

From: Susan Carey, Cabinet Member for Environment
Simon Jones, Corporate Director of Growth, Environment and Transport

To: Environment and Transport Cabinet Committee – 14 September 2023

Subject: Processing of Dry Recyclables (Without Fibre) Contract (SC 21058)

Decision Number: **TBA**

Decision Title: Approval to tender and award a new contractual arrangement for the receipt and processing of dry recyclables (without fibre) (SC 21058).

Classification: **Unrestricted**

Past Pathway of report: N/A

Future Pathway of report: N/A

Electoral Division: Dover, Folkestone & Hythe, Thanet, Tonbridge & Malling and Tunbridge Wells

Summary: KCC currently has a contract in place which is due to expire 30th September 2023, and is seeking new contractual arrangements for the processing of glass, cans and plastics which are collected at the kerbside by a number of Borough Councils. This is to fulfil the Statutory duty of KCC as the Waste Disposal Authority operating under the Environmental Protection Act 1990.

Recommendation(s): The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for the Environment on the proposed decision to

a) agree to award of a new contractual arrangement for the processing of dry recyclables for Dover District Council, Folkestone & Hythe District Council, Thanet District Council, Tonbridge & Malling Borough Council and Tunbridge Wells Borough Council, for a period of up to 48 months and

b) to delegate authority to the Director for Environment and Circular Economy to take other relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision as shown at Appendix A.

1. Introduction

1.1 This report provides information concerning the commissioning process and proposed award of a contract for the processing of dry recyclables that is collected by the Waste Collection Authorities from households at the kerbside.

- 1.2 KCC is seeking to award a new contract for the treatment and disposal of circa 26,500 tonnes of dry recyclables (22/23), for up to a 48-month period with a 24-month break option.
- 1.3 Currently this waste is processed at the Veolia Rainham Materials Recycling Facility (MRF), where in the first instance Veolia seek to use local UK reprocessing markets. In some circumstances however, export of certain materials may be appropriate on both commercial and technical grounds.
- 1.4 The key aspects of this commission will be to award to a provider that will manage the waste as a resource and treat the waste using industry compliant means and technological processes.
- 1.5 The decision is being sought at this time, close to the intended start date of 30th September 2023, as the Commissioning team & industry have been awaiting the Government legislative announcement on the implementation of Extended Producer Responsibility and the Consistency of Waste Collections, both of which are long overdue.
- 1.6 Providers have been un-willing to provide contract prices due to the uncertainty and delay of new legislative changes whereby, producers of packaging materials will fund the collection and disposal of consumer products. In turn MRF operators will be required by legislation to be more stringent around the quality of materials that are recycled and develop enhanced testing regimes and new infrastructure.
- 1.7 Regrettably, DEFRA announced on the 25th July 2023, that it has postponed the implementation of Extended Producer Responsibility; the industry was expecting this to be introduced in the autumn of this year. KCC cannot delay and must now commit to a contract for continuity of service and capacity guarantees.

2. Relevant history

- 2.1 The market is very limited for the processing of recycling materials, facilities are limited across the UK, and securing capacity in regional facilities is critical to successfully processing recycling materials.
- 2.2 The current contract is managed by Veolia ES (UK) Ltd located at the Materials Recycling Facility (MRF) in Rainham, Essex. The contract enables the Authority to process recyclable materials which have been separated by the resident and collected at kerbside.
- 2.3 The waste identified within the scope of this contract, is for Twin Stream and primarily includes 'target' items that fall under the categories of 'plastics', 'cans' and 'glass'. Paper and Card is not within the scope, as well as Tetra Pak which is not categorised as a 'target' material within this contractual agreement due to its complexity in recycling.
- 2.4 KCC has held various market engagement meetings with both the incumbent and other suppliers over the last two years regarding the future of dry recycling considering forthcoming Government changes.

- 2.5 MRFs no longer operate at a fixed gate fee; paid prices are based upon the composition of recycle, tonnes, and commercial commodity markets for the ultimate sale of materials. Ongoing dialogue has established that capacity is very limited in the region. Prices are highly variable, not fixed and change on a quarterly basis, as the commodity-led sales markets vary nationally and internationally.
- 2.6 Where legislation has been developing over the recent years, a lack of clarity from DEFRA has caused uncertainty, to the extent that it has proven difficult to predict the full impact to the waste industry. As a result, despite continued conversations with the market, it is felt that KCC cannot afford to delay in committing to secure contracted capacity and continuity of service.
- 2.7 The current contract was procured via the ESPO (Eastern Shires Purchasing Organisation) Framework, which highlighted that there were only three suitable Material Recycling Facilities (Edmonton, Mitcham and Rainham) potentially able to accept the material mix within the Southeast of England.
- 2.8 The use of this framework gives contracting authorities complete flexibility to call-off without competition, allowing KCC to “identify the supplier which best meets our requirements, taking consideration the supplier offering the most economically advantageous solution for our particular requirements”
- 2.9 Due to a lack of national and local MRF infrastructure this framework offers KCC a solution and therefore, it is intended that KCC will again utilise the ESPO Framework for this commission for a direct award to the incumbent. The direct award is via a compliant procurement route as advised by Commissioning and the decision is substantiated by analysis of haulage, subsequent unbudgeted costs and proximity between the Transfer Stations and the three MRFs (see table 1 below).
- 2.10 It is intended therefore, that KCC will award the MRF services to Veolia in Rainham (as the incumbent) as they are closest to the waste transfer station network and therefore, best value can be obtained. Whole life costing for the financial evaluation of the contract also includes the haulage costs and therefore, to use the Biffa or the Suez MRF services would attract additional transportation costs as they are further away from KCC’s network of transfer station sites.

Table 1: Mileage comparison from WTS to MRF Providers on Framework

		Material Recycling Facilities (MRFs) identified as suitable under the ESPO Framework		
		Biffa (Edmonton) N9 0BD	Suez (Mitcham) CR4 3BQ	Veolia (Rainham) RM13 9YB
Kent CC Transfer Stations	Folkestone (Ross Way) CT20 3UJ	76.1	73.5	60.8
	Dover (Thanet Waste Services) CT13 9NW	92.6	84.2	68
	Thanet & Canterbury (Lings) CT3 4GP	75.7	77.3	61.1
	TMBC/TWBC (North Farm) TN2 3EE	49.5	37.5	34.9

Total mileage (each way)	293.9	272.5	224.8
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2.11 Additionally, due to the impact of the Government's impending Resource and Waste Strategy's policy changes regarding wider regulations with respect to materials affected by Extended Producer Responsibility (EPR), the Deposit Return Scheme (DRS) and Recycling Consistency, it is imperative that the Council secures guaranteed provision considering anticipated greater demand for facilities such as these.

3. Financial Implications

3.1 The budget for this contract is £737,000 per annum, based on 28,282 budgeted tonnes.

3.2 Commodity prices related to recycling materials fluctuate as they are nationally market driven; as such these factors will affect overall cost and income over time across the sector. Gate fees track commodity rates, these are externally monitored and changed to allow a shared risk of price variances during the life of the contract.

3.3 Indicative pricing has been received which results in an annual price pressure of £354,968 due to inflation and realignment of the commodity sale price of the recycling materials.

3.4 This cost pressure will be submitted within the current forecast and the Medium-Term Financial Plan as an unavoidable contract pressure.

3.5 Budget entry: P 7WC 61018 523 50N 0000 00 Recycling

3.6 Haulage costs are already accounted for within the Waste Transfer Station and HWRC Contracts, however, must be considered in the overall service costs.

3.7 The contract affords rebates based on quality and positive market values. These rebates will be adjusted quarterly in line with recycling rates published by 'Let's Recycle' who are part of Environment Media Group Limited and are included in the budget and cost assumptions in 3.1.

4. Legal implications

4.1 A key function of the Waste Disposal Authority operating under the Environmental Protection Act 1990, is to provide outlets for the processing of dry recyclables.

4.2 A draft Statutory Instrument superseded the Packaging Waste (Data Reporting) (England) Regulations 2022 which was laid before Parliament on 22nd November. These Regulations related Extended Producer Responsibility are now under further consultation and are delay by Government.

4.3 The ESPO (Eastern Shires Purchasing Organisation) Framework gives contracting authorities complete flexibility to call-off without competition, allowing KCC to identify the supplier which best meets the requirements taking consideration of the supplier

offering the most economically advantageous solution for the Authorities particular requirements.

5. Equalities implications

- 5.1 This contract will operate with a service that is non-public facing; as such, no protected characteristics are impacted.

6. Other corporate implications

N/A

7. Governance

- 7.1 The Service Director will inherit the main delegations via the Officer Scheme of Delegation due to the potential financial value of this contract.

8. Conclusions

- 8.1 This direct award commission is a necessary route due to the impending expiry of the Authority's current contract and to safeguard a disposal route for this waste type, enabling the Authority to discharge its statutory duty as a Waste Disposal Authority under the Environmental Protection Act 1990.

9. Recommendation(s):

- 9.1 The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for the Environment on the proposed decision to
- a) agree to award of a new contractual arrangement for the processing of dry recyclables for Dover District Council, Folkestone & Hythe District Council, Thanet District Council, Tonbridge & Malling Borough Council and Tunbridge Wells Borough Council, for a period of up to 48 months and
 - b) to delegate authority to the Director for Environment and Circular Economy to take other relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision as shown at Appendix A.

10. Appendices

Appendix A – Proposed Record of Decision

EqIA:

<https://democracy.kent.gov.uk/documents/s120543/EQIADryMixedRecycling.docx.pdf>

11. Contact details.

Report Author:

Kay Groves, Service Delivery Manager

Relevant Director:

Matt Smyth, Director of Environment &

03000 411642
kay.groves@kent.gov.uk

Circular Economy
07977296887
matthew.smyth@kent.gov.uk