

REQUEST FOR ACTION

To: Rachel Machi Wagoner
Director

From: Zoe Heller
Deputy Director, Division of Circular Economy

Request Date: August 15, 2023

Decision Subject: Consideration of The Drug Takeback Solutions Foundation's 2024 Annual Program Budget for Covered Drugs

Action By: August 29, 2023

Summary of Request

The Drug Takeback Solutions Foundation (The Foundation) submitted its 2024 annual program budget, titled, *Annual Program Budget for Covered Drugs (2024 Annual Program Budget)*, which included an independent financial audit of The Foundation's stewardship program titled, *Drug Takeback Solutions Foundation Financial Statements, Year Ended December 31, 2022*, on May 31, 2023. This Request for Action presents a summary of staff's analysis regarding The Foundation's *2024 Annual Program Budget*.

Background

The Foundation is a stewardship organization that represents 78 covered entities under its approved stewardship plan for covered drugs, titled, *Stewardship Plan for Covered Drugs (Plan)*. On February 16, 2022, the Department of Resources Recycling and Recovery (CalRecycle) conditionally approved the *Plan* pursuant to Public Resources Code (PRC) section 42032(d)(1) and Title 14 of the California Code of Regulations (14 CCR) sections 18973.1(e) and (g). On December 20, 2022, The Foundation's *Plan* was approved. The Foundation's *2024 Annual Program Budget* includes anticipated costs for the upcoming calendar year of 2024 (January 1, 2024, through December 31, 2024).

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. The Foundation submitted its *2024 Annual Program Budget* on March 31, 2023. CalRecycle determined The Foundation's annual program budget was incomplete and notified The Foundation on May 1, 2023, requiring The Foundation to revise and resubmit an annual program budget to CalRecycle within 30 days of the notice. On May 31, 2023, The Foundation submitted its *2024 Annual Program Budget* that CalRecycle determined was complete and notified The Foundation on June 22, 2023, pursuant to PRC section 42033.2(d)(1) and 14 CCR section 18973.1(b). CalRecycle has 90 days to approve, disapprove, or conditionally approve the *2024 Annual Program Budget* pursuant to PRC section 42033.2(d)(4) and 14 CCR section 18973.1.

Staff Analysis

Staff evaluated The Foundation's *2024 Annual Program Budget* to determine whether the requirements of PRC section 42033.2(c) and 14 CCR section 18973.6 were met.

The section below presents a summary of staff's analysis of The Foundation's *2024 Annual Program Budget* including one requirement where additional information from and/or additional actions by The Foundation may be necessary for CalRecycle to determine whether the requirements of PRC section 42033.2(c) and 14 CCR section 18973.6 were met.

Annual Program Budget

Requirements: 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. Anticipated costs and the recommended funding level, including a reserve level amount, necessary to implement the stewardship program over a multiyear period in a prudent and responsible manner pursuant to PRC section 42033.2(c)(2) and 14 CCR section 18973.6(d). 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).

Analysis: Requirements Met

Budget

The Foundation's *2024 Annual Program Budget* includes a program budget for calendar year 2024, including cost categories and a description of each required cost category. A reserve level amount is provided, including a description justifying the amount indicated. The *2024 Annual Program Budget* includes a multiyear program budget with a recommended funding level for calendar years 2022 through 2026.

Independent Financial Audit

The Foundation submitted an independent financial audit for the year ending December 31, 2022, with its *2024 Annual Program Budget* that includes the independent auditor's report and financial statements. The Foundation asserted that the entirety of the independent financial audit contains information that is proprietary pursuant to 14 CCR section 18973(c).

[REDACTED]

The Foundation's *2024 Annual Program Budget* appears to meet statutory and regulatory requirements. CalRecycle may conduct its own audit of The Foundation, including a review of the independent certified public accountant audit for compliance with statute and regulations and consistency with the program operator's stewardship plan, annual report, and annual program budget pursuant to PRC section 42033.4(b)(3). A CalRecycle audit may include, but not be limited to, determining whether The Foundation is operating its stewardship program in a

prudent and responsible manner, including an appropriate reserve level amount, consistent with PRC section 42034.

Feedback from Interested Parties

CalRecycle solicited public input on The Foundation's *2024 Annual Program Budget* from June 2, 2023, through June 15, 2023, and did not receive any public comments.

Action

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

- Approve The Foundation's *2024 Annual Program Budget*.
- Conditionally approve The Foundation's *2024 Annual Program Budget*.
- Disapprove The Foundation's *2024 Annual Program Budget*.
- Disapprove The Foundation's *2024 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: August 16, 2023

Attachments:

Documents listed below are posted to CalRecycle's website. To request documents that are referenced in this report but are not listed below, please submit a [Public Records Act request](https://www2.calrecycle.ca.gov/Forms/ContactUs/PublicRecordsRequest/) (<https://www2.calrecycle.ca.gov/Forms/ContactUs/PublicRecordsRequest/>).

1. [Annual Program Budget for Covered Drugs](https://www2.calrecycle.ca.gov/Docs/Web/123714) (May 31, 2023)
<https://www2.calrecycle.ca.gov/Docs/Web/123714>
 - a. Attachment A – Independent Financial Audit (May 31, 2023)
2. [Stewardship Plan for Covered Drugs](https://www2.calrecycle.ca.gov/Docs/Web/122409) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122409>
 - a. [Appendix A – Program Budget](https://www2.calrecycle.ca.gov/Docs/Web/122424) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122424>
 - b. [Appendix B – Participating Covered Entities](https://www2.calrecycle.ca.gov/Docs/Web/122427) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122427>
 - c. [Appendix C – Participating Authorized Collectors](https://www2.calrecycle.ca.gov/Docs/Web/122430) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122430>
 - d. [Appendix D – Service Providers](https://www2.calrecycle.ca.gov/Docs/Web/122433) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122433>
 - e. [Appendix E – Drugs Sold or Offered for Sale in California by Participating Covered Entities](https://www2.calrecycle.ca.gov/Docs/Web/122436) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122436>
 - f. [Appendix F – Contacted Potential Authorized Collectors](https://www2.calrecycle.ca.gov/Docs/Web/122439) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122439>
 - g. [Appendix G – Participating Mail-Back Distribution Locations](https://www2.calrecycle.ca.gov/Docs/Web/122442) (October 15, 2022)
<https://www2.calrecycle.ca.gov/Docs/Web/122442>