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Subject AMO Policy Update - Municipal Payments for 2015 Blue Box
Steward Obligation

July 6, 2015

Municipal Payments for 2015 Blue Box Steward Obligation

On June 30, 2015, Stewardship Ontario (SO) sent the first 2015 payment to municipalities who provide the Blue Box Program for their residents. For individual municipal payment amounts see [WDO - Blue Box Program](#) and click on "2015" under heading "Municipal Funding" on right hand column. Packaging and printed paper producers and stewards are represented by SO. To satisfy their responsibility to fund 50% of the net cost of the Blue Box Program, SO makes cash payments to municipalities on a quarterly basis.

The determination of the Blue Box Steward Obligation has been challenging in 2014 and 2015. Annually, the Municipal Industry Program Committee (MIPC) comprised of members of AMO and City of Toronto and SO, is required to determine the Steward Obligation for the Blue Box Program.

Last year the 2014 Steward Obligation was determined by arbitration and resulted in the municipal Blue Box Programs receiving an additional \$15.6 million for that year ([Blue Box Arbitration Decision - Analysis and Next Steps](#)). This year SO and the municipal representatives on the Municipal Industry Program Committee (MIPC) could not agree again on the determination of the 2015 Blue Box Steward Obligation. The municipal MIPC members said the arbitrator's approach which he suggested for 2015 should be used again. SO disagreed. MIPC was directed into a mediation process by the Waste Diversion Ontario (WDO) Board in April 2015.

In mid-June the mediation between SO and AMO/City of Toronto was concluded as there was no common ground between parties' interpretations on how to determine the Steward Obligation. AMO and City of Toronto subsequently wrote letters to the Honourable Glen Murray, Minister of Environment and Climate Change (MOECC), asking for a ministerial regulation that would clarify how the Obligation should be set and calculated for 2015 and future years to avoid annual disputes until new legislation is in force.

On June 16, 2015 Minister Murray wrote to WDO and stated that:

- WDO has the authority to determine payments to individual municipalities and that they should do so without delay.
- WDO should take the steps necessary to determine the payments for 2015 and in subsequent years where the MIPC is unable to achieve consensus on the payments.
- SO is expected to make such payments as required under the Blue Box Program Plan by which it is governed.
- Pending the determination of the final 2015 payments, SO should make quarterly interim payments to municipalities starting June 30, 2015.
- WDO should determine an appropriate methodology for cost containment using all available information.
- WDO should report back to the Minister by September 30, 2015.

At WDO's Board Meeting on June 17, 2015 the following direction was provided to MIPC:

- The 2015 Steward Obligation will be calculated using the methodology set out in the 2014 arbitration decision of The Honourable Robert P. Armstrong, Q.C.

- This determination results in a total 2015 Steward Obligation of \$114,600,548 to be paid by SO through quarterly instalments commencing on June 30, 2015. Of this:
 - \$2,000,000 is to be directed to the Continuous Improvement Fund;
 - \$6,945,011 is the in-kind contribution; and
 - \$105,655,537 is to be paid out in cash to Ontario municipalities.
- In addition, WDO will establish a Panel to submit recommendations to WDO on a methodology to apply cost containment principles to the determination of the annual Blue Box Steward Obligation, and to submit recommendations regarding the in-kind program, to address the concerns raised by the arbitrator.
- The Panel will be appointed by WDO and will consist of five members: AMO/City of Toronto may recommend one panel member, and SO may recommend one panel member for WDO's consideration. WDO asked that AMO/City of Toronto and SO submit their panel member recommendation no later than July 3, 2015.
- The Panel will consult with stakeholders and submit recommendations to WDO on a methodology for applying cost containment principles by September 11, 2015.
- The Panel will also consult with stakeholders and submit recommendations to WDO on recommendations concerning the in-kind program by September 11, 2015 or as soon as possible thereafter.

The MIPC AMO/City of Toronto representatives provided a jointly determined panel member to WDO by July 3rd. It is encouraging that WDO has included the in-kind program in this review as the municipal sector has been long asking for changes to the in-kind program which were imposed upon municipalities in 2005 and which the Arbitrator stated were "extremely unfair to municipalities".

AMO is requesting clarification from WDO on the terms of reference for the Panel regarding cost containment as per the Minister's direction as opposed to payment containment.

Further, AMO member updates will be provided regarding the Blue Box Program once the WDO review has provided advice to the MOECC Minister by September 30th as well as new waste management legislation expected this fall.

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