

Environment Committee

For the Metropolitan Council meeting of January 14, 2015

Subject: Authorization to Approve Industrial Pretreatment Incentive Program (IPIP)

Proposed Action

That the Metropolitan Council authorizes the implementation of the Industrial Pretreatment Incentive Program (IPIP), which incentivizes industrial users to design, build and operate pretreatment facilities on their sites consistent with the key business terms listed in Attachment A, and to prepare to finance up to \$50 million for the program in 2015.

Summary of Committee Discussion/Questions

Staff amended the action to read as shown above.

Comments consisted of the following:

1. *When and why would the Council back out of the process and be exposed to a part of the design costs?* Staff said it is not anticipated the Council ever would. A provision was added to demonstrate Council commitment to applicants after some expressed concern about politics or unforeseen conditions that could lead Council to retract the go-ahead after applicants spent funds to design the facility. Also noted in the Council provision is the restriction this would apply only to applicants who have fulfilled all commitments made in their application.
2. *What procurement rules would be applied?* Staff indicated the use of the full Council procurement rules was included in the proposed program. This was a big obstacle for private parties; because they will be fully responsible for designing, building and operating the facilities and want to use their own procurement practices. The statute intended to be used for this program requires only that competition is used to select the parties to negotiate with, and should allow more flexibility for private parties. However, since contracts are expected to be over \$100,000, the Metropolitan Council Underutilized Business (MCUB) policy requirements are included in the standard contract. Staff said they would confirm [and post-meeting have confirmed] with a Council member regarding other requirements that are not required (prevailing wages, local contractors, etc.).
3. *Are there really energy savings or is the energy demand just being moved to the private facility?* The answer was that there would likely be a net energy reduction. Not only would energy reduction occur at our wastewater plants (and rebates likely be received) but also if the industries used anaerobic digesters they likely could generate net energy (biogas) from the preprocessing.
4. *Isn't there risk the industries will not make the payments?* Staff responded as with any project some risk does exist. Extensive evaluation of the types and mitigation strategies has been done by staff. Springsted Inc, a financial consultant, was hired to suggest strong mitigation strategies that are reasonably balanced and not too burdensome. Staff said they would forward the consultant report to the Committee.

Motion to approve the proposed action was made, seconded, and passed unanimously.

Environment Committee

Meeting date: December 9, 2014

For the Metropolitan Council meeting of January 14, 2014

Subject: Authorization to Approve Industrial Pretreatment Incentive Program (IPIP)

District(s), Member(s): All

Policy/Legal Reference: MN Statute 116J.994 (Regulating Business Subsidies); and 473.524 (Regarding public-private partnerships)

Staff Prepared/Presented: Dan Schueller 651-602-1624; Jason Willett, 651-602-1196

Division/Department: MCES c/o Leisa Thompson 651-602-8101

Proposed Action

That the Metropolitan Council authorizes the implementation ~~staff of the Industrial Pretreatment Incentive IPIP Program, which incentivizes Industrial Users to design, build and operate pretreatment facilities on their sites~~ consistent with the key business terms listed in Attachment A, and to prepare to finance up to \$50 million for the program ~~in 2015~~.

Background

An innovative public and private partnership program has been developed and is proposed to potentially provide financial benefits to both MCES rate payers and private industry, as well as provide other benefits to the region (less energy use, jobs). The regional benefits promote the Council's interests as expressed in Thrive MSP 2040 by potentially helping industries advance their economic competitiveness. St. Paul Port Authority staff, in supporting this proposal, has said this could become a national model.

The proposed program will provide two new incentives to financially help high-strength permitted industrial users pre-treat their wastewater on their own sites to reduce or eliminate the high strength discharges and costs to treat those discharges. One proposed incentive will require the Council to finance the pretreatment equipment, at low public financing taxable rates over a ten year term. The other incentive will waive up to 30% of the payments on the financing. The industrial user would be responsible for the design, build and operation of the facility and all related costs and risks. In addition, at the end of the agreement term, the applicant would agree to assume ownership of the equipment regardless of its condition or usefulness.

On June 25, 2013, in the early planning stage of the program, MCES held a hearing to get public input. Seven customers attended and asked questions about program details. Interest from those attending seemed strong and staff has been working to make the process more accessible for private applicants while assuring reasonable financial security for the Council. Many proposed program details have been improved and another public hearing was held on November 18, 2014. About twenty customers attended this meeting, thirteen signed in, and three gave verbal comments, all of which were positive.

A preliminary schedule for implementation of the IPIP program follows:

September 9	Environment Committee recommendation to hold public hearing
September 24	Council approval to hold public hearing
November 18	Public hearing
November 28	Public input period ends
December 9	Environment Committee recommendation
January 14, 2015	Proposed adoption of IPIP
February 2015	RFPs sent to applicants and consultants
March 2015	Proposer meeting(s)
May 31, 2015	Initial applications due
June 30, 2015	Legal staff completes commitment offer letter
July 31, 2015	ES completes reviews and offer(s) to proceed are made
Remainder 2015	Design(s) are reviewed when received, then contracts are executed

Rationale

IPIP could provide a win-win-win for:

Council and its wastewater ratepayers via delayed need for facility expansion and avoided operating costs.

Private sector by providing an economic return to the participating industrial user, including reducing or eliminating strength charges now paid to the Council.

General public via less energy use by the Council in waste aeration, possible energy generation at the new facilities, and providing jobs and investments in Minnesota.

The economics of pretreatment facilities are often financially prohibitive to the private sector and the IPIP proposes to share some of the public benefit to make the economics work.

Funding

If the IPIP is adopted, the direct public benefits include reduced MCES operating costs (mostly energy savings) and an avoidance of future capital costs to expand associated plants. Financial analyses show the present value of the benefits to Council (energy cost savings and avoided capital costs) are expected to exceed the costs (lost revenue and incentive payment) over the term.

If the Council adopts the program, it likely would need to issue bonds to finance the industrial pretreatment facilities and would be limited to a maximum authorization proposed at \$50 million in 2015.

In addition, if the pretreatment facilities are effective, the wastewater rate base would lose strength charge revenue and would incur a cost equal to the difference between the related debt service and the lease payments paid by private vendors. This difference may be up to 30% of the debt service, but only if and when the pretreatment works.

Known Support / Opposition

In addition to the St. Paul Port Authority and several consulting firms that stated they like this program, permitted industrial users that have expressed interest include Sanimax/Sanigreen Corporation, Twin Cities Tanning, Rock Tenn and Michaels Foods.

Key business terms of IPIP

- 1) Council will make determinations of wastewater treatment service areas for its plants that are expected to need additional capacity within 10 years where a public interest exists to reduce high strength wastewater.
- 2) All industrial users issued an Industrial Discharge Permit in the service areas (for plants so determined to be in need) will be notified and given an opportunity to apply to the program via a request for proposal (RFP) issued by MCES.
- 3) Applications must include financial, technical and legal approaches to the partnership, with detail determined by the RFP provided by MCES.
- 4) A \$5000 application fee, a corporate commitment, a proposal bond and a host community support letter is required.
- 5) The applicant must identify the portion of wastewater that will not originate from the Region.
- 6) Financial assurance (e.g. a parent company guarantee) satisfactory to the Council must be provided and Council staff may engage a private party to opine on the sufficiency.
- 7) If all the combined eligible applications exceed the \$50 million maximum financing authorized by Council, staff will prioritize applications based on the maximum strength reduction per dollar of public financing.
- 8) MCES staff will do a simplified pro-forma of the public and private benefit of the IPIP and if the private benefit appears to exceed the public benefit, the maximum annual discount will be reduced to alleviate the increment.
- 9) After financial, technical and legal review by Council staff, the Council may offer a design partnership, which could require the Council to pay 50% of design costs, up to \$100,000 maximum, if the applicant's design fully complies with their accepted proposal but the Council decides not to proceed.
- 10) The applicant will design the facility and Council staff will do due diligence to assure it complies with the material features of the applicant's accepted proposal.
- 11) If the applicant chooses to proceed, the Council will offer the standard IPIP contract, with any approved exceptions, and once executed will finance the eligible improvements up to a maximum of \$20 million per applicant.
- 12) Council staff will engage a title or other company normally involved in economic development to do normal lien and other validation, and disburse the funds.
- 13) Council staff will provide due diligence on the construction.
- 14) Applicant will complete the facility construction, start up and operate the pretreatment facilities.
- 15) During each reporting period of the 10 year contract, Council staff will measure total suspended solids and chemical oxygen demand, as is done now for the strength charge, and apply the maximum annual discount to the lease payments proportionate to the success in eliminating the excess strength.
- 16) At the end of the 10 year contract, the applicant will assume ownership of the facility.