

REQUEST FOR ACTION

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: February 14, 2023

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

Action By: March 16, 2023

Summary of Request

The Drug Takeback Solutions Foundation (The Foundation) submitted its revised annual program budget, titled, *Annual Program Budget for Covered Drugs Stewardship Program (Revised Annual Program Budget)* on December 16, 2022, as required by statute. This Request for Action presents a summary of staff's analysis regarding The Foundation's *Revised Annual Program Budget*.

Background

The Foundation is a stewardship organization that represents more than 60 covered entities under its covered drugs stewardship plan, titled, *Stewardship Plan for Covered Drugs* (October 15, 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.

The Foundation submitted its *Annual Program Budget for Covered Drugs (Annual Program Budget)* on August 3, 2022, that CalRecycle determined was complete and notified The Foundation on August 23, 2022, pursuant to PRC section 42033.2(d)(1) and Title 14, California Code of Regulations (14 CCR) section 18973.1(b). On October 18, 2022, CalRecycle conditionally approved The Foundation's *Annual Program Budget* pursuant to PRC section 42033.2(e) and 14 CCR section 18973.1(e) and (j). CalRecycle provided The Foundation 60 days to submit a revised annual program budget that addressed the condition specified in the October 2022 Request for Action.

On December 16, 2022, The Foundation submitted its *Revised Annual Program Budget*, which is the subject of this Request for Action.

Staff Analysis

The condition in the October 2022 Request for Action that CalRecycle required The Foundation to address is presented below, followed by a summary of staff's analysis of the Foundation's *Revised Annual Program Budget*.

CalRecycle Condition 1

Requirement: CalRecycle required the Revised Annual Program Budget to meet the following condition pursuant to 14 CCR sections 18973(a) and (d):

- 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.
- b. Use correct terminology throughout the annual program budget.

Analysis: Condition 1(a) not met. Condition 1(b) partially met.

The Foundation's *Revised Annual Program Budget* contains multiple accessibility errors that must be remediated for its *Revised Annual Program Budget* to be found compliant. The Foundation did not meet condition 1(a) as it did not ensure the *Revised Annual Program Budget* is compliant with section 7405 of the Government Code and with the Web Content Accessibility Guidelines 2.0.

In the "Reserve Amount" section, the *Annual Program Budget* described a reserve percentage of 10 percent of "additional receptacle needs" and it was unclear how "receptacle needs" relate to the appropriate reserve level amount. In the "Reserve Amount" section of the *Revised Annual Program Budget*, The Foundation revises language and provides context to clarify that the reserve level relates to cost increases associated with operating collection receptacles. However, The Foundation's *Revised Annual Program Budget* contains minor mathematical summation errors for the cost category "Total Operational Expenses." The Foundation partially met condition 1(b) as the "Total Operational Expenses" for fiscal years 2023 to 2026 do not reflect the mathematically correct total of the subcategories. The Foundation's annual program budget must be mathematically correct.

Action

Pursuant to PRC section 42033.2(e) and 14 CCR section 18973.1:

- Approve The Foundation's *Revised Annual Program Budget*
- Maintain conditional approval of The Foundation's *Revised Annual Program Budget*
- Disapprove The Foundation's *Revised Annual Program Budget*
- Disapprove The Foundation's *Revised Annual Program Budget* and refer The Foundation to CalRecycle's Waste Permitting, Compliance and Mitigation Division for potential enforcement.

Signed by: Rachel Machi Wagoner, Director

Dated: February 28, 2023

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* (December 16, 2022)
2. [Stewardship Plan for Covered Drugs](https://www2.calrecycle.ca.gov/Docs/Web/122445) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122445>
3. *Annual Program Budget for Covered Drugs Stewardship Program* (August 3, 2022)
4. October 2022 Request for Action: [Consideration of The Drug Takeback Solutions Foundation's Annual Program Budget for Covered Drugs](https://www2.calrecycle.ca.gov/Docs/Web/122400) (October 18, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122400>