
Subject: Provision of Depot Collection Services on Behalf of Producers for Residential Blue Box Program

Report to: Public Works Committee

Report date: Tuesday, September 12, 2023

Recommendations

1. That Regional Council **APPROVE** the provision of residential Blue Box depot collection and haulage services and related promotion and education (collectively the “**Depot Services**”) on behalf of Circular Materials Ontario (CMO), during the transition period of January 1, 2024 to December 31, 2025, subject to confirmation by Staff that the compensation to be provided by CMO to the Region for the Depot Services is on a full cost recovery basis; and
2. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute CMO’s standard form contract document(s) for the Region’s provision of Depot Services at Niagara Region’s public drop off depots and at Walker Environmental Group Inc. on a full cost recovery basis.

Key Facts

- The purpose of this report is to seek Council’s direction related to the provision of residential recycling depot services and related promotion and education on behalf of Circular Materials Ontario (CMO), during the transition period of January 1, 2024 to December 31, 2025.
- Niagara Region will transition the residential Blue Box (includes Grey Box) program to full producer responsibility on January 1, 2024.
- The Producer Responsibility Organization (PRO), CMO, has reached out to eligible communities to provide depot collection, haulage and related promotion and education services for eligible sources (residences, multi-residential buildings, some long term care homes and retirement homes and some public spaces) on their behalf for the transition period provided that eligible communities agree to CMO’s terms and conditions contained within a Statement of Work (SOW) and a Master Service Agreement (MSA).
- Staff have reviewed CMO’s standard form contract documents and owing to the structure and value of the depot contracts, the expected compensation and

integrated nature of the depot services, staff do not see significant risks to Niagara Region in providing residential depot collection on behalf of CMO for the transition period. Provided that the compensation to be provided by CMO to the Region for the Depot Services is on a full cost recovery basis.

Financial Considerations

Currently, Blue Box recyclables are collected at three public drop off depots (Bridge Street in Fort Erie, Niagara Road 12 in West Lincoln, and Humberstone Landfill in Welland) operated by Niagara Region. The costs associated with the operation of these depots are included in the Waste Management operating budget on an annual basis. While Niagara Region does currently receive some revenue from the sale of recyclables received at the depots, the revenue does not cover the costs to operate and there is no outside funding to support depot operations. Although not owned or operated by the Niagara Region, the Region also promotes the use of the drop off depot at Walker' Environmental Inc. in Thorold, via a formal agreement between the two parties.

The estimated 2024 costs for the operation of the residential drop off depot for the collection and haulage of recyclables from eligible sources is approximately \$266,000. This cost represents the estimate for the portion of the depot costs related only to the collection of recyclables from eligible sources, and it is important to note that the overall costs to operate the depots (i.e., collection of other waste materials) are in excess of this amount but are not considered under the agreement with CMO.

Blue Box material is collected from eligible and non-eligible sources (i.e., Industrial, Commercial, and Institutional properties) at the depots and CMO will allow co-collection to continue during the transition period; however, Niagara Region will need to pay CMO for the receiving and processing of non-eligible material at a rate of \$200/tonne (excluding non-recoverable HST and subject to escalations). The estimated annual cost is approximately \$5,000 (excluding non-refundable HST and subject to escalations) based on 3% of total annual tonnages being from non-eligible sources.

Opting into providing depot services on behalf of CMO during the transition phase (January 1, 2024 to December 31, 2025) would result in external funding that is expected to cover the residential recycling depot costs. The recommendations in this report is subject to confirmation by Staff that the compensation to be provided by CMO to the Region for the Depot Services is on a full cost recovery basis, failing which Staff do not recommend proceeding, and will report back to Committee.

Following the transition period, if the Niagara Region continues to operate the residential recycling portion of the depots, the full cost of this would then be included in the operating budget as it is today. There would be no external funding following the January 1, 2026 transition date.

Staff are preparing Waste Management's 2024 operating budget and the net impact of Council's decision to opting in or electing not to opt into providing Depot Services, on behalf of CMO, will be included within the budget using estimates available at the time of budget preparation.

Analysis

As a result of the introduction of Blue Box Regulation 391/21 (background information provided in Appendix 1), CMO reached out to eligible communities to provide Depot Services on CMO's behalf through the transition period; for Niagara this would be from January 1, 2024 to December 31, 2025. If an eligible community wants to provide Depot Services on behalf of CMO (opts in), they need to sign a contract with CMO. CMO has developed forms of contractual agreement (Statement of Works and overall Master Service Agreement) for eligible communities wishing to op-in for Depot Services and related promotion and education.

In the case of depots, if eligible communities elect to opt out of providing residential depot collection on their behalf, the requirement of CMO would be to maintain the same number of existing depots in the eligible community during the transition period.

Discussions and Correspondence with CMO

Niagara Region has had ongoing correspondence with CMO since they released the first version the Master Service Agreements and Statement of Works for Depot Services and haulage in May 2022 and subsequent versions in June 2022, September 2022, and February 2023.

On July 26, 2023, CMO released another agreement for depot operations which excludes the requirement for eligible communities to haul material from depots to a receiving facility. Haulage would be the responsibility of CMO's contractor.

Options

Niagara Region has the following options related to operation of depots for the collection of recyclables from eligible sources during the transition period (January 1, 2024 to December 31, 2025) under the Blue Box regulation:

1. Electing to not opt in to any Depot Services and related promotion and educations on behalf of CMO.
2. Electing to provide depot operations only (excludes haulage) and related promotion and education on behalf of CMO;
3. Electing to provide depot collection and haulage services and related promotion and education on behalf of CMO;

Staff are not recommending option one (1) which is electing to not opt in to provide any depot services for the following reasons:

- This service maintains resident convenience for dropping off all material at one location;
- Ensures same level of service for eligible and non-eligible sources;
- Potentially minimizes illegal dumping, and
- Ensures recyclables are not ending up in the local landfills.
- Opting-in to provide Depot Services has the advantage of maintaining current service levels with the benefit of obtaining cost-recovery from an external funding source to cover all costs associated with the residential recycling portion of the depots

Not electing to provide any depot services would result in reduced annual budgeted expenditures of approximately \$83,000 for residential blue box recycling haulage activities only. The remaining costs are fixed and would not be reduced. However, in the event that Staff determine that the compensation provided by CMO for the Depot Services is less than full cost recovery, Staff would proceed based on this option one (1).

Staff are also not recommending option two (2) which is electing to opt in to depot operations only, which excludes the haulage of the material to the receiving facility. Under this scenario, CMO would then contract with a haulage contractor to provide haulage services. The removal of the haulage from the SOW would result in reduced compensation from CMO but would be offset by the fact that the Niagara Region is no longer required to pay for haulage costs (approximately \$83,000). This is not being recommended as Niagara Region's depot contractors provide the collection bins. Concerns have been raised with a third party hauling their bins. As a result, if this option

was selected, Niagara Region would be required to purchase bins at an additional cost \$378,000 and not be compensated for this cost by CMO. Moreover, CMO has indicated they will only sign an agreement for depot operations only with eligible communities, if they are able to secure a hauler; which CMO could not confirm at the time of writing this report. As such, there remains uncertainty as to whether this is even a viable option in any event.

For these reasons, staff is recommending option three (3) as noted above, which is electing to provide depot collection and haulage services and related promotion and education on behalf of producers, provided that the compensation to be provided by CMO to the Region for the Depot Services is on a full cost recovery basis.

Statement of Works and Master Service Agreement

Staff have reviewed CMO's Statement of Works for Depot Services and promotion and education and the Master Service Agreement that eligible communities need to sign to provide services on CMO's behalf. There are some challenges in providing Depot Services and related promotion and education on behalf of producers during the transition period as described below.

- If Niagara Region cannot meet the four (4) per cent contamination target, any increased monitoring, promotion, education, and enforcement needed above the compensation received by CMO will be at Niagara Region's expense. However, Niagara Region will receive funding for promotion and education related to the recycling portion of the depots for eligible sources at \$1.00 per household.
- If haulage vehicles are redirected to a receiving facility that is not the material recover facility (MRF) in Niagara Falls, this may result in an increase in costs; however, CMO has indicated going to a different location other than the MRF in Niagara Falls would be on an emergency basis only.

However, given the structure and value of the Region's existing depot contracts, the expected compensation and integrated nature of the depot services, Staff do not foresee significant risks resulting from entering into CMO's standard form contract documents for the provision of Depot Services (subject to confirmation of full cost recovery). The residential Blue Box depot portion of the Region's existing depot operations contracts is a very small portion of the overall contract as these contracts also include the operation of the landfill and depots which collect more than just residential Blue and Grey Box material. For context, only three (3) per cent of material collected at the depots is Blue Box and Grey Box material.

Alternatives Reviewed

Niagara Region can select the other two alternatives listed in this report (electing to not provide depot collection services on behalf of CMO or electing to provide depot operation services only on behalf of CMO) however, due to the concerns/rationale noted earlier in this report, they are not being recommended.

Relationship to Council Strategic Priorities

This report enforces Council's Strategic Priority "Effective Region" as it relates to waste management programs and transforming service delivery in a way that is innovative, collaborative and fiscally responsible.

Other Pertinent Reports

PW 32-2023 - Recycling Collection from Non-Eligible Sources and Undesignated Material

PW 33-2023 - Provision of Curbside Collection on behalf of Producers for Residential Blue Box Program

PWC-C 5-2023 - A matter of solicitor-client privilege under Section 239 (2) (f) of the Municipal Act, 2001 – Provision of Curbside Blue Box Collection on behalf of Producers for Residential Blue Box Program

PWC Presentation - Residential Blue Box Transition (February 14, 2023)

PWC-C 2-2023- A Matter of Plans and Instructions for Negotiations to be Carried out by the Municipality, under s.239(2)(k) of the Municipal Act, 2001 - Provision of Services on Behalf of Producers for Residential Blue Box Program

WMPSC-C 13-2023 - An Update on the Residential Blue Box Program Transition

WMPSC-C 7-2023 - Residential Blue Box Transition - Decision Points

PWC-C 22-2022 - Blue Box Transition Update

PW 48-2021 - Residential Blue Box Program – Authorization to Negotiate with Producers

PWC-C 24-2021 - Residential Blue Box Program – Final Producer Responsibility Regulation

PW 48-2020 - Residential Blue Box Program – Proposed Producer Responsibility Regulation

PW 23-2020 - Residential Blue Box Program Transition to Full Producer Responsibility

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Appendices

Appendix 1 Blue Box Regulation 391/21 - Background

Blue Box Regulation 391/21 - Background

In June 2021, the Province approved the Blue Box Regulation (O. Reg. 391/21). This regulation removes the responsibility of the residential Blue Box (including Grey Box in Niagara Region) recycling programs from municipalities and makes Producers of Blue Box material directly responsible for their products and packaging once consumers dispose of them. Between July 1, 2023 and December 31, 2025 all existing residential Blue Box programs in Ontario will move to a single, provincial collection system funded, governed, and operated by the producers. Producer requirements under the regulation include promotion, education, collection, and processing of designated Blue Box materials. Producer Responsibility Organizations (PROs) have been contracted by Producers to help them meet their obligations under the regulation and manage the program on their behalf.

Eligible communities will transition their residential Blue Box programs between July 1, 2023 and December 31, 2025.

Niagara Region transitions on January 1, 2024.

As per Blue Box regulation 391/21, where an eligible community has curbside recycling collection, producers need to operate the same number of depots for the collection of Blue Box material from eligible sources during the transition period only. Producers have no obligation to operate depots after January 1, 2026 where curbside collection is provided, however, may wish to do so to assist in meeting recovery targets for Blue Box material in the regulation.

As the majority PRO in Ontario, CMO is responsible for setting up depots which will see the collection and haulage of designated Blue Box material to a designated receiving facility and consolidation of these materials at this facility and transfer of the consolidated materials to a material recovery facility (MRF).