parks (the Minister) has issued Wind Up direction for non-Blue Box stewardship programs currently operating under the *Waste Diversion Transition Act, 2016*. Wind Up direction indicates the date by which existing programs must transition to a full extended producer responsibility model under the *Resource Recovery and Circular Economy Act, 2016*. The transition process and new programs are overseen by resource Productivity Authority (the Authority). New full producer responsibility programs must be ready for operation by the program termination date listed in the Minister's direction letter.

Table 1 below outlines the timeline for transition of non-Blue Box Programs and impacts to City of Toronto Waste Diversion Programs.

Table 1 - Summary of Product Stewardship Program Transition to Resource Recovery and Circular Economy Act, 2016 Model

Program Title	Wind Up Direction Issued	Program Wind Up Date (Transition to Full Extended Producer Responsibility)	Additional Information	Impact to City of Toronto.
Ontario Tire Stewardship (Used Tires)	February 17, 2017	December 31, 2018	Authority now operating Used Tires Registry. Collection program began September 2018.	Recent Offer to Purchase was awarded for used Tires collection at Solid Waste Transfer Stations. Contract Award is estimated at \$1,305.71 annually. Previous funding for management of used tires was approximately \$10,797.15 annually.
Ontario Electronic Stewardship (Waste Electrical and Electronic Equipment)	February 8, 2018	June 30, 2020	Program currently managed by Stewardship Ontario. Used Batteries to be included in future program.	Full transition regulations not yet known.
Municipal Hazardous or Special Waste	April 12, 2018	December 31, 2020	Comments on Wind Up submitted to the Authority April 2019.	Full transition regulations not yet known.

Management of Major Solid Waste Management Contracts under Transition to Full Extended Producer Responsibility for the Blue Box Program

On April 17, 2019 the City submitted Staff comments on the Environmental Registry of Ontario Number 013-4689 - Discussion Paper on Reducing Litter and Waste in our

Communities. Comments included advocating for the Minister to issue Wind Up direction to begin transition of the Blue Box Program using a phased approach starting in 2022 with completion by 2024. These dates are current estimates based on discussions with industry and the Province.

Solid Waste Management Services has five major contracts that could be impacted by any future extended producer responsibility transition as it relates to the management of Blue Bin recyclables. Table 2 outlines the contract dates, optional extension periods and total contract value without extensions.

The current contracts for Blue Bin Recyclables processing include terms and conditions that anticipate possible changes to the *Waste Diversion Act, 2002* and related regulations and programs.

If these changes prevent the City from carrying out its obligations under the contracts, the City may assign the contracts to an organization described in the new regulations or program as having authority to carry out the City's obligations. If the new regulations or programs do not allow the City to assign the contracts, and the transition time is shorter than the contract term, the parties are to negotiate any amendment to the contract that may be required. If the transition time is longer than the contract term, the parties will fulfill the obligations until the end of the term.

If these changes allow the City to carry out its obligations under the contracts, but changes aspects of recyclables processing and collection, the parties are to negotiate any amendments to the contracts that may be required.

New contracts for Blue Bin Recyclables processing would also take into account possible changes to waste diversion legislation, and staff will work to ensure risks are mitigated.

Should the Minister of Environment, Conservation and Parks issue Wind Up direction for the Blue Box Program Plan, any impacts to the Solid Waste Management service delivery standards and rates will be reported back to City Council as well as plans for undertaking stakeholder consultations as required. To date, no Wind Up direction has been issued.

Table 2 - Major Solid Waste Management Contracts to be considered under Transition to Full Extended Producer Responsibility for the Blue Box Program

Contract	Vendor Name	Contract Dates	Optional Extensions	Total Contract Value Exclusive of HST & optional years (000s)	Average Contract Value Annually Exclusive of HST & optional years (000s)
District 1 Waste Collection (47018841)	Miller Waste	July 1, 2015 to June 30, 2021	Two, one year extensions	\$ 63,996	\$10,666
District 2 Waste Collection (47017543)	GFL Environmental	August 6, 2012 to August 2, 2019	Two, one year extensions	\$118,525	\$16,932
Front-End Waste Collection (47019346)	GFL Environmental	July 1, 2016 to June 26, 2026	N/A	\$159,188	\$15,919
Blue Bin Recyclables Processing (47020695)	Canada Fibers Ltd.	April 23, 2013 to April 23, 2020	One, two year extension	\$168,982	\$24,140
Blue Bin Recyclables Processing (47020696)	Canada Fibers Ltd.	November 15, 2014 to November 15, 2021	Two, one year extensions	\$158,822	\$22,689

While exercising optional extensions in these contracts allows for sustained solid waste management service level delivery, there may be opportunities to negotiate cost savings or risk mitigation terms in coordination with a Blue Box Program Wind Up.

Next Steps

Solid Waste Management Services will continue to actively participate in any future Provincial or steward discussions or consultations on the transition of the Blue Box Program Plan. Staff, under the City of Toronto's agreement with the Province in the *City*

of *Toronto Act, 2002*, will also continue to engage and receive information directly from the Province on any upcoming legislation that will impact the City. Staff will report back in Q2 2020 with any updates on transition to full extended producer responsibility for the Blue Box Program.

Considerations of the impacts of the *2016 Waste Free Ontario Act* were noted as a Gap/Challenge in the Long Term Waste Management Strategy. Any service delivery and Solid Waste rate financing implications as a result of the transition of waste diversion programs to full extended producer responsibility will be included in the five year review of the Long Term Waste Management Strategy (to be completed in 2021).

If staff are unable to negotiate new agreements or amending agreements within a reasonable timeframe, staff will issue public procurements calls.

CONTACT

Annette Synowiec, Interim Director, Policy, Planning & Support. Solid Waste Management Services, Telephone: 416-392-9095, Fax: 416-392-4754, Email: Annette.Synowiec@toronto.ca

Charlotte Ueta, Manager (Acting), Waste Management Planning, Policy, Planning & Support, Solid Waste Management Services, Telephone: 416-392-8506, Fax: 416-392-4754, Email: Charlotte.Ueta@toronto.ca

SIGNATURE

Matt Keliher
General Manager
Solid Waste Management Services

ATTACHMENT

Confidential Attachment 1 - This attachment provides confidential pricing information related to Recommendation No. 1 and 2 of this Report.