

Subject: Update on the Transition to Provincial Blue Box Individual Producer Responsibility

File Number: ACS2022-PWD-SWS-0002

Report to Standing Committee on Environmental Protection, Water and Waste Management on 21 June 2022

and Council 6 July 2022

Submitted on June 10, 2022 by Shelley McDonald, Acting Director, Solid Waste Services, Public Works Department

Contact Person: Andrea Gay Farley, Program Manager, Program Planning, Solid Waste Services, Public Works Department

613-250-2424 x28121 / Andrea.GayFarley@ottawa.ca

Ward: Citywide

Objet : Compte rendu sur la transition du Programme provincial des bacs bleus avec le modèle de la responsabilité individuelle des producteurs

Dossier : ACS2022-PWD-SWS-0002

Rapport au Comité permanent de la protection de l'environnement, de l'eau et de la gestion des déchets

le 21 juin 2022

et au Conseil le 6 juillet 2022

Soumis le 10 juin 2022 par Shelley McDonald, directrice par intérim, Services des déchets solides, Direction générale des travaux publics

Personne-ressource : Andrea Gay Farley, Gestionnaire de programme, Planification de programmes, Services des déchets solides, Direction générale des travaux publics

613-250-2424 x28121 / Andrea.GayFarley@ottawa.ca

Quartier : À l'échelle de la ville

REPORT RECOMMENDATION(S)

That the Standing Committee on Environmental Protection, Water and Waste Management recommend that Council:

1. Receive an update on the Provincial Blue Box Program transition to Individual Producer Responsibility (IPR); and
2. Delegate authority to the General Manager of the Public Works Department, in consultation with Legal, Finance and Supply Services, to negotiate using the proposed guidelines and execute, in the best interest of the City, the agreement(s) needed for the transition period of the Provincial IPR Blue Box Program (July 1, 2023 – Dec 31, 2025) as described within this report and the accompanying confidential memorandum “Financial Implications for Report ACS2022-PWD-SWS-0002” (memo to be issued separately).

RECOMMANDATION(S) DU RAPPORT

Que le Comité permanent de la protection de l’environnement, de l’eau et de la gestion des déchets recommande au Conseil municipal :

1. de prendre connaissance du compte rendu sur la transition du Programme provincial des bacs bleus avec le principe de la responsabilité individuelle des producteurs (RIP);
2. de déléguer, au directeur général de la Direction générale des travaux publics, de concert avec les Services juridiques, le pouvoir de négocier, en faisant appel aux lignes de conduite proposées, et de signer, dans l’intérêt supérieur de la Ville, les accords nécessaires pour la période de transition du Programme provincial des bacs bleus dans le cadre du principe de la responsabilité individuelle des producteurs (du 1^{er} juillet 2023 au 31 décembre 2025) selon les modalités exposées dans ce rapport et dans la note de service confidentielle complémentaire « Répercussions financières du rapport ACS2022-PWD-SWS-0002 » (note de service à distribuer séparément).

EXECUTIVE SUMMARY

The purpose of this report is to provide an update on the Provincial Blue Box Program transition to Individual Producer Responsibility (IPR), including amendments to the Blue Box regulation ([Ontario Regulation 391/21](#)), and seek delegated authority to negotiate

and execute the agreement(s) needed for the transition period, starting July 1, 2023 to December 31, 2025.

The recommendations outlined in this report follow previous items brought to Council in recent months. These include a memo issued to Council on August 31, 2021 ([ACS2021-PWE-SWS-0004](#)), outlining the Blue Box regulation, which does not provide municipalities with the right of first refusal for the collection of the materials. This means that municipalities interested in continuing to provide collection services on behalf of producers will be expected to competitively bid or negotiate terms and conditions with the producers. This memo also discussed work completed by staff to develop scenarios for Council consideration to opt in or out of the recycling business. Council approved a follow-up report on the Provincial Blue Box transition to IPR on November 24, 2021 ([ACS2021-SWS-PWE-0006](#)), granting staff delegated authority to begin negotiations with Producer Responsibility Organization (PROs) in preparation for the transition period. PROs are organizations that, under contract, represent producers of products and packaging to meet their regulatory obligations under the Blue Box regulation.

To move forward through this process, further negotiations are required to take place with PROs for appropriate compensation based on the regulation during the transition period to continue managing the City's integrated waste collection system and minimize service disruptions to Ottawa residents. To achieve this, staff are seeking delegated authority as the delayed negotiations are expected to occur during Q3/Q4 2022 timeframe, which also aligns with a potential lame duck Council due to the municipal election and followed by a new Term of Council in Q4 2022. Delaying the finalization of the negotiations with the PROs could result in service impacts to residents for the City's blue and black box collection.

The delegated authority requested as part of this report looks to achieve two purposes. The first is to negotiate an agreement with PROs for the City to continue collection during the transition period if the terms are suitable to the City. The second is for authority to negotiate any short-term collection contract necessary to enable the City to provide recycling services until the end of the transition period. Any longer-term contracts or policy decisions beyond December 31, 2025 are not included in this delegated authority and will require additional Council approval. Other municipalities are also in the process of seeking or have already received delegated authority from their Councils to negotiate and execute agreements with PROs and make the necessary contract amendments with service providers over their transition periods.

With the final regulations and corresponding amendments now approved and released by the Province, it is expected that PROs will move quickly to reach agreements for the collection and processing of Blue Box materials, with just over 12 months remaining before the first municipalities begin their transition period, including the City of Ottawa.

Through the development of potential negotiation scenarios with the PROs, staff have considered a set of negotiating guidelines to ensure the City's best interests are maintained throughout the transition period. These guidelines are captured below, and are further described in the report:

- Commitment to minimizing service disruption to residents;
- Ensure financial risks to the City are minimized through negotiations;
- Ensure negotiations with the PROs maintain cost recovery for the administration and collection of eligible materials;
- Ensuring best efforts are made to meet the obligations of the Blue Box regulation;
- Prioritizing customer service by the administrator of collection services;
- Collaboration with PROs to ensure recycling receptacles in public spaces are frequently serviced; and
- Work to extend promotional and educational services beyond English and French to include additional languages to reflect Ottawa's diverse community.

There are currently three PROs that will be responsible for collaboration on the administration of the Provincial Blue Box IPR Program: Circular Materials Ontario (CMO), Resource Recovery Alliance (RRA) and Ryse Solutions Ontario Inc. (Ryse). As a result of the recent amendments made to the Blue Box regulation in April 2022, the PRO that supplies 66 per cent of the Blue Box materials to Ontario residents will submit a report by July 1, 2022 outlining how they will comply with the collection requirements. Based on information relayed to Ontario municipalities during webinars, it is expected that CMO, possibly in collaboration with Ryse, will meet the 66 per cent supply requirement and will be the lead PRO for upcoming Provincial Blue Box IPR Program negotiations. Though this will likely not be confirmed until after July 1, 2022.

On May 11, 2022, CMO released on its website a proposed Master Service Agreement (MSA) and related Statement of Work documents, detailing how the PROs would work

with municipalities on collection of Blue Box materials from eligible sources and for promotion and education compensation. Based on staff's preliminary review of the documents, the risk to the City based on written conditions and the financial compensation proposed does not align with expectations set early on by CMO for the transition period. Though CMO's proposal is to allow the City to continue providing existing services to its residents, including collection of currently accepted recycling materials, continuing the co-collection of integrated waste streams and ineligible sources, the financial compensation proposed by the documents is based on outdated costs and requires adherence to a low contamination rate. In addition, the proposed agreements detail terms and conditions that impose strict obligations requiring revisions to the City's current collection contracts with service providers and increase risk exposure to the City. The City would only enter into an agreement to collect on behalf of PROs during the transition period under fair and reasonable conditions. Staff have been informed by CMO that revised versions of the proposed agreements would be issued though at the time of writing this report there have been no further postings. Solid Waste Services staff will consult with Procurement, Legal and Fleet Services over the coming months to develop a strategy for negotiating agreements, based on the negotiation guidelines described in this report.

Financial Implications

The financial implications of this report are detailed in the confidential memo titled "Financial Implications for Report ACS2022-PWD-SWS-0002" (Document 2) issued to Council prior to the Committee meeting and held on file with the City Clerk as per section 13(1) of the *Procedure By-law*. The information contained in the memorandum is to be considered confidential as it includes sensitive information relevant to the City of Ottawa's future negotiations with third parties as described in this report.

Staff will continue to collaborate with internal and external stakeholders to determine how best to transition the City's recycling program under the obligations of the Blue Box regulation and should Council approve the recommendations of this report, work to finalize details for Ottawa's transition to the Provincial Blue Box IPR Program. Solid Waste Services will report back to Council on the agreements negotiated for the transition period when they are finalized.

RÉSUMÉ

L'objectif de ce rapport consiste à faire le point sur la transition du Programme provincial des bacs bleus avec le principe de la responsabilité individuelle des

producteurs (RIP), notamment en apportant des modifications à la réglementation des bacs bleus ([Règlement de l'Ontario 391/21](#)), ainsi qu'à demander de déléguer des pouvoirs pour négocier et signer les accords nécessaires à la période de transition, à partir du 1^{er} juillet 2023 jusqu'au 31 décembre 2025.

Les recommandations exposées dans ce rapport donnent suite au précédent document soumis au Conseil municipal dans les derniers mois. Il s'agit entre autres de la note de service adressée au Conseil municipal le 31 août 2021 ([ACS2021-PWE-SWS-0004](#)), qui décrit dans ses grandes lignes la réglementation des bacs bleus, qui ne donne pas aux municipalités le premier droit de refus dans la collecte des matières. Autrement dit, les municipalités qui souhaitent continuer d'assurer les services de collecte au nom des producteurs devront normalement déposer leurs offres en régime de concurrence avec le secteur privé. Dans cette note de service, il est également question des travaux effectués par le personnel afin de mettre au point des scénarios à étudier par le Conseil municipal pour s'engager dans des activités de recyclage ou pour s'en désengager. Le Conseil municipal a approuvé un rapport de suivi sur la transition du Programme provincial des bacs bleus avec le principe de la RIP le 24 novembre 2021 ([ACS2021-SWS-PWE-0006](#)), en déléguant au personnel de la Ville le pouvoir d'entamer des négociations avec l'organisme de responsabilité des producteurs (ORP) en prévision de la période de transition. Les ORP sont des organisations qui, dans le cadre de contrats, représentent les fabricants de produits et de conditionnements pour leur permettre de s'acquitter de leurs obligations réglementaires dans le cadre de la réglementation des bacs bleus.

Pour accomplir des progrès dans le cadre de ce processus, il faut mener d'autres négociations avec les ORP pour s'entendre avec elles sur la rémunération qu'il convient de verser d'après la réglementation pour les services de recyclage de la Ville pendant la période de transition afin de continuer de gérer le réseau intégré de collecte des déchets de la Ville et de minorer les interruptions dans les services offerts aux résidents d'Ottawa. Pour atteindre cet objectif, le personnel de la Ville demande qu'on lui délègue des pouvoirs lorsque les négociations sont retardées en raison d'une période réduite de planification et de négociation qui peut correspondre à la période du troisième et du quatrième trimestres de 2022, durant une fin de mandat potentielle du Conseil en raison des élections municipales, suivie d'un nouveau mandat du Conseil au quatrième trimestre de 2022. Retarder la finalisation des négociations avec les ORP pourrait donner lieu à des incidences sur les services offerts à nos résidents dans la collecte des bacs bleus et des bacs noirs.

Les pouvoirs délégués demandés dans le cadre de ce rapport ont un double objectif. Il s'agit d'abord de négocier un accord avec les ORP pour permettre à la Ville de continuer d'assurer les services de collecte pendant la période de transition si les conditions sont à sa satisfaction. Il s'agit ensuite d'apporter, au contrat de collecte à court terme, les modifications des négociations qui permettraient à la Ville d'assurer les services de recyclage jusqu'à la fin de la période de transition. Tous les contrats ou toutes les décisions-cadres adoptés à plus long terme, au-delà du 31 décembre 2025, ne font pas partie des pouvoirs délégués et obligeront à demander au Conseil une nouvelle approbation. D'autres municipalités sont elles aussi en train de demander des pouvoirs délégués ou se sont déjà fait déléguer des pouvoirs par leur conseil municipal afin de négocier et de signer des accords avec les ORP et d'apporter, aux contrats conclus avec les fournisseurs de service, les modifications nécessaires pour leur période de transition.

Puisque la version définitive des règlements d'application et les modifications correspondantes sont désormais approuvées et publiées par le gouvernement provincial, on s'attend à ce que les ORP tâchent rapidement de conclure des accords pour la collecte et le traitement des matières déposées dans les bacs bleus, puisqu'il ne reste plus que 12 mois avant que les premières municipalités, dont la Ville d'Ottawa, entament leur période de transition.

En mettant au point, avec les ORP, des scénarios de négociation potentiels, le personnel de la Ville a tenu compte d'une série de lignes de conduite pour la négociation afin de veiller à répondre aux intérêts supérieurs de la Ville pendant toute la période de transition. Nous faisons état ci-après de ces lignes de conduite, que nous décrivons plus en détail dans le rapport :

- s'engager à minorer les interruptions dans les services offerts aux résidents;
- veiller à minorer les risques financiers de la Ville grâce à des négociations;
- s'assurer que les négociations avec les ORP permettent de récupérer les coûts de l'administration et de la collecte des matières admissibles;
- s'assurer qu'on met tout en œuvre pour s'acquitter des obligations de la réglementation des bacs bleus;
- prioriser le service à la clientèle offert par l'administrateur des services de collecte;

- collaborer avec les ORP pour veiller à ce que les bacs de recyclage dans les lieux publics soient fréquemment ramassés;
- tâcher d'étendre les services de promotion et d'information au-delà du français et de l'anglais afin de les offrir dans d'autres langues pour tenir compte de la diversité de la collectivité d'Ottawa.

À l'heure actuelle, trois ORP sont responsables de la collaboration dans l'administration du Programme provincial des bacs bleus pour l'application du principe de la RIP : Circular Materials Ontario (CMO), Resource Recovery Alliance (RRA) et Ryse Solutions Ontario Inc. (Ryse). En raison des récentes modifications apportées au règlement d'application des bacs bleus en avril 2022, l'ORP qui est responsable de 66 % des matières déposées dans les bacs bleus par les résidents de l'Ontario soumettra, d'ici au 1^{er} juillet 2022, un rapport décrivant dans leurs grandes lignes les moyens grâce auxquels il répondra aux exigences de la collecte. D'après l'information communiquée aux municipalités de l'Ontario durant les webinaires, on s'attend à ce que CMO réponde, éventuellement en collaboration avec Ryse, à 66 % des besoins en ravitaillement et soit l'ORP chef de file dans les prochaines négociations du Programme provincial des bacs bleus dans l'application du principe de la RIP, ce qui ne sera probablement confirmé qu'après le 1^{er} juillet 2022.

Le 11 mai 2022, CMO a publié sur son site Web le texte proposé pour l'accord principal de services (APS) et l'Énoncé des travaux correspondant, en précisant les modalités selon lesquelles les ORP travailleraient de concert avec les municipalités dans la collecte des matières déposées dans les bacs bleus et issues des sources admissibles, ainsi que pour la rémunération des services de promotion et d'information. D'après l'examen préliminaire, par le personnel de la Ville, des documents, le risque pour la Ville d'après les conditions imprimées dans ces documents et la rémunération financière proposée ne cadre pas avec les attentes exprimées dès le début par CMO pour la période de transition. Même si la proposition de CMO vise à permettre à la Ville de continuer d'offrir à ses résidents les services existants, dont la collecte des matières à recycler actuellement acceptées, en continuant d'assurer la collecte conjointe des flux de déchets intégrés et des matières issues des sources inadmissibles, la rémunération financière proposée dans ces documents est calculée d'après des coûts désactualisés et correspond à un taux de contamination faible. En outre, les accords proposés précisent des clauses et des conditions qui imposent des obligations rigoureuses, ce qui oblige la Ville à réviser ses contrats de collecte actuels avec les fournisseurs de services et ce qui augmente l'exposition aux risques de la Ville. Cette dernière ne

conclurait un accord que pour le ramassage des matières au nom des ORP pendant la période de transition en vertu de conditions équitables et raisonnables, dont la récupération de l'intégralité des coûts. CMO a informé le personnel que les versions révisées des ententes proposées seraient publiées, mais au moment de la rédaction du présent rapport, aucun nouveau document n'avait été publié. Le personnel des Services des déchets solides consultera dans les prochains mois les Services de l'approvisionnement, les Services juridiques et les Services du parc automobile afin de mettre au point une stratégie pour négocier ces accords, d'après les lignes de conduite décrites dans ce rapport pour les négociations.

Répercussions financières

Les répercussions financières de ce rapport sont précisées dans la note de service confidentielle intitulée « Répercussions financières du Rapport ACS2022-PWD-SWS-0002 » (pièce 2), adressée au Conseil avec ce rapport et versée au dossier auprès du greffier municipal conformément à l'alinéa 13(1) du *Règlement de procédure*. L'information reproduite dans la note de service doit être traitée avec une discrétion absolue, puisqu'elle comprend des renseignements confidentiels se rapportant aux négociations projetées de la Ville d'Ottawa avec des tiers selon les modalités exposées dans ce rapport.

Le personnel continuera de collaborer avec les intervenants internes et externes afin de déterminer les meilleurs moyens d'assurer la transition avec le programme de recyclage de la Ville en vertu des obligations imposées dans le règlement d'application des bacs bleus, et si le Conseil approuve les recommandations de ce rapport, il tâchera de finaliser les détails de la transition de la Ville d'Ottawa avec le Programme provincial des bacs bleus selon le principe de la RIP. Le personnel rendra compte au Conseil municipal des accords négociés pour la période de transition lorsque ces accords seront finalisés.

BACKGROUND

As part of the Province's Waste Free Strategy, Ontario has shifted toward a circular economy that shifts the responsibility to producers for the end-of-life management of their products and packaging – also referred to as Individual Producer Responsibility (IPR). To support this shift, Ontario passed the [Waste Free Ontario Act, 2016](#) and enacted the [Resource Recovery and Circular Economy Act, 2016](#) and the [Waste Diversion Transition Act, 2016](#). In Ontario, materials such as used tires, used batteries

and waste electrical and electronic equipment have been transitioning from a stewardship funding model to IPR since 2019.

On June 3, 2021, the Ministry of the Environment, Conservation and Parks (the MECP) released the final *Blue Box regulation* ([Ontario Regulation 391/21](#)) for the management of Ontario's current Blue Box Program. The intent of this legislation is to shift the responsibility of these programs from municipalities to the producers of these products and packaging – referred to as the Provincial Blue Box IPR Program. The City currently receives revenues from two sources: revenue from the sale of blue box materials and funding from Stewardship Ontario (SO), which comprises approximately half of the City's net costs after the revenue from the sale of materials is considered. Under the Provincial Blue Box IPR Program, the City would no longer be responsible for the processing of blue box materials and would also no longer generate revenues from the sale of these materials.

The final Provincial Blue Box regulation transition schedule released by the MECP specifies that first the larger municipalities are set to transition on July 1, 2023 and include the City of Ottawa, the City of Toronto and the City of London, with other municipalities transitioning throughout 2024 and 2025. All Ontario municipalities will complete the transition period on December 31, 2025. During the transition period, producers of products and/or packaging are required to make best efforts to implement recycling programs similar to those established in each municipality (i.e., collection frequency and collected materials) for eligible sources as identified by the Province. Under the Provincial Blue Box regulation, producers are responsible for the collection and processing of certain recyclable materials generated from residential households, multi-residential properties, not-for-profit long-term care homes and retirement homes, schools and some public spaces receiving recycling collection services under the previous program as of August 2019.

Beginning January 1, 2026, following the transition period, a standardized Provincial Blue Box IPR Program will be implemented across Ontario where producers will have to meet regulatory requirements under a common collection system that will be developed by Producer Responsibility Organizations (PROs). The plans for the common collection system are to be submitted to the Resource Productivity and Recovery Authority (RPRA), the regulatory body for the Provincial IPR regulations. Under the regulation, obligated producers may wish to enlist the services of a PRO to meet their requirements under the Provincial Blue Box IPR Program on their behalf, such as providing collection, management and administrative services to assist producers in meeting their regulatory obligations.

On August 31, 2021, City staff issued a report ([ACS2021-PWE-SWS-0004](#)) to Council providing an update on the regulation and its potential impacts to the City of Ottawa's existing blue and black bin recycling programs. The report highlighted key items that need to be considered as part of the City's transition to the Provincial Blue Box IPR Program, including whether Ottawa wants to consider continuing to provide recycling collection services on behalf of PROs, and how to manage sources deemed ineligible under the regulation, consisting of small businesses registered under the Yellow Bag Program and City facilities. Recycling materials from these ineligible sources are collected on the same routes as eligible sources for curbside residential and multi-residential properties as part of the City's integrated system. Solid Waste Services established a team of multi-departmental staff in early 2021 to oversee the significant transition from a stewardship-funded model to the producer-led provincial model beginning in 2023.

On November 24, 2021, staff issued a second report ([ACS2021-PWE-SWS-0006](#)) to Council following the release of the final Blue Box IPR regulation. This report provided a further update on the Provincial Blue Box Program transition to IPR and sought delegated authority for the General Manager of Public Works and Environmental Services Department (now the Public Works Department) to begin negotiations with PROs for the Provincial Blue Box IPR Program being transitioned across Ontario and to report back to Council on the status of the discussions as appropriate.

Also included in the November 24, 2021 report was the possibility that the City of Ottawa could meet the definition of a producer under the Blue Box regulation for the paper products it distributes to residents. The Association of Municipalities of Ontario (AMO) continues discussions with RPRA on behalf of Ontario municipalities on the interpretation of this requirement and will provide further guidance as more information is known. Should it be determined that the City of Ottawa is required to register with RPRA as a producer, staff will register and consider obtaining the services of a PRO to help meet the obligations set out in the Blue Box regulation, including collection, management and promotion and education requirements.

DISCUSSION

The purpose of this report is to provide an update on the Provincial Blue Box Program transition to IPR, including amendments to the Blue Box regulation, and to seek delegated authority to negotiate and execute the agreement(s) needed for the transition period, July 1, 2023 to December 31, 2025. This report also lays out negotiating guidelines and potential scenarios for the transition period.

To continue managing the City's integrated waste collection system and minimize disruptions to Ottawa residents, staff will need to negotiate with the PROs on compensation for the City's recycling services during the transition period and ensure collection contracts are in place until December 31, 2025. Delegated authority is being sought due to a reduced planning and negotiation period as a result of delays outside of the City's control, namely a mediation process between the Province and PROs described later in the report. Under the Blue Box regulation, the City does not have a right of first refusal for opting to collect blue and black box material under agreement with PROs for the transition period, meaning that delays in negotiations could result in service disruption for the blue and black box collection services for residents. To further complicate the transition planning, the supply chain has been negatively impacted by the COVID-19 pandemic resulting in longer wait times for collection vehicles, which will need to be considered when determining the best strategy for minimizing impacts to residents and in negotiations with PROs and existing service providers. It is imperative that the City ensures prompt and effective communication with PROs and service providers to maintain consistent service delivery, and to our best efforts, minimize impacts to residents during the transition period.

For clarity, the delegated authority requested as part of this report is for two purposes. The first is the negotiation of agreement(s) with PROs for the City to continue collection during the transition period and execute those agreements if negotiations are successful in ensuring the terms are suitable to the City. The second purpose of the delegated authority is the ability to amend current collection contracts to enable the City to fulfill the negotiated terms with PROs. A description of the possible scenarios for the City's role during the Provincial Blue Box IPR Program transition period and contract strategies are provided in this report. Any long-term contracts or policy decisions beyond 2026 are not included in this delegated authority and will require Council approval.

Since the reports on the final Blue Box IPR regulation were issued to Council in August and November 2021 ([ACS2021-PWE-SWS-0004](#) and [ACS2021-PWE-SWS-0006](#)), staff have continued consulting with both internal and external stakeholders such as the Association of Municipalities of Ontario (AMO), the Municipal Resource Recovery and Research Collaborative (M3RC), the Continuous Improvement Fund (CIF), as well as other municipalities transitioning in 2023, in order to fully understand the impacts of the Provincial Blue Box IPR Program on the City of Ottawa's integrated waste management system and its associated policies and programs.

Progress on the City's Transition Planning

Progress on key considerations and deliverables for the successful transition of the Provincial Blue Box IPR Program for the City of Ottawa are described below.

- An analysis of the City's waste collection costs has been prepared by Finance Services staff to provide cost and revenue estimates for the City of Ottawa's residential recycling services. This information will feed into the scenarios currently being developed to help inform decisions on how best to transition the City of Ottawa's recycling collection services to the Provincial Blue Box IPR Program and to negotiate the compensation terms with PROs for the transition period.
- Staff have been meeting regularly with their counterparts in the City of Toronto and the City of London, other large municipalities also transitioning their Blue Box Programs to producers on July 1, 2023. These collaborative discussions have helped to facilitate information sharing, lessons learned, and to determine areas of alignment. Despite the unique challenges being encountered by the three cities, combined efforts will continue in coming months to prepare for individual municipal negotiations with PROs.
- In the first quarter of 2022, the City of Ottawa was approached by two of the PROs currently registered under the Provincial Blue Box IPR Program: Circular Materials Ontario (CMO) and Canadian Beverage Container Recycling Association (CBCRA). CMO and CBCRA, both not-for-profit organizations, have signed agreements to work together for the management of recyclable materials under the Provincial Blue Box IPR Program. Staff met individually with these PROs to provide an overview of the City's integrated waste collection system and the contracts impacted by the Blue Box regulation. During these meetings, PROs introduced the possibility of funding the City's collection of eligible sources during the entire transition period, rather than attempting to undertake collection themselves, with less than 15 months to procure the necessary service providers.

Minister's Mediation Process and Regulatory Amendments

Since the release of the final Blue Box regulation, PROs have had fundamentally different views on the establishment of the common collection system under the Provincial Blue Box IPR Program. In February 2022, the MECP began a mediation process with the three rule-creating PROs: CMO, Ryse Solutions Inc. (Ryse) and Resource Recovery Alliance (RRA). To help facilitate this process, the MECP obtained

the assistance of a consultant, as well as Mr. David Lindsay, the special advisor who facilitated the stakeholder engagement sessions in 2019 ahead of the draft Blue Box regulation. Municipalities were not included in this mediation process, nor asked to provide input on the regulatory changes being proposed.

On April 19, 2022, the MECP published amendments ([Ontario Regulation 349/22](#)) to the Blue Box Regulation, which were approved by the Province of Ontario Cabinet on April 14, 2022. These amendments were not submitted for public consultation through the Environmental Registry of Ontario ahead of being finalized as they were deemed to be mostly administrative in nature by the MECP.

The most significant change made to the Blue Box IPR regulation, from the City's perspective, was the removal of the rule-making process and the requirement to prepare an allocation table – instead making every producer responsible for providing collection province-wide. This change is expected to simplify collaboration between PROs and reduce the administrative burden that would be required to create a table to allocate every eligible source in Ontario to a specific producer. It is staff's opinion that the removal of the rule-creation process and requirement for an allocation table seems to favour the approach preferred by two PROs, CMO and Ryse, who have indicated through multiple webinars that they would propose a system where a third-party administrator would oversee the management system for the collection and processing of eligible sources across Ontario. A third-party administrator model is expected to provide a more stable management system by minimizing fluctuations caused by PROs entering or exiting the program and ensure a fair allocation of materials to the appropriate producers.

Additional changes made to the Blue Box regulation under *O. Reg. 349/22* include:

- Requiring PRO(s) that represent the majority of producers (i.e., supply more than 66 per cent of blue box material tonnages) to submit a plan to RPRA describing how the system will be operated under the Provincial Blue Box IPR Program by July 1, 2022;
- Exempting newspaper publishers from collection, management and promotion and education requirements. Newspapers will still be collected from residents, but other producers of paper-products will be held responsible for collection and processing of these materials; and

- Minor administrative changes such as removing dates that have passed since the release of the Blue Box regulation on June 3, 2021, and to ensure more consistent language throughout.

Despite the timing of the amendments made to the Blue Box regulation in April 2022, less than 15 months before the first municipalities begin their transition period, staff were satisfied to see that the transition schedule was not altered and that plans to outline the operation of the collection system will still need to be released by the PROs by July 1, 2022.

Now that the amendments have been released by the MECP, it is expected that with narrowing timelines, PROs will want to move quickly to reach agreements for the collection and processing of the Blue Box materials.

Negotiations for the Provincial Blue Box IPR Program Transition

Transition Timelines

In November 2021, staff were still hopeful that PROs would be able to reach an agreement in early 2022 for the rules for the establishment of the common collection system. However, the disagreement between the three PROs over fundamental principles and the resulting mediation process further shortened an already tight timeline for municipalities to review and understand the PROs' proposed common collection system and plan for the upcoming transition. Despite these delays, PROs are still required to submit plans for the common collection system under the revised regulation by July 1, 2022, and then ensure they have appropriate collection and processing services in place by Ottawa's transition date of July 1, 2023. With just over 12 months to plan, any agreement(s) to be negotiated with PROs will require expedited execution to ensure a smooth transition for residents.

To further complicate the City's planning for transition, the municipal election will take place in October 2022. Delays caused by the mediation process have meant that discussion with PROs began later than expected, and will put the City in a Q3/Q4 2022 negotiation timeframe. This timing aligns with Council potentially entering a lame duck period followed by the municipal election and a new Term of Council.

Other municipalities, such as the City of Toronto and the City of London that are transitioning in 2023, the Region of Peel that is transitioning in 2024 and the Region of Halton that is transitioning in 2025, are in the process of seeking or have already received delegated authority from their Councils to negotiate and execute agreements

with PROs and make the necessary contract amendments with service providers over their transition periods. Similar to staff's request in this report, these municipalities are seeking delegated authority to either continue collecting during the transition period or to remove the collection of recyclables from their collection contracts based on resulting negotiations with PROs. Council reports seeking delegated authority prepared by the [City Toronto \(May 11, 2022\)](#), the [Region of Peel \(April 07, 2022\)](#), and the [Region of Halton \(May 25, 2022\)](#) can be viewed by following the links. The City of London is expected to submit their delegated authority report in July 2022.

The timeline below provides an outline of the dates that could impact negotiations between the PROs and the City of Ottawa:



Based on information presented during a webinar on May 2, 2022, to Ontario municipalities, CMO is expected to be the majority PRO, meeting the 66 per cent supply requirement of Blue Box materials to Ontario residents, and will lead negotiations for the transition period on behalf of all PROs and producers. CMO's preferred approach, as presented at this webinar, would be for PROs to fund the municipal collection of eligible sources during the entire transition period, utilizing existing contracts and collection vendors, rather than attempt to undertake collection themselves under the tight procurement timelines. This approach could be beneficial for Ottawa to minimize impacts to residents by maintaining the same service providers and schedules currently under contract. In addition, CMO indicated that processing would be something they prefer to contract for both during transition and beyond.

Administering collection on behalf of PROs during the transition period would allow the City to continue providing residents with the currently established integrated waste collection system. The City would also be able to continue with its co-mingled waste collection approach, combining recycling collection along with green bin collection for both eligible and ineligible sources. Though the Blue Box regulation requires producers to make best efforts to deliver a waste collection system as currently established during the transition period, there is no assurance that they will be able to prioritize and deliver a collection system to the same standard that the City has provided to its residents for decades. It is unclear how a new service provider and contract administrator to Ottawa will be able to prioritize service to residents during a short transition period, while establishing their services in other municipalities and preparing for the standardized common collection system to begin in 2026. However, the benefits gained from the City continuing collection of recycling materials during the transition period will be subject to negotiations of agreements.

CMO - Proposed Terms and Conditions for Transition

On May 11, 2022, CMO released on its [website](#) a proposed Master Service Agreement (MSA) and related Statement of Work documents, detailing how PROs would work with municipalities on collection of Blue Box materials from eligible sources and for promotion and education compensation. Despite the collaborative approach presented by CMO during meetings and webinars with Ontario municipalities, the proposed agreements posted on CMO's website portrayed unfavourable terms and conditions for municipalities seeking to maintain collection services in their communities on behalf of PROs during transition. CMO have asked that municipalities respond with their commitment to opt in or out of collecting on their behalf during the transition period by July 15, 2022. It will be difficult for many municipalities to assist producers in the transition to the Provincial Blue Box IPR Program based on the terms provided in the proposed CMO documents. Staff, in working with municipal partners have identified the following challenges and risks:

- Collection Contract Re-Negotiation Terms: Though it was expected that municipalities could continue collecting recycling materials during the transition period under existing, yet extended, collection contracts, CMO's agreements will impose new stipulations for the City of Ottawa's service providers, with compensation based on 2020 collection costs. Existing contracts would need to be revised for routing, missed collection, contingency planning and notification requirements, resulting in increased contract negotiation with service providers

for revisions to the contracts. Historically, minor changes to the City's existing collection services resulted in significant cost increases to municipal contracts and this will have to be considered as staff begin negotiations.

- **CMO's Authority:** The proposed MSA terms provide CMO with authoritative power over the municipalities and their collection providers, such as the removal of City of Ottawa or contractor employees, forcing the replacement of the City's collection provider at the City's cost, and allowing CMO to use the service provider's equipment, vehicles and facilities in case of a contract default. Further, CMO can extend any statement of work under the current agreement terms outlined in the CMO agreements, including outdated financial compensation, for up to three years with only 90 days' notice to municipalities. The conditions required by CMO will be difficult for the City to negotiate with service providers, while increasing the financial burden of the required changes.
- **Public Spaces:** CMO's proposal for public spaces states that compensation will only be provided for public space receptacles serviced as part of residential routes. Further review and discussions with CMO will be required to confirm this understanding and revised terms will likely be required to align with compensation expected by municipalities under the regulation.
- **Financial Compensation:** CMO has proposed complex and highly administrative reports must be submitted by municipalities for payment, which will be paid out on a quarterly basis. As the City of Ottawa pays its collection provider on a monthly basis, the City will need to provide cash flow upfront and would not be entitled to any interest to compensate for the delay in CMO's payment. Further, the compensation being proposed by the PROs for the transition period will be based on outdated 2020 costs, plus indexed factors to accommodate for inflation and fuel increases. Additional effort is required to determine if the compensation being proposed by the PROs will in fact match the City's actual costs for the collection of recyclable materials from eligible sources, as specified in the Blue Box regulation.

Based on staff's preliminary review of the proposed CMO agreements, the terms and conditions resemble long-term contracts with service providers and are not suitable for the City of Ottawa to continue collecting during the two and a half years of transition. Additional review and input from the City's Legal and Procurement Services are underway to confirm how best to position the City's role in the upcoming negotiations for the Provincial Blue Box IPR Program transition. AMO has provided a collective

response from Ontario municipalities to CMO on May 26, 2022, which is seeking flexibility on behalf of CMO to work with municipalities on the challenges stipulated in their proposed agreements. A copy of the AMO response to CMO is provided in Document 1. The City also provided a letter directly to CMO seeking their willingness to negotiate. The response was positive and conveyed that revised agreements would be posted publicly, though at the time of writing this report, no updates have been posted.

Potential Scenarios for the City of Ottawa's Provincial Blue Box IPR Program Transition

Based on information to date and with confirmation that CMO would like to work through the challenges identified above, below is a description of two potential scenarios that the City of Ottawa would take to negotiate the agreement(s) required for the transition period of the Provincial Blue Box IPR Program beginning on July 1, 2023, and ending on December 31, 2025.

There are two possible scenarios for Ottawa's role during the transition period, with varying degrees of possibilities based on terms and conditions that can be negotiated with PROs and the City's current collection service providers. In simplified terms, Scenario 1 would consist of the City of Ottawa administering the collection of recycling materials on behalf of producers through CMO, while Scenario 2 would consist of the City opting out of recycling collection, requiring the removal of recycling collection from eligible sources from the City's integrated waste management collection system.

The details, including benefits and risks, for each scenario are outlined below.

Scenario 1

Subject to the City being able to negotiate favourable terms with the PROs and the current collection providers, Scenario 1, would consist of the City maintaining current collection services, with Blue Box materials generated from eligible sources being funded by producers during the Provincial Blue Box IPR Program transition. This option would allow the City to continue to provide services under the currently established and integrated waste collection system, minimizing disruptions to Ottawa residents during the transition period and maintaining collection of ineligible sources (including small businesses registered under the Yellow Bag Program and City facilities). In addition, possible contract extensions described within this document to cover the transition period would provide the City additional time to complete a more informed procurement process for the next long term residential curbside collection contract and evaluate the impacts of IPR on the City's integrated waste collection system post transition. As previously mentioned in the report, CMO is proposing to fund municipalities to continue

providing collection of recycling material from eligible sources during the entire transition period. Under this scenario, the current collection contracts with service providers will need to be extended or new contracts negotiated and second, an agreement that is fair and reasonable to the City's best interest with PROs will need to be negotiated, for the City to continue collection until December 31, 2025.

The residential curbside collection contract is set to expire on June 4, 2025, during the transition period with no available contract extensions. The collection contract for on-street receptacles will terminate on April 30, 2023, with two optional 1-year extensions allowing collection until April 30, 2025. As extension options for these two contracts will have been exhausted mid-2025, both will fall short of the full transition period. Staff will need to collaborate with Fleet Services and the City's current service providers to confirm if vehicles acquired for the existing residential curbside collection and on-street contracts will be able to accommodate possible short-term extensions to the existing contracts (7-month or 8-month, respectively).

An alternative to the short term extension or re-negotiation of the residential curbside collection contract could consist of procuring a longer-term contract that would include a different set of terms and conditions during the first seven months to accommodate for the City collecting Blue Box materials on behalf of PROs for the remainder of the Blue Box Program transition period, with the remaining portion of the collection contract accommodating for the standardized post-transition collection requirements beginning on January 1, 2026. Efforts are currently underway to outline a recommended long-term approach for the next residential curbside collection contract procurement strategy beyond the June 4, 2025 contract termination date, which would consider implications of the Provincial Blue Box IPR Program. For clarity, the delegation of authority being sought in this report would only apply to short-term extensions or re-negotiation of collection contracts to align with the transition period, should this be in the City's best interest, therefore Council approval would be required for any longer-term agreement extending beyond the transition period.

The termination date for the multi-residential collection contract is June 1, 2025, with two possible 1-year extensions that could allow the City to continue collection beyond the transition period. Opting for a minimum 1-year extension would allow continued collection at multi-residential properties currently receiving municipal service until May 30, 2026, just beyond the end of the transition period. Further consultation with Procurement and Legal Services is required to determine what extension options are available for prolonging the City's collection contracts with existing service providers to align with the end of the transition period on December 31, 2025.

If all of the City's current collection contracts can be extended to the end of the Provincial Blue Box IPR Program transition period, additional considerations must still be worked out in negotiating with current service providers and ensuring suitable terms and conditions are proposed to the City by CMO on behalf of the PROs. The following risks need to be considered and mitigated under Scenario 1:

- **Processing Facility:** During the transition period and beyond, PROs will assume the responsibility for the processing of eligible recyclable materials. It is unknown if PROs will reach an agreement with the City's current service provider, the privately owned Materials Recycling Facilities (MRFs) Cascades Recovery+, situated in Ottawa and currently processing the City's recyclable materials. The statement of work proposed by CMO specifies that the location of the receiving facility for the recyclable materials will be provided by CMO no later than 90 days prior to the start of contracted work – and as such, the City will not have this notable detail available prior to agreement execution to collect on behalf of PROs or for contract extensions or negotiations with collection vendors. Should PROs opt to process materials at locations outside the City's boundaries, this would need to be considered in both negotiations with the PROs and with current collection vendors. Financial implications such as increasing costs due to additional transportation distances incurred will need to be evaluated and factored in as part of contract negotiations.
- **Contract Extension with Current Vendors:** As the easiest option for the City to maintain control of collection during the transition period would be to extend contracts with its existing service providers, the City could be restricted in its negotiation abilities. This assumption by service providers could put the City in a vulnerable position from a cost negotiations perspective for additional short-term (7 to 8-months) extensions for the residential curbside collection and on-street contracts, while reducing the extension option for the multi-residential collection contract from 1-year to 7-months. However, the consideration of a longer-term procurement for the residential curbside collection contract could also result in competitive bids for the City's awarded contract. This longer-term contract would fall outside staff's delegated authority as recommended in this report, and thus come to Council for approval. Staff have had initial conversations with our external vendors for curbside and multi-residential collection on willingness to work together through transition and both vendors were hopeful that we could work together to find solutions that were reasonable and preserved service to our residents.

- **Contamination Rates and Other Potential Negotiated Items:** Until further discussions occur with PROs, it is unclear what terms and conditions will be imposed by PROs on municipalities that opt to collect from eligible sources on their behalf during the transition period. PROs have proposed that a target of four per cent non-blue box material be achieved in materials collected from eligible residential sources during both the transition period and beyond. Municipalities that exceed four per cent contamination rates over six months will be expected to make improvements, with support from PROs through promotion and educational resources and results from inbound sampling as part of composition audits. Current contamination rates at the City exceed the contamination rate proposed by PROs at 16 per cent in the blue bin and two per cent in the black bin. Many Ontario municipalities have higher contamination rates due to single stream collection and/or increased number of multi-residential properties, both of which tend to contribute to higher contamination rates.
- **Ineligible sources:** Work will need to be completed to determine the cost of collecting ineligible sources for which the City would be responsible for financially and ensure that the method proposed by PROs for deduction of these materials from the total materials collected will be equitable. Another option for servicing the ineligible sources would be to source out a dedicated route for the small businesses registered under the Yellow Bag Program and the City facilities. A processing facility would also need to be sourced out for these recyclable materials, however, possible revenues generated from these materials could help to offset the collection costs from this dedicated service.
- **Financial Compensation:** Under the current stewardship model, approximately 50 per cent of the City's costs for collection and processing of recyclable materials collected from Ottawa residents are funded by Stewardship Ontario. The compensation being proposed by PROs for the transition period is currently based on outdated 2020 costs, plus indexed factors to accommodate for inflation and fuel increases. Further, revenue currently generated from marketed recyclable materials processed by the City's contracted recycling facility will end once PROs become responsible for processing as of July 1, 2023. Efforts are currently underway by Finance Services to determine how much funding can be expected from PROs based on the proposed compensation details and how that differs from the City's actual costs, should Ottawa continue collecting recyclable materials during the transition period.

Staff will continue to review the proposed and any revised CMO agreements in consultation with Legal, Procurement and Finance Services to determine if the terms and conditions set out in the agreement will provide fair compensation and reasonable provisions for the City to continue to provide collection services during the Provincial Blue Box IPR Program transition period.

In preparation for implementing Scenario 1, the following is required:

- Develop a contract extension or new contract negotiation strategy;
- Consult with current service providers on the potential to continue service for the City during transition, and evaluate the impact of the terms and conditions proposed by CMO;
- Negotiate terms and conditions with PROs that are in the best interest to the City and its residents for overseeing collection services during the transition period;
- Complete a cost benefit analysis for servicing ineligible sources through a dedicated route, serviced either by the City's In-House team or an external service provider, and revenues generated from the processing and market value of the recyclable materials generated from these locations; and
- Outline all costs incurred for collection of eligible sources and determine any variance in funding by PROs.

Scenario 2

In Scenario 2, the City of Ottawa would not continue to collect recyclable materials from eligible sources on behalf of producers as of July 1, 2023, at which time, collection contracts may need to be re-negotiated to remove the collection of recycling from existing routes in time for the July 1, 2023 transition date. This could be due to not reaching suitable agreements with PROs to collect on their behalf and/or not being able to negotiate reasonable collection contract extensions with existing service providers until the end of the Provincial Blue Box IPR Program transition period on December 31, 2025. PROs have indicated that should municipalities opt out of recycling collection services, the same agreement documents would be offered to the municipality's service provider to continue providing collection services during the transition period.

Opting out of recycling collection for the City's residents would result in further considerations to be resolved and possible risks to be mitigated, including:

- **Removing Recycling from Current Contracts:** Staff will need to work with Procurement Services and Legal Services to understand existing collection contracts with the City's service providers and re-negotiate to amend these collection contracts to remove the collection of recycling materials. Organics and recyclable materials are currently co-collected and a change to the collection approach (i.e., eliminating recyclables from collection) will likely result in price adjustments. Existing collection contracts will need to be re-negotiated to exclude recyclable materials collection along existing routes. The residential curbside collection contract (contracts 19419-91027-G01 and 19421-91027-G01) with the City's In-House team and Miller Waste Services may need to be amended. Staff will explore the possibility of amending the existing contracts to remove recycling collection from existing services if an agreement can be mutually agreed upon by all parties. The timing of this potential contract amendment could result in a shortened procurement process, exposing the City to additional financial and operational risks that could impact both costs of the collection contract and services provided to residents. The multi-residential collection contract (RFT No. 19419-91027-T01) with Waste Connections and the contract for the on-street receptacles (RFT No. 19419-98856-T01) with Waste Management Inc. contract include clauses under Part E that entitle the City to change collection programs at its discretion during the terms of these contracts as a result of potential policy changes on the collection of designated materials as approved by the government. As stated in the contracts, any increase or decrease in the cost of services with a collection program change will be dealt with accordingly. As part of ongoing work, staff will need to determine the change in cost of services that will result in eliminating the collection of recyclable materials from existing agreements.
- **Ineligible Sources:** Collection of recyclable materials from City facilities, which are not deemed eligible sources under the Blue Box regulation will need continue beyond July 1, 2023, as required under the *Industrial, Commercial and Institutional Source Separation Programs Regulation* ([Ontario Regulation 103/94](#)). This will likely require a dedicated route to provide waste collection service for garbage, recycling and organics to City facilities, which could also service the small businesses registered under the Yellow Bag Program. Finance Services staff have provided an estimated cost for the City's In-House team to service City facilities and locations under the Yellow Bag Program dedicated route, beginning in 2023. A request for tender could also be released through a procurement process to determine if an external service provider could provide a

more cost-efficient collection service for these locations. Additionally, a processing facility will need to be sourced in order to process the recyclable materials collected from these locations, which could also generate an additional revenue source, offsetting the costs for providing collection at these locations.

- **Customer Service:** PROs would need to secure their own service provider(s) for residential collection and provide containers, promotion and education, and customer service to Ottawa residents. Though the Blue Box regulation requires PROs to make best efforts to maintain the recycling program as currently established (i.e., materials collected, frequency of collection, depot locations) in the City of Ottawa during the Provincial Blue Box IPR Program transition, it is unclear to what standard level of service an external provider will service Ottawa residents under the PROs' direction or how customer inquiries will be resolved, as that level of detail is not stipulated in the regulation. The City of Ottawa may need to continue providing some administrative services (i.e., respond to and redirect customer complaints to the PROs, messaging to residents regarding the change in collection providers), should the PROs become responsible for collection of recycling from eligible sources between July 1, 2023 and December 31, 2025.

Despite the uncertainties and risks resulting from PROs being fully responsible for collection of recyclable materials from Ottawa residents, there is assurance that they are required to continue collecting the same material types at a frequency that residents are accustomed to, in addition to servicing the depot locations currently being serviced by the City of Ottawa's collection contractor.

In preparation for the possible implementation of Scenario 2, the following actions would be required by Solid Waste Services:

- Collaborate with Procurement Services to amend existing contracts for the multi-residential and on-street collection, and determine a strategy for the residential curbside collection contract, that will require the collection of garbage and organics to continue under the City's responsibility beyond July 1, 2023; and
- Confirm the feasibility of establishing a dedicated collection route for ineligible sources – whether by the City's In-House team or through an external service provider. A procurement process will also be required to ensure recyclable materials from these sources can be processed.

Considerations for Ineligible Sources

The City of Ottawa's current collection routes for residential curbside and multi-residential properties include ineligible sources under the Blue Box regulation, such as small businesses registered for the Yellow Bag Program and City facilities (arenas, libraries, municipal offices). Though these small businesses and City facilities do not qualify for collection and processing responsibilities by the producers under the Blue Box regulation, these locations provide residents with supplemental areas for recycling and increased waste diversion options from the City's Trail Waste Landfill Facility. Collection of these locations along existing collection routes can allow for the current cost efficiencies gained from the combined collection routes to continue, should this be agreed to with PROs during negotiations.

CMO's proposed agreements allow municipalities to continue the co-mingling of Blue Box materials from both eligible and ineligible sources on residential collection routes and at depots, should the municipality opt to continue collecting during the transition period for a fee to be determined by a standardized formula. This would allow the City of Ottawa to continue to collect recycling materials generated from the small businesses registered for the Yellow Bag Program and from City facilities under existing routes and be invoiced the deduction of materials from ineligible sources from the total materials collected during the transition period. Beginning in 2026, it is expected that the ineligible sources will need to be segregated from the eligible sources during collection. Staff will need to consider how best to accommodate these changes beyond the City's transition period, beginning on January 1, 2026.

Continued access to local recycling options would be beneficial for Ottawa residents to have available to them outside their homes, such as in arenas, libraries and small businesses, which underlines the need for the City to continue to administer collection services during the Provincial Blue Box IPR Program transition period. Work is underway to determine the types and quantities of recyclable materials generated at these ineligible sources for upcoming negotiations with PROs. Alternate collection options, such as dedicated collection routes, to service these locations may be considered as part of developing possible scenarios for the City's transition to the Provincial Blue Box IPR Program, should the ineligible sources not be included in the agreement with PROs.

As staff consider options for negotiations in preparation for the upcoming transition period, potential risks to the City will be clearly identified with mitigation strategies developed to ensure Ottawa residents continue to receive consistent and cost-efficient collection services throughout the transition period.

CMO, as lead PRO, have requested that municipalities provide by July 15, 2022, their preferred policy position for either opting in or out of collecting on behalf of the PROs during the transition period. Staff will collaborate with Legal, Finance and Procurement Services to review the master service agreement and financial compensation proposed by PROs to ensure that terms and conditions under negotiation maintain the City's best interests. Should CMO be open to negotiation on the terms and conditions proposed in the agreements to accommodate the City's expectations and if collection contracts with service providers can be amended to align with the full transition period, it is staff's recommendation that the City should indicate its willingness to negotiate to collect on behalf of producers during the Provincial Blue Box IPR Program transition period. Should it not be possible to reach suitable agreements with PROs to collect on their behalf and/or not be possible to negotiate reasonable collection contract extensions with existing service providers until the end of the transition period, the City could opt out of collecting on behalf of PROs as of July 1, 2023.

Negotiating Guidelines

Subject to receiving delegated authority as recommended in this report, staff have developed a set of scenarios within which to negotiate a possible agreement with PROs and consider any amendments to the existing collection contracts that may be necessary to align with the Provincial Blue Box IPR Program transition period. Negotiating guidelines and goals to ensure the City's best interests are maintained in the negotiation of agreement(s) required for the transition period of the Provincial Blue Box IPR Program are presented below.

- The City of Ottawa will collaborate with PROs, in the best interest of the City, to ensure minimal disruption for the City's residents during and following the transition period.
- Staff must ensure that best efforts are made to meet the obligations of the Blue Box regulation.
- Staff will endeavour to ensure that customer service be prioritized by the administrator of collection services under the Provincial Blue Box IPR Program. Currently, the City receives call-back inquiries from less than one per cent of its residential collection points and provides prompt resolution due to a well-established process for handling customer complaints.
- PROs must work with the City of Ottawa to ensure recycling receptacles in public spaces (parks, playgrounds, sidewalk/on-street, transit stops and stations) are

frequently serviced to prevent litter accumulation and possible increased contamination rates.

- Staff will work to extend promotional and educational obligations as described under the Blue Box regulation beyond English and French translations to include the additional languages that reflect Ottawa's diversity, including Arabic, Spanish, Chinese (simplified) and Inuktitut. Staff will work with PROs to highlight the importance of key messaging of recycling in these additional languages during the transition period and beyond.
- Staff will ensure financial risks to the City are minimized in negotiations to allow for service until the end of the transition period.
- Staff will ensure negotiations with the PROs maintain cost recovery for the administration and collection of eligible Blue Box materials (Ottawa's blue and black bin items). As per the regulation, producers are responsible for 100 per cent of the costs associated with the collection and processing of eligible materials.

Efforts will be made to negotiate agreements with PROs in coming months for the City to provide collection of blue box materials on their behalf during the transition period.

Next steps

In preparation for upcoming negotiations, staff will continue to collaborate with internal and external stakeholders to determine how best to transition the City's recycling program under the obligations of the Blue Box regulation. Continuing to provide recycling collection during the Provincial Blue Box IPR Program transition period will allow the City to preserve a high service standard that residents have come to expect, allow for the continued service of ineligible sources, and maintain cost efficiency of its integrated waste collection system. However, entering into an agreement to collect on behalf of PROs during the transition period must be under fair and reasonable conditions for the City that allows for a seamless transition period for Ottawa residents, while maintaining existing service conditions with collection providers and ensuring fair financial compensation. The proposed terms in the CMO agreements as presented on May 11, 2022 do not provide the collaborative approach expected by Ontario municipalities. Solid Waste Services staff will consult with Procurement, Finance, Legal and Fleet Services over the coming months to determine the City's options and to develop a strategy for negotiating agreements, based on the negotiation guidelines

described in this report, to support the City of Ottawa's Provincial Blue Box IPR Program transition.

Staff will report back to Council on the results of negotiations with the PROs for the transition period and if agreements were finalized or if the City opted out of an agreement with the PROs as well as the implementation of the common collection system, as established by the PROs once details are confirmed.

FINANCIAL IMPLICATIONS

The financial implications of this report are detailed in the confidential companion memorandum titled "Financial Implications for Report ACS2022-PWD-SWS-0002" (Document 2) issued to Council prior to the Committee meeting and held on file with the City Clerk as per section 13(1) of the *Procedure By-law*. The information contained in the confidential memorandum is to be considered confidential as it includes sensitive information relevant to the City of Ottawa's future negotiations with third parties as described in this report.

LEGAL IMPLICATIONS

There is no legal impediment to receiving this report as an update or to delegating the authority as set out in section 2 of the Recommendations. As described above, entering into any agreement with CMO will be contingent on negotiating terms of an agreement that are acceptable to the City and the City's ability to extend or modify its existing collection contracts for the transition period. As noted above in the Report, it is anticipated that negotiations may extend into the upcoming "Lame Duck" period imposed by s. 275 of the Municipal Act, 2001, S.O. 2001, c. 25 and further that it may be in the best interests of the City to execute one or all of the agreements described herein, during the same "Lame Duck" period. By virtue of the authorities granted in section 2 of the Recommendations, staff would have the necessary authority to negotiate and if necessary, execute the agreements described in this Report and the accompanying Memorandum on the Financial Implications, during the "Lame Duck" period.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide report.

ADVISORY COMMITTEE(S) COMMENTS

There are no advisory committee comments for this report.

ACCESSIBILITY IMPACTS

All online documentation related to the Blue Box Regulation will be available in an accessible format. Promotional and educational materials for residents will also be made accessible, with consideration for text, plain language, colour contrast, and an active offer to provide accessible formats upon request.

CLIMATE IMPLICATIONS

There are no climate implications of the recommendations in this report.

ECONOMIC IMPLICATIONS

There are no economic implications of the recommendations in this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications of the recommendations in this report.

RISK MANAGEMENT IMPLICATIONS

There are risk implications. These risks have been identified and explained in the report and are being managed by the appropriate staff.

RURAL IMPLICATIONS

This is a city-wide report.

TERM OF COUNCIL PRIORITIES

The Provincial transition to Individual Producer Responsibility aligns with the Environmental Stewardship priority, to grow and protect a health, beautiful and vibrant city that can adapt to change. The outcome supported by this priority includes: the City is a leader in energy management and in conserving, recycling and reusing resources.

SUPPORTING DOCUMENTATION

Document 1 – AMO Response to CMO (May 26, 2022)

Document 2 – Confidential Companion Memorandum, “Financial Implications for Report ACS2022-PWD-SWS-0002” (*issued separately*)

DISPOSITION

Upon Council’s approval of this report, staff will continue to work with internal and

external stakeholders to further prepare for the Provincial transition of the Blue Box Program to Individual Producer Responsibility.