

Comments on Module 1 Consultation

Amended Blue Box Program Plan

1. Do you agree with the outcomes of the proposed approach for non-transitioned communities? Are there other outcomes you would like to see added?

We agree that using the Resource Productivity and Recovery Authority (the Authority's) existing Guide, provides a reasonable and balanced approach for both local governments and stewards. While not ideal we understand the logic that municipalities would have to continue to discount some costs.

This should in no way set a precedent for transitioned municipalities, particularly related to eligible sources. As we have heard from Stewardship Ontario there is a clear distinction between the old world (non-transitioned) and the new world (transitioned). This appears to be reflected in the Minister's letter and likely in the stewards' interest as the target is increased to 75% and new material specific targets are incorporated. Furthermore, the Minister's letter specifies that for the purposes of primary, convenience and transport packaging, the amended Blue Box Program Plan (a-BBPP) should refer to the RRCEA definitions which would include all of these sources of materials (and more).

It should also be noted, municipalities will need to better understand what Stewardship Ontario means by "provide or facilitate access to data and facilities as reasonably required". Current contracts may limit access in these areas and municipalities need further clarification on what is required by Stewardship Ontario.

We also agree that municipal costs associated with transition (such as legal fees, etc.) should be ineligible. However, costs associated with potentially stranded municipal assets must be accounted for in the a-BBPP. The protocol for assessing the value of, and disposition of municipal assets not incorporated into the PPP post-collection management system ("stranded assets") should be included in the a-BBPP. Municipalities are prepared to work with the Authority and Stewardship Ontario to develop this protocol.

It is not reasonable to include service level changes as an ineligible cost. The Authority already has an ability to deal with major variations in costs through the Datacall. Attempting to treat the system as static and not allowing for reasonably incurred costs to maintain and improve the system will cause major issues for the future of recycling in Ontario. Some costs to operations may be unavoidable, may already be pre-planned or in the interests of both parties. In cases of conflict, a dispute resolution mechanism could be established and administrated by the Authority with regards to what investments or operational changes should be considered as an eligible cost.

It is important to underline that municipalities that have not transitioned will retain autonomy in their decision-making around their programs. Given that stewards will continue to have a shared financial responsibility consideration should be given to sharing both the benefits and risks and their associated costs.

Finally, we do not accept the proposal to change "penalties or fees incurred by the municipality as a result of service level failure credits, default, or other such similar charges for failing to meet obligations" to an ineligible cost. This is a shared program and with it comes shared risks and this should remain so in the a-BBPP.

2. Do you support the proposed method of calculating payments to non-transitioned communities? If not, what approach would you prefer we consider?

We agree that using the Authority's existing Guide, provides a reasonable and balanced approach for both local governments and stewards.

We agree that municipalities should be paid the requisite percentage of their eligible costs.

We also agree that municipal costs associated with transition (such as legal fees, etc.) should be ineligible. Costs associated with potentially stranded municipal assets must be accounted for in the a-BBPP.

It is not reasonable to include service level changes as an ineligible cost.

We do not accept the proposal to change "penalties or fees incurred by the municipality as a result of service level failure credits, default, or other such similar charges for failing to meet obligations" to an ineligible cost.

3. Do you support the proposed set of eligible costs? If not, what approach would you prefer we consider?

We agree that payments should be based on the requisite percentage of a municipalities verified net cost. Using the Authority's existing Guide, provides a reasonable and balanced approach for both local governments and stewards.

4. Do you support the proposed set of ineligible costs? If not, what approach would you prefer we consider?

We agree that municipal costs associated with transition (such as legal fees, etc.) should be ineligible.

However, costs associated with potentially stranded municipal assets must be accounted for in the a-BBPP. The protocol for assessing the value of, and disposition of municipal assets not incorporated into the PPP post-collection management system ("stranded assets") should be included in the a-BBPP. Municipalities are prepared to work with the Authority and Stewardship Ontario to develop this protocol.

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We do not accept the proposal to change “penalties or fees incurred by the municipality as a result of service level failure credits, default, or other such similar charges for failing to meet obligations” to an ineligible cost. This is a shared program and with it comes shared risks and this should remain so in the a-BBPP.

6. Do you agree with the objectives of the proposed approach for transition criteria? Are there other objectives you would like to see added?

We agree with the objectives established in the Minister’s letter to the Authority and Stewardship Ontario on August 14, 2017.

7. Do you support the proposed three transition criteria? If not, what approach would you prefer we consider?

We support the three transition criteria, however it is important to note that they are insufficient without the addition of the fourth transition mechanism.

8. Do you support the fourth transition mechanism proposed by some communities and private sector companies? If not, what approach would you prefer we consider?

We support the fourth transition mechanism, to provide transition support for municipalities that have collection contracts and processing contracts that are asynchronous. It is our understanding that the fourth option allows for a municipality to transition under a number of different scenarios.

For better clarity, the various options that are available under Option four should be detailed further and examples provided.

It will be imperative to enable municipalities to transition using a suitable amendment to their contract where their collection contracts extend beyond their processing contract expiry or the alternative scenario where short term extensions to a collection contract are not able to be secured to extend to a longer term expiring processing contract.

9. What kind of contract expiry scenarios do you anticipate? Would you support implementing yearly rolling collection contracts where there is asynchronous contract expiry? If not, what approach would you prefer we consider?

There will be many contract expiry scenarios to consider.

Yearly, short-term contract extensions can be a viable option however alternatives must be developed as not all service providers will agree to these terms. Nor may it be the most cost efficient or effective method to utilize in all scenarios.

We would strongly advise that Stewardship Ontario, the Authority and municipalities work cooperatively with the existing Datacall data base to develop most likely transition scenarios to support transition planning. There is a great deal of complexity associated with municipal servicing arrangements for Blue Box . This is especially complex in regards to upper and lower tier municipalities. Ensuring that all

parties fully understand and plan for these dynamics will support effective transition planning and reasonable budgeting and fee setting.

10. Would you support the proposed methods for pacing transition to ensure operational stability and to ensure no service disruption as communities transition. This may include:

- lottery for communities wishing early termination,
- yearly cap on transitions once costs have reached 20% of the 2016 net cost,
- an absolute number of transitioning communities is met.

If not, what approach would you prefer we consider?

Stewardship Ontario has proposed capping the number of municipalities that transition in any given year for suggested administrative, financial and competition related reasons. We believe that existing contracts, institutional arrangements and municipal decision-making processes ensure that transition will occur over a number of years and that reasonable projections for the pace of transition can be set out in the a-BBPP. The proposed lottery system selecting municipalities that can transition in a given year provides increased uncertainty that would cause major issues for municipalities, service providers and Stewardship Ontario. This approach is not acceptable to municipalities.

11. Would you support the proposed notice periods for communities that wish to transition? if not, what approach would you prefer we consider?

A one-year timeline appears reasonable notification timeline for Stewardship Ontario for a seamless transition. The proposed two-year notification period for a municipality that does not wish to act as a collection tendering and contract management agent maybe too lengthy. A consistent timeline would be preferable but we appreciate the logistical challenges.

12. Do you agree with the objectives of the proposed approach for collection services procurement? Are there other objectives you would like to see added?

We agree with the objectives established in the Minister's letter to the Authority and Stewardship Ontario on August 14, 2017.

13. Would you support the three proposed collection procurement scenarios? If not, what approaches would you prefer we consider?

Stewardship Ontario has not provided sufficient detail on these key issues to constitute an acceptable a-BBPP. The basis for establishing benchmark payments are not defined and in any case will likely result in ongoing disputes given the complexity of factors affecting program performance and costs across the province. The methodology for establishing these benchmarks and how any disputes that might arise will be dealt with must be clearly set out in the a-BBPP. The Municipal 3Rs Collaborative will be providing specific recommendations for consideration through the consultation program.

Furthermore, key performance standards (collection frequency, minimum contamination rates, etc.) are not defined and necessary standard contract terms and conditions have not been specified. Suggestions

made earlier by Stewardship Ontario that these details may only be forthcoming after the a-BBPP has been approved are not acceptable to municipalities. In order to move this process forward expeditiously Municipal 3Rs Collaborative will provide the Authority and Stewardship Ontario with draft detailed service standards for collection of PPP and proposed principles for procuring post-collection management services as the basis for further discussion among the parties.

14. Do you agree with the objectives of the proposed approach for post-collection services procurement? Are there other objectives you would like to see added?

We agree with the objectives established in the Minister's letter to the Authority and Stewardship Ontario on August 14, 2017.

Two additional objectives should be added:

- opportunity for municipalities to participate in the post-collection management of PPP collected
- avoiding stranded assets

15. Would you support the proposed post-collection procurement approach? If not, what approach would you prefer we consider?

Stewardship Ontario has not provided sufficient detail on these key issues to constitute an acceptable a-BBPP. How municipalities will be able to engage and participate in providing post-collection services needs to be explained more fully. Additionally, objectives and criteria for the development of the post-collection network need to address the Minister's directive on avoiding stranded assets.

16. Do you agree with the objectives of the proposed approach to expansion of services to:

- **multi-family buildings**
- **public spaces, and**
- **new communities and through new depots?**

Are there other objectives you would like to see added?

We agree with the objectives established in the Minister's letter to the Authority and Stewardship Ontario on August 14, 2017.

17. Would you support the proposed approach to expansion of services to:

- **multi-family buildings**
- **public spaces, and**
- **new communities and through new depots?**

If not, what approach(es) would you prefer we consider?

No we don't support the proposed approach. There are no specific actions or mechanisms for expanding services in the proposal from Stewardship Ontario and the drafting makes clear that this will not be a priority for Stewardship Ontario under the a-BBPP. This falls short of the expectations set out in the Minister's letter and in the provincial interests set out in the RRCEA for improved convenience, accessibility and improved program performance and environmental outcomes. More effort should be given to defining how the a-BBPP will promote and support expanding BB services and specifically to

establishing a timeline for transitioned municipalities to include currently un-serviced multi-residential buildings, public spaces and public institutions.

In keeping with the long-term goal of achieving zero waste municipalities recommend that an appropriate standard for Ontario should be that there should be an opportunity to recycled designated PPP wherever waste collection services are provided.

Furthermore, more consideration should be given in the a-BBPP to accommodating collection of PPP from associate public spaces, parks, institutions that mirror residential sources and other related services currently being provided by municipalities, including BIAs serviced as part of residential collection routes to ensure a seamless transition of services already being provided.

18. Do you agree with the approach being taken to stakeholder consultation? If not, what approach would you prefer we consider that would enable the proposal for an a-BBPP to be submitted to the Minister by the February 15th deadline?

We understand this is a very tight timeline which makes it difficult for all organizations involved to provide detailed analysis and to apply normal review procedures but we also understand the importance of this initiative. However, it will be critical to get to agreement on the key elements of the revised the program as soon as possible so that municipal councils can properly evaluate the consequences of an a-BBPP for their communities. Therefore the Municipal 3Rs Collaborative will shortly be providing the Authority and Stewardship Ontario with further detailed recommendations in addition to the comments provided herein.

We are appreciative of Stewardship Ontario's amended consultation approach to include regional meetings in Southwest Ontario, Greater Hamilton area, Eastern Ontario, Central Ontario, Northwestern Ontario and Northeastern Ontario.

However, there are a number of key areas that Stewardship Ontario will need to address and provide municipalities the opportunity to review and comment on as part of the a-BBPP. The consultation plan has not yet defined when we will have the ability to do so. These include:

- Obligated Stewards, including any proposed de minimis steward exemption or any other proposed exemption, to ensure alignment of the "products" and packaging to be managed under the a-BBPP with the requirement for producers to pay fees for managing these materials.
- Description of a-BBPP Delivery Model, including:
 - Role of the Authority,
 - Role of Stewardship Ontario,
 - Role of Municipalities (MIPC / Municipal 3Rs Collaborative),
 - Wind-up of CIF and repatriation of municipal funds, and
 - Mechanisms to ensure transition to the Resource Recovery & Circular Economy Act in a timely manner.
- The Program Agreement between the Authority and Stewardship Ontario and in particular the definition of what will constitute a material change under the a-BBPP.
- Steward and a-BBPP waste reduction efforts, specified in the Minister's letter such as

- Methods to increase the product's or packaging reusability and recyclability,
 - Methods to facilitate the reduction of PPP,
 - Means to discourage difficult to recycle materials,
 - Mechanisms to identify and address difficult to recycle materials,
 - Providing effective economic methods to incent behavior changes leading to reduction of PPP,
 - How these mechanisms will be applied and measured in both transitioned and non-transitioned municipalities (given that these require steward behavior changes that will necessarily apply to the whole of the Ontario market), and
 - Methods to "...work(ing) towards the circular economy by supporting reduce, reuse, recycling and reintegration of PPP materials into the economy"
- How green bin collections of PPP will be reflected in a-BBPP system costs and apply against targets.
 - The protocol for assessing the value of, and disposition of municipal assets not incorporated into the PPP post-collection management system ("stranded assets").
 - Method by which PPP collection and post-collection management contracts and operations will be held and relinquished upon wind-up of Stewardship Ontario to avoid competition barriers (to be reviewed by Competition Bureau).
 - Procedures to ensure fair, open competition for collection and post collection services (to be reviewed by Competition Bureau).
 - Province-wide and municipal promotion and education programs "incorporating clear rules to support residents' participation including standardized materials and services and improving program performance."
 - The treatment of any in-kind funding from the Canadian Newspapers Association and Ontario Community Newspapers Association in transitioned and non-transitioned municipalities
 - Management of problematic materials (i.e. film, polystyrene, polycoat, shredded paper, etc.)
 - Data reporting requirements and audit provisions