

4

IMPLICATIONS OF PROPOSED CHANGES TO HOUSEHOLD HAZARDOUS WASTE PROGRAM

The Environmental Services Committee recommends the adoption of the recommendation contained in the following report dated May 31, 2011, from the Commissioner of Environmental Services.

1. RECOMMENDATION

It is recommended that:

1. Regional Council authorize extension of the contract for operating and haulage services for Household Hazardous Waste materials with Hotz Environmental Services Inc. from October 1 to December 31, 2011 for a maximum contract value of \$335,000.

2. PURPOSE

The purpose of this report is to seek authority to extend the contract with the current Household Hazardous Waste contractor, Hotz Environmental Services Inc., to December 31, 2011. The contract extension allows staff sufficient time to assess upcoming significant changes to the provincial consolidated Municipal Hazardous and Special Waste program and develop a comprehensive understanding of the scope of services required to publicly tender and award a new contract by end of 2011. The current contract with Hotz Environmental Services Inc. expires on September 30, 2011.

3. BACKGROUND

York Region operates a Household Hazardous Waste program in accordance with requirements under the *Waste Diversion Act (2002)*

On December 12, 2006, the Board of Directors for Waste Diversion Ontario (WDO) received a Program Request Letter from the Minister of the Environment requesting a diversion program for Municipal Hazardous and Special Wastes and directing that Stewardship Ontario act as the Industry Funding Organization. An Industry Funding Organization is a group of stewards that are involved in design, manufacturing, selling or using a product in the consolidated Municipal Hazardous and Special Waste program. The stewards have a role both in managing its end-of-life and in minimizing its impact on the environment as required by the *Waste Diversion Act (2002)* (see Attachment 1).

The Minister's Letter outlined program requirements, including a phased roll out of acceptable materials (Table 1). The program was intended to be a true extended producer responsibility program where brand owners and first importers of products provided 100 per cent funding for end-of-life management of their products.

Table 1
Consolidated Provincial Municipal Household Hazardous Waste Program
Materials

Phase	Materials
Phase 1 (73% of collected tonnes)*	- o Paints and coatings, and the containers in which they are contained - o Solvents, and the containers in which they are contained - o Oil filters – after used for their intended purpose - o Containers that have a capacity of 30 litres or less and that were manufactured and used for the purpose of containing lubricating oil - o Single-use dry cell batteries - o Antifreeze, and the containers in which it is contained - o Pressurized containers (such as propane tanks) - o Fertilizers, herbicides, fungicides, insecticides and pesticides (and all associated containers)
Phase 2 (2% of collected tonnes)*	- o Rechargeable batteries (excluding lead acid batteries from vehicles) - o Aerosol containers - o Portable fire extinguishers - o Fluorescent light bulbs and tubes - o Pharmaceuticals - o Sharps (including syringes) - o Mercury-containing switches, thermostats, thermometers, barometers and other measuring devices containing mercury
Phase 3 (25% of collected tonnes)*	- o Flammable materials (not included in Phase 1) - o Corrosive materials (not included in Phase 1) - o Toxic materials (not included in Phase 1) - o Reactive materials - o Leachate toxic materials (not included in Phase 1) - o Fertilizers (not included in Phase 1)

*based on applicable materials collected for 2010 operating year

In February 2008, the Minister of Environment approved Phase 1 of the consolidated program. York Region, acting as a collection agent, entered into a negotiated agreement with Stewardship Ontario in 2008. Under that agreement York Region is reimbursed by Stewardship Ontario for all post-collection management of Phase 1 materials collected through the Region's network of depots.

York Region currently operates four depots in Town of East Gwillimbury, Town of Georgina, Town of Markham, and City of Vaughan where residents can drop off unwanted Municipal Hazardous and Special Waste (known in York Region as the

Household Hazardous Waste program) for safe disposal. Hotz Environmental Services Inc, under contract, currently operates York Region's household hazardous waste depots.

Confusion over EcoFees forces cancellation of consolidated Municipal Hazardous and Special Waste program implementation

The consolidated Municipal Hazardous and Special Waste program was intended to be a fully implemented extended producer responsibility program. Phases 2 and 3 program materials were introduced on July 1, 2010, the same day HST was launched in Ontario. Manufacturers and retailers chose to pass the cost of a fully implemented extended producer responsibility program on to consumers and identified the cost as a separate "eco fee". Ecofees caused confusion amongst consumers and led to a common belief the charges were a government tax. This ultimately forced the Province to freeze the program on July 20, 2010 for a 90 day review period.

On October 12, 2010, the Minister of the Environment announced Stewardship Ontario would continue to fund post-collection costs of Phase 1 materials for 2010, the Province would fund post-collection costs of Phase 2 materials for 2010 and Phase 3 materials would remain a municipal funding responsibility.

On February 28, 2011 Stewardship Ontario announced additional changes to management of Phase 1 materials

On February 28, 2011 Stewardship Ontario hosted a webinar to update municipalities on a proposed program plan for Phase 1 materials. Effective July 1, 2011, stewards of the Phase 1 materials will pay fees to support the collection and diversion of these wastes, moving to a full extended producer responsibility model. Stewardship Ontario will be managing the Phase 1 materials program directly and municipalities will no longer be responsible for any costs associated with collection and post-collection of Phase 1 materials but municipalities will maintain control of the program administration.

Province makes changes to management of materials formerly known as Phase 2 materials

In late March 2011, the Province issued an application package for organizations interested in a grant program for the administration and management for Phase 2 materials. The Province has renamed the Phase 2 program 'selected household hazardous waste initiative'. The new 'selected household hazardous waste initiative' will provide funding to municipalities for costs associated with managing, recycling and disposing of materials formerly known as Phase 2 materials.

The grant funding guide indicates that a program transition is anticipated to occur 'Spring 2011' but the timing is subject to change. The application for management of selected household hazardous waste programs closed on April 26, 2011.

4. ANALYSIS AND OPTIONS

Extension required to allow for greater certainty in tendering new program contract

Staff are seeking approval to extend the current contract with Hotz Environmental Services Inc. to avoid tendering a contract during this initial period of uncertainty in the market caused by the pending program changes. Stewardship Ontario has agreed to allow York Region to submit invoices for the management of the Phase 1 materials under the extended contract until the end of 2011

A new contract must be in place reflecting the revised Phase 1 program plan by January 1, 2012. Based on operations information collected from May until September 2011, staff will tender a new contract in the fourth quarter of 2011 for award by end of 2011.

Municipal associations remain engaged to advocate for fair program changes

Currently, the municipal perspective and position is being communicated to the province through various associations including Association of Municipalities of Ontario (AMO), Municipal Waste Association (MWA) and the Regional Public Works Commissioners of Ontario (RPWCO). York Region staff remain engaged as members in each of the associations and continue to advocate for the Region's unique position and needs.

As one of the first municipalities to enter into contracts under the new program requirements, staff continue to underline the importance of open communication to minimize service gaps during the program changes. York Region staff have emphasized the need for service standards to be built into any third party contracts to ensure timely and fair reimbursement of actual and direct program costs.

The Province will be placing a posting on the Environmental Registry when proposed program changes have been finalized. At this time, it is unclear if this posting will simply be a notice of a program change or whether the Province will be accepting comments on the new program.

5. FINANCIAL IMPLICATIONS

Staff recommend extension of contract with Hotz Environmental Inc. to December 31, 2011 for a maximum contract value of \$335,000

Staff recommend an extension of the contract with Hotz Environmental Inc. until December 31, 2011 for a maximum contract value of \$335,000 to develop a

comprehensive understanding of the scope of services required to publicly tender and award a new contract by end of 2011.

Revised Municipal Hazardous and Special Waste program structure will likely mean increased program costs for some materials across Ontario

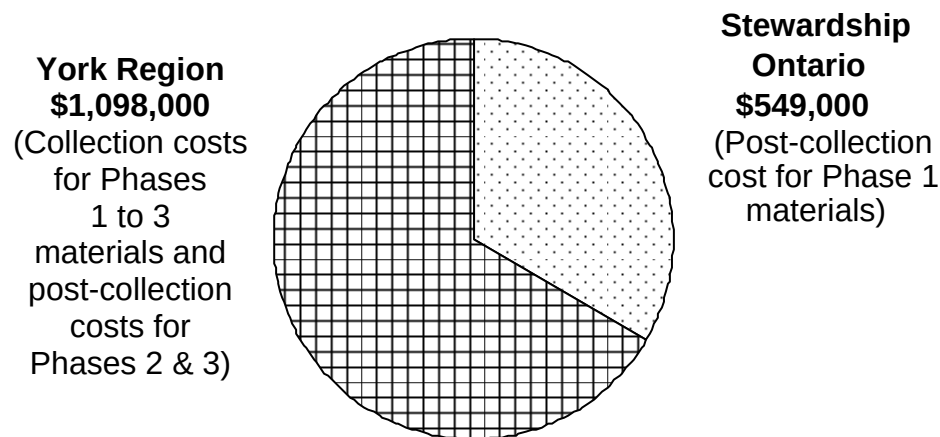
York Region's ability to tender and secure operating and haulage services may be significantly impacted by the revised program structure. The proposed contract model may result in price pressure due to potential for increased costs to manage a smaller market share and decreased available volume of materials.

Proposed program changes anticipated to cover 65% of York Region's household hazardous waste costs up from the current 33% reimbursement

The 2010 cost for management of York Region's household hazardous waste program was approximately \$1.65 million. Under the current agreement with Stewardship Ontario, York Region is reimbursed for costs associated with the post-collection activities of Phase 1 materials such as haulage, processing and disposal. Based on post-collection costs and invoices submitted to Stewardship Ontario for 2010, it is anticipated that York Region will be reimbursed for \$549,000 or approximately 33 per cent of program costs (Figure 1).

Figure 1

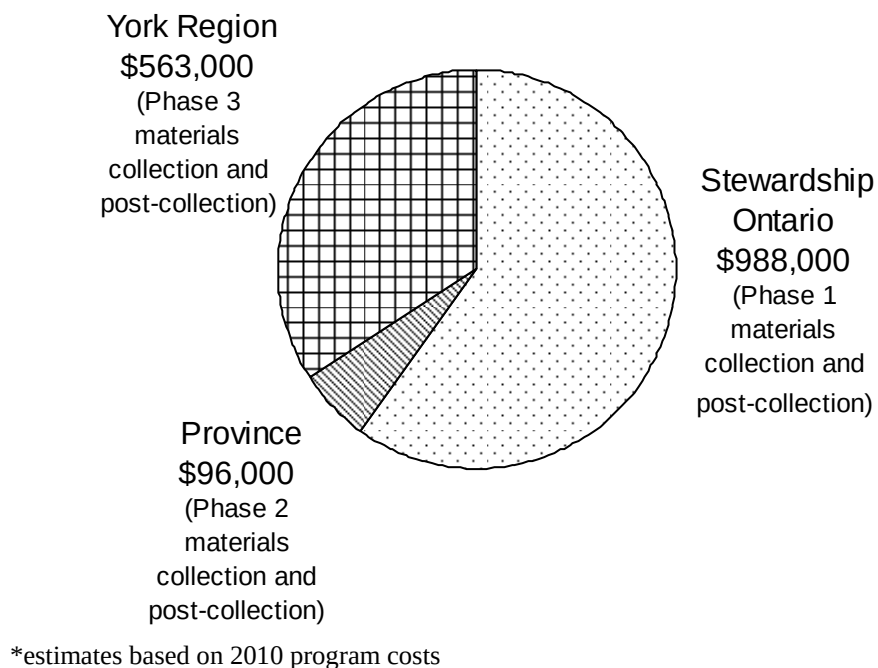
2010 Program Costs for York Region's Household Hazardous Waste Program



Going forward under the revised program, it is anticipated York Region will be reimbursed by Stewardship Ontario and the Province for both collection and post-collection costs of Phase 1 and Phase 2 materials. The assumption of costs not previously reimbursed is estimated to save the Region approximately \$300,000 to \$535,000

compared to the current program (Figure 2) and leaves York Region with an estimated net program cost of \$563,000. The range of program savings considers the potential price pressure that may occur given the proposed funding model and changes in available materials/tonnes. The stewards and the Province will be responsible for approximately 65 per cent of York Region's household hazardous waste program costs, moving closer to a fully funded extended producer responsibility program.

Figure 2
2011 Estimated* Program Costs Based on Proposed Household Hazardous Waste Program



Phase 1 costs will be reimbursed up to June 30, 2011 under the current contract structure with Stewardship Ontario

York Region currently has a 'standing offer' with Stewardship Ontario for the cost recovery related to handling of household hazardous waste materials collected. Stewardship Ontario sent formal notification dated March 24, 2011 to York Region staff that this offer will not be valid after June 30, 2011.

No action is required for municipalities with standing offers regarding their current contract with Stewardship Ontario; the offer is being used as a verbal price agreement for payment during the transition period and will end June 30, 2011. Stewardship Ontario has indicated that they will make every effort to introduce and negotiate the new Agreement for Phase 1 materials with each municipality who wishes to participate. The new

agreements are being drafted and it is anticipated they will be communicated to municipalities prior to June 30, 2011. York Region staff are engaging with Stewardship Ontario to get a new contract in place prior to this date.

6. LOCAL MUNICIPAL IMPACT

The recommendation to extend the current contract with Hotz Environmental Services Inc. to December 31, 2011 will provide uninterrupted household hazardous waste program delivery for residents of York Region.

7. CONCLUSION

Stewardship Ontario has been involved in developing the consolidated Municipal Hazardous and Special Waste program since December 2006. In July 2010, the cancellation of Phases 2 & 3 ('EcoFees') forced the program to be revised. Stewardship Ontario presented a revised Phase 1 program rollout for July 1, 2011 which will cause significant contract related issues for York Region.

Staff recommend the current contract with Hotz Environmental Services Inc. (currently expiring on May 31, 2011) be extended to December 31, 2011 for a maximum contract value of \$335,000 to allow sufficient time to build the new program requirements into a competitive tender process for award by end of 2011.

Cancellation of the consolidated Municipal Household Hazardous and Special Waste program has caused some legislative challenges and unfortunately taken the industry further from a full extended producer responsibility (EPR) program, where the brand owners and first importers bear the full cost for the end-of-life management of their products. However, in the interim while extended producer responsibility is being reconsidered, the proposed program changes are projected to result in an estimated cost savings of \$300,000 to \$535,000 for York Region. Approximately 65 per cent of these program costs are expected to be reimbursed to York Region by the stewards and Province compared to the previously reimbursement of approximately 33 per cent.

York Region continues to advocate for further development of extended producer responsibility (EPR) programs to ensure that brand owners and producers are bearing the total cost of end-of-life management of their goods.

For more information on this report, please contact Laura McDowell, Director, Environmental Promotion and Protection at (905) 830-4444 Ext. 5077.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)

Ontario Municipal Waste Management Reporting Relationships

**Canadian Councils of
Ministers of
Environment (CCME)**
2009 proposed Federal EPR

**Ontario Minister of
the Environment**

CCME is comprised of the environment ministers from the federal, provincial and territorial governments. The CCME focus is on achieving environmental results through cooperative action. The responsibility for implementing any decision of CCME rests with each Minister.

**Waste Diversion
Act**

Under review 2009 –
EPR proposed

The **Waste Diversion Act** empowers the Minister to designate a material for which a waste diversion program is to be established. Once the Minister has designated a material through a regulation under the Waste Diversion Act, the Minister asks Waste Diversion Ontario, working co-operatively with stewards, to develop a diversion program.

**Waste Diversion
Ontario**

Waste Diversion Ontario (WDO) is a non-crown corporation created under the Waste Diversion Act (WDA) established to develop, implement and operate waste diversion programs for a wide range of materials outlined below.

The **Continuous Improvement Fund (CIF)** was established by Waste Diversion Ontario, the Association of Municipalities of Ontario, Stewardship Ontario and the City of Toronto Ontario in January 2008. It is guided by an Operations Plan (2008) which remains in effect for up to 2 years and was ultimately approved by Waste Diversion Ontario. The fund operates as a committee of the Municipal-Industry Programs Committee (MIPC) of WDO with direction from the CIF Committee, which includes:

- 2 Ontario municipality representatives (1 from AMO and 1 from City of Toronto);
- 2 members from Stewardship Ontario;
- 1 Independent member-at-large (1);
- 2 observers, which include the Executive Director of WDO and Director of the CIF;
- a non-voting independent Chair.

Association of
Municipalities of Ontario

**Continuous
Improvement
Fund**

City of Toronto

Industry Funding Organizations

**Stewardship Ontario
BBPP & MHSW**

**Ontario Electronic
Stewardship
WEEE**

**Ontario Tire
Stewardship
Tires**

StewardEdge

In Ontario, **StewardEdge** works on behalf of Stewardship Ontario and Ontario Electronic Stewardship to support and deliver product stewardship programs for the Blue Box, MHSW and WEEE programs.