

<b>10 February 2016</b>		<b>ITEM: 18</b> <b>(Decision 01104353)</b>
<b>Cabinet</b>		
<b>Waste Disposal Contracts</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Councillor Gerard Rice, Portfolio Holder for Environment		
<b>Accountable Head of Service:</b> Richard Parkin, Head of Environment		
<b>Accountable Director:</b> Lyn Carpenter, Chief Executive		
<b>This report is</b> Public		

## **Executive Summary**

Thurrock Council has four waste management and processing contracts, three coming to an end in April 2017 and one in June 2017. In addition there is a Material Recycling Facility contract that concludes its first year of a rolling contract in September 2016 and a new refuse and recycling fleet that is due to be procured in April 2016 for roll out in 2017. The contracts were last procured in 2010 and in total were expected to cost the Council c.£48 million over 7 years.

There is currently an excellent opportunity to review and determine the service delivery mechanism for waste and recycling management for the long term. It is therefore important to undertake a thorough review at this point and it is recommended that the existing contracts are extended for 8 months to allow time for this review; this would extend them to December 31<sup>st</sup> 2017.

The contracts procured will determine the service delivery mechanism for waste management for the existing and planned infrastructure for Thurrock. Currently, in order to have new waste management contracts in place to meet the existing contract termination dates, procurement would need to commence immediately in February 2016. These timescales are achievable, however would not allow for a full options appraisal of the new contracts, create efficiencies or service improvements and may not fully take into account the large growth opportunities within the borough.

### **1. Recommendation**

#### **1.1 To agree delegated authority to the Portfolio Holder for Environment and the Chief Executive for extension of the five current waste disposal**

**contracts with three suppliers by up to 8 months, to the maximum value of £1 million per supplier and £2 million in total.**

## **2. Background**

- 2.1 The council currently has six external contracts, worth £6.7 million in 2016/17, to manage and process the waste it collects through its direct delivery in-house service. The contracts are with Veolia, Biffa, Bywaters and FCC. The type of service, value and term of the contracts are set out in the table below:

<b>Service</b>	<b>Contractor</b>	<b>Forecast annual spend 16/17</b>	<b>Start Date</b>	<b>End Date</b>
<b>Material Recycling Facility</b>	Bywaters	£580,128	01/10/15	Open ended post 30/09/16
<b>In Vessel Composting</b>	Biffa	£577,043	12/04/10	12/04/17
<b>Composting</b>	Veolia	£34,637	12/04/10	12/04/17
<b>Landfill</b>	Veolia	£932,622	12/04/10	12/04/17
<b>CA Site Management</b>	Veolia	£451,229	07/06/10	07/06/17
<b>Treatment of Residual Waste</b>	WRG (Now FCC)	£4,151,590	07/09/15	tbc
<b>Total</b>		<b>£6,727,249</b>		

With the exception of the contract with FCC for the Treatment of Residual Waste, Thurrock has four waste management and processing contracts coming to an end in April and one in June 2017. In addition there is a MRF (Materials Recycling Facility) contract that concludes its first year of a rolling contract in September 2016

- 2.2 The current fleet of vehicles used by the in-house delivery team is also due for renewal/replacement in 2017 after 7 years in operation. A full review will be undertaken to assess options to extend the longevity of the vehicles as well as to procure replacements if required.
- 2.3 There are a number of factors that the Council will need to address prior to procurement of new waste disposal contracts. These are as follows:
- Current performance of service against the Council's waste strategy objectives (detailed in the Municipal Waste Strategy for Thurrock 2007-2020);
  - Current performance against national waste recycling target of 50% by 2020 and likely subsequent national targets;
  - Compliance of waste collection service with the Revised Waste Regulations 2011;
  - Aspirations of the public and elected Members for waste services up to 2027;

- The impact of proposed new housing developments; and
- Future financial pressures.

2.4 With a combined waste collection and disposal cost of £12.2m p.a. and as a service received by all residents, waste disposal is a significant service for the borough and can incur a significant cost. Thurrock has an excellent opportunity to design and procure new waste disposal contracts that will be fit for purpose in the borough for the longer term.

2.5 The recommendation to extend will allow time for a full options appraisal, including time for consultation to determine the best mix of delivery and specification for the interrelated contracts. It will also allow Thurrock to design a service that will meet the future growth projections for the borough.

### 3. Strategic Waste Management Issues:

#### 3.1 *Waste Strategy targets and Current Performance:*

The last strategic review of waste services was reported to Council in September 2008. This identified a range of waste management targets including a municipal waste recycling target of 50% in 2015/16 and 60% by 2019/20. Thurrock's recycling performance for 2014/15 is detailed in the table below, as well as its ranking against other English authorities:

Council	Total Recycling Percentage	Total Recycling Ranked Position (out of 352)	Total Dry Recycling Percentage	Total Dry Recycling Ranked Position (out of 352)	Total Composting Percentage	Total Composting Ranked Position (out of 352)
Thurrock Council	40.4%	219	22.1%	251	18.3%	182

On the basis of 2014/15 performance it seems unlikely that the Council will meet its strategic waste recycling targets without substantive change.

Currently Thurrock pays in the region of £50 per tonne for recycling disposal and £95 per tonne for residual waste.

#### 3.2 *Costs and Household Growth:*

The cost of collecting and disposing of Thurrock's household waste in 2014/15 was £12.2m. With the number of households over the period from 2016 to 2030 expected to increase by almost 20% (from 65,213 to 77,425), waste collection and disposal costs are forecast to rise by a further £2.25m to £14.45m in 2030 even before taking inflation into account (see Annex C). The impact of future budget pressures is likely to require the Environment Services costs to be reduced significantly, in line with the cost savings needed for the Council as a whole. A full options appraisal will allow for the potential for the waste service to help meet this cost reduction.



#### 4. Issues, Options and Analysis of Options

##### 4.1 Option A - Immediately starting procurement of the waste management contracts to meet contract end dates

4.1.1 This option details the actions required to complete the procurement procedures within the existing contract terms. The timetable at Annex A makes it clear that there would be very little time to review Thurrock's current waste service provision and determine the shape of its future recycling and waste management services. It is likely therefore that this would simply be a re-procurement of the same mix of five services in place currently and miss the opportunity to get the most cost effective contracts for Thurrock.

4.1.2 Failure to procure contracts that do not meet the long-term vision would result in a sub-optimal service to residents and may result in:

- reduced participation in new recycling initiatives;
- reduced set out of recyclable materials;
- increased contamination of recycling streams;
- increased service complaints and missed bin reports;
- reduced time to consult and undertake vehicle specification and subsequent round structure implications potentially resulting in subsequent fleet management and service delivery issues;
- the Council to miss its waste management targets and incur possible financial penalties for missing the UK target of 50% by 2020; and
- failure to provide the most cost effective waste management solution to the residents of Thurrock.

4.1.3 There are significant concerns that the timetable (Annex A) under option A, whilst achievable with additional resources, is unrealistic and will not allow sufficient time to consider current waste service provision and determine the shape of future recycling and waste management services. It is most likely to result in "more of the same".

##### 4.2 Option B - Arranging for extension of current contracts by up to 8 months, to allow for an options appraisal, including time for consultation, to determine the best mix of delivery and specification for the interrelated contracts

4.2.1 Based on current contract costs the value of the 8 month contract extension and interim contract arrangements are:

Service	Contractor	Forecast annual spend 16/17	Estimated 8 month Extensions
Material Recycling Facility	Bywaters	£580,128	£386,752
In Vessel Composting	Biffa	£577,043	£384,695
Composting	Veolia	£34,637	£29,056

Landfill	Veolia	£932,622	£621,748
CA Site Management	Veolia	£451,229	£225,614
<b>Total</b>		<b>£2,575,659</b>	<b>£1,647,866</b>

*Note if landfill tax is excluded from landfill cost the service value of the landfill contract is substantially reduced.*

These costs would be met within the existing budget.

- 4.2.2 The total value of contracts for the 8-month extension would amount to £1,647,866 of which cumulative extensions worth £876,418 would be with Veolia.
- 4.2.3 Although the extension of arrangements are outside of current prescribed scope for modification, reviewing the Council's waste strategy - clearly aligned to the disposal contracts - has become critical to ensure that Thurrock can meet challenging environmental and recycling targets alongside reducing budgets. Re-procurement of the contracts under the current arrangements will not meet these targets, nor will a short term procurement for an 8-12 month waste disposal contract be attractive to the market without significant abortive costs chargeable within the contract price. A short term extension as detailed will provide sufficient time to structure contracts that will meet the targets at best price, in a way that provides the best quality service to residents and businesses.
- 4.2.4 Public Contracts Regulation 72(1)(c) provides the opportunity for modification providing:
- (i) The need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
  - (ii) The modification does not alter the overall nature of the contract;
  - (iii) Any increase in price does not exceed 50% of the value of the original contract or framework agreement .....

The requirements of sub clauses (ii) and (iii) above are met in terms of cost (c. 10% increase) and nature of services (unchanged).

The requirement of sub clause (i) is met under a reasonable consideration of the environment of increasing funding restrictions alongside increasing targets for reducing residual waste and increasing recycling, to a level that the Council could not have forecast and cannot be resolved without a fundamental service review.

- 4.2.5 Procurement would commence in the autumn of 2016, three to six months before the existing expiry date of 31<sup>st</sup> March 2017. Advertising this opportunity prior to expiry will additionally and significantly reduce the likelihood of any dissatisfaction from the market that could arise from the extension.
- 4.2.6 This option requires agreement to grant delegated authority to the Portfolio Holder for Environment and the Chief Executive to arrange contracts to

extend the current services by up to 8 months, to the maximum value of £1 million per contractor, subject to the contractor's agreement and up to £2 million overall to give contingency for the procurement timetable.

- 4.2.7 In addition, proceeding with this option will require procurement of additional external resources to support Thurrock in the consultation process and determination of the best mix of delivery and specification for the interrelated contacts and future strategy for the service. The procurements will be completed in accordance with the Council's Contract Procedure Rules and awarded by the Head of Environment under his delegated authority.

#### **4.3 Estimated financial value of contract extension/interim contracts**

By approving Option B, the estimated financial impact would be a continuation of existing contract terms to the value of £1.65 million. Cabinet is asked to authorise up to £1 million per supplier and £2 million for a total extension sum.

### **5. Reasons for Recommendation**

- 5.1 Whilst Option A is compliant with the end of current contract timescales, it does not allow for a realistic or viable timespan to review, consult and implement the changes in waste collection/processing/disposal and is likely to lead to service contracts that do not meet the long term targets for Thurrock.
- 5.2 It is therefore recommended to Cabinet that Thurrock pursue Option B which provides limited but sufficient time to complete a review of waste disposal requirements, undertake the necessary procurements and implement the any changes as required. The contract extensions are kept to a minimum and are within recently amended Procurement Regulations.

### **6. Consultation (including Overview and Scrutiny, if applicable)**

- 6.1 Not Applicable

### **7. Impact on corporate policies, priorities, performance and community impact**

- 7.1 Not Applicable

### **8. Implications**

#### **8.1 Financial**

Implications verified by: **Jo Freeman**  
**Management Accountant Social Care and Commissioning.**

The spend recommended in Option B will not go over and above the already forecast spend for Waste Disposal for the upcoming financial year. This

would not add any further cost pressures to the directorate than those already identified in the Medium Term Financial Strategy.

## 8.2 Legal

Implications verified by: **Assaf Chaudry**  
**Major Projects Solicitor**

The proposal is to extend the current 5 waste disposal contracts for up to 8 months. This is to allow the Council to undertake an options appraisal and formulate its waste collection/processing/disposal strategy and then proceed to procure the same. The proposal to extend is described as Option B within this report. I am informed that the initial procurement documents including the contract did not contain any provisions for modifications including the option to extend. In these circumstances any modifications of the contract during its term will be in breach of the Public Contracts Regulations unless it is a modification conducted under Regulation 72 . One potential option that is available is under Reg 72(1)(c) which i have reproduced below

.”...Reg 72(1)(c) where all of the following conditions are fulfilled:-

- I) The need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen:
- II) The modification does not alter the overall nature of the contract;
- III) Any increase in price does not exceed 50% of the value of the original contract or framework agreement .....

If the Council can satisfy the above tests then it can proceed with the proposed extension and in accordance with the regulations they must publish an award notice in the OJEU.

## 8.3 Diversity and Equality

Implications verified by: **Rebecca Price**  
**Community**

The extension of existing waste contracts will fulfil Procurement Regulations with providers maintaining equality and diversity policies already in place. A full Community Equality Impact Assessment will be completed as part of the wider review of waste service provision and the shape of future recycling and waste management services in Thurrock.



8.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

- Not Applicable

9. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Not Applicable

10. **Appendices to the report**

- Appendices 1, 2 and 3 – Potential Timelines.

**Report Author:**

Richard Parkin

Head of Environment





### Appendix 3 - Projected Increase in waste collection and disposal costs arising from household growth:

Year	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
No. of Households 000's	65.2	66.0	66.8	67.7	68.5	69.3	70.1	70.9	71.8	72.6	73.4	74.2	75.0	75.8	76.6	77.4
Operational Cost for staff and vehicles	5,274.4	5,340.2	5,406.1	5,471.9	5,537.2	5,603.0	5,671.1	5,737.9	5,803.5	5,868.5	5,933.0	5,999.4	6,065.4	6,132.1	6,197.0	6,262.1
Disposal Cost	6,727.0	6,810.9	6,894.9	6,978.9	7,062.1	7,146.1	7,233.0	7,318.2	7,401.8	7,484.7	7,567.0	7,651.7	7,735.8	7,821.0	7,903.7	7,986.7
Income	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5	-205.5
Admin and Back Office	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80	406.80
Total	12,202.7	12,352.3	12,502.3	12,652.1	12,800.6	12,950.4	13,105.4	13,257.4	13,406.6	13,554.4	13,701.3	13,852.4	14,002.6	14,154.4	14,302.0	14,450.1
Increase over 2015		149.6	299.6	449.4	597.9	747.7	902.7	1,054.7	1,203.9	1,351.7	1,498.6	1,649.7	1,799.9	1,951.7	2,099.3	2,247.4