

REQUEST FOR APPROVAL

To: Rachel Machi Wagoner
Director

From: Zoe Heller
Deputy Director, Materials Management and Local Assistance
Division
Acting Deputy Director, Policy Development and Analysis Office

Request Date: October 11, 2022

Decision Subject: Consideration of The Drug Takeback Solutions Foundation's
Annual Program Budget for Covered Drugs

Action By: November 1, 2022

Summary of Request

The Drug Takeback Solutions Foundation (The Foundation) resubmitted its annual program budget, titled, *Annual Program Budget for Covered Drugs Stewardship Program (Annual Program Budget)* on August 3, 2022, as required by statute. This Request for Approval presents staff's analysis and compliance recommendation regarding The Foundation's *Annual Program Budget*.

Background

The Foundation is a stewardship organization that represents more than 30 covered entities under its covered drugs stewardship plan, titled, *Stewardship Plan for Covered Drugs* (May 17, 2022).

Public Resources Code (PRC) section 42033.2(a)(2) states that, on or before March 31, 2022, and each year thereafter, a program operator shall submit to CalRecycle a program budget for stewardship program implementation for the upcoming calendar year. CalRecycle determined The Foundation's annual program budget was incomplete on May 2, 2022, and required The Foundation to revise and resubmit an annual program budget to CalRecycle within 30 days. The Foundation resubmitted its annual program budget on June 6, 2022, that CalRecycle determined was incomplete and notified The Foundation on July 1, 2022, pursuant to PRC section 42033.2(d)(1) and Title 14, California Code of Regulations (14 CCR) section 18973.1(b). The Foundation submitted its *Annual Program Budget* on August 3, 2022, that CalRecycle determined was complete and notified The Foundation on August 23, 2022. CalRecycle has 90 days from the date The Foundation submitted its complete *Annual Program Budget* to approve, disapprove, or conditionally approve the *Annual Program Budget* pursuant to PRC section 42033.2(d)(2) and 14 CCR section 18973.1. Staff's analysis of The Foundation's *Annual Program Budget* is summarized below.

Staff Analysis

1. Upcoming Calendar Year Budget

Requirement: A written program budget for stewardship program implementation for the upcoming calendar year pursuant to PRC sections 42033.2(a)(2) and 42033.2(c) and 14 CCR section 18973.6.

Result: Met requirement

The Foundation's *Annual Program Budget* includes a program budget for calendar year 2023 and addresses all annual program budget requirements.

2. Multiyear Budget

Requirement: Anticipated costs and the recommended funding level necessary to implement the stewardship program pursuant to PRC section 42033.2(c)(2) and 14 CCR section 18973.6(d).

Result: Met requirement

The Foundation's *Annual Program Budget* includes a multiyear program budget with a recommended funding level for calendar years 2022 through 2026.

3. Independent Financial Audit

Requirement: An independent financial audit of the stewardship program funded by the member covered entities participating in the stewardship program pursuant to PRC section 42033.2(c)(1) and 14 CCR section 18973.6(f).

An independent financial audit for the year 2021 was not required because The Foundation did not begin implementing its program until 2022, after CalRecycle approved its stewardship plan.

4. Document Submittals

Requirement: The document is required to comply with section 7405 of the Government Code, and the Web Content Accessibility Guidelines 2.0 published in 2008 by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria, pursuant to 14 CCR section 18973(a). The document shall be complete and correct pursuant to 14 CCR section 18973(d).

Result: Additional actions by The Foundation are necessary. The Foundation must meet the condition outlined below under the section titled "CalRecycle Condition 1."

The Foundation's *Annual Program Budget* contains multiple accessibility errors that must be remediated for its *Annual Program Budget* to be found compliant.

In the "Reserve Amount" section, the *Annual Program Budget* describes that The Foundation believes a reserve percentage of 10 percent of "additional receptacle needs" is sufficient. It is unclear how "receptacle needs" relate to the appropriate reserve level amount. The Foundation must clarify the use of this terminology.

CalRecycle Condition 1: Pursuant to 14 CCR section 18973.1(j), The Foundation must revise and resubmit its *Annual Program Budget* to CalRecycle within 60 days of signature of this Request for Approval, and the resubmitted annual program budget must meet the following condition:

- a. Correct accessibility errors in the *Annual Program Budget* to make it compliant with section 7405 of the Government Code and with the Web

Content Accessibility Guidelines 2.0 Level AA success criteria, at a minimum. (The requirement necessitating this condition appears in 14 CCR section 18973(a)).

- b. Use correct terminology throughout the annual program budget. (The requirement necessitating this condition appears in 14 CCR section 18973(d)).

Summary of Staff Analysis

CalRecycle staff reviewed The Foundation's *Annual Program Budget* and found it substantially compliant with all material requirements in PRC sections 42033.2(a)(2) and 42033.2(c) and 14 CCR sections 18973 and 18973.6. However, additional actions by The Foundation are necessary for CalRecycle to determine that the *Annual Program Budget* is compliant.

Options

1. Conditionally approve The Foundation's *Annual Program Budget*, contingent upon The Foundation providing to CalRecycle a revised annual program budget, within 60 days of signature on this Request for Approval, that includes the additional information to meet the condition specified in the "Staff Analysis" section of this Request for Approval.
2. Disapprove The Foundation's *Annual Program Budget*. The Foundation shall resubmit a revised annual program budget within 60 days of signature on this Request for Approval and CalRecycle will review the revised annual program budget within 90 days of resubmittal.

Action

Based on the information and analysis in this Request for Approval, I hereby conditionally approve The Foundation's *Annual Program Budget*, contingent upon The Foundation revising and resubmitting its annual program budget, within 60 days as described in the "Options" section above. Failure to comply with the condition and resubmit within 60 days may result in disapproval of The Foundation's *Annual Program Budget*. This Request for Approval shall serve as the written notice of the condition that CalRecycle must identify pursuant to the first sentence in 14 CCR section 18973.1(j).

Signed by: Rachel Machi Wagoner, Director

Dated: October 18, 2022

Attachments:

To request documents that are referenced in this report, please submit a Public Records Act request

(<https://www2.calrecycle.ca.gov/Forms/ContactUs/PublicRecordsRequest/>).

1. *Annual Program Budget for Covered Drugs Stewardship Program* (August 3, 2022)
2. *Stewardship Plan for Covered Drugs* (May 17, 2022)