

REQUEST FOR APPROVAL

To: Caroll Mortensen
Director

From: Jeff Hunts
Electronic Waste Recycling Program Manager

Request Date: April 6, 2012

Decision Subject: Approval to Establish an Interagency Agreement with the Department of Justice / Bureau of Investigation for Fraud Investigation Associated with the Covered Electronic Waste Recycling Program (Electronic Waste Recovery and Recycling Account FY 2011/12 & FY 2012/13)

Action By: April 13, 2012

Summary of Request: This request seeks approval to establish an interagency agreement between the Department of Resource Recycling and Recovery and the Department of Justice for the purposes of investigating fraud within the Covered Electronic Waste Recovery and Recycling Payment System.

Background: The Covered Electronic Waste (CEW) Recovery and Recycling Payment System, established pursuant to the Electronic Waste Recycling Act of 2003 (SB 20, Sher), as amended, has received and evaluated approximately \$500 million in recycling payment claims since 2005 for the collection and processing of CEW by participating organizations. On average, approximately 5% of claimed monies have been denied due to noncompliant documentation associated with recycling payment claims. An unknown but significant portion of this identified noncompliance may be due to fraud.

Historically, the Department of Resources Recycling and Recovery (CalRecycle) has collaborated with the Department of Toxic Substances Control (DTSC) to combat fraud within the CEW recycling system, with a Memorandum of Understanding (MOU) established in June 2007 to delineate respective responsibilities. This MOU was established under the expectation that DTSC would use its hazardous waste management enforcement authority (pursuant to PRC 42474.5) and well as its criminal investigative capabilities to pursue suspected fraud.

The Governor's proposed budget for fiscal year 2012/13 would transfer to CalRecycle those personnel and/or positions originally appropriated to DTSC for anti-fraud purposes. In preparation for this transition, CalRecycle proposes establishing an interagency agreement (IAA) with the Department of Justice (DOJ) to secure criminal investigative services to complement CalRecycle's analytical capabilities. The proposed IAA would be structured in a manner similar to that which already exists between CalRecycle's Beverage Container Recycling Program and DOJ for fraud investigation services under IAA DRRR11006.

Funding for this proposed agreement would come from the Electronic Waste Recovery and Recycling Account (EWRRA) under existing expenditure authority. The initial agreement would be for a term of two years, with funds coming from FY 11/12 and FY 12/13 in the amount of approximately \$800,000 annually, for a total of approximately \$1,600,000.

As of the drafting of this Request for Approval, the Scope of Work for the proposed IAA was still under final development. However, as noted above, the proposed IAA would be structured in a similar fashion to an existing IAA with DOJ for similar services, with the primary differences being the scale and source of funding, and the associated personnel commitments by DOJ. Due to the statutory, regulatory, material, and operational differences between the Beverage Container Recycling Program and the CEW recycling system, it is proposed that DOJ will establish a dedicated team focusing on the CEW program rather than simply augmenting and commingling current operations.

The administrative authority to pursue this agreement is established through the Electronic Waste Recycling Act, specifically PRC 42475(e) "...In carrying out this chapter, the board and the department may solicit and use any and all expertise available in other state agencies, including, but not limited to, the department, the Department of Conservation, and the State Board of Equalization."

Recommendation: Staff recommends that the Director approve the establishment of an interagency agreement between CalRecycle and DOJ to support anti-fraud efforts of the covered electronic waste recycling program. The total amount of the agreement would be approximately \$1,600,000 for a term of two (2) years.

Upon approval of this request, staff will work with the CalRecycle Contract Office to finalize and execute the agreement.

Director Action: On the basis of the information in this Request for Approval, I hereby approve the staff recommendation that an interagency agreement be established between CalRecycle and DOJ in the amount of approximately \$1,600,000 for a term of two (2) years, to support anti-fraud efforts of the Covered Electronic Waste Recovery and Recycling Payment System.

Dated: 4/16/2012



Carroll Mortensen
Director

Attachments: n/a