



MEMO TO MEMBERS

November 22, 2013

TO: Chief Administrative Officers
FROM: Union of BC Municipalities
RE: **UBCM Recycling Negotiating Committee Meets With MMBC: Information Update**

In response to Resolution 2013-SR1, UBCM struck the UBCM Recycling Negotiation Committee to negotiate with the Province and Multi-Materials BC (MMBC) local government concerns around the implementation of the packaging and printed paper stewardship plan.

The Committee is aware of the state of negotiations between local governments and MMBC, and wishes to provide some clarifying information that may be of some assistance in local decision-making.

Provincial Engagement

To implement the direction of the resolution, UBCM's Recycling Negotiating Committee met with the Honourable Mary Polak, Minister of Environment, to discuss the packaging and printed paper implementation plan. The Committee met with the Minister on November 7th, and outlined local governments' concerns around MMBC's contract structure, industry's implementation timelines, and MMBC's approach to negotiating with local governments.

The Minister was empathetic to early implementation challenges, the need for collaboration between industry and local governments, and the concerns of local governments. However, the Minister noted that she is unable to direct MMBC in its approach to negotiations with local governments, as the negotiations are between industry and individual local governments. Rather than direct industry, the Minister and Province noted their role in conveying local government concerns to MMBC and encouraging a more collaborative relationship.

MMBC Engagement

On Thursday, November 21, representatives of UBCM's Recycling Committee Negotiating Committee met with the following individuals to discuss key issues related to the Packaging and Printed Paper (PPP) Recycling Master Service Agreement and Statement of Work:

- Alan Langdon, Managing Director, MMBC
- Tamara Burns, VP Supply, Canadian Stewardship Services Alliances
- Glenda Gies, Project Consultant
- Sarah Stephen, Communications Manager, MMBC

A number of key issues were communicated or clarified during a question and answer meeting with the MMBC staff.

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UBCM understands that Newspapers Canada Inc. are neither currently members of MMBC, nor plan to become members until the terms and conditions of an original contract have been signed. *What are the implications for the program if Newspapers Canada either fails to pay for materials collected, or if they establish their own stewardship plan with the Ministry of Environment?*

Newspapers will continue to be collected. Offers to collectors have been made based on an estimated tonnage of all PPP. The agreements between MMBC and collectors include all the in-scope printed paper and packaging material under the MMBC program including newspapers. MMBC has also taken on commodity risk in regards to the demand and price for all commodities including newsprint in case the market drops for the commodity.

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If local governments do not execute agreements by November 30th, when is the next intake period for participation in the program?

The next intake date would be the 2nd quarter of 2015 under the same options that are have been available to local governments. Contractual changes that have been made apply to all members – no one will receive a special deal, including in the next round of intake.

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Based on your current discussions and negotiations with local governments, have there been any recent changes to the master service agreement and statement of works?

No. The last changes to the master service agreement were made on October 16th.

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Is there a summary of clauses that are open to negotiation within the master service agreement and statement of works?

Attachment 12.1 – Insurance Requirements in the Master Services Agreement and Section 2.1.4 – Containers in the Curbside Statement of Work can be customized to reflect the individual circumstances of the collectors. MMBC is also willing to align the term of the contract with the expiration of an existing sub-contract.

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How would you define the successful implementation of this program?

The program is well on its way to a successful implementation. The program has been designed to allow municipalities to have choices and additional time, and has been designed to ramp up into the future.

Is MMBC in a position to have contractors in place by May 2014 to provide collection services in the event that the larger local governments hand collection services over to them?

Where local governments informed MMBC by Sept. 16th that they were declining the curbside incentive and wished to have MMBC deliver the services, these areas are included in MMBC's RFP for curbside collections services for implementation beginning in May. If local governments accepted the incentives by the Sept.16th deadline and subsequently decided to decline the incentives, MMBC will not be able to provide service to those communities until 2015.

Could MMBC confirm the intent of the 180 day notice to terminate clause?

The 180 day notice allows for both local government and MMBC to terminate a contract with 180 days notice. Where a local government utilizes its right to terminate with 180-day notice and wishes to have MMBC provide the service, MMBC will work cooperatively with the local government to transition service as seamlessly as possible within the 180-days or a longer period if agreeable to both parties.

Remote and rural communities are concerned with not being a priority for service delivery. Will the 75% recovery rate be determined on a provincial basis or on a regional basis?

The 75% recovery rate will be determined on a provincial basis. However, regional accessibility to the program is set in the guidelines in Appendix C & D of the PPP Stewardship Plan. MMBC intends to meet the provincial recovery target as well as the accessibility targets.

Smaller communities are concerned with the requirements to staff and fence depots. Are there any changes to this in the contract language?

The requirements for depots have been clarified in Procedural Paper #2.13 posted in the MMBC website.

Could you clarify how the penalties have been scaled to the size of communities?

The penalties for 3% non-PPP are identified in the 'Statement of Works'. Penalties range from \$5000/load for populations of more than 10,000 people to \$500/load for communities of less than 500 people.

Penalties for 3% non-PPP are capped at 24 loads/year.

Penalties are a *tool of last resort*. MMBC will work with collectors through the 390 day procedure outlined in Procedural Paper 1.13 posted on the MMBC website.

How is the 3% contamination rate determined?

The 3% contamination rate will be determined from an independent audit overseen by MMBC. The audit will be implemented if a collector is identified as being repeatedly non-compliant. The procedure is outlined in Procedural Paper 1.13 posted on the MMBC website.

The non-disclosure of data has been identified as an issue for local governments. As per Freedom of Information requirements we need access to our data. Can you clarify this requirement?

The non-publicity clause is designed to ensure that both MMBC and the local government are reporting the same information. MMBC requires that the local government confirm the information it intends to publish to ensure it is consistent with the information that will be reported by MMBC. Local governments will have more information through MMBC than it currently has available. MMBC will provide aggregated information collected by regional district about what is being recycled and where it's eventual final disposition.

Does the local government assume liability for the loss of material flow in the case a contract is terminated?

Ownership of the material remains that of the local government until the material is delivered to the processor. The processor will be required to take the material unless it contains hazardous waste or MMBC has levied a service level credit failure on the collector for 3% non-PPP in the previous 12 months.

In addition to addressing key questions around the contract and negotiating approach, MMBC committed to establishing an advisory committee and has requested UBCM participation.

For further information, please contact Jared Wright, Director of Advocacy, at jwright@ubcm or at 250-387-0891