

Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Philip H. Mendelson
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: August 8, 2012

SUBJECT: Revised Fiscal Impact Statement – “Blue Plains Intermunicipal Agreement of 2012 Congressional Approval Emergency Request Act of 2012”

REFERENCE: B19-845, as enrolled

This revised fiscal impact statement clarifies the potential cost implications of seeking an exemption from anti-deficiency requirements, and replaces the one issued on July 7, 2012.

Conclusion

Funds are sufficient in the FY 2012 budget and FY 2013 through FY 2016 budget and financial plan to implement the emergency request act.

The underlying agreement associated with the act could impose future open-ended financial obligations on the District, but those obligations cannot be estimated at this time. Usually, federal and local anti-deficiency laws protect the District from such open-ended obligations. The act requests that the U.S. Congress authorizes exemptions from anti-deficiency laws, and therefore may expose the District to such obligations.

Background

Blue Plains Wastewater Treatment Plant is responsible for treating raw sewage from Washington, DC and neighboring jurisdictions in Maryland and Virginia. Blue Plains provides sewer service for almost all major federal facilities in the Washington region. The facility, including the real property, appurtenances, and fixtures, is owned by the District, and is operated by DC Water (formerly DC Water and Sewer Authority, or WASA), an independent instrumentality of the District.¹

¹ D.C. Official Code § 34-2201.01 *et seq.*

The Honorable Philip H. Mendelson

FIS: B19-845 "Blue Plains Intermunicipal Agreement of 2012 Congressional Approval Emergency Request Act of 2012," as enrolled

In 1985, the District of Columbia entered into the Blue Plains Intermunicipal Agreement (IMA) with Fairfax County, VA, Montgomery County, MD, Prince George's County, MD, and the Washington Suburban Sanitary Commission. The IMA governs the collection and treatment of wastewater, the allocation of flow capacity to IMA parties, and the allocation of costs to support Blue Plains and other multi-jurisdiction use facilities utilized by the signatories.

The 2012 IMA revises the wastewater treatment capacity flows and peak capacity flows for each party, reaffirms capital, operations and maintenance, and other cost allocations to the parties, and provides flexibility, as needed, for the expansion of wastewater treatment facilities and other necessary changes to the agreement in the future. The 2012 IMA focuses the following seven components:

1. Allocating the wastewater treatment capacity of Blue Plains and other associated facilities and related peak flows for the collection system;
2. Equitably allocating the capital costs of wastewater treatment and biosolids management;
3. Equitably allocating operations and maintenance costs;
4. Defining the responsibilities of pretreatment and operational requirements and biosolids management;
5. Defining the process of making future wastewater capacity planning decisions, including addressing load allocations;
6. Providing a mechanism for continuing coordination, cooperation, and communication; and
7. Providing environmental stewardship.

Within the emergency request act is the District of Columbia Interjurisdictional Water and Sewer Agreements Authorization Amendment Act of 2012. This bill is necessary to provide the Mayor the authority to execute the IMA and avoid any compliance issues with the Home Rule Act² and to request certain exemptions from federal and District anti-deficiency laws.³

Financial Plan Impact

Funds are sufficient in the FY 2012 budget and the FY 2013 through FY 2016 budget and financial plan to implement the emergency request act. The District's Blue Plains Intermunicipal Agreement obligations are predominantly funded through billings to District ratepayers, minimizing impacts on the District's budget and financial plan. However, the IMA could impose open-ended financial obligations on the District that cannot be estimated at this time. These obligations are tied to the District's and responsibilities to pay unknown future fines, penalties, or claims or future capital and operating cost commitments.⁴ Since the previous agreement was signed in 1985, the District has not borne any financial hardships related to the agreement and it is reasonable to expect collections from ratepayers will limit direct obligations on the District. Additionally, there are no costs associated with the provision to grant the Mayor authority to enter into this agreement.

In addition to the IMA for the Blue Plains facility, the District has entered into multiple agreements with DC Water over the years regarding DC Water's compensation for the cost of water and sewer services it provides to District agencies, the District's compensation for services (such as public

² Public Law 93-198, D.C. Official Code § 1-204.87(b).

³ 31 U.S.C.A § 1341 (2000); D.C. Official Code § 47.355.01 *et seq.* (2003).

⁴ While DC Water can recover costs from District ratepayers, the District is a separate party to the IMA and could be liable for these additional costs.

The Honorable Philip H. Mendelson

FIS: B19-845 "Blue Plains Intermunicipal Agreement of 2012 Congressional Approval Emergency Request Act of 2012," as enrolled

safety, and administrative, legal and financial services) it provides to DC Water, DC Water's payments of annual public space right of way occupancy fees, and payments regarding maintenance of fire hydrants. The IMA is unrelated to these agreements, and its approval would not have an effect on any of these agreements.