



Sent via email: [grathbone@rpra.ca](mailto:grathbone@rpra.ca)

November 10, 2020

Mr. Geoff Rathbone  
Director of Transition  
Resource Productivity and Recovery Authority  
4711 Yonge Street, Suite 408  
Toronto, Ontario  
M2N 6K8

Dear Geoff:

Municipal governments appreciate the opportunity to provide comments to the Resource Productivity and Recovery Authority regarding Stewardship Ontario’s proposed transition plan for the Blue Box program. These comments are submitted on behalf of the Association of Municipalities of Ontario, the City of Toronto, Regional Public Works Commissioners of Ontario and the Municipal Waste Association.

**Avoiding Conflict of Interest**

Municipal governments support the emphasis being placed on ensuring the avoidance of a real or perceived conflict of interest. However, we are concerned about the proposed fee setting methodology for two reasons:

- it appears to illustrate a real, perceived or potential conflict of interest for the Canadian Stewardship Services Alliance’s (CSSA) proposed fee setting methodology to be a part of Stewardship Ontario’s wind-up process.
- it adds a level of complexity to the process that is not necessary.

**Supporting Competition**

Information/intellectual property/knowledge collected by Canadian Stewardship Services Alliance (CSSA) in the operation and /or support of Stewardship Ontario should be shared publicly in a timely manner. The proposed Blue Box regulation notes that Producer Responsibility Organizations (PRO) must register with the Resource Productivity and Recovery Authority before June 15, 2021. A delay in sharing market intelligence until after this date could be seen as giving an unfair advantage to CSSA and limit competition.

**Maintaining Program Performance**

The elimination of any market development funds is counterproductive given the need to improve current conditions in the recycling industry, assist with rebuilding Ontario’s economy and ensure a strong foundation is established for the transition period.

Association of Municipalities of Ontario  
200 University Ave., Suite 801  
Toronto ON M5H 3C6 Canada  
Tel: (416) 971-9856  
Fax: (416) 971-6191  
Toll-free in Ontario: 1-877-426-6527

RPWCO  
c/o 1266 McDougall Street  
Windsor ON N8X 3N7  
Tel: (519) 255-6247 x 6356  
Fax: (519) 973-5476

Municipal Waste Association  
PO Box 1894  
Guelph ON N1H 7A1  
Tel: (519) 823-1990  
Fax: (519) 823-0084

City of Toronto  
100 Queen St. W.  
25<sup>th</sup> Floor, East Tower  
Toronto, ON, M5H 2N2  
Tel: (416) 392-9095  
Fax: (416) 392-4754

A growing concern for municipal governments is that the complexity of steward packaging and products is increasing rapidly with many items entering the market that cannot be recycled with existing investments in processing facilities, have the appearance of being recyclable materials and/or do not have viable end markets. This has been exacerbated by loss of markets in Asia and other jurisdictions. We have seen that many stewards are voluntarily making commitments to address these issues and incorporate more recycled content in their packaging and products and these efforts are applauded.

Given that Stewardship Ontario represents the collective interests of stewards in the Ontario market and assumedly all of who will be assuming full responsibility to finance and operate the end-of-life management system for their designated packaging and products, we have difficulty with the idea that investment in market development would stop during the 5 year time of transition instead of looking to improve the system they will be taking over.

As outlined above, the recycling industry finds itself in some tumultuous times with a rapidly evolving and more complex packaging/product stream and market instability for recycled commodities. The very nature of the transition from a system designed and operated by municipal governments and First Nation communities to a system fully managed and financed by producers also brings a level of uncertainty and instability to the market.

As such, a flexible, reasonable approach to any program changes through the transition period must be ensured; programs may have to change in order to continue to operate (e.g. some programs having to move to automated collection given driver shortages, accommodate new developments, or a need to make collection changes that assist with reduction of contamination levels, etc.). We understand the need to ensure programs are not substantively increasing or decreasing service levels on a discretionary basis, however some changes will be dictated by market conditions and availability/interest of service providers.

### **CIF Wind-Up Plan**

Municipal governments find the proposed approach by the CIF Committee to complete the wind-up of this fund is reasonable. However the language should reflect the collective administrative oversight role for the proposed financial wind-up and transfer of CIF funds by both the Association of Municipalities of Ontario (AMO) and the City of Toronto. The amended CIF Windup Plan, dated April 14, 2020, states that AMO and the City of Toronto will determine the Municipal Collective Transition Fund (MCTF) funding requests related to the necessary municipal collection transition work for the upcoming year. However, RPRA's consultation materials is silent on Toronto's involvement. Given that the City of Toronto is not a member of AMO, we are requesting that additional language be included to reflect the City's involvement in the administrative oversight of the MCTF to remove any ambiguity in the plan.

## **Proposed Transition Process, Timelines and Payment Process**

The proposal for payments to a Municipality/First Nations Community indicate that the Steward Obligation is calculated using Datacall costs from two years prior, however, the payment is for the actual year it is issued versus a defrayed payment for work completed two years prior. The proposed method does little to protect municipal taxpayers should there be a continued increase in recycling program costs later in the transition period.

Municipal governments do not support the proposed municipal funding schedule and do not agree that the final payment to the municipality in the transition year should be based on data from two years prior. Subsection 25(5) of the *Waste Diversion Act*, 2002 required and s. 11(1) of the *Waste Diversion Transition Act*, 2016 requires that the Blue Box Program Plan provide municipalities with payment of 50% of total net costs incurred by them. While an estimate based on the Datacall results from an earlier year could be and has been used in the past, this is because the program was continuing and any inaccuracies in cost totals were necessarily adjusted in a future year when the true costs were known. However, as the program is now ending for transitioning municipalities, the “correction” of the estimated amount must be accounted for after the municipality transitions when the actual total net costs incurred are known. There needs to be a mechanism to properly determine these amounts and the Steward Obligation payments properly reconciled and any deficiencies paid.

There also needs to be consideration for any manipulations to municipal costs as programs transition and groupings become smaller. This will likely limit the validity of comparisons between programs.

## **Financial Estimates and Forecasting**

The Plan highlights numerous potential risks that could impact the financing of the program (i.e. new Ministerial direction letters, delay of Regulation etc.). Given Stewardship Ontario has experienced some of these impacts directly with the wind-up of the Municipal Hazardous or Special Waste (MHSW) program, it is prudent to ensure sufficient contingency funds to manage any potential issues.

## **Fee Setting Methodology**

Municipal governments strongly oppose Stewardship Ontario’s proposal to implement a new fee setting methodology during the wind-up of the Blue Box program which we do not think is consistent with the Minister’s direction.

Stewardship Ontario has indicated that this change to the fee setting methodology will double the amount of in-kind payments municipal governments would receive as part of the Steward Obligation instead of cash. Stewardship Ontario has indicated that this is due to the cost of managing newspapers being under-allocated in previous years. However, no rationale or data to support why this change has occurred from the previous model to this model could not be provided when requested.

We believe the idea that newspaper management costs would double when all data points to rapidly decreasing amounts of newspaper in the system seems incredibly counter-intuitive.

While we understand the interest in updating an older model, the implications of this change, the lack of a rationale to explain the significant change in results and the added complexity this change would bring to this wind-up process cannot be supported. This change in methodology will directly impact municipal budgets and costs of the program to residents. Furthermore, the timing is unfortunate where Stewardship Ontario is proposing to introduce this new formula in a transitory period with little consultation and insufficient rationale to validate the reasonableness of the conclusions they are putting forward.

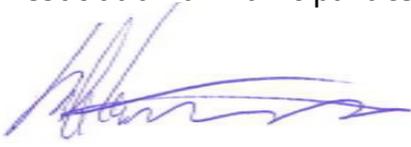
Thanks again for the opportunity to provide comments on this plan. We would be happy to answer any questions you may have on the submission.

Sincerely,



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Dave Gordon  
Senior Advisor, Waste Diversion  
Association of Municipalities of Ontario



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Mark Winterton  
Chair, Regional Public Works  
Commissioners of Ontario



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Annette Synowiec  
Director, Policy, Planning & Outreach  
Solid Waste Management Services  
City of Toronto



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Melissa Kovacs-Reid  
Chair, Municipal Waste Association

cc: Charles O'Hara, Director, Resource Recovery Policy Branch, Ministry of the Environment, Conservation and Parks

Attachment:

Letter to Stewardship Ontario regarding Stewardship Ontario's proposed transition plan for the Blue Box program, July 15, 2020.



Via email: [lclarke@stewardshipontario.ca](mailto:lclarke@stewardshipontario.ca)

July 15, 2020

Mr. Lyle Clarke  
Program Operations Officer  
Stewardship Ontario  
1 St. Clair Ave. West, 7th Floor  
Toronto, ON M4V 1K6

Dear Lyle:

Municipal governments appreciate the opportunity to provide comments regarding Stewardship Ontario’s proposed transition plan for the Blue Box program. These comments are submitted on behalf of the Association of Municipalities of Ontario, City of Toronto, Regional Public Works Commissioners of Ontario and the Municipal Waste Association.

### **Avoiding Conflict of Interest**

Municipal governments support the emphasis being placed on ensuring the avoidance of a real or perceived conflict of interest. However, we are concerned about the proposed fee setting methodology for two reasons:

- it appears to illustrate a real, perceived or potential conflict of interest for CSSA’s proposed fee setting methodology to be a part of Stewardship Ontario’s wind-up process. There are a number of slides that discuss CSSA’s work on how materials impact recycling costs in SO’s presentation.
- it adds a level of complexity to the process that is not necessary.

### **Supporting Competition**

Information/intellectual property/knowledge collected by CSSA in the operation and /or support of Stewardship Ontario should also be shared publicly.

### **Maintaining Program Performance**

The elimination of any market development funds is counterproductive given the need to improve current conditions in the recycling industry, assist with rebuilding Ontario’s economy and ensure a strong foundation is established for the transition period.

A growing concern for municipal governments is that the complexity of steward packaging and products is increasing rapidly with many items entering the market that cannot be recycled, have the appearance of being recyclable materials and/or do not

Association of Municipalities of Ontario  
200 University Ave., Suite 801  
Toronto ON M5H 3C6 Canada  
Tel: (416) 971-9856  
Fax: (416) 971-6191  
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c/o 1266 McDougall Street  
Windsor ON N8X 3N7  
Tel: (519) 255-6247 x 6356  
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100 Queen St. W.  
25<sup>th</sup> Floor, East Tower  
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have viable end markets. This has been exacerbated by loss of markets in Asia and other jurisdictions. We have seen that many stewards are voluntarily making commitments to address these issues and incorporate more recycled content in their packaging and products and these efforts are applauded.

Given that Stewardship Ontario represents the collective interests of stewards in the Ontario market and assumedly all of who will be assuming full responsibility to finance and operate the end-of-life management system for their designated packaging and products we have difficulty with the idea that investment in market development would stop during the 5 year time of transition instead of looking to improve the system they will be taking over.

As outlined above, the recycling industry finds itself in some tumultuous times with a rapidly evolving and more complex packaging/product stream and market instability for recycled commodities. The very nature of the transition from a system designed and operated by municipal governments and First Nation communities to a system fully managed and financed by producers also brings a level of uncertainty and instability to the market.

As such, a flexible, reasonable approach to any program changes through the transition period must be ensured; programs may have to change in order to continue to operate (e.g. some programs having to move to automated collection given driver shortages, accommodate new developments, or a need to make collection changes that assist with reduction of contamination levels, etc.). We understand the need to ensure programs are not substantively increasing or decreasing service levels on a discretionary basis, however some changes will be dictated by market conditions and availability/interest of service providers.

### **CIF Wind-Up Plan**

Municipal governments find the proposed approach by the CIF Committee to complete the wind-up of this fund is reasonable.

### **Proposed Transition Process, Timelines and Payment Process**

The example included in the slide deck demonstrating how payments are calculated for a Municipality/First Nations Community indicate that the Steward Obligation is calculated using Datacall costs from two years prior, however, the payment is for the actual year it is issued versus a defrayed payment for work completed two years prior. The proposed method does little to protect municipal taxpayers should there be a continued increase in recycling program costs later in the transition period. Can you please provide a proper rationale to understand why this approach is being taken?

It would also be beneficial to understand how individual municipal funding will be calculated using more examples and showing how their datacall inputs corresponds to the funding.

There also needs to be consideration for any manipulations to municipal costs as programs transition and groupings become smaller. This will likely limit the validity of comparisons between programs.

## Financial Estimates and Forecasting

The Plan highlights numerous potential risks that could impact the financing of the program (i.e. new Ministerial direction letters, delay of Regulation etc.). Given Stewardship Ontario has experienced some of these impacts directly with the wind-up of the MHSW program, it is prudent to ensure sufficient contingency funds to manage any potential issues.

## Fee Setting Methodology

Municipal governments strongly oppose Stewardship Ontario's proposal to implement a new fee setting methodology during the wind-up of the Blue Box program.

Stewardship Ontario has indicated that this change to the fee setting methodology will double the amount of in-kind payments municipal governments would receive as part of the Steward Obligation instead of cash. Stewardship Ontario has indicated that this is due to the cost of managing newspapers being under-allocated in previous years. However, no rationale or data to support why this change has occurred from the previous model to this model could be provided when requested.

We believe the idea that newspaper management costs would double when all data points to rapidly decreasing amounts of newspaper in the system seems incredibly counter-intuitive.

While we understand the interest in updating an older model, the implications of this change, the lack of a rationale to explain the significant change in results and the added complexity this change would bring to this wind-up process cannot be supported. This change in methodology will directly impact municipal budgets and costs of the program to residents. Furthermore, the timing is unfortunate where Stewardship Ontario is proposing to introduce this new formula in a transitory period with little consultation and insufficient rationale to validate the reasonableness of the conclusions they are putting forward.

Thanks again for the opportunity to provide comments on this plan. We would be happy to answer any questions you may have on the submission.

Sincerely,



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Dave Gordon  
Senior Advisor, Waste Diversion  
Association of Municipalities of Ontario



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Mark Winterton  
Chair, Regional Public Works  
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