

GOVERNMENT THAT WORKS!
NEW JERSEY DEPARTMENT OF THE TREASURY
LOCAL GOVERNMENT BUDGET REVIEW

POLLUTION CONTROL FINANCING AUTHORITY OF WARREN COUNTY

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GOVERNMENT THAT WORKS

OPPORTUNITIES FOR CHANGE

The report of the Pollution Control Financing Authority of Warren County

New Jerseyans deserve the best government their tax dollars can provide. Governor Whitman is committed to making State Government leaner, smarter and more responsive by bringing a common sense approach to the way government does business. It means taxpayers should get a dollar's worth of service for every dollar they send to government, whether it goes to Trenton, their local town hall or school board. Government on all levels must stop thinking that money is the solution to their problems and start examining how they spend the money they now have. It is time for government to do something different.

Of major concern is the rising cost of local government. There is no doubt that local government costs and the property taxes that pay for them have been rising steadily over the past decade. Prior to Governor Whitman taking office in 1994, the State had never worked as closely with towns to examine what is behind those costs. That is why she created the Local Government Budget Review (LGBR) program. Its mission is simple: to help local governments find savings and efficiencies without compromising the delivery of services to the public.

The LGBR utilizes an innovative approach combining the expertise of professionals primarily from the Departments of Treasury, Community Affairs, and Environmental Protection with team leaders who are experienced local government managers. In effect, it gives local governments a comprehensive management review and consulting service at no cost by the State. To find those "cost drivers" in local government, teams review all aspects of local government operation, looking for ways to improve efficiency and reduce costs.

In addition, teams will also document those State regulations and mandates which place burdens on local governments without value added benefits and suggest, on behalf of local officials, which ones should be modified or eliminated. Teams also look for "best practices" and innovative ideas that deserve recognition and that other communities may want to emulate.

Based upon the dramatic success of the program and the number of requests for review services, in July, 1997, Governor Whitman ordered the expansion of the program tripling its number of teams in an effort to reach more communities and school districts. The ultimate goal is to provide assistance to local government that results in meaningful property tax relief to the citizens of New Jersey.

POLLUTION CONTROL FINANCING AUTHORITY OF WARREN COUNTY

FINANCIAL SUMMARY OF RECOMMENDATIONS

	<u>Resource Recovery Facility</u>	<u>Landfill Component</u>
Present Rate Charged:	74.00	25.00
Subsidy - PCFAWC Surplus:	8.00	11.00
Present Real Cost:	82.00	36.00
 <u>PCFA/Ogden-Martin</u>		
Increase Throughput 100/tons/day ****	(21.00) 3,570,000	
 <u>PCFA/Ogden-Martin</u>		
Call 1987A Bonds (includes \$2.5 mil in Rate Stabilization Fund)	(13.26) 2,254,200	
 <u>State of New Jersey</u>		
Utilize Landfill Closure Fund (one time shot)*		(20.00) 3,400,000
State Loans	(1.74) 296,875	(1.11) 190,000
 <u>County of Warren</u>		
Transfer Recycling to County		(0.91) 155,466
 <u>PCFAWC</u>		
Reduce PCFA Staff		(1.27) 217,230
Accept Bulky Waste at Landfill***		(2.91) 495,000
 <u>Ogden-Martin</u>		
Reduce O&M Unit Costs**	(1.50) 255,000	
Re-negotiate Electrical Agreement**	(3.50) 595,000	
 <u>PCFA/MBIA</u>		
Refinance Remaining		

Debt (CABs - RRF only) (6.00) 1,020,000

Total Reductions (47.00) 7,990,000 (26.20) 4,454,000

New Rate 35.00 9.80 44.80

***This gives the Authority one year to procure required revenue stream.**

****These items are covered in the Memorandum of Understanding from General Council of the PCFAWC.**

*****Anticipated in 1998 Authority Budget.**

******An additional \$2 - \$3 rate reduction possible for landfill with increased throughput on the Resource Recovery Facility (100/tons/day)**

OPPORTUNITIES FOR CHANGE

Solid Waste Partnership Program

The Report of the Pollution Control Financing Authority of Warren County (PCFAWC) Budget Review Team

There is no doubt the cost of operating a Pollution Control Financing Authority (PCFA) - and the rates that support them - have been steadily rising over the last decade. Now, with the legal challenges to the control of waste disposal, a special review program has been initiated to deal with the outstanding debt (over 1.5 billion) issued to finance solid waste systems in accordance with the Solid Waste Management Act and the Solid Waste Utility Control Act. As part of the Solid Waste Partnership Agreement Program, there is state budget language to "subsidize county or county authority debt service payments for environmental investments incurred as of June 30, 1997...in accordance with criteria and program guidelines established by the Commissioners of DEP, DCA and the State Treasurer...Expenditure of such funds are conditioned upon the State Treasurer having conducted or contracted for an operational audit of such county or county authority, and such county or county authority having implemented the audit recommendations to the satisfaction of the State Treasurer."

This review is the first of 10 to be completed under the Solid Waste Partnership Program. The Union County Utilities Authorities' report, which was completed prior to the Program's formal inception, will be reviewed in light of the Program's requirements. This review recommends steps to be taken over the short term, but long term implications will be considered in ongoing discussions with all entities involved in final determination of the Solid Waste Partnership Program conditions.

This report is in response to the Pollution Control Financing Authority of Warren County (PCFAWC) choosing to participate in this special review program. This is the first step in the process of assisting authorities in the era of deregulation. The PCFAWC will now need to evaluate its options based on these findings and recommendations and fully participate in ongoing discussions with its professional staff, consultants, facility operator, the County and the State in order to develop a final partnership agreement. If aspects of the alternatives provided need to be changed, they will become part of the dialogue between the entities involved. This Partnership Agreement Contract will ultimately be between the Department of Treasury and Environmental Protection, the county and county authority.

INTRODUCTION

On May 1, 1997, the United States Court of Appeals for the Third Circuit affirmed a District Court Ruling that a principal element of the State of New Jersey's waste flow control regulations, specifically N.J.A.C. 7:26-6.5, was unconstitutional as it discriminates against out-of-state operators of waste disposal facilities. The Third Circuit also eliminated the two year transition period, necessitating that each county must immediately reevaluate its solid waste strategy in light

of the new timeline directed by the Court. On November 10, 1997, the United States Supreme Court denied the State's petition for certiorari such that the Third Circuit's decision is final. In order to provide an orderly transition to waste disposal options, each of the State's 21 Counties and the Hackensack Meadowlands Development Commission needs to develop and implement plans that address their own specific long-term solid waste disposal needs.

The federal court decisions may have an immediate pricing impact on disposal rates in the region. Private landfills are likely to drop their rates in anticipation of a greater market share of waste. The five Resource Recovery Facilities in the State, along with the Landfills, must become market competitive in a short period of time if they are to remain open. This will have a positive social impact in that the various Counties will be able to continue to provide environmentally sound solid waste disposal services at the lowest possible cost. Long term planning for solid waste disposal services will produce stability by satisfying the dual obligations to dispose of solid waste in an environmentally responsible manner and to minimize solid waste disposal costs.

It is obvious that the regional market will undergo significant transformation as deregulation of waste flow becomes a reality. It is also obvious that tipping fees must be reduced to a market competitive level immediately upon deregulation, and that special revenue sources will be required until the county or county authority can implement the necessary plan to become market competitive in the long term while meeting all their debt service requirements.

The team has focused on specific target areas that we believe, when implemented, will allow the PCFAWC to become market competitive. These areas include: contract acquisition, service agreement re-negotiation, long term debt service, procurement of ash vendors, host community fees, recycling and field operations, and administration.

Although a major focus of the first Local Government Budget Review Program utility report (The Union County Utilities Authority) was the opportunity to identify new sources of revenue as well as cost reductions, the focus of these Partnership Agreement Program utility reviews is short term viability, the ability to meet debt obligations in a deregulated market, and the ability of the county or county authority to implement long term survival plans. Our efforts to reduce the cost of solid waste disposal have focused on the renegotiation of existing agreements and the possible retirement and/or restructuring of debt. Obviously, the county or county authority must maintain competitive tipping fees and maximize all other income potential to mitigate unanticipated market changes. The PCFAWC has seen revenue drop significantly on landfill operations by \$1.8 million since 1996.

CONTRACT ACQUISITION

As in the Union County Utilities Authority report issued in August 1997 by Local Government Budget Review, we use a benchmark to measure progress toward the stated goal of reducing the tipping fee to a competitive level. For the PCFAWC, the benchmark is that for every \$170,000 in cost reductions, cost reallocations, and new revenues achieved, the tipping fee can be reduced by approximately \$1. It is essential to note that this assumes that all aspects of the PCFAWC proposed plan amendment are workable. To achieve a reduction from the current subsidized rate

of \$118/ton to \$44.80/ton, a difference of \$73.20, or changes yielding a \$12,444,000 net difference in the annual budget would have to be found.

After reviewing documentation provided by the County Treasurer, and subsequent investigation by the LGBR team, it has become apparent that given the contiguous nature of the surrounding out-of-state landfills, the PCFAWC needs to achieve the stated goal of reducing the tipping fee to a more market competitive rate. Haulers have indicated their willingness to the Executive Director to come to the PCFAWC facilities even though the Pennsylvania landfills are a few dollars cheaper, because of the cost of hauling and the convenience. Since it is essential that the PCFAWC takes the necessary steps to ensure revenue streams, **it is recommended that the Executive Director be given the authority to procure contracts at a cost per ton determined to be market competitive by the PCFAWC.**

The value of Ogden-Martin's contacts in the industry cannot be overestimated, and **it is recommended that Ogden-Martin be encouraged to continue to search for all possible revenue sources and options. This is in addition to the contracts being pursued by the Executive Director.**

SERVICE AGREEMENT RENEGOTIATION

A study of the agreements reveal that, unlike the Union County Utilities Authority, Ogden-Martin owns and operates the Warren County facility. This fact, coupled with the County's minimum annual tonnage guarantee, does not require that Ogden-Martin share in the risks associated with deregulation. Ogden-Martin must discuss re-negotiation of the service agreement, as reducing all costs and increasing revenue are a vital part of the success of the plan amendment. The PCFAWC contracted with the Warren Energy Resource Company (WERC) to design, construct, start up and own the Resource Recovery Facility. WERC is also responsible for operating and maintaining the facility, including the provision of all management, supervision, personnel, materials and supplies. The PCFAWC, in turn, was authorized and empowered to issue revenue bonds in connection with the design, construction and start up of the Resource Recovery Facility.

The PCFAWC is also required, under the current agreement, to deliver or cause to be delivered 148,920 tons of solid waste per year to be processed. There are many areas in which the service fees could be adjusted: the operations and maintenance fee, the tipping fee stabilization account, etc. In order to generate enough revenues to lower the tipping fee, WERC and the PCFAWC need to expand the amount of waste run through the facility on an annual basis. Increased throughput is economically vital to the survival of the PCFAWC. It is also significant in terms of its environmental benefit since greater throughput will permit the facility to operate more efficiently and effectively, without having to re-start its operations under inadequate tonnage conditions. The current capacity of 448 tons per day can readily be increased by an additional 100 tons per day. The increased revenues derived from this increased throughput would have the effect of reducing on a per ton basis the fixed costs component of the tipping fee. Given this fact, **it is recommended that the PCFAWC take the necessary steps to obtain the required approvals and take the necessary actions to increase its capacity and then its throughput by 100 tons per day.** It is noted that Warren County will need to acquire all necessary solid waste

planning approvals and permit modifications, as well as any other requisite air, water and land use approvals prior to processing the higher daily tonnage.

LONG TERM DEBT SERVICE

For the PCFAWC, as of December 31, 1997, the total long term debt (including principal and interest, where applicable) is \$106,023,132, with \$73,285,134 for the Resource Recovery Facility, and \$32,737,998 for the Landfill, or approximately \$10.5 million in annual debt payments for 1998. This rises to \$11.2 million in 2006 before all debt is retired in 2007. Approximately \$18 million of the outstanding debt is uninsured, all of which are Landfill Revenue Bonds. These bonds have been downgraded by Moody's Investors Service because of the PCFAWC's current non-competitive position in a deregulated market. The Executive Director and county officials have advised us that they are now meeting to discuss possible solutions.

As part of the Plan Amendment, the PCFAWC is proposing to repay all or a portion of the 1987A Resource Recovery Bonds outstanding. This would eliminate an annual debt payment of approximately \$2.2 million until the year 2007. The impact of the repayment of these bonds is a \$13.26 reduction in the tipping fee. The call price of the 1987A Bonds, including the premium, is \$17,324,700. A study of the PCFAWC restricted and unrestricted surpluses, as provided by their financial advisor, shows a balance of over \$13.1 million that could be utilized towards paying off this portion of the authority's outstanding debt. Of these funds, \$10.1 million is from unrestricted surplus funds and \$3 million is from restricted surplus funds. **We recommend that the Executive Director obtain all necessary approvals (bond counsel, MBIA, etc.) to utilize the surplus to pay off the 1987A bonds.**

Using the figures above, the PCFAWC needs an additional approximately \$4.2 million to retire this debt. Based on discussions with the Executive Director and financial advisor, the team believes that it is possible to retire the entire debt by utilizing an additional \$2.5 million from the rate stabilization fund and securing the remaining \$1.7 million from Ogden-Martin. If Ogden-Martin does not provide these funds, the PCFAWC would have to utilize most of its remaining surplus funds to cover the shortfall. The following chart displays the financial breakdown of the debt retirement.

BREAKDOWN OF REVENUE AVAILABLE TO CALL THE 1987A BONDS

Call price for the 1987A Bonds, including premiums:	\$17,324,700
Utilization of the Restricted and Unrestricted Surplus:	\$13,100,000
Sub Total:	\$4,224,700
Utilization of the Rate Stabilization Fund:	\$2,500,000
Sub Total:	\$1,724,700
Utilization of funds: derived from negotiations with Ogden Martin, transferred from other debt reserve funds, or obtained from other sources:	\$1,724,700
ENDING BALANCE:	\$0

On August 10, 1990, the Authority entered into an agreement with the New Jersey Department of Environmental Protection for a \$3.8 million interest-free loan for the construction of a residual sanitary landfill facility, which has a \$190,000 annual principal payment. The Authority also issued \$1.8 million in Resource Recovery Project Revenue Bonds during 1991, and \$2.95 million in 1992, both loans having an annual principal payment of \$296,875. Thus, the amount of the state loan principal due each year totals \$486,875, which would be amortized in 2006 and 2007. A five year moratorium of this loan would result in a tipping fee reduction of \$2.85/ton for those five years. By then, the PCFAWC would have proven its ability to adapt to free market conditions, and would have the ability to begin repayment of the loan on a new schedule as determined by the Treasury Department. The PCFAWC has already made one loan payment of \$112,500 in July, with the balance of \$374,661 due on December 1. **We recommend that the PCFAWC contact the State Treasurer to request a moratorium of five years on its outstanding state loan repayments, and enter into the necessary documentation to provide for such changes.**

Discussions have been underway to refinance the remainder of the Resource Recovery Facility debt of approximately \$34,000,000 after the call of the 1987A bonds. If the Authority is successful in issuing capital appreciation bonds to refinance this debt from 10 to 14 years, this would result in an approximate \$6 reduction in the tipping fee.

Another alternative that the LGBR team examined was the Tipping Fee Stabilization Account. We found that, according to both the Service Agreement and the Coordination Agreement, the PCFAWC is required to maintain a \$5,000,000 reserve. This money is a guarantee to MBIA, the bond insurer, that this amount is available in the event of a default. Given the fact that the PCFAWC needs access to all available funds to provide the short term cash flow necessary to continue to operate while implementing long term plans, **the PCFAWC needs to contact all of the parties associated in the Coordination Agreement for approvals to reduce, if not eliminate, the reserve amount. Reduction of this fund from \$5 to \$2.5 million would provide \$2.5 million which could be used to retire the 1987A debt.**

PROCUREMENT OF ASH VENDORS

A vital component of the plan amendment to decrease the tipping fee to market competitive rates is the procurement of additional ash to the landfill. The difficulty in procuring additional ash is tied to long term contracts signed by the various county authorities to mostly out-of-state facilities. One possible solution is the current situation ongoing in Union County. Negotiations are underway for Ogden-Martin to essentially take over that facility in return for paying off portions of the debt service. If that occurs, then it is possible that the ash contract requiring disposal at the Alliance Landfill would become void, and the tons of ash generated annually at the Union County facility could then be disposed of in Warren County. It is noted that DEP permit modifications may be needed to accept appreciably higher amounts of ash at the county landfill. It is also noted that the approval of the County Freeholders would need to be obtained, as well.

The procurement of the additional ash would have the net effect of lowering the debt service portion of the landfill tipping fee from \$24.90 per ton under present conditions to \$20.25 per ton under the increased throughput alone. The landfill tipping fee would be reduced to \$6 per ton

utilizing the increased throughput ash of 46,500 tons annually, plus the additional 110,000 tons of ash from the Union County facility. If the Authority sets the landfill tipping fee at \$26.20/ton, the revenue produced from the additional 110,000 tons would be close to \$2.9 million. **We recommend that the PCFAWC acquire all necessary approvals to accept additional ash at the County Landfill. We also recommend that Ogden-Martin attorneys examine the feasibility of taking the ash generated at the Union County facility to the Warren County Landfill. We have not taken into account this revenue source in our calculations because greater discussion is warranted between the NJDEP, the PCFAWC and Warren County.**

The PCFAWC is required to transfer an additional \$3 million from surplus funds into the Landfill Closure Fund to bring it into compliance with DEP regulations. This is in addition to the \$400,000 already in the Fund. **In light of the time required to procure additional ash into the landfill, it is recommended that the proceeds in the Landfill Closure Fund be used to “subsidize” landfill operations for one year. All necessary DEP approvals should be acquired.**

HOST COMMUNITY FEES

As part of the renegotiated service agreement, the PCFAWC pays all of the host fees to Oxford Township, which hosts the incinerator, and White Township, which hosts the landfill. The total amount paid in Host Fees in 1997 is estimated at \$850,000. Both Host Fee agreements include escalating clauses of 6% annually. The budgeted amount is \$1,020,000, which includes the 6% escalating clauses, as well as revenue from the additional throughput. We realize that both Oxford and White Township rely heavily on the host community fees to stabilize their tax rates, but since the statutory requirements as per N.J.S.A. 48:13A-5.1 and N.J.S.A. 13:1e-28 are \$1/ton and both communities are receiving approximately \$3/ton, we suggest there may be some room for negotiation. **We recommend that the PCFAWC request that both White and Oxford Townships agree to become parties to the solution, and start renegotiations that will, at the very least, stabilize host fee payments for the next five years.**

Echoing the LGBR findings in the Union County Utilities Authority report, it is also recommended that the Warren County Board of Chosen Freeholders consider at some future point in time, budgeting the annual host fee payments to Oxford and White Townships for some fixed, but limited period of time. The advantages are that the Freeholders are shown as even greater partners in the solution facing Warren County, and a positive active role by the County Freeholders would do much to shore up confidence from the bond rating agencies. Taking on these costs would have a relatively minimal impact on the County budget, but a marked impact on the tipping fee. The impact on the tipping fee would be an decrease of approximately \$6 per ton. We have not included this alternative in our calculations, since we believe it is a point of discussion for future negotiations

RECYCLING AND FIELD OPERATIONS

The PCFAWC has invoked an agreement clause with the County sending the Recycling Program back to Warren County effective January 1, 1998. While the County is not eager to accept this part of the PCFA, it is generally agreed the program will revert back and save the PCFAWC nearly \$155,466 at that point, inclusive of salaries and wages.

An alternative solution that the County and the Authority may want to consider is entering into an interlocal services agreement that would keep the operation with the Authority for providing recycling services. This would negate the necessity for amending the Solid Waste Management Plan and allow the Authority to continue with worthwhile programs that they have implemented. The figure mentioned above includes some revenue and grant monies which may be in dispute, but it is reflective of the best current estimates. **It is recommended that the County provide for the recycling program in its 1998 budget, and explore the opportunity to enter into an Interlocal Services Agreement with the Authority to provide recycling services. It is noted that the decision in the Atlantic Coast case did not modify existing state law or county plans regarding requirements for mandatory source separation and recycling programs. Therefore, any transfer of responsibility for recycling services between the PCFAWC and Warren County must minimally retain current recycling initiatives.**

The four employees at the Landfill are responsible for weighing in all bulky materials, security of the complex and the administration of operations contracts for the landfill, and the metals removed from the incinerator ash. The Authority has considered operating the landfill "in house" and has developed a comprehensive budget that estimates they could save in excess of \$250,000 annually if they were to do so. **As an intermediate term recommendation, the Authority should develop Request for Proposals for the operation of the landfill to determine the best service for the best price, with the possibility of bringing the operation in house.**

ADMINISTRATION

In addition to cost savings in recycling, the PCFA is looking closely at enforcement. The service agreements with Ogden-Martin require quality controls at the incinerator through the spot checking of loads that enter the facility. **The PCFAWC should open negotiations with Ogden-Martin to have them take over this responsibility. If this were to occur, the savings to the PCFA would be \$68,055, since 1.5 positions are attributed to this function.**

Along with the spot checking, the PCFA was required to enforce waste flow regulations. **In the face of deregulation and free market hauling, these 1.5 positions are no longer required. The elimination of these positions would save the PCFA an additional \$68,055.**

The following personnel situations were also observed to be most likely unnecessary in the existing structure. The Security Guard seems to be an added function which we believe the vendor could supply at the incinerator and most likely throughout the entire facility, which is heavily used by the vendor. This action could again save the Authority approximately \$26,650 in salary and benefits. Based on discussions with the Program Specialist and the cuts requested in enforcement, it would seem possible to eliminate the Senior Clerk Typist associated with the landfill staffing. The scale or clerical work completed by the landfill could be accomplished by computer and maintained by the Landfill Supervisor or other clerical staff currently employed by the PCFA. This could save the Authority approximately \$30,420. Finally, it has become evident the Authority has numerous consultants attached to their financial concerns. It would certainly

seem feasible that the part time bookkeeper, employed at a cost of \$24,050, could be eliminated as a back up to the bookkeeper in the face of a full time comptroller and bookkeeper. The total savings add up to \$372,696 alone within the personnel and recycling areas. **We recommend the Security Guard position, the part time bookkeeper position and the Senior Clerk Typist position be eliminated.**

LOCAL GOVERNMENT BUDGET REVIEW TEAM

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