

From: Rob Thomas, Cabinet Member for Environment
Simon Jones, Corporate Director, Growth, Environment and Transport

To: **Environment and Transport Cabinet Committee – 9 July 2024**

Subject: Approval to award a new contractual arrangement for the receipt and processing of dry mixed recyclable waste (with fibre and glass) for Mid Kent, West Kent, Thanet and Canterbury (SC240042)

Key decision: 24/00065

Classification: **Unrestricted**

Past Pathway of report: N/A

Future Pathway of report: For Cabinet Member Decision

Electoral Division: Mid Kent, West Kent, Thanet & Canterbury Divisions are affected

Summary: This report seeks Member approval to award a contract via the CSKL waste management services framework for the receipt and processing of dry mixed recyclables.

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

APPROVE the procurement and contract award to N+P via the CSKL Framework for the receipt and processing of dry mixed recyclables for an initial period of 24 months, with up to a further 36 months extension period.

DELEGATE authority to the Director of Environment and Circular Economy, to take relevant actions to facilitate the required procurement activity;

DELEGATE authority to the Director of Environment and Circular Economy, in consultation with the Cabinet Member for Environment to take relevant actions, including but not limited to, awarding, finalising the terms of and entering into the relevant contracts or other legal agreements, as necessary, to implement the decision; and

DELEGATE authority to the Director of Environment and Circular Economy, in consultation with the Cabinet Member for Environment to award extensions of the contract in accordance with the extension clauses within the contract (up to 36 months) as shown at Appendix A.

1. Introduction

- 1.1 This report provides information concerning the award of a contract through a framework, for dry mixed recyclable (DMR) materials collected by the waste collection authorities in Mid Kent, West Kent, Thanet and Canterbury.
- 1.2 The current contract with N+P Group commenced 3rd July 2021 and has seen an extension period of 12 months from 21st October 2023 to 21st October 2024.

2. Background

- 2.1 DMR is a mix of recyclable items which typically arise from local authorities collecting co-mingled waste from households, such as paper and card, cans, plastics and glass.
- 2.2 These materials are collected together in the same kerbside container to be sorted at a material recycling facility (MRF).
- 2.3 At the MRF there are various mechanical and hand sorted processes to ensure the waste is correctly segregated.
- 2.4 Once the waste streams are separated, they are distributed to reprocessing plants where they are fed back to manufacturers to be processed into new products as demonstrated in Appendix 1.
- 2.5 The technology is extremely sophisticated and can sort over 95% of the materials that are processed at the facility for onwards recycling.
- 2.6 The sorting and processing of DMR falls under KCC's statutory remit to make provision for the receipt and treatment of this material under the Environmental Protection Act 1990.
- 2.7 No further extensions are permitted, therefore, to ensure KCC's statutory obligations are met as the waste disposal authority and to provide continuity of service, a commissioning activity is required.

3. Issues, options and analysis of options

- 3.1 The expiry of this contract occurs during a period of legislative instability, with several reforms occurring that will impact the risk profile of future contractual arrangements. These are:
 - i. Extended Producer Responsibility (EPR) legislated through Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2023.
 - ii. Simpler Recycling which although is legislated through the Environment Act 2021, there are remaining provisions and statutory guidance that have been delayed

- iii. Deposit Return Scheme, this has been delayed until 2027.
- 3.2 The unknown operational and financial impacts of these reforms make it difficult to predict the future volume and composition of DMR material and subsequently on contractual arrangements. Considerations to the contract term have therefore been paramount and are considered in the options.
- 3.3 KCC is seeking local disposal arrangements, (where waste infrastructure allows) to reduce its carbon footprint and haulage costs in delivering these materials, and as such haulage rates are considered as part of the tender evaluation.
- 3.4 KCC is committed to working towards the zero to landfill target, by continuing to divert approximately 75,000 tonnes of DMR per year from landfill by using treatment and recycling facilities under this contract.
- 3.5 Market engagement has determined that there are limited suppliers who are able to take the mix of DMR outlined in the scope within a reasonable haulage distance of Kent's transfer station network.
- 3.6 **Option 1: Do nothing** and discontinue accepting the DMR waste from the collection authorities; this is not an option as when the contract ceases on 21st October 2024, KCC will be in breach of its statutory duty under the Environmental Protection Act 1990.
- 3.7 **Option 2: Continue to accept the waste**, but utilise alternative disposal methods by using landfill or incineration; this is not an option as there is a priority to move this material up the waste hierarchy to meet landfill diversion targets, improve recycling rates, achieve better value via a contractual arrangement with a contractor who specialises in managing DMR waste, and avoid incineration as it is costly in comparison.
- 3.8 **Option 3 - To award a contract via the CSKL Framework to the incumbent contractor N+P for seven years via CSKL Framework.** The new legislation poses unquantified outcomes which will impact the risk profile of the contract post 2026. These risks will be costed into the pricing mechanism to minimise risk for the contractor, making this a more expensive option.
- 3.9 **Option 4: The recommended preferred option – To award a contract via the CSKL Framework to the incumbent contractor N+P for 24 months with a 36-month extension via the CSKL Framework.** This shorter-term contract with a flexible extension period will allow for the outcomes of the reforms to be assessed without the risk being costed into the contract.

4. Reasons for Recommendation

- 3.10 **Option 4** delivers outcomes that are financially beneficial for the authority for the following reasons:

- i. The shorter-term contract will ensure that risks from the waste reforms (see section 3.1) can be evaluated once known and written in to subsequent procurements. This option avoids this unknown risk being costed into a longer-term contract.
- ii. This method allows the Council to procure effectively and efficiently in a market with limited providers and limited capacity for this material.
- iii. This option delivers flexibility to negotiate during the term of the contract (and extension period).

3.11 Whilst option 3 has equal environmental benefits to option 4, the contract will be more expensive due to the unknown risks being costed into the contract.

3.12 Procurement via the CSKL framework is a route to market from a list of suppliers that have tendered competitively for the specialist type of work required for this contract. They are pre-assessed on the basis of service standards, price and pre-agreed terms and conditions.

3.13 Within a market as limited as DMR, the award via a framework is resource efficient.

5 Risk

3.14 The pricing of this contract is subject to variation due to the changes within the commodity market.

3.15 Any extension periods will be progressed in line with an assessment of this risk profile and the performance of the contract. This assessment will be reported to the Cabinet Member for Environment and agreed before extension periods are awarded.

6 Financial Implications

3.16 The 2024/25 revenue budget is £1,831,400 p/a based on 69,882 budgeted tonnes.

3.17 The annual cost of the commission is £1,566,300 based on current market prices processing 75,000 tonnes.

3.18 The total cost of the commission for the 24-month initial period is projected to be £3,132,600 based on 75,000 tonnes pa

3.19 The increase in tonnage is due to population growth and increased outputs due to increased performance over the term of the contract.

3.20 The markets for recyclables can fluctuate as they are market driven, and as such predicting the extension value accurately is challenging.

3.21 KCC will be seeking a contractual arrangement which offers the benefit of a rebate on the sale of the commodities. These rebates are influenced by factors such as material quality, volume, and market values.

3.22 It should be noted that there would be significant haulage costs should there be a requirement to travel out of the county, as well as an environmental impact with regard to higher emission outputs. It is also necessary for the fleet to be available to service other contracts therefore, it is desirable to have disposal outlets that are as local to Kent as possible.

3.23 Haulage costs are evaluated so that the full cost of the contract is considered.

7 Legal implications

3.24 Commissioning via a framework is fully compliant with the Public Contract Regulations 2015 (PCR 2015).

3.25 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.

3.26 The Environment Act 2021 under 'simpler recycling' sets out a requirement for a core number of materials to be collected from kerbside and recycled; this contract covers the mixed dry elements of this requirement.

8 Equalities implications

3.27 The Equality Impact Assessment undertaken concluded that no Protected Characteristics will be impacted as a result of this contract. Furthermore, no personal data will be collected.

4 Other corporate implications

4.1 The following procurement implications have been considered:

- i. The commission will be presented in one lot and sourced via CSKL's framework for the 'Supply of Waste Management Services' (ref. Y21003) and will include the provision for managing circa 75,000 tonnes of DMR per annum.
- ii. The framework offers one provider who is able to meet KCC's requirements.
- iii. The framework is a selection of pre-qualified suppliers who have been vetted through the tender evaluation process and the terms and conditions governing the provision of the services are set out in the framework.

10. Governance

4.2 Through the decision outlined above, any further decisions required to allow the scheme to proceed through to delivery will be taken by the Director of Environment and Circular Economy under the Officer Scheme of Delegations following prior consultation with the Cabinet Member for Environment.

11 Conclusions

11.1 The current contract for receipt and processing of dry mixed recyclate waste expires in October 2024. A new contract needs to be in place to reduce the risk of unplanned costs and offer KCC best available market value and enable the Authority to discharge its statutory duty as Waste Disposal Authority.

12. Recommendation(s):

The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Environment regarding the proposed decision to award a contract to

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13. Background Documents

- Appendix A – Proposed Record of Decision
- Appendix 1 – Materials sorted from a Materials Recycling Facility
- The Environment Act 2021:
<https://www.legislation.gov.uk/ukpga/2021/30/contents>
- Environmental Protection Act 1990:
<https://www.legislation.gov.uk/ukpga/1990/43/contents>
- Public Contract Regulations 2015
<https://www.legislation.gov.uk/uksi/2015/102/regulation/33>

14. Contact details

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