

Birmingham City Council

Report to Cabinet

05 September 2023



Subject: P0403 Package 4: Processing of Dry Mixed Recycling (DMR)

Report of: Craig Cooper, Strategic Director, City Operations

Relevant Cabinet Member: Councillor Majid Mahmood, Cabinet Member for Environment

Relevant O &S Chair(s): Councillor Lee Marsham, Chair of Sustainability and Transport

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 011525/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential : Exempt Appendix 1. Constitution Part C2: Paragraph 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).		

1 Executive Summary

1.1 This report provides details of the outcome of the procurement process for the procurement process for the Processing of Dry Mixed Recycling (DMR).

The contract award is for a period of three (3) years commencing 17 January 2024, (with an option to extend for a further period of up to two (2) years subject to satisfactory performance and budgetary availability).

- 1.2 As contract value is higher than the estimate stated in the Cabinet report titled "Procurement Strategy in Support of the Waste Strategy Framework 2017 – 2040", dated 13 February 2018, this updated report is being presented for decision.

2 Recommendations

That Cabinet is invited to:

- 2.1 Authorise the Strategic Director of City Operations to enter into a three-year (3) Agreement with Veolia Environmental Services (UK) PLC (Veolia) for the Processing of Dry Mixed Recycling (DMR) commencing 17 January 2024.
- 2.2 Authorises that the Strategic Director, City Operations in conjunction with the Director, Street Scene will agree any option to extend for up to two (2) years subject to satisfactory performance and budget availability.
- 2.3 Authorises the City Solicitor and Monitoring Officer (or their delegate) to execute, seal and complete all necessary documentation to give effect to the above recommendations.

3 Background

- 3.1 On 13 February 2018, Cabinet approved the procurement strategy in the report: Procurement Strategy in Support of the Waste Strategy Framework 2017 – 2040 to commence the tender process for an open procurement process and detailed the evaluation criteria.
- 3.2 The service required by the Council is for the provision of DMR waste treatment capacity for wastes arising in the City and to provide a smooth Waste Acceptance process and ensure the closed environmental journey for DMR Material streams so that there is a transparent audit trail for the movement of DMR materials across the Contract and the supply chain.
- 3.3 The Service Provider's facilities will process the following material streams:
- **Plastics**
 - Plastic household and toiletry bottles
 - Plastic drinks bottles
 - Plastic pots, tubs, and trays (including yoghurt pots and meat trays)
 - Plastic lids
 - Plastic film
 - **Metals**
 - Metal lids
 - Steel and Aluminium Aerosols
 - Foil
 - Foil trays
 - Aluminium tubes
 - Steel and aluminium food and drink cans
 - **Glass**
 - Clear and different coloured glass bottles and jars;
 - **Other**
 - Tetra Pak (food and drinks cartons)

- 3.4 The Environment Act 2021 came into force on 9 November 2021, however, guidance on what the Deposit Recycling scheme will look like in England and Wales is still outstanding from the Department for Environment and Rural Affairs.
- 3.5 In an attempt to ensure that the Council was able to take on board as many of the requirements of the legislation as possible, the procurement process timetable has been delayed for as long as possible.
- 3.6 The DMR market has been very turbulent following shocks within the industry including COVID, Brexit and the current economic climate, which was also a consideration for delay.
- 3.7 The Council required a service to receive and sort DMR (collected and delivered by the authority), transportation and delivery of the Sorted Output Materials (SOM) to processors and merchants, and the further sorting or final disposal of any unacceptable waste arising from the sorting process, such that the contractor's process maximises the recovery of DMR.
- 3.8 The contract was publicly advertised on 20 February 2023 in Find a Tender, Contracts Finder and on www.finditinbirmingham.com seeking expressions of interest from organisations who wished to tender. In response to the advertisement, fourteen (14) firms expressed an interest, and all were requested to complete and return the tender. Two (2) firms responded by submitting a tender by the deadline, 11 April 2023, and twelve (12) effectively withdrew themselves at this stage by not returning the tender.
- 3.9 Questions were raised by tenderers during the tender period, and these were addressed by issuing clarifications to all tenderers and requesting these were incorporated into their submissions.
- 3.10 Consultation with the organisations who did not return a tender was undertaken to understand why they did not submit a tender. Details of the reasons given for non-submission are included in exempt Appendix 1.
- 3.11 The relevant background and chronology of key events was explained in the Cabinet Report titled "Procurement Strategy in Support of the Waste Strategy Framework 2017 – 2040" on 13 February 2018.
- 3.12 The details of the evaluation process and the recommendations for the award of contract are detailed in Appendix 1 – Exempt Information.
- 3.13 The overall responsibility for the contract and its management will be with the Council's Street Scene Contract Management section.
- 3.14 Veolia will comply with the reasonable requests of the Authorised Officer to facilitate, organise, lead and/or participate in visits and open days at the facilities. The Council will also have the flexibility to organise and/or lead visits.
- 3.15 Veolia will meet all reasonable requests for information from, authorised users, teachers, students, etc., and other interested groups unless disclosure of such information compromises the commercial activities of Veolia or the Council.
- 3.16 The contract allows for growth within the DMR waste stream with additional capacity at the Material Recycling Facility (MRF).
- 3.17 The Climate Emergency is integral to the wider waste strategy which prioritises reuse and recycling in line with the waste hierarchy. This three-year (3) contract will enable a circular economy to reduce carbon emissions and support increased reuse and recycling. The contract will support and encourage local processing infrastructure for recycled material to support growth in the UK market.

- 3.18 The wider waste strategy will look at education and behaviour change to increase recycling rates and work is underway with Keep Britain Tidy and ReLondon as part of an additional campaign for recycling behaviour change.

4 Options considered and Recommended Proposal

- 4.1 To award the contract – this is the recommended option as the contract is required to support the Council's legal obligations to act as both a Waste Collection Authority and Waste Disposal Authority under the Environmental Protection Act 1990.
- 4.2 Not to award the contract – this would not provide the contract necessary to support the waste disposal strategy. The Council would not meet its legal obligations with regards to diversion from landfill nor support its statutory duty as stated under 4.1.

5 Consultation

- 5.1 This contract has been included in the Cabinet Report approved by Cabinet as part of the sounding out process on 13 February 2018 for the duration of three years with the option to extend for up to a further two years.
- 5.2 Officers from City Finance, Corporate Procurement and Legal and Governance have been involved in the preparation of this report.
- 5.3 Officers from the Route to Zero team have been consulted on the report and have raised no concerns about the award of this contract and are satisfied with the ongoing commitment to carbon monitoring.

6 Risk Management

- 6.1 The details were included in the "Procurement Strategy for the Waste Strategy Framework 2017 – 2040", approved 13 February 2018 and the same continues to apply.
- 6.2 There are severe risks to the cost of DMR over the next five years due to the growing number of households, volatile recyclate prices, increasing regulation of the constituent elements of DMR, uncertainty over the Deposit Return Scheme (DRS) implementation, and the increasing difficulty of expanding the range of recycled materials (as illustrated in the Risk Assessment under appendix 3). However the proposed contract allows flexibility within the contract period of three years and renewal in Jan 2027 to accommodate the introduction of the Government's proposed Deposit Return Scheme (DRS), scheduled to be rolled out at the end of 2025.

7 Compliance Issues:

- 7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?
- 7.1.1 The details were included in the Tender Strategy for the Procurement Strategy in Support of the Waste Strategy Framework 2017 – 2040 dated 13 February 2018, the same continues to apply.
- 7.1.2 The recommended decisions contribute to the Council Plan objectives / outcomes:
- Create opportunities for local people to develop skills and make the best of economic growth;

- Strive to maximise the investment in the city and engage local employers to create quality jobs and opportunities for citizens, especially for those in the most deprived circumstances;
- To work with our residents and businesses to improve the cleanliness of our city; and
- To improve the environment and tackle air pollution.

7.2 Legal Implications

- 7.2.1 The Council has a duty to act as both a Waste Collection Authority and Waste Disposal Authority under the Environmental Protection Act 1990. Under S111 of the Local Government Act 1972, the Council is entitled to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.
- 7.2.2 The Council has a best value duty under S.3 Local Government Act 1999 to improve the efficiency, economy and effectiveness of the service it delivers.

7.3 Financial Implications

- 7.3.1 This report seeks approval to enter into a three-year agreement for the Processing of Dry Mixed Recycling (DMR) with Veolia at a nominal contract cost of £6.598m for the first three years with an option to extend for a further two years, subject to satisfactory performance and budget availability, at a total cost of £4.650m. This equates to an annual nominal cost of £2.2m in the first 3 years and £2.3m in the 2 year extension, reflecting inflationary uplifts. This is affordable within the current Financial Plan 2023-2027 and funded within the existing Waste Disposal budget including additional allocations as per the Medium Term Financial Plan (MTFP) from 2024/25, which was approved by City Council in February 2023.
- 7.3.2 The annual contract cost is net of £0.8m income representing the City Councils 75% share of recycling sales income from Dry Mixed Recycling in 2023/24 prices. This is based on a prudent flat five year view of recycling income which will vary depending on market conditions. Costings are based on a level of 20% contamination, and deviation from this may impact the financial position, however, this risk is being closely managed.

7.4 Procurement Implications

- 7.4.1 This report concerns the contract award for the processing of DMR and the implications are detailed throughout the report.

7.5 Human Resources Implications

- 7.5.1 The contract management will be undertaken by Council staff.

7.6 Public Sector Equality Duty

- 7.6.1 The requirements of Standing Order No.9 in respect of the Council's Equal Opportunities Policy will be incorporated into the Contract.
- 7.6.2 The requirements of the Equality Act 2010 will be specifically included in the Contract to comply with the Act.

8 Appendices

8.1 Include:

- Appendix 1 - Exempt Appendix (separate document)
- Appendix 2 - Background and Outcome of the Procurement Process
- Appendix 3 - Risk Assessment
- Appendix 4 - Equality & Sustainability Assessment

9 Background Documents

- Social Value Weighting - Briefing Note 20220425
- 13 February 2018 Cabinet Report “Procurement Strategy in Support of the Waste Strategy Framework 2017 – 2040”