



A Public Agency

NEW BUSINESS



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Date: February 27, 2014 Board of Director's Meeting
Subject: Review of Executive Director's Goals for FY1314

Recommendation

This staff report is for discussion purposes only and no formal action is requested of the Board of Directors.

Analysis

In **Attachment A** you will find my revised draft goals for FY1314 reflective of comments and direction provided by the Board adhoc subcommittee of Vice-Chair Fran Dehn, Catherine Carlton and Lisa Gauthier. The revised goals have been streamlined from the original draft and are in alignment with RethinkWaste's strategic priorities (from our strategic plan adopted by the board on 3/22/12). The goals cover the full scope of the JPA's legal obligations and responsibilities to manage a nearly \$100 million per year recycling, composting and solid waste collection system including ownership of the nationally recognized Shoreway Environmental Center in San Carlos. The goals also address future long range planning efforts.

Background

Draft goals for FY1314 were previously prepared for the old Board of Directors and were to be reviewed at the July 25, 2013 Board meeting which was cancelled.

Subsequently, the draft FY1314 goals were shared at the September 26, 2014 Board meeting with some Board Member feedback provided.

At the October 24, 2013 Board meeting direction was provided to create an adhoc subcommittee of Board Members to work with the Executive Director on revising the goals per feedback from the Board. This subcommittee consisted of Fran Dehn, Catherine Carlton and Lisa Gauthier. The subcommittee met with the Executive Director on November 22, 2013 to discuss comments on the draft goals from the subcommittee and other Board Members. The Executive Director incorporated the feedback into a revised set of goals that were provided to the Subcommittee on December 3rd. Subsequent revisions have been made to the draft goals based on additional feedback.

Fiscal Impact

There is no fiscal impact associated with this item.

Attachments:

A – Revised Draft FY1314 Goals

FY1314 (July 1, 2013 – June 30, 2014) GOALS FOR EXECUTIVE DIRECTOR

Suggested revised Goals (per feedback from Board adhoc Subcommittee)

- #1-- Benchmark all aspects of the operation (i.e., programs and services under the direct control of the SBWMA such as items in the adopted budget), identifying opportunities to reduce costs, improve service, and eliminate potential duplication of service at both the SBWMA and member agency levels.**
- #2-- Administer the Shoreway Transfer Station contract, and SBWMA staff programs and priorities, to meet financial, operational, reporting and environmental goals, as established by the Board. Prepare and communicate staff work project priorities, timetables and benefits.**
- #3-- Support the administration of collection contracts by the member agencies so as to minimize total cost.**
- #4-- Develop communication and outreach tools, with applicable measurement criteria, per the Board approved Public Education Plan, to support achieving State-mandated diversion targets. Investigate public funding (e.g., grants, and public-private or public-public partnerships, as applicable) opportunities for such outreach programs.**
- #5-- Develop a long-term strategic plan (i.e., 5-year scope to include all major elements of the operation, including collection and processing , and related elements of compliance, contracts/contract renewal strategies, public education, finance, capital improvement (CIP), technologies, etc.) to address solutions for cost effective waste reduction and recycling programs and services and facility infrastructure. Prepare initial plan and budget for FY15 with actual Plan completion by June 30, 2015.**
- #6-- Focus the Board on high priority, strategic issues and oversight; introduce policy to cover day-to day issues.**
- #7-- Identify key risks to member agency interests and develop options for Board consideration in addressing those risks in a timely manner.**
- #8-- Support the Board governance change to ensure successful onboarding of new Board Members.**



STAFF REPORT

To: SBWMA Board Members
From: Marshall Moran, Finance Manager
Cliff Feldman, Recycling Program Manager
Date: February 27, 2014 Board of Directors Meeting
Subject: Discussion on Interest Calculations for Rate Revenue Surplus/Shortfall

Recommendation

This staff report is for discussion purposes only and no formal action is requested of the Board of Directors.

Analysis

During the 2014 Recology compensation adjustment process in September 2013, it became apparent that several Member Agencies had large surplus balances with Recology. At that time, SBWMA staff stated that the Franchise Agreements never intended Recology to act as a "bank" and allow Member Agencies to keep excess surpluses with Recology and earn interest at the rate set forth in the Franchises, currently 4.25%. Thus, a discussion with Recology has centered on the need to develop an understanding of how this would be handled in the future.

Both Recology and SBWMA staff have shared in the past a common understanding that Recology would pay interest on surplus revenue or be paid (by the Member Agency) interest on shortfalls. However, Section 11.07 of the Franchise Agreements, clearly states that interest is only calculated on a balance owed to Recology. It does not mention any action to be taken when Member Agencies have a surplus balance. Recology included an interest charge on a shortfall and inadvertently an interest credit on a surplus when they submitted the 2011 revenue reconciliation in March 2012. The company did it again in the 2012 revenue reconciliation submitted in March 2013.

SBWMA staff and Recology local management met on January 28, 2014 to discuss this interest issue and how it should be resolved. As a follow-up to that meeting, Recology prepared a document summarizing an approach going forward to address surplus rate revenue. After feedback from SBWMA staff, Recology has prepared a final document (see **Attachment A**) which would become effective for the 2013 revenue reconciliation due March 31, 2014 and all future revenue reconciliation efforts. Key points in the document can be summarized as follows:

- Recology has agreed to waive the recovery of any interest paid to a Member Agency on a surplus for both 2011 and 2012 (see **Table 1** for 2011 and 2012 history). **Table 2** provides an estimate for the 2013 revenue reconciliation.
- If a Member Agency adopts rates lower than recommended, or rates are implemented late, interest would be owed to Recology on a shortfall as specified in the Franchise Agreement.
- If a Member Agency adopts rates at or above the recommended rate adjustment approved by the Board, no interest would be owed to Recology even if there is a shortfall.
- Recology would not pay interest on any agency's surplus rate revenue.

It is highly recommended that Member Agencies with a large surplus arrange with Recology to have this paid back to the Member Agency rather than have Recology hold the money without it earning interest.

Table 1 - Summary of Revenue Reconciliation - 2011 and 2012														
	Member Agency Total	Atherton	Belmont	Burlingame	E Palo Alto	Foster City	Hillsborough	Menlo Park	North Fair Oaks	Redwood City	San Carlos	San Mateo	West Bay	County
2011 FINAL														
Gross Billed Revenue - 2011	\$ 87,406,632	\$ 2,092,735	\$ 5,292,502	\$ 8,483,736	\$ 4,627,012	\$ 5,332,705	\$ 2,483,083	\$ 9,849,081	\$ 2,455,961	\$ 16,881,761	\$ 7,250,696	\$ 18,976,297	\$ 1,065,900	\$ 2,615,163
Surplus / (Shortfall) Balance	\$ (3,448,105)	\$ (557,857)	\$ (592,047)	\$ (709,885)	\$ -	\$ (40,787)	\$ (539,728)	\$ (50,866)	\$ 89,107	\$ 292,478	\$ (178,538)	\$ (1,133,085)	\$ (111,559)	\$ 84,662
Surplus / (Shortfall) Balance %	-3.9%	-26.7%	-11.2%	-8.4%	0.0%	-0.8%	-21.7%	-0.5%	3.6%	1.7%	-2.5%	-6.0%	-10.5%	3.2%
Interest From / (To) Recology	\$ (207,577)	\$ (35,563)	\$ (35,478)	\$ (42,540)	\$ -	\$ (2,444)	\$ (32,343)	\$ (3,048)	\$ 5,681	\$ 18,645	\$ (10,699)	\$ (72,234)	\$ (2,951)	\$ 5,397
2012 FINAL														
Gross Billed Revenue - 2012	\$ 96,212,664	\$ 3,227,369	\$ 5,797,844	\$ 10,701,485	\$ 4,590,885	\$ 5,482,627	\$ 3,330,702	\$ 10,460,225	\$ 2,429,902	\$ 17,756,627	\$ 7,507,783	\$ 20,526,299	\$ 1,578,978	\$ 2,821,938
Surplus / (Shortfall) Balance	\$ 1,873,517	\$ 497,833	\$ (605,887)	\$ 979,717	\$ 99,809	\$ 243,061	\$ 200,778	\$ (47,746)	\$ 33,155	\$ 961,651	\$ 214,542	\$ (709,290)	\$ 187,547	\$ (181,653)
Surplus / (Shortfall) Balance %	1.9%	15.4%	-10.5%	9.2%	2.2%	4.4%	6.0%	-0.5%	1.4%	5.4%	2.9%	-3.5%	11.9%	-6.4%
Interest From / (To) Recology	\$ 112,694	\$ 31,737	\$ (38,625)	\$ 62,457	\$ 6,363	\$ 15,495	\$ 19,734	\$ (3,044)	\$ 2,114	\$ 61,305	\$ -	\$ (45,217)	\$ 11,956	\$ (11,580)
TOTAL FINAL														
Surplus / (Shortfall) Balance	\$ (1,574,588)	\$ (60,024)	\$ (1,197,934)	\$ 269,832	\$ 99,809	\$ 202,274	\$ (338,950)	\$ (98,612)	\$ 122,262	\$ 1,254,129	\$ 36,004	\$ (1,842,375)	\$ 75,988	\$ (96,991)
Interest From / (To) Recology	\$ (94,883)	\$ (3,826)	\$ (74,103)	\$ 19,917	\$ 6,363	\$ 13,051	\$ (12,609)	\$ (6,092)	\$ 7,795	\$ 79,950	\$ (10,699)	\$ (117,451)	\$ 9,005	\$ (6,183)
Table 2 - Revenue Reconciliation - 2013 ESTIMATE														
	Member Agency Total	Atherton	Belmont	Burlingame	E Palo Alto	Foster City	Hillsborough	Menlo Park	North Fair Oaks	Redwood City	San Carlos	San Mateo	West Bay	County
2013 Estimate (9/2013)														
Gross Billed Revenue - 2013	\$ 99,319,009	\$ 3,140,420	\$ 6,452,158	\$ 10,667,350	\$ 4,680,840	\$ 5,277,966	\$ 3,535,773	\$ 10,371,832	\$ 2,533,480	\$ 17,756,627	\$ 8,365,114	\$ 21,927,778	\$ 1,525,803	\$ 3,083,868
Surplus / (Shortfall) Balance	\$ 2,347,126	\$ 454,956	\$ (316,783)	\$ 817,223	\$ 98,103	\$ (192,259)	\$ 621,476	\$ 40,763	\$ (95,146)	\$ (15,155)	\$ 101,290	\$ 860,830	\$ (53,165)	\$ 24,993
Surplus / (Shortfall) Balance %	2.4%	14.5%	-4.9%	7.7%	2.1%	-3.6%	17.6%	0.4%	-3.8%	-0.1%	1.2%	3.9%	-3.5%	0.8%
Interest To Recology	\$ (42,872)		\$ (20,195)			\$ (12,257)			\$ (6,066)	\$ (966)			\$ (3,389)	

Background

Recology San Mateo County started collection services under the new Franchise Agreements on January 1, 2011. Their compensation for collection service is largely based on an index-based adjustment process and a cost allocation process prescribed in the Member Agency Franchise Agreements. Recology bills all customers for most Member Agencies and pays pass-through costs of Member Agency fees (i.e., franchise and other fees) to the Member Agencies and Shoreway disposal and processing costs to the SBWMA.

On March 31 each year,, Recology submits a revenue reconciliation report for the prior rate year to the SBWMA and Member Agencies which reconciles the amount owed (compensation) to Recology to the amount retained (through billing customers) by Recology after paying pass-through costs (i.e., Member Agency fees and disposal and processing costs). This reconciliation creates a surplus or shortfall by Member Agency. For rate years 2011 and 2012, Recology paid interest to agencies that had a surplus and charged agencies interest that had a shortfall. The interest rate is currently 4.25% based on 1% above the prime rate. This process has been completed for rate years 2011 and 2012. The revenue reconciliation for 2013 is due on March 31, 2014.

The Member Agency franchise agreements were drafted in 2008/2009 when several conditions that have now changed influenced the contract language regarding the payment of interest. At that time, many agencies had large shortfalls with the prior contractor, BFI/Allied/Republic. In total for all Member Agencies, \$10.8 million was owed to BFI. It was not envisioned that agencies would generate large surpluses. In addition, the interest rate environment has drastically changed. Back in 2008/9, surplus money could earn interest in the 5% range. Today, of course, the money market interest rate is close to zero so Recology has more at risk. The issue of paying interest on a surplus balance never came up until 2013.

Fiscal Impact

There is no fiscal impact to the SBWMA. Member Agencies with past surpluses would benefit from the inadvertent payment to them of interest for 2011 and 2012. Going forward, Member Agencies with a surplus would not be paid interest in accordance with the Franchise Agreement(s).

Attachments:

Attachment A – Recology Statement on Interest Issue

Recology San Mateo County
Surplus or Shortfall Interest Accrual
February 18, 2014

We would like to confirm our understanding with respect to whether interest would accrue when there is a difference between the Net Revenues Billed and the approved Contractor's Compensation contained in the SBWMA report by Member Agency for Rate Years 2013 and thereafter:

- If an Member Agency elects to adjust rates below the recommended rate adjustment (**SBWMA Total Rate Impact Table, row F3**) in the SBWMA rate report (or delays in setting recommended rates after January 1), and the Revenue Reconciliation as reviewed and approved by the SBWMA Board for that Rate Year yields Net Revenue Billed were *less than* the approved Contractor's Compensation contained in the SBWMA rate report, interest would accrue on the shortfall and be applied as set forth in Section 11.07.B of each franchise agreement. Agencies also have the option of paying to Recology directly from internal agency funds for any shortfall by June 1 for the prior year so that Recology is made whole resulting in no interest owed to Recology. If Net Revenue Billed were *greater than* the approved Contractor's Compensation by agency contained in the SBWMA report, no interest would accrue on the difference for that agency.
- If a Member Agency elects to adjust rates that are the same as the total rate adjustment (**SBWMA Total Rate Impact Table, row F3**) recommended in the SBWMA rate report, no interest would accrue regardless of whether Net Revenues Billed were *less than* or *greater than* the approved Contractor's Compensation contained in the SBWMA rate report.
- If an Member Agency elects to adjust rates that are above the recommended total rate adjustment (**SBWMA Total Rate Impact Table, row F3**) in the SBWMA rate report, no interest would accrue on the difference regardless of whether Net Revenues Billed were *less than* or *greater than* the approved Contractor's Compensation contained in the SBWMA rate report. If the difference is greater than the approved Contractor's Compensation, the Agency could request the surplus balance be refunded to the Agency. This request must be made in writing, 60 days after the approval of the Revenue Reconciliation. If a refund is requested, Recology will refund the Agency's surplus balance within 30 days after the request. If the Agency elects not to have the difference refunded, the surplus balance will be included in (reduce) the Revenue Requirement of the next Rate Year per Attachment K Sections 8 and 11 of the franchise agreement; a 2013 surplus balance will be included in the 2015 revenue requirement.

PERTINENT FRANCHISE AGREEMENT SECTIONS:

11.07 RATE-SETTING PROCESS

- A. **General.** The Agency shall be solely responsible for establishing and adjusting Rates as described in this Article.
- B. **Annual Review Process.** The Rates shall be reviewed annually by Agency, commencing with Rate Year One (2011) and continuing through the remaining Term including any extension periods. The Agency shall adjust Rates as necessary to generate annual Gross Revenues Billed equal to Contractor's Compensation approved for the Rate Year and approved Pass-Through Costs.

If Agency elects to set rates that are below those recommended in the SBWMA report, (or delays acting to revise rates such that the recommended rates do not go into effect until after January 1), and the Revenue Reconciliation process conducted by SBWMA for that Rate Year demonstrates that Net Revenues Billed were less than the approved Contractor's Compensation contained in the SBWMA report, the Agency shall owe interest on the difference. Interest shall apply (i) to fifty percent (50%) of the difference during the Rate Year in which the shortfall in revenue occurred, and (ii) one-hundred percent (100%) of the difference during the immediately following Rate Year. The interest rate applied to both years shall be the prime rate in effect when SBWMA issued the report for that Rate Year plus one percent (1%).

ATTACHMENT A: DEFINITIONS

Gross Revenue Billed

"Gross Revenue Billed" means the total revenue recognized per generally accepted accounting principles by the Contractor for all services provided to Customers during the Rate Year in question. Revenues may be billed by the Contractor to Customers or may be billed by Agency to Customers.

Net Revenue Billed

"Net Revenue Billed" means the sum of actual Gross Revenue Billed (as per Section 11.03.D) minus payments to SBWMA for disposal, payments to Agencies for Franchise and other fees as described in Article 10, and revenues attributable to unscheduled or intermittent service.



A Public Agency

STAFF REPORT

To: SBWMA Board of Directors
From: Kevin McCarthy, Executive Director
Date: February 27, 2014 Board of Director’s Meeting
Subject: Formation of an Audit Adhoc Subcommittee

Recommendation

This staff report is for discussion purposes only and no formal action is requested of the Board of Directors.

Analysis

The Chair of the Board has requested creation of an Audit Adhoc Subcommittee to participate in the review of the audited financial statements for the fiscal year and the calendar year audit document. It is proposed to consist of three Board Members, preferably with financial backgrounds, and a TAC Member that is finance professional. The adhoc subcommittee would meet approximately two to three times per year. The Chair is requesting volunteers.

Background

Periodically, the SBWMA Board has created adhoc subcommittees for various purposes. Such adhoc subcommittees are comprised of less than a majority of Board Members and as such are not subject to Brown Act requirements. Member Agency staff has also participated in such subcommittees.

The Executive Committee is an ad hoc committee informally established by the Chair of the Board to assist in Board agenda planning. Invitations to Board Members to participate are in the discretion of the Chair; the Chair has the ability within the inherent powers of the Chair to engage in agenda planning and ask other Board Members to participate. There is no provision in the JPA Agreement for an "Executive Committee."

The only other current adhoc subcommittee is for Public Education which historically has included participation by Board Members and Member Agency staff.

Fiscal Impact

None.