

Non-competitive Contract with Circular Materials Ontario for Authority to Pay Producer Obligation Fees the 2024 Reporting Year

Date: April 28, 2025

To: General Government Committee

From: Executive Director, Environment, Climate & Forestry and the Chief Procurement Officer

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains financial information, supplied in confidence to the City of Toronto, 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.

SUMMARY

The purpose of this report is to request City Council authority to enter into a non-competitive contract with Circular Materials Ontario, a Producer Responsibility Organization (PRO), for services provided to manage the City of Toronto's producer obligations as set out under [Ontario Regulation 391/21: Blue Box](#), for 2025 fee payments with an option to renew the contract for an additional one-year term. The non-competitive contract will be for an initial one (1) year term with an option to renew for one (1) additional year. This non-competitive will ensure compliance with the Provincial Regulation for payment of fees.

A PRO is an organization registered with the Resource Productivity and Recovery Authority to provide collection, material recovery, and administration services to producers of designated wastes as an alternative to establishing a management system of their own. For producers of Blue Box materials, services provided by PROs enable them to meet their regulatory obligations to manage all the designated packaging, printed paper and packaging-like products that they supply into the Ontario marketplace.

The City of Toronto entered into a Producer Services Agreement with Circular Materials Ontario in 2023 to ensure its compliance with Provincial regulation. The decision to pursue a non-competitive procurement was due in part to the limited timeline for the Province's transition to Extended Producer Responsibility and the City's associated timeline constraints to execute on transition requirements. At the same time the City determined that it was advantageous to enter into an agreement with Circular Materials Ontario as they are the administrator of the Common Collection System for the Blue Box Program. Furthermore, Circular Materials' dominant position in the Ontario marketplace, along with the existing contractual arrangement with the City as Circular Materials' recycling service provider during the transition period from July 1, 2023 to December 31, 2025, made Circular Materials the preferred Producer Responsibility Organization for managing the City's obligations.

City Council approval is required in accordance with Toronto Municipal Code Chapter 195 - Procurement, where the current request exceeds the Chief Procurement Officer's authority of the cumulative five year commitment under Article 7, Section 195-7.3 (D) of the Procurement By-Law or exceeds the threshold of \$500,000 net of HST allowed under staff authority as per Toronto Municipal Code Chapter 71, Financial Control, Section 71-11A.

RECOMMENDATIONS

The Executive Director, Environment, Climate & Forestry, and Chief Procurement Officer recommend that:

1. City Council grant authority to the Executive Director, Environment, Climate & Forestry to approve the invoices provided pursuant to the Producer Service Agreement between the City of Toronto and Circular Materials Ontario, effective June 30, 2023 in the amounts indicated in the Confidential Attachment 1, as well as any future invoices under the Producer Services Agreement, to a total spend of \$1,000,000.
2. City Council direct that Confidential Attachment 1 remain confidential in its entirety, as it contains financial information supplied in confidence to the City of Toronto, 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 IMPACT

Refer to confidential financial impact information provided in Confidential Attachment 1.

The 2025 Operating Budget for the Environment, Climate & Forestry Division includes sufficient funding for the City's producer obligations. Should the City choose to exercise its option to renew for an additional one-year period, the appropriate funding amount will be included in the 2026 annual Operating Budget submission for Environment, Climate & Forestry.

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

DECISION HISTORY

At its meeting of June 15 and 16, 2022 City Council adopted IE30.8 entitled "Entering into Agreements with Producer Responsibility Organizations for the Blue Box Program," in which Council considered the new operating model for Extended Producer Responsibility, the role of Producer Responsibility Organizations and transitioning the City's blue box management responsibilities to producers on July 1, 2023.

The City Council Decision document can be viewed at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.IE30.8>

At its meeting of September 30 and October 1 and 2, 2020, City Council adopted IE15.4 entitled "Transition of Toronto's Blue Box Program to Extended Producer Responsibility," which approved the City of Toronto transitioning from the Provincially-mandated Blue Box recycling program to the new Provincially-mandated Extended Producer Responsibility recycling program during the first of the Province's three proposed transition periods; starting such transition on July 1, 2023.

The City Council Decision document can be viewed at:

<https://secure.toronto.ca/council/agenda-item.do?item=2020.IE15.4>

COMMENTS

Background

On June 3, 2021, the Province of Ontario adopted a Regulation (O. Reg. 391/21: Blue Box) pursuant to the Resource Recovery and Circular Economy Act, 2016 to transition Ontario's Blue Box Program to full Extended Producer Responsibility (EPR). Under this regulation, producers that supply designated packaging, printed paper and packaging-like products, and generate a minimum of \$2 million in revenue are responsible for the management of the blue box materials that they supply into the Ontario marketplace. Municipalities that generate a minimum of \$2 million in revenue and supply a specified minimum amount of Blue Box Materials in at least one of six categories (e.g., paper, rigid and flexible plastic, glass, metal or beverage containers) are also considered to meet the definition of a producer with regulatory obligations to manage recyclable materials they supply to the market. The City of Toronto exceeds the minimum threshold and is considered a producer under the Regulation. Examples of designated materials supplied to residents by the City include, but are not limited to, City guides, utility bills, waste collection schedules, notices and envelopes.

As of July 1, 2023, producers of blue box materials are responsible for establishing and operating a system to manage their blue box materials and meet management

requirements under O. Reg. 391/21: Blue Box, which are based on the amount of materials supplied into the Ontario marketplace the previous year. As an alternative to establishing management systems of their own, producers can contract a Producer Responsibility Organization (PRO) registered with the Resource Productivity and Recovery Authority, to provide management services on their behalf to meet their regulatory obligations.

Non-Competitive Procurement

Non-competitive procurements may be undertaken where both the proposed procurement and supplier can be justified in good faith based on an exception set out in Toronto Municipal Code Chapter 195, Procurement. These procurements will be proceeding under the exception related to compatibility, where Circular Materials Ontario, and the City has determined in good faith that both the proposed procurement and the selected supplier, along with the terms and conditions of the contract are beneficial to the City (Toronto Municipal Code, Chapter 195, Procurement, Section 7.1K.).

To ensure regulatory compliance, the City entered into an agreement with a PRO, Circular Materials Ontario, to discharge its management obligations and to ensure regulatory compliance prior to transition on July 1, 2023. Non-competitive procurements in 2023 and 2024 facilitated payment of the annual fees required for the services provided.

A new non-competitive procurement is being submitted for 2025 payment of fees associated with the City's producer obligations, with an option to renew the contract for an additional one-year term, to ensure continued regulatory compliance. Because the cumulative value of the City's producer obligation fees exceed \$500,000, staff are requesting authority from Council to complete payment as per the terms of the existing service agreement with Circular Materials Ontario.

The authority requested for the current year and the additional one-year term will allow for the payment of 2025 and 2026 fees, which are based on services provided for the management of materials that the City supplied into the Ontario marketplace the previous year and are required to maintain regulatory compliance.

The option to exercise an additional one-year term is required to ensure the City remains in compliance with the Provincial regulation while staff explore alternative options for managing the City's producer obligations moving forward. A report back to Committee and Council to secure any necessary authorities will be submitted if required.

The Fair Wage Office has reported that Circular Materials Ontario has indicated that it has reviewed and understands the Fair Wage Policy and Labour Trades requirements and has agreed to comply fully.

CONTACT

Meaghan Davis, Manager, Circular Economy and Innovation, Policy, Planning, and Outreach, Environment, Climate and Forestry, 416-392-3752, Meaghan.Davis@toronto.ca

Christine Speelman, Acting Manager, Program Administration, Environment, Climate and Forestry, 416-338-1028, Christine.Speelman@toronto.ca

Marianne Gonzalez Angulo, Acting Manager, Corporate Purchasing, Purchasing and Materials Management, 416-338-3109, Marianne.GonzalezAngulo@toronto.ca

SIGNATURE

James Nowlan
Executive Director,
Environment, Climate & Forestry

Geneviève Sharkey
Chief Procurement Officer
Purchasing & Materials Management

ATTACHMENTS

Confidential Attachment 1 - Financial Information - Non-Competitive Contract with Circular Materials Ontario