SUBJECT:  Waste Diversion Ontario (WDO) Funding Shortfall - Budget Mitigation (PW06083) - (City Wide)

RECOMMENDATION:

(a) That the $700,000 operating budget shortfall resulting from the reduction in the Waste Diversion Ontario (WDO) funding for the City’s recycling program be financed from the Recycling Program Reserve, Department ID No. 112270.

(b) That the City of Hamilton appeal the funding allocated by WDO for 2006 at a cost not to exceed $5,000, and that costs associated with the appeal be funded from the Recycling Program Reserve, Department ID No. 112270.

(c) That the Minister of the Environment be respectfully requested to reconsider funding through Stewardship Ontario in lieu of the in-kind advertising provided by the CNA/OCNA to municipalities.

EXEBUGE NTRY SUMMARY:

Since 2004, Waste Diversion Ontario (WDO) has provided funding to municipalities to offset the cost of the blue box program. In 2004 the City received $826,527. In 2005 the amount was $2.1 million. The allocation for 2006 is $1.4 million. This is a reduction of $700,000 from 2005. The reduction is a result of a reduction in the overall funding from the industry stewards and the contribution to the Effectiveness and Efficiency fund. The complex nature of the funding model precludes the determination of the reason for the significant reduction to Hamilton's funding.
The WDO funding has been included in the Waste Collection operating budget as a grant since 2004. However, the budget impact of the reduction and the need to mitigate this reduction are significant to the operating budget. It is recommended that the shortfall in the WDO funding for 2006 be funded from the recycling program reserve, Department ID No. 112270, which had a balance of $2,350,331 as of December 31, 2005.

In the future, consideration could be given to excluding the WDO funding, or a portion of it, from the operating budget. This would be a budget pressure however it would remove the unpredictable nature of the funding from the budget process. The inclusion of the WDO funding in the operating budget could be phased out of a period of time.

There is an appeal process for municipalities to appeal the WDO funding and it is recommended that the City launch an appeal for the purpose of requesting reconsideration of the funding and to find out how the funding is calculated, and that costs associated with the appeal, to a maximum of $5,000 be funded from the recycling program reserve, Department ID No. 112270.

**BACKGROUND:**

The information in this report has City wide implications.

The Solid Waste Management Master Plan (SWMMP), approved by Council on December 11, 2001, contains Recommendation #14 which states:

“The City of Hamilton should continue to lobby the federal and provincial governments to do everything in their power to support municipalities with waste management programs with appropriate legislation, funding and fiscal policy.

*In the short term the City of Hamilton should request the Province to enact and implement Bill 90 as soon as possible.*

The Waste Diversion Act was enacted as Bill 90 in 2002. The intent of the Act was to assist municipalities with financing of blue box programs, by charging fees to the manufacturers and retailers (known as stewards) for their particular blue box materials. Stewardship Ontario is the industry funding organization that collects the fees and distributes the funding to the municipalities.

It was originally intended that 50% of the blue box program costs would be funded, however, this amount was reduced to fund the administration of Waste Diversion Ontario.

Each year, municipalities are required to provide their individual blue box program information from the previous year as part of an annual data call. The payment in the current year is based on the data call submitted two years previous. So, the 2006 funding is based on 2004 program information. Tonnages of recyclable materials, financial data and educational program information from all municipalities in Ontario are input into a municipal funding allocation model that considers program effectiveness and efficiencies and the resulting allocation to each municipality.

The shortfall from the $2.1 million budgeted for 2006 is $700,000. The City was not advised of the funding in time to adjust the 2006 budget. Staff contacted the WDO to try and determine why the funding was reduced. Firstly, the overall allocation of funds to
municipalities was reduced by $5 million. The Effectiveness and Efficiency fund accounts for another $5 million. As a result, less money is available for distribution to municipalities. The second factor affecting Hamilton’s funding is the municipal funding allocation model used to distribute available funding.

The City of Hamilton is in a grouping of several Urban Regional municipalities including Halton, Durham, Essex-Windsor, Waterloo, York, Peel, Niagara and Ottawa. The group is defined as having a population over 100,000 and a population density of 200 to 800 persons per square kilometre. In 2004, the WDO data call was based on a population of 490,268 and a population density of 439 persons per square kilometre.

Staff compared the City’s information with other municipalities in the Urban Regional group and found that Hamilton’s funding reduction is greater than most municipalities.

There are variables and factors in the municipal funding allocation model that include:

- Province-wide variables (material collected, average program costs, average revenues, weight/volume costs, material density adjustments, Efficiency and Effectiveness Fund contribution, CNA/OCNA in-kind advertising, size of program, population density, minimum funding threshold);
- Municipal variables (tonnage recycled by material, population density, number of households);
- A municipality will receive greater funding if it has a lower population density, has a smaller program and collects a wide range of materials;
- A municipality will receive lower funding if it has a higher population density, has a large program and collects fewer and conventional materials;
- A municipality can increase its funding if it amalgamates with an area of lower population density, increases tonnages and collects a wider range of materials.

Although the City of Hamilton recycling program may not have changed significantly for the funding year of 2004, the changes to other municipal programs also impact on the funding distribution.

Staff has tried to find out through WDO how the model works and how it is applicable to the City of Hamilton but found that the model does not determine costs for specific municipalities. Costs are based on proportioned provincial average costs. The model costs are applied to the tonnage for each municipality to determine funding.

The Canadian Newspaper Association (CNA) and the Ontario Community Newspaper Association (OCNA) provide in-kind advertising to municipalities in lieu of paying their steward’s portion into the WDO funding pot. This has always been an issue for the City in that we receive lines of advertising space instead of funding. The City makes its own advertising arrangements with The Hamilton Spectator and could access twice the line space than we received from the CNA/OCNA if funding was received directly. In 2005, Hamilton received approximately $53,500 worth of advertising for the blue box program. This is additional to the Waste Management advertising budget. Even if the funding was less than the value of the in-kind advertising, the City would have the flexibility to use the funds to offset a portion of the recycling program costs, not limited to advertising.
The purpose of this report is to outline the circumstances of the WDO funding shortfall and make recommendations to address the mitigation of the 2006 budget, to launch an appeal of the 2006 WDO funding, to consider the disposition of the funding in future budget processes based on the uncertain nature of the funding amount and to request the Minister to reconsider full funding by the Canadian Newspaper Association (CNA) and the Ontario Community Newspaper Association (OCNA) in lieu of in-kind advertising.

**ANALYSIS/RATIONALE:**

In this section, comments will be made on the rationale of the preferred approaches and recommendations related to the budget shortfall, the appeal of the 2006 WDO funding and future budgeting of WDO funding.

1. **Mitigation of the 2006 Budget Shortfall**

It is recommended that the $700,000 shortfall in the 2006 WDO funding be funded from the recycling program reserve in Department ID No. 112270. The account has a balance of $2,350,331 and funding from this account will not impact on the operating budget for 2006. The balance of the account would continue to exceed $1.6 million dollars for recycling program reserve.

2. **Future Budgeting and the WDO Funding**

The alternatives for consideration will include a phasing out of the WDO funding from the operating budget over a period of time. If WDO funding exceeded the budgeted amount, the excess could be placed in the Recycling Program Reserve. This will be an item for the 2007 budget deliberations.

3. **Appeal of the WDO Funding Allocation for 2006**

It is recommended that the City launch an appeal of the 2006 WDO funding allocation as a means of learning why the funding was reduced. However, it is also recommended that should there be costs incurred related to the appeal that those costs not exceed $5,000 unless further funding is approved by Council. These would be costs incurred by the WDO to collect and analyse the funding information relative to the City’s funding allocation.

If by appealing the funding, the City can learn why the funding was reduced and how we might improve the recycling program to improve funding, a small expenditure will be beneficial.

If the appeal is successful and the City was to receive a positive funding adjustment the costs associated with the appeal would not be reimbursed to the City.

It is recommended that the $5,000 be funded from the Recycling Program Reserve Department ID No. 112270.

4. **In-Kind Advertising from CNA/OCNA**

The City receives line space equivalent to approximately $53,500 worth of advertising from the CNA/OCNA funding for use in both the Hamilton Spectator and Brabant newspapers. However, the City’s purchasing strength in advertising in the Hamilton Spectator alone would generate about twice the line space for the same amount.
The City has previously put forward recommendations requesting the Minister of the Environment to eliminate the in-kind advertising and provide the funding through the WDO. This would also eliminate any inequities between municipalities related to coverage and frequency of publication.

It is recommended that the Minister of the Environment be respectfully requested to reconsider funding in lieu of the in-kind advertising provided to municipalities by the CNA/OCNA.

**ALTERNATIVES FOR CONSIDERATION:**

This section will evaluate the alternatives to mitigate the budget shortfall in 2006, to deal with the future disposition of the WDO funding in the budget process and to consider an appeal to the WDO of the 2006 funding.

The overall allocation of funds to municipalities was $55,463,771 for 2006. However, this is reduced by the in-kind advertising contribution by the Canadian Newspaper Association and the Ontario Community Newspaper Association, a contribution to the Effectiveness and Efficiency Fund and adjustments resulting from reasonable cost band reductions and minimum funding adjustments. This amount reduces the net funding allocated to municipalities to approximately $43,588,000.

Beyond this, the workings of the WDO funding model are virtually impossible to ascertain as the staff at WDO do not seem able to explain it. Staff asked colleagues from other municipalities about their understanding of the funding model and they also do not understand how the model works.

1. **Mitigation of the 2006 Budget Shortfall**

   Based on the $2.1 million in funding from the WDO in 2005, the same amount was used in the preparation of the 2006 budget. By the time the funding allocation was finalized and the City advised the 2006 budget process could not be changed.

   Staff asked a series of questions of WDO to see if we could learn if there was something amiss in the submission of the data call, and started to receive information back at the beginning of May.

   We learned that there was an appeal process but that it would take some time and might not be complete in 2006, and even if it was completed the amount of additional funding could not be predicted. This is discussed further later in this report.

   For the purpose of this report, it is assumed that any additional funding would not be forthcoming in 2006 and as such, $700,000 will require mitigation.

   The alternatives for dealing with this shortfall are limited. The City could wait until later on in the year and see if there is any excess funding in the waste management budget. However, with other issues surrounding the recycling program (revenues and contractual arrangements) it is unlikely that there will be an excess in the waste management budget to cover the $700,000 shortfall.

   Alternatively, the shortfall could be funded from the recycling reserve, Department ID No. 112270, which had a balance of $2,350,331 as of December 31, 2005. It would be appropriate to fund the shortfall from this account.
2. Future Budgeting and the WDO Funding

Based on the fluctuation and uncertainty of the amount of funding that the City might receive in the future, it is difficult to rely on the WDO funding as a source of operating funds in the future.

Removing the WDO funding from the operating budget would result in a potential shortfall of an estimated $2.1 million in 2007. Alternatively, a base budget amount of funding from WDO in a conservative amount in nature, for example $500,000 could be included in the 2007 operating budget. The balance would continue to a budget pressure. Any funding received above the budgeted amount could be a contribution to reserve, specifically the recycling reserve.

Another option could be a phasing out of the WDO funding from the operating budget. Similar to the alternative above, this amount could be for example $600,000 in 2007 and $500,000 in 2008. If WDO funding exceeded this amount, a contribution could be made to reserve, specifically the recycling reserve.

This item is most appropriately dealt with in the 2007 budget deliberations however staff wanted to advise Council that it will need to be addressed.

3. Appeal of the WDO Funding Allocation for 2006

WDO funding for 2006 is based on tonnages and costs for 2004. The appeal process is available in situations where a municipality is in disagreement with the reasonable cost bands. The appeal process is based on a dispute resolution process that has been developed by the WDO.

The Municipal-Industry Program Committee (MIPC) consists of municipal and industry (Stewardship Ontario relative to the Blue Box Program) representation that makes recommendations to the WDO Board on matters affecting municipalities.

If a municipality appeals the funding allocation, MIPC would review relevant information and make a recommendation to the Executive Director of the WDO, who would advise the municipality of the recommendation.

If the municipality is not satisfied with the recommendation from MIPC, the following process is available;

a) submission of additional information in support of the request;

b) request the initiation of the dispute resolution process through the WDO Executive Director, which could involve an iterative process for the exchange of information;

c) arbitration before a single arbitrator in accordance with the Arbitration Act, in which case the arbitrator’s decision is final.

Even if the process was completed this year, it is impossible to determine what additional amount if any would be forthcoming in 2006.

By launching an appeal of the process the City may receive information that assists in understanding the funding model and formula. It is recommended that the City appeal the WDO funding for 2006.
However, if the WDO incurs costs associated with an appeal (review of information, arbitration) those costs would be charged to the municipality. The City could launch a no-cost appeal, which would stop the procedure when we were advised that moving forward would result in costs.

The City could launch an appeal and have staff report back to Council to receive approval on any funding.

The City could pre-approve an upset limit that could be expended on the appeal process. This limit could be, for example, $5000. This amount could be funded from the recycling reserve. Additional funding would require further direction from Council. This is considered to be an appropriate approach for the City to take.

If an appeal was successful in recovering a portion of the $700,000 shortfall exceeding $5000, there would be a direct benefit to this investment.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

The financial implications surrounding this report are the most important, considering that the WDO funding reduction results in a $700,000 budget shortfall in 2006. It is proposed that the budget shortfall be funded from the recycling reserve. The recycling reserve had a balance of $2,350,331 as of December 31, 2005. If the shortfall is funded from the reserve, the balance would be $1,650,331.

The 2007 budget process should consider whether the WDO funding should remain in the budget or if some or all of the funding should be reduced or removed.

The elimination of the CNA/OCNA in-kind advertising is difficult to put a funding amount on, however it would provide municipalities with the flexibility of applying the funding to offset any of the recycling program costs.

There will be a limited amount of waste management staff time involved in the appeal process and staff does not believe that legal services will be required. If legal services became a requirement, this matter will come back before Council to determine if and how to continue with the appeal.

**POLICIES AFFECTING PROPOSAL:**

The Solid Waste Management Master Plan (SWMMP), approved by Council December 11, 2001, contains recommendation #14 which states:

"The City of Hamilton should continue to lobby the federal and provincial governments to do everything in their power to support municipalities with waste management programs with appropriate legislation, funding and fiscal policy.

In the short term the City of Hamilton should request the Province to enact and implement Bill 90 as soon as possible."

Bill 90, the Waste Diversion Act, was enacted in 2002. At the time it was anticipated that municipalities would receive 50% of their net blue box program costs. Since that time, the funding model has undergone changes and an effectiveness and efficiency factor has been applied. As such, the amount of funding has been reduced and the allocation has changed. Although Recommendation #14 continues to be an appropriate
SWMMP recommendation and the WDO funding continues to be important to the City, alternative consideration to the accounting of the funds is warranted.

**RELEVANT CONSULTATION:**

Discussion with WDO staff and waste management colleagues shed little light on the working of the WDO funding model.

Staff consulted with the Finance & Administration staff on financial and reserve balances. Finance & Administration staff has provided comments on the appropriate sections of this report.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “**Triple Bottom Line**”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

- Community Well-Being is enhanced. [ ] Yes [✓] No
- Environmental Well-Being is enhanced. [ ] Yes [✓] No
- Economic Well-Being is enhanced. [ ] Yes [✓] No

Does the option you are recommending create value across all three bottom lines? [ ] Yes [✓] No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? [ ] Yes [✓] No