



Board Agenda Item 62

DATE: November 7, 2023

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Compost Rebate Program Procurement Agreement

RECOMMENDED ACTION(S):

- 1. Authorize the County of Fresno to participate in a proposed multijurisdictional Compost Rebate Program, and act as the lead agency in administering the program on behalf of the 15 incorporated cities under the Assembly Bill 939 Memorandum of Understanding Agreement; and**
- 2. Approve the Template for the Compost Rebate Program Procurement Agreement which authorizes payment to Direct Service Providers who procure compost from designated facilities in accordance with Senate Bill 1383; and**
- 3. Authorize the Director of Public Works and Planning and/or his designee(s) to execute the Agreement effective upon execution through calendar year December 31, 2023; renewing annually and remaining open until the Assembly Bill 939 Memorandum of Understanding Committee or the County of Fresno notifies the cessation of the Compost Rebate Program.**

Senate Bill 1383 regulations require jurisdictions to annually procure recovered organic waste products based on targets that are calculated using a per capita-based formula. Based on direction from the Assembly Bill 939 Memorandum of Understanding (MOU) Committee, staff is recommending a Compost Rebate Program (CRP) be implemented to meet the procurement requirements. The rebate program allows County and the 15 cities to receive “credit” for compost procured by citizens and businesses (local farmers, etc.) from approved providers, for use on their own properties. These citizens and businesses will procure compost through a “Direct Service Provider” (DSP) agreement with County and be provided a monetary incentive per ton of compost for its participation. This item is countywide.

ALTERNATIVE ACTION(S):

The Board could choose not to approve the recommended actions. However, doing so would delay the County’s compliance with the procurement regulations, and exposes the County to enforcement action from the State including Notices of Violation and civil penalties of up to \$10,000 per day for non-compliance.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. Sufficient appropriations have been included in the Department of Public Works and Planning’s Resources Division FY 2023-24 Adopted Budget Org 9015 utilizing revenue collected through the Solid Waste Management Surcharge (65 cent per ton component for regional programs).

DISCUSSION:

Senate Bill 1383 (SB 1383) requires each jurisdiction to meet an annual per capita recovered organic product procurement target which could be sourced from compost, mulch, renewable gas for transportation, electricity, or heat; or electricity from biomass conversion. To ease jurisdictions into the requirement, Assembly Bill 1985 (2022) reduced the immediate requirements into more manageable incremental targets (See Attachment 1).

Compost Rebate Program Participation

Because the County is a geographically diverse area of both rural and urban landscapes, it provides opportunities to successfully meet CalRecycle’s SB 1383 reduction goals for the disposal of organic waste and to annually procure recovered organic waste products. One such product that has prevalent use in Fresno County is compost. Staff, in coordination with the members of the AB 939 MOU Committee explored procurement program options that could be executed on a regional level to benefit all Fresno County jurisdictions and discovered the CRP option. A CRP is a contractual arrangement between a DSP and a jurisdiction. The DSP procures the compost for use primarily on a moderate to large scale (e.g., farming, land restoration projects, erosion control, etc.) on behalf of the jurisdiction, and the jurisdiction provides a rebate incentive payment per ton, and is able to claim the procurement credit toward their State mandated target. Both the County and the 15 cities will claim credit for the amount of compost procured via the program, and County as lead agency will develop and implement the CRP on behalf of the 15 cities. The credits will be allocated as follow:

Multijurisdictional Compost Rebate Program

Allocation Percentage

<u>Jurisdictions</u>	<u>% of Population</u>
San Joaquin	0.4%
Huron	0.6%
Fowler	0.7%
Firebaugh	0.8%
Orange Cove	0.9%
Mendota	1.2%
Kingsburg	1.3%
Parlier	1.4%
Coalinga	1.7%
Kerman	1.7%
Selma	2.4%
Reedley	2.5%
Sanger	2.6%
Clovis	12.3%
Unincorporated County	15.7%
City of Fresno	53.7%
Total	100%

Based on the results of staff’s findings, the AB 939 MOU Committee unanimously approved adopting a CRP for regional implementation at the July 26, 2023, meeting. Approving the first recommended action authorizes the County to participate in a CRP with the 15 cities. It also allows the County to act as the lead agency in overseeing the CRP, including coordinating with DSP’s, approving applications, agreement execution, and rebate payment issuance. The proposed rebate program will be provided on a calendar year-to-year basis.

CRP Procurement Agreement

As proposed, the program will provide a 15% rebate on the purchase price, on a minimum compost order of at least 100 tons, from select composting facilities. The cumulative amount paid out to one DSP, or purchaser will be capped at \$4,000 within the County's calendar year, which runs from January 1 to December 31. The DSP will enter into a new agreement for each proceeding calendar year. Payments will be sent until funds are expended or targets are met.

Director of Public Works and Planning as Signature Authority

Since the administration of the CRP procurement agreement is routine in nature, the third recommended action would authorize the Director of Public Works and Planning, or designee, to execute on the County's behalf each separate individual CRP procurement agreement based on the proposed template, including successor agreements. The Board has delegated signature authority to the Director in the past under the Non-Exclusive Waste Hauler Agreement (NEWHA) Program as well as California's Department of Resources Recycling and Recovery (CalRecycle) grant and payment programs. Any amendments to the agreement will be brought back to this Board.

REFERENCE MATERIAL:

BAI #8, March 14, 2023
BAI #53, May 25, 2021
BBR, Senate Bill 1383 Implementation, March 17, 2021
BAI #51, November 6, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment 1 - AB 1985 Procurement Targets
Attachment 2 - Compost Rebate Program Procurement Agreement Template

CAO ANALYST:

Salvador Espino