



Press Release

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Controller's Office releases follow-up Public Integrity Review on Recology's rate-setting process

In conjunction with the City Attorney's Office, the Controller's Office makes recommendations to address the refuse rate-setting process based on additional reviews and meetings with Recology.

SAN FRANCISCO (May 16, 2022) — Controller Ben Rosenfield has released a public integrity assessment report on the review of rate-setting and rate reporting processes, and profits earned by Recology (a privately held waste management company that provides refuse services to residential and commercial customers) that were over and above established target profit margins.

Our assessment found that Recology netted profits of \$23.4 million over and above the target profit margin set in the 2017 Rate Application. Even after taking into account the City Attorney's 2021 \$101 million settlement in restitution, penalties, and interest to ratepayers affected by the erroneous calculation of revenues in the rate application, Recology consistently netted profits above the profit margin targets set by the City's rate orders.

In summary, we identified the following key concerns:

- To set just and reasonable rates for customers, as well as a fair profit for Recology, Public Works applies a ratemaking formula that factors in expenses on which Recology is eligible to earn a targeted profit margin. However, there is no comprehensive, prescriptive list of eligible expenses to reference when making this calculation, which in turn makes it difficult to determine the appropriateness of Recology's actual profits.
- Projected costs in the 2017 Rate Application often substantially exceeded Recology's actual costs. Specifically, there were significant variances in projected and actual payroll costs and corporate expenses, suggesting a need for better mitigating controls.
- While there is a mechanism to auto-escalate rates due to inflation, there is no balancing account or comparable mechanism to curb excess profits.
- Failure by regulators to track and implement recommendations from previous rate application processes caused historical issues and concerns to go unaddressed.

The scope of the assessment did not include periods before 2017 or property sale transactions completed during recent years, which may be reviewed in future reviews, reports, and assessments.

This is the tenth report in the series of Public Integrity Reviews issued by the Controller's Office in partnership with the City Attorney's Office. This series of Public Integrity Reviews was prompted by the arrest of former Public Works Director Mohammed Nuru on charges of defrauding the City and County of San Francisco by soliciting and accepting bribes in exchange for favorable treatment in City contracting.

Controller Rosenfield provided the following statement: "I believe that, once implemented, the recommendations outlined in our assessment will help ensure that ratepayers are properly protected going forward. The City should begin work on a new rate cycle as soon as possible to implement them. In the meantime, I am hopeful that Recology will begin implementation of our recommendations and apply these excess profits to stabilize rates while the rate process is conducted."

"In addition to the \$101 million already recovered by our Office's settlement with Recology for errors in its 2017 Rate Application, Recology needs to make it right for ratepayers when erroneous projections allow for profits well above the permitted margin," said City Attorney David Chiu. "The rate setting process must be transparent, accurate, and include a mechanism for reconciling actual results with initial projections. I fully support the report's recommendations to improve future rate setting processes and ensure San Francisco ratepayers receive a fair deal."

Recology is headquartered in San Francisco and provides refuse services to residential and commercial customers. Recology's relationships and interactions with City departments has been the subject of past assessments in [September 2020](#), [April 2021](#), and most recently in [April 2022](#). Since 2020, two Recology employees, Paul Giusti and John Porter, have been federally charged with theft of honest services fraud and money laundering for bribing Mr. Nuru in exchange for official action. Recology settled with the U.S. Attorney's Office for \$36 million for which it admitted to bribing Mr. Nuru and funneling more than \$150,000 a year to Public Works through non-city organizations "to obtain Nuru's official assistance with [Recology's] business." Recology also settled with the San Francisco City Attorney's Office for more than \$101 million for errors related to refuse rate collection revenues.

The Controller's Office will continue to assess selected city policies and procedures to evaluate their adequacy in preventing abuse and fraud. Future reports will assess the procurement and award of Recology's landfill disposal agreement, San Francisco Public Utilities Commission's contracting processes as they relate to the criminal charges against former General Manager Harlan Kelly, and an overview of citywide ethics rules and procedures. Other reviews may be conducted given future issues identified in the ongoing City Attorney and Controller investigation.

Tips

Investigators from the Controller's Office consider every allegation of wrongdoing raised by city employees and members of the public. To report suspected public integrity abuses related specifically to the Nuru investigation, please contact the Public Integrity Tip Line. You can provide information via e-mail at publicintegrity@sfgov.org or by phone at (415) 554-7657. All tips may be submitted anonymously and will remain confidential. Reports to this tip line, as well as tips to the Controller's whistleblower hotline, are critical to the City's ability to fight abuses and lapses of public integrity by city employees and contractors. As provided for by the San Francisco Charter, the Controller's Office ensures that complaints are investigated by departments with the appropriate jurisdiction and independence from the alleged wrongdoing.

Information on city payments, searchable by department and vendor, are available on the Controller's public transparency website at openbook.sfgov.org. Anyone may file any allegation of improper or illegal public activity with the City's Whistleblower Program at sfcontroller.org/whistleblower-program. That program, administered by the Controller's Office, often partners with the City Attorney's Office on investigations.

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