

**CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE**

DATE: February 20, 2024

TO: Honorable Katy Yaroslavsky, Chair
Honorable Tim McOsker, Vice chair
Honorable Nithya Raman, Member
Honorable Bob Blumenfield, Member
Honorable Eunisses Hernandez, Member
Energy and Environmental Committee

FROM: Barbara Romero



Director and General Manager
LA Sanitation and the Environment (LASAN)

**SUBJECT: STATUS UPDATE OF RECYCLA CONTRACT NEGOTIATIONS AND
RFP DEVELOPMENT, AND RELATED MATTERS (CF 23-1032)**

This report provides a status update to City Council for directions to LA Sanitation and Environment (LASAN) in response to motion CF: 23-1032, directing the following:

1. APPROVE recommendations 1b, 1c, 1d, and 1e of the September 21, 2023 Bureau of Sanitation (BOS) report, attached to the Council file.
 - *Option 1b: Authorize LASAN to begin immediate negotiations of contract amendments with the RSPs.*
 - *Option 1c: Authorize the reorganization and redistribution of recycLA zones based on the best performing RSPs available, the price and achievements of environmental policies, for zones where contract amendment negotiations were not successful.*
 - *Option 1d: Authorize LASAN to begin development and release of a new Request for Proposals (RFP) to codify the programmatic and structural changes learned about the recycLA program to date.*
 - *Option 1e: Authorize LASAN to assume operating services to one, multiple or all recycLA service zones*
2. DIRECT BOS to consult with the Mayor's Electric Vehicle (EV) Task Force prior to starting negotiations to help set their technical parameters for leveraging negotiations to

substantially increase vehicle electrification rates and/or that if we go with the new Request for Proposal (RFP) option, that BOS coordinate with the Mayor's EV Task Force as part of the RFP development.

3. APPROVE recommendation 2 of the September 21, 2023 BOS report, attached to the Council file, relative to the Removing Barriers to Recycling Program.
4. INSTRUCT the City Administrative Officer (CAO) and Chief Legislative Analyst (CLA) to:
 - Provide assistance to BOS for the recycLA program's review and in the proposed contract negotiations.
 - Provide additional analysis on recommendation 1e of the September 21, 2023 BOS report, attached to the Council file.
5. DIRECT BOS to focus negotiations on lowering fees to customers program-wide, including but not limited to specific options for increased competition within and among zones, in order to ensure meeting all of the City's goals.
6. Direct LA Sanitation to provide options to increase enforcement of the Labor Peace Agreement provisions of the franchise agreements, including liquidated damages of \$5,000 daily for noncompliance.

Current recycLA Status

- The City's compliance with SB 1383
 - The existing recycLA contracts, coupled with the organics ordinance adopted by Council in December 2022, allows the City to be compliant with CalRecycle regulations.
 - Currently 40% of Customers are compliant.
 - Education, outreach and enforcement will continue along with RSPs enrollment, waste assessments, and rightsizing customer accounts.

Background

In response to council motions (CF 19-0170-S1) (CF 21-1208-S3) LASAN transmitted a mid-term recycLA report, "Status of All recycLA Contracts and the recycLA Service Providers' (RSPs) Compliance with Contract Objectives and Performance Requirements, and Related Matters", dated September 21, 2023, (CF 21-1208). In this report LASAN provided a status update on the recycLA program, and options for next steps for recycLA as the existing contracts will expire on January 31, 2027. In accordance with Article 14 of the recycLA contracts, the term of the agreements is for ten (10) years with two (2) renewal options at five (5) years each to be exercised at the City's sole discretion. The seven recycLA contracts will expire on January 31, 2027, at which time the City may elect to renew any or all of the recycLA contracts for the initial 5-year renewal term.

With the recycLA contracts expiring in three years, City Council directed LASAN, among other items, to negotiate a contract amendment with the RSPs and to begin the development of a new RFP. This report provides a status update on contract amendment negotiations and RFP development.

SB 1383 Compliance

LASAN, to the greatest extent possible, has attempted to assist recycLA customers with the SB 1383 mandate to subscribe to organics collection service. In the May 2023 notice to non compliant customers, LASAN notified customers to call our 24/7 Customer Care Center to request a complimentary waste assessment with their RSP in order to determine their optimal level of services for the lowest possible cost. The enforcement notices also encouraged eligible non compliant customers to apply for LASAN's waiver program.

In May 2023, only 14% of recycLA customers were compliant with SB 1383. As of February 5, 2024 there are a total of 26,720 or 40% of commercial and multifamily customers in Los Angeles that are compliant with SB1383. This achievement is attributed to customers subscribing to organic collection services (17,984), or obtaining waivers (8,758). Additionally, it's noteworthy that an extra 5,000 customers have requested waste assessments and are currently awaiting the RSPs to conduct these assessments. LASAN's waiver program criteria includes one of the following conditions: 1.business/property produces less than 20 gallons of organic waste per week if it currently has less than 2 cubic yards of solid waste service per week; 2. Business/property produces less than 10 gallons of organic waste per week, if it currently has less than 2 cubic yards of solid waste service per week; or 3. Business/property owner provides documentation, or the jurisdiction has evidence from its staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for any of the organic waste container configurations allowed under the SB 1383 regulations. LASAN will continue to educate consumers and enforce the requirements of SB 1383.

Contracts Amendment Negotiation Updates

LASAN's goal through contract amendment negotiations was to benefit the City ratepayers and address the lessons learned as detailed in the recycLA mid-term report and City Council directions. The negotiation items included: Eliminate City costs associated with the RBR Program, estimated at \$23 million annually; Establish a bundled service model for solid waste, recycling and organics, at a reduced maximum rate; Eliminate extra service charges on Black, Blue and Green bins; Establish//increase organics collection; and Eliminate or adjust other contract terms such as overweight and overfilled bins.

LASAN began negotiations on October 30, 2023 with all six RSPs. LASAN provided each RSP a confidential list of items to be addressed in negotiations, clearly detailing the City's goal for

each item. LASAN held three negotiations with each RSP as well as email exchanges. In total, LASAN has held seventeen separate negotiation meetings. To date, LASAN has not been successful in reaching acceptable terms with the RSPs and have moved its focus to the development of a new RFP that will address the issues related to the current contract and continue implementing the City's Organics Program/Plan.

Develop and Release a New RFP

LASAN in coordination with the CAO and CLA are releasing a new request for proposal (RFP) to start in Fall 2024. The new contracts are expected to be executed by mid 2026 to allow sufficient time for transition. LASAN submitted the Notice of Intent to Contract (NOI) and the Personnel Department 1022 Information Form to the CAO for review and approval. The new RFP will take into consideration all of the program changes and restructuring needed, based on lessons learned to date, and will include a reevaluation of the entire program including the number of recycLA zones and the number of service providers required. A new RFP will also allow for the introduction and consideration of new program elements and the evaluation of new industry standards for a future contract agreement.

LASAN has compiled a list of items based on the knowledge gained to date that can be factored into the development of a new RFP. The following are some of the major items that impacted the program and the Department's recommendations to address them.

RFP Article 1 - General

Zones and Zone Awards: The original RFP specified that no proposer would be awarded more than 49 percent of all accounts. In addition, the RFP stated that if a proposer is awarded one of the three (3) smaller zones (DT, EDT, or SE) it will not be awarded any of the other ten (10) franchise zones. These requirements resulted in the award of contracts to seven separate RSPs. However, having a greater number of RSPs did not result in better customer service or in attaining or exceeding the City's environmental goals. Managing seven contracts strained existing resources, therefore, it is advisable to reduce the number for improved efficiency.

Modified RFP Requirements: The new recycLA contracts will establish a maximum number of awarded contracts. Reducing the number of contracts that require compliance monitoring will alleviate the administrative burden on existing staff resources.

RFP Section 2 - Scope of Services

Diversion Goals: The City's diversion goal for the recycLA program is to reduce the tonnage going to landfills from the commercial sector by one million tons by 2025. However, the diversion goals have not been met as anticipated. The recycLA contracts made the RSPs solely responsible for achieving diversion in their zone, and with this responsibility, the RSPs had authority to establish service levels with each customer with the intention of RSPs increasing blue bin participation and service, and decreasing black bin service, and implementing organic service. However, the recycLA program has not yielded a significant decrease in black bin service.

Modified RFP Requirement: The new recycLA contracts will require each customer to be provided a minimum level of blue bin and green bin service. This requirement is crucial for the City to meet State-mandated requirements and achieve its own diversion goals. Furthermore, LASAN will spearhead outreach and education efforts to ensure a consistent message citywide .

Access and Distance Extra Service Fees: The extra service fees have significant impacts on some customer's monthly bills, with access and distance fees having had the most substantial impact. In many cases these fees exceeded the maximum Base Rate for solid waste and recycling services.

Modified RFP Requirement: LASAN will eliminate these fees from allowable extra service in the RFP and subsequent contracts.

The Removing Barriers to Recycling (RBR) Program: With the exclusion of access and distance charges from the new RFP the necessity for the RBR will cease. The elimination of the RBR program will free over \$22 million dollars in general fund that can be allocated to other program needs.

Modified RFP Requirement: This program will be eliminated in the new RFP.

Bundled Organic Services: Under the existing recycLA agreements, organics service is an additional optional service for which the cost is not built into the base rate.

Modified RFP Requirement: The new RFP will incorporate organic service as part of the base service provided to all customers. Bundling green bin service into the customers' maximum base rate will mitigate the financial impact to customers, promote compliance with SB 1383 and reduce landfill disposal.

Recycling not Provided (RNP): The existing contracts established a 50 percent minimum "low bar" threshold for the ratio of blue bins to black bins, by volume of collection, to ensure sufficient service is provided to meet the City's diversion goals. The RSPs rolled out blue bin service at a rate just above the minimum 50 percent.

Modified RFP Requirement: The new RFP will include a higher minimum blue bin service as part of the base service and rate.

Overweight Bin Fees: The recycLA contracts do not specify a weight per bin that constitutes an overweight bin. Most recycLA vehicles do not have scales on them and the ones that do are not certified by a Weighmaster. As there are not typically scales on collection vehicles, the RSPs use an unofficial determination by the collection staff to determine if a bin is overweight and unsafe to move.

Modified RFP Requirement: Overweight fees will be eliminated in the new RFP.

Overfilled Bin Fees: The application of the extra service fees related to overfilled bins has been a concern of some customers. The contracts specify overfill as being material projecting above the rim of the container, impeding the closure of the lid. However, staff has found that in some cases it may simply be some cardboard boxes that were not broken down, while the majority of the waste is well below the top of the bin.

Modified RFP Requirement: Overfill fees will be eliminated in the new RFP.

Bins on Street: The recycLA contract needs to have a standard for how long bins can be left out in the public right of way. The recycLA contracts do not have any limits on how long a bin can be left on the street after the RSPs have placed the bins out for collection. The RSPs often leave a bin on the street for an extended period of time creating dangerous conditions for drivers and pedestrians. This also creates health and safety concerns for customers due to no bins being available on site and bins being left away from trash chutes. This has been a significant concern for many customers.

Modified RFP Requirement: The new RFP will have a maximum time limit for how long bins can be left in the public right of way. In addition, LASAN in coordination with Streets LA and the Department of Transportation, will develop time requirements for critical City streets.

Maximum Rate Structure: The existing maximum rate structure has been confusing for many customers. This includes what is perceived as hidden fees from approved extra service charges such as for access and distance. In addition, the rate structure itself can be very complicated with an endless number of service options.

Modified RFP Requirement: The new RFP will eliminate a number of extra service charges, as detailed in this report. In addition, a simplified rate structure will be developed

Solid Waste Collection Vehicle Electrification: The new RFP and contracts will include a mandate that the solid waste collection fleet be all-electric, surpassing state requirements.

There are other contract terms that should be updated based on the knowledge gained to date, including, but not limited to, uniformity in proof of provision of service requirements, such as standardizing photo and video proof of IT system failure, or failing to maintain and provide accurate data.

Conclusion

LASAN negotiations were crafted to benefit ratepayers, by maximizing environmental benefits and reducing costs. Regrettably the negotiations were unsuccessful, prompting the City to initiate the preparation of an RFP for collection services starting when the current contract term expires. LASAN, in collaboration with the CAO and CLA, will incorporate new program elements into the RFP, including those based on new industry standards as well as all of the program changes and restructuring needed based on lessons learned to date from administering the recycLA program. LASAN, in coordination with the CAO and CLA, will identify and secure the necessary additional resources needed to develop the new RFP and recycLA contracts.

BR/DKM:dm