

## Committee - Cabinet

**Date: 13<sup>th</sup> July 2020**

Wards: All

## **Subject: Household Reuse and Recycling Centre Contract Review - Variation**

Lead officer: Chris Lee, Director of E & R

Lead member(s): Councillor Mark Allison, Deputy Leader and Cabinet Member for Finance and Councillor Tobin Byers, Cabinet Member for Adult Social Care, Health and the Environment

Contact officer: John Bosley, Assistant Director, Public Space

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### **Recommendations:**

- A. Approve the proposed variation of the contract with Veolia ES (UK) Limited to continue with the management of Household Reuse and Recycling Centres until the 31st March 2025 on revised terms as set out in this report.
- B. Approve the early extension for the next three years and delegate further contract variations to the Director of Environment
- C. To support the desire of our South London Waste Partnership boroughs to implement the payment of London Living Wage (LLW) starting the 1st April 2021

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report sets out options for consideration by Cabinet with regard to the future delivery of the Household Reuse and Recycling Centre (HRRC) service operated out of Garth Road Depot.
- 1.2. This report recommends a contract variation (to include a 30 month extension) of the current HRRC contract with the incumbent contractor. Of the options considered, a contract variation with extension offers the greatest operational and strategic benefit for our services as well as having the likely lowest cost to the services and our neighbouring boroughs who form part of the South London Waste Partnership (SLWP).
- 1.3. If agreed, the contract variation will be applied in this financial year (2020/21) for a period of 5 years, concluding on the 31st March 2025, with the option for further extension periods up to the current contractual Long Stop date of 15th September 2030 by mutual agreement.

## **2 DETAILS**

- 2.1. The SLWP, with London Borough of Croydon as the contracting authority, has in place a contract with Veolia ES (UK) Limited to manage the operation

of the six Household Reuse and Recycling Centres (HRRCs) within the SLWP area. Of the six sites, Sutton, Merton and Kingston each has a single site and there are three sites located in Croydon.

- 2.2. The contract with Veolia commenced on 1st October 2015, and the initial term of the contract runs until the end of September 2022. There is an option to extend the contract annually up to a maximum of 7 years by mutual consent, subject to a Long Stop date of 15th September 2030.
- 2.3. The contracted operational model requires each borough to pay a management fee for the operation service of the six sites, including the haulage costs for transferring the garden waste, residual waste and rubble. These domestic waste streams are processed through our separate arrangements with our disposal contractor and charged as rate per tonne under the current Phase A and B suite of contracts. The contractor is responsible for the recycling or disposal of all other materials collected, placing risks and incentives on the contractor for the composition of the remaining waste and recyclate, the volume of material to be managed and the potential market processing costs with residual value of recyclate(s) that may be gained through the operation.
- 2.4. In preparation for the natural expiry of the initial term of the contract in September 2022, SLWP commenced a review of the HRRC contract in 2019 in order to plan for and recommend to boroughs how this service could be provided after 2022.
- 2.5. The current contract was procured at a time when recycling markets were performing well and has given boroughs a very competitive price for the service, as well as protection from risks around price changes for recycling material. The recycling markets have changed considerably in recent years, and the materials we collect typically have a much lower value now making the future delivery of the service less attractive to potential providers, who will likely seek to mitigate this by increasing costs. Looking ahead to the future delivery of the HRRC services there is a significant risk of a much higher cost and higher risk needing to be borne by the partnership boroughs.

### **3 ALTERNATIVE OPTIONS**

- 3.1. Our review of the Household Reuse and Recycling Centre contract has considered the following four options:
  - Option 1 – Agree a variation of the contract, with extension, with the Incumbent
  - Option 2 – Commence Re-procurement of the Service (spring 2020)
  - Option 3 – Bring the Service in-house at the current expiry date Sept 2022
  - Option 4 – Do Nothing
- 3.2. The SLWP has considered the operational, strategic and financial implications of each of these options and commissioned independent advice on this work. This work is set out in detail in Appendix 1, within the Part B section of this report.

- 3.3. **Operational** - the operational review of the service has taken into account the current service performance, as well as wider SLWP borough assets (used to deliver other elements of the boroughs' waste services). The review considered the potential future configuration of these assets, including the HRRC sites, depots, and waste transfer sites.
- 3.4. **Strategic** - the strategic review of each option appraised considered the impact of the operational challenges and risks referred to above and some potential measures to manage these challenges and risks. The strategic review also considered the potential synergies and efficiencies that could be achieved by aligning the SLWP contract end dates. The strategic analysis highlighted that the recommended variation with extension would align a number of SLWP contracts, primarily the Phase C LOT 1 contract for waste collection and street cleansing and highlighted that harmonising the contract dates could be beneficial in allowing future flexibility in procurement options, designing optimum service packages, and a reduction in re-procurement costs.
- 3.5. **Financial** - the SLWP review considered the financial implications of each of the four options. The incumbent contractor has been approached in order to establish the appetite for an extension, and the terms under which an extension might be possible for all parties. In reviewing the four options, a 'shadow bid' was prepared as part of option 2 which also considered the current market appetite for HRRC services, as well as the flux, uncertainty and downward trend in recycling markets. The option to bring the service in-house, option 3, considered our relatively recent in-house operation of the service, the challenges and lessons learned.
- 3.6. The option to 'do nothing' - essentially to wait and see if market conditions improve - would mean that SLWP would lose some of the existing opportunities explored in this report (i.e. re-procuring with enough time to mobilise a new service effectively by September 2022, or being able to provide the incumbent with improved terms for the remaining period in return for extension provisions that are acceptable to the SLWP) thereby losing a key negotiating mechanism for the extension. The option to 'do nothing' would mean we have to return to options 1 and 3, but with less time, and so is deemed to have the highest financial and operational risk.

#### Benefits of Option 1 - Contract Variation with Extension

- 3.7. The benefits of Option 1 that have been identified by the review, and which support our recommendation, are summarised below.
- 3.8. Finance - Option 1 provides the best long-term financial proposal of the reviewed solutions undertaken during this review.
- 3.9. Whilst the extension initially increases the current annual cost in this financial year, it is important to consider the potential impact of a new contract commencing in 2022 and the longer-term financial impact. In order to analyse this impact a 'shadow bid' was produced to examine the cost of re-procuring the service from new. The shadow bid returned a considerably higher cost when compared to the extension option. A further financial review then analysed a 5 year period for both options, the results of which demonstrate that the option to extend is more than £500k less compared to

the nearest priced alternative option, and so Option 1 provides the best long term financial proposal.

- 3.10. Strategic fit - Option 1 provides the best strategic fit, especially when considering the benefits of contract alignment outlined in 3.4.
- 3.11. Extending the current HRRC contract until 2025 would allow the completion of the review of borough assets currently underway, providing clear direction on facilities available for future procurement. The additional extension period up to the 31st March 2025 would also mean that contracts relating to waste transfer stations and HRRCs belonging to the SLWP boroughs could be co-terminus and available for use and potential re-letting at the same time. This would enable maximum flexibility when reviewing how we deliver HRRC, green, food and recycling services and how we utilise our site, ensuring that any resultant procurement is attractive to the market, creates the best possible competitive tension, and ensures we have a robust, cost effective, and future proof solution for these essential services.
- 3.12. Operationally - Option 1 avoids a number of transitional challenges and risks identified by the appraisal and, as above, will ensure that we have a robust, cost effective, and future proof operational solution for these essential services.
- 3.13. Further consideration has been given to include the support of our partnering boroughs requirements to implement the LLW as part of any agreed variation and extension of the current contract.
- 3.14. Added benefit and social value - the Fishers Farm Reuse shop included in the extension proposal will enable customers to purchase reuse items collected from all six SLWP HRRC sites. The shop will also sell reconditioned items such as bikes and scooters.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Independent review. - An independent review of the work undertaken by SLWP was commissioned to Wood Environment and Infrastructure Solutions Ltd. in order to; check SLWP financial assumptions and risk profiles; to provide commentary on potential market interest in the re-procurement option based on their recent work in the market; and to comment on the strategic benefit from the harmonisation of contract end-dates. The independent review also included a detailed assessment of the cost differential between Option 1, a 2020 variation with extension, and Option 2 commence new procurement for a 2022 contract start date.
- 4.2. The independent review supports the SLWP recommendation.
- 4.3. The review noted that the lower cost provided by Option 1 is largely due to deferred Capital spend, and the operational efficiencies provided by the Merton waste transfer facility, operated by the contractor under a separate contract which ends in 2025. These are not savings that could be offered by the other options. It is also important to note that the shadow bid is not a guaranteed price, and the result of a procurement exercise in an uncertain market may return a higher service cost.

## **5 TIMETABLE**

- 5.1. Subject to each partner borough executive's approval of the recommendations within this report, the contract variation will be applied from a date to be confirmed.
- 5.2. The indicative timetable leading to formalising the contract variation is as follows:

Formalisation of documentation	Feb 2020
Borough Executive Approvals for extension	April – July 2020
Contract Signing	TBC
Contract Variation in effect from	TBC

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. The initial impact of the recommended option is that there will be a pressure on existing budgets for 2020/21 and boroughs will need to manage this pressure through their respective annual budget processes and medium term financial plans.
- 6.2. Over the medium term, option 1 is estimated to be more than £500k lower than option 2 for the Partnership. In addition, option 2 does not include any costs of procurement. The cost of the procurement of the HRRC contract in 2015 was approximately £532k.
- 6.3. A detailed analysis of the financial impact of the recommended option can be seen in Confidential Appendix A.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1 The Public Contracts Regulations 2015 provide that under regulation 72(1)(a) that an extension can be made where there is an unequivocal review clause. It is noted that the contract contains clauses that allow the extension of the contract provision for further duration up to 2030.
- 7.2 Merton should ensure that Croydon as contracting authority issues the relevant notices required under the Public Contracts Regulations 2015.
- 7.3 With regards an increase to the cost of the contract resulting from this extension and the reasons for it, Regulation 72(1)(c) of the Public Contracts Regulation 2015 provides the Council a lawful means by which to change the contract without triggering a requirement to conduct a fresh tender process. Regulation 72(1)(c) relates to a modification that has been brought about by circumstances which a diligent contracting authority could not have foreseen and does not alter the overall nature of the contract. Such modifications must not exceed 50% of the value of the original contract. Regulation 51 requires a notice to be published for such modification.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. Social value - To meet the requirements of the Public Service (Social Value) Act 2012, the Partnership is obliged to measure the social impact of services commissioned by the constituent councils. Contribution to social value in the context of this contract was defined as, but not limited to, apprenticeship schemes, local employment opportunities and third sector engagement, which are being delivered through the existing and additional installation of a re-use centre and on-site store to be located on site.

8.2. The further extension of the service would require the implementation of the London Living Wage (LLW), starting the 1st April 2021 and will undertake a second piece of work to explore the potential measures to mitigate the increase in cost.

## **9 CRIME AND DISORDER IMPLICATIONS**

9.1. None for the purposes of this report

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None for the purposes of this report

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Confidential Appendix A – Financial Implication (not for publication)

## **12 BACKGROUND PAPERS**

12.1. None