

Mr. John Koskinen

Deputy Director for Management

Office of Management and Budget

Washington, DC 20503

Dear Mr. Koskinen:

The purpose of this letter is to inform the Office of Management and Budget of the Environmental Protection Agency's anticipated course of action on the City of Cranston, Rhode Island's application to lease its federally funded wastewater treatment system under Executive Order (E.O.) 12803.

The Agency has conducted a review of the City's proposed lease agreement. This action included extensive discussions with your staff on the privatization issues related to E.O. 12803. The Agency has concluded, as a result of its review, that the City's proposed lease agreement is in full compliance with the requirements of E.O. 12903. The Agency evaluated the impact the City's lease concession fee would have on wastewater user fees. This analysis led to the conclusion that the projected user fees represent a low financial burden on the residential wastewater users. The City's lease agreement provides reasonable assurances for the Agency that the National Pollutant Discharge Elimination System permit conditions will be achieved and maintained to protect the environment and public health.

The City of Cranston proposes to lease its wastewater treatment system to Triton L.L.C. for 25 years with an option for a 5-year renewal period. The City will receive a \$48.1 million concession fee for the lease. Under Section 3(c) of E.O. 12903, the City would have to repay \$5,060,644.54 of its grant funds to the Federal Government. The Agency has decided to forgive the City's repayment of the undepreciated grant funds under authority granted to the Agency by Section 586 of the Water Resources Development Act of 1996 since the City's lease complies with the criteria set forth in the Act.

The Agency is planning to approve the City of Cranston's request to lease its wastewater treatment system on May 15, 1997. The Office of Management and Budget is not required to approve the lease arrangements under E.O. 12803 since the City used competitive negotiations practices in the procurement of its lease.

I am enclosing a draft of the Agency's approval letter for the City of Cranston's lease arrangement for your information. If you have any questions about this privatization arrangement, please call me or have your staff call Haig Farmer of my staff at (202) 260-7279.

Sincerely,

Robert Perciasepe

Assistant Administrator

Enclosure

DRAFT

04/28/97

Mayor Michael A. Traficante

City of Cranston

City Hall

869 Park Avenue

Cranston, Rhode Island 02910

Dear Mayor Traficante:

I am pleased to approve the City of Cranston's request to lease its wastewater treatment system to Triton L.L.C.. This lease agreement meets the criteria set forth in E.O. 12803 and I am approving it under the authority of Section 3(c) of the Order. However, this approval is conditioned on: (1) the City disbursing the \$48.1 million lease concession fee it receives from the Company according to the terms of Table 5.2 in the City's January 1997, application for approval to privatize its wastewater treatment system, and (2) the Company being made a copermittee on the City's National Pollutant Discharge Elimination System (NPDES) permit. Since these conditions can only be met after the City has consummated the lease agreement, the City has the Agency's approval to enter into the lease arrangement with the Company. The City must notify the Agency that these two conditions have been fulfilled. When the Agency receives such notification, this approval will be considered complete and final.

The lease of the City of Cranston's wastewater treatment system requires that the Agency grant a deviation from certain construction grant regulations to the City. The approval of these deviations is granted in the enclosed memorandum from Gary M. Katz, Director, Grants Administration Division, to Stanley Scott, Manager Grants Management Unit, Region 1. This memorandum constitutes the Agency's official review and approval of the grant deviation request for the City's lease arrangement.

The Agency's analysis and review of the City's proposed lease agreement is based on the City's January 1997, privatization application which addressed the factors delineated in the Agency's November 27, 1996, letter, and the City's Director of Public Works' letters of February 6, 1997, March 26, 1997, and March 31, 1997, describing the public

participation process, the competitive procurement process, and the use of the lease concession fees, respectively.

It is the Agency's understanding that the City of Cranston has a current population of 78,000 and operates under a mayoral form of government. The Sewer Enterprise Fund has a present annual budget of \$12.7 million. The City's wastewater treatment facilities currently provide extended aeration secondary treatment for 23 million gallons per day. The City's population represents 92 percent of the wastewater treatment system's customers.

The City of Cranston proposes to lease its wastewater treatment system to Triton L.L.C. (the "Company") for 25 years -with an option for a mutually agreed upon 5 year renewal period. The City proposes that the Company pay a concession fee of \$48.1 million as consideration for the lease. The City will retain ownership of the system, establish and collect all sewer user fees plus enforce the municipal industrial pretreatment program ("MIPP"). The Company will be responsible for providing wastewater treatment services to the City during the lease period. These services include operating and maintaining the City's wastewater treatment facility, pumping stations, force mains, sewer interceptors and the rest of the collection system, plus designing, constructing, financing, and testing improvements to the wastewater system, as well as administering the City's MIPP. The wastewater improvements include adding advanced wastewater treatment to the current facilities.

The City used competitive negotiations between three companies in accordance with Rhode Island law to select a company for negotiations of the final privatization contract. Therefore, approval of the City's lease agreement by the Director of the Office of Management and Budget was not required under Section l(d) of E.O. 12803.

The City undertook extensive efforts to provide public information and solicit public comments on the privatization agreement and its impact on user fees. A total of seven public notices and hearings were held to gain support for the privatization agreement. The City Council voted eight to one to approve the privatization agreement.

Even though the City will receive a \$48.1 million concession fee for the lease agreement, the projected residential user fees of approximately \$230 per year will represent about 0.6 percent of the residential user's median household income. Since this level of user fees represents a low financial impact, it does not place a high financial burden on the residential wastewater users. The projected user fees include the costs of constructing and operating the new advanced wastewater treatment facilities needed to meet higher wastewater discharge standards required by the State. The lease arrangement includes cost provisions to construct and operate the new facilities. The real projected user fees will effectively remain unchanged over the term of the lease since the only anticipated cost adjustment will be for inflation under known operating conditions.

The City received grant funds of \$41,247,871.11 from the Environmental Protection Agency to construct its wastewater treatment facilities. Under Section 3(c) of E.O. 12803,

the City would have to repay \$5,060,644.54 of its grant funds to the federal government after the City and the State of Rhode Island recouped their portion of the total project costs. This amount represents the calculated value of the undepreciated grant funds using the Internal Revenue Service Modified Accelerated Cost Recovery System (MACRS) depreciation schedules for the dates various grant contracts were placed in service. The Agency has decided to forgive the City's repayment of undepreciated grant funds under the authority granted to the Agency by Section 586(a)(2) of the Water Resources Development Act of 1996. The City has met the criteria set forth in Section 586(a)(1) of the Act since it will retain ownership of the wastewater system. The City's lease agreement provides reasonable assurances for the Agency that the NPDES permit conditions will be achieved and maintained to protect the environment and public health under Section 586(a)(2) of the Act.

Thank you for the materials and assistance you and your staff have provided the Environmental Protection Agency in our review of Cranston, Rhode Island's application to lease its federally funded wastewater treatment facilities under Executive Order (E.O.) 12803.

I want to convey my best wishes to the City of Cranston in its future lease arrangement. If you have any questions about this approval, please feel free to contact me or have your staff call Haig Farmer of my staff at (202)260-7279.

Sincerely,

Robert Perciasepe

Assistant Administrator