

Accountability Mechanisms in the Contract Between the City and Metro Municipal Recycling Services Inc.

Date:	June 8, 2011
To:	Public Works and Infrastructure Committee
From:	Acting General Manager, Solid Waste Management Services
Wards:	All Wards
Reference Number:	P:/2011/SWMS/JUNE/007PW (AFS #14109)

SUMMARY

The General Manager, Solid Waste Management Services was requested to report to the Public Works and Infrastructure Committee and advise on the accountability mechanisms in the contract between the City and Metro Municipal Recycling Services Inc. designed to prevent the City from overpaying.

This report discusses the current practice for quantifying the materials processed by Metro Municipal Recycling Services Inc. and reconciling the amounts owed to or by the City as a result.

Financial Impact

There are no financial impacts associated with this report.

DECISION HISTORY

At its meeting on April 26, 2011, the Public Works and Infrastructure Committee adopted, with amendments, PW3.12 "Legal Action to Resolve Contract Dispute Between the City and Metro Municipal Recycling Services Inc."

In doing so the Public Works and Infrastructure Committee requested the General Manager, Solid Waste Management Services report back on the accountability mechanisms in the Metro Municipal Recycling Services contract to prevent the City from overpaying.

At its meeting on May 17, 18 and 19, 2011, City Council adopted PW3.12 "Legal Action to Resolve Contract Dispute Between the City and Metro Municipal Recycling Services Inc." without amendment. The City Council Decision document can be viewed at: <http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getCouncilDecisionDocumentReport&meetingId=4417>

ISSUE BACKGROUND

The City entered into a contract with Metro Municipal Recycling Services Inc. ("MMRS") on August 12, 2003, under which MMRS was to operate a dedicated facility for processing recyclable material collected from City of Toronto residents and eligible commercial establishments (the "Contract"). The term of the Contract was for seven years, and included an option for the City to extend the contract term for up to two years. At present, the City has extended the Contract to December 11, 2011. The City and MMRS have also negotiated specific amendments to the Contract since 2003, which have been approved by City Council.

Pursuant to the Contract, MMRS processes in excess of 100,000 tonnes of single stream recyclable materials ("Recyclable Materials") annually. After processing by MMRS, the Recyclable Materials are essentially classified as either residue (which includes garbage or unrecovered Recyclable Materials), containers (including, for example, glass, aluminum cans, or plastic) or Fibre (which includes cardboard, mixed paper, and newsprint).

The City pays MMRS a processing fee (the "Processing Fee") for the sorting of Recyclable Materials.

MMRS pays the City to purchase the fibre removed from the Recyclable Materials processed (the "Fibre Payment"). MMRS then resells the fibre. The Fibre Payment is to be calculated using a formula in the Contract based on the monthly market price plus a fixed rate premium, per tonne of fibre.

Questions, if any, related to the administration of the Contract should be considered In-Camera as there is an ongoing contract dispute between the City and MMRS that is the subject of arbitration.

COMMENTS

Receipt of the Recyclable Materials at the Processing Facility

Solid Waste Management Services has assigned a City staff person responsible for recording and verifying the quantities of all Recyclable Materials processed and the total Fibre extracted by MMRS. The purpose of this is to allow the City to verify the quantities of materials handled by MMRS.

The quantities of materials handled by MMRS are determined using weigh scale data, which is recorded on weigh scale tickets printed when trucks arrive at or leave the MMRS facility.

Tracking Disposal of Residue

Residue is taken to a City transfer station for disposal after processing by MMRS.

The residue is loaded on MMRS' trucks and weighed outbound from MMRS's facility. A weigh scale ticket is produced. The driver must present the City's authorization slip upon arrival at the City transfer station weigh scales. Once received, the same truck is re-weighed inbound at the City transfer station and a corresponding City weigh scale ticket is produced.

Calculation of Processing Fee Payments to MMRS

The price per tonne Processing Fee was established pursuant to the Contract, as amended, and increases annually pursuant to a formula based on increases in the Consumer Price Index.

The Processing Fee paid to MMRS is made up of a fee for the recovered tonnes of Recyclable Materials plus a fee to remove the residue which is based on the percentage of residue in the material processed, all of which is determined using the weigh scale documentation.

MMRS calculates the total quantity of Recyclable Materials received and processed by using the weigh scale data and it submits an invoice to the City showing its calculation of the total Processing Fee owed.

The City can use the available weigh scale receipts to verify MMRS's calculation of the total tonnes processed.

Calculation of Container Payments to the City

The container products are marketed by the City through contracts set up in conjunction with Purchasing and Materials Management ("PMMD").

With respect to the removal of container material, a City staff person issues authorization slips for each load of container products before it is released to the specific market or transfer station.

The quantity of container material being shipped is determined using data from the weigh scales which measures the net weight of the loads of material being shipped.

The City invoices the party receiving the containers based on the total net weight shipped to that party in the billing period and in accordance with the terms of the contract between it and that party.

Calculation of Fibre Payments to the City

The Contract requires MMRS to purchase Fibre extracted from the Recyclable Materials from the City.

Each month, MMRS calculates the total quantity of Fibre to be purchased from the City and submits an invoice showing its calculation of the total payment being made to the City.

To determine the quantity of Fibre purchased by MMRS in a particular month, the City uses weigh scale data to tabulate total quantity.

The Contract contains a formula for the calculation of the Fibre Payment which is to be applied and reflected in the invoices. As indicated above, the formula in the Contract is the monthly market price plus a fixed rate premium per tonne of fibre and takes into account assumptions about the quantities of newsprint, cardboard and mixed paper.

The Contract requires that the monthly market price be established using the publicly available market prices published monthly in an industry publication. The Contract also permits the parties to verify the composition of fibre (in terms of newsprint, cardboard and mixed paper) through an audit process that can be periodically implemented.

City's Review of MMRS's Invoices & Letter of Credit to Mitigate Risk

The City's current procedure is for staff to review the invoices received from MMRS to confirm the quantity of Recyclable Materials processed, which, as indicated, is verified against recorded weigh scale data, and to review MMRS's calculation of the balance of payment owed (which is equal to the total Processing Fee less Fibre Payment).

A Solid Waste Management Services supervisor and manager review the invoices and approve payments.

In addition to the above, and consistent with other contracts between the City and its processing service providers, the City possesses a Letter of Credit to ensure financial and operational risk to the City is mitigated.

CONTACT

Steven Whitter, Director, New Infrastructure Development and Contracted Services,
Solid Waste Management Services, Telephone: 416-396-4771, Fax: 416-396-4156
E-mail: swhitter@toronto.ca

SIGNATURE

Vincent Sferrazza
Acting General Manager
Solid Waste Management Services