

RESOURCE RECOVERY CONTRACT - PROGRESS UPDATE
WDA/02/17

Recommendation

That:

1. Members note the current state of developments with delivery of the Authority's 'Resource Recovery Contract' and the key issues currently arising.

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Report of the Chief Executive

1. Purpose of the Report

- 1.1 This report provides the Authority with an update on the progress of construction and commissioning of the Resource Recovery Contract (RRC), and the arrangements for disposal of the Authority's residual waste until operational full service commences.

2. Background

- 2.1 A report was presented at the Authority meeting on 25th November 2016. The background detail to the Contract is contained within that report.
- 2.2 MRWA have a contract with Merseyside Energy Recovery Ltd. (MERL), signed in December 2013, for waste management transfer and treatment services on behalf of Merseyside and Halton.
- 2.3 MERL has sub-contracted both the construction of the facilities and the operation and maintenance of the contractual delivery to waste management company, Suez. Upon satisfactory completion of construction and commissioning, the plants are handed from the construction sub-contractor to Suez for operation. Once MERL move from commissioning to full operation (termed Facility Operation Date, FOD), only then do they take on full contractual liability for the Authority's residual waste.

3. Contract progress update

Wilton EfW

- 3.1 The November report highlighted some technical issues with the Wilton Energy from Waste (EfW) facility that arose during the final stages of commissioning. These were successfully addressed during December such that the facility was completed and formally handed over from the construction contractor to MERL on 23rd December '16. Suez are now operating the facility.

- 3.2 This was an important milestone as formal Completion of the EfW facility allows MERL to progress to operational 'full service' (termed Facility Operation Date, FOD, in the Contract) – subject to them being satisfied that they can deliver the full contracted service to MRWA.

Kirkby RTLS

- 3.3 At the time of writing, the Kirkby Rail Transfer Loading Station (RTLS) remains under the control of the construction sub-contractor and has not yet been formally completed. The facility itself is experiencing a number of technical challenges (notably with the operation of waste compactors, which are currently not able to operate to design capacity) that are currently restricting its ability to accept and transfer all of the Authority's residual waste by rail to the Wilton facility. These challenges are being addressed by the Contractor and construction sub-contractor.
- 3.4 Whilst commissioning was originally planned to be completed with full service achieved by 1st October 2016, the challenges at the Kirkby facility mean that the Contractor is not yet in a position to provide the Authority with the full services as defined under the Contract. It is for these reasons that MERL has not yet proceeded to operation full service (FOD) and the contract therefore formally remains in commissioning. To date MERL have not been able to provide a firm commitment to a definitive new 'full operations' date.

Interim Waste Disposals

- 3.5 Until full service (FOD) commences, the liability for ensuring suitable and sufficient outlets for residual waste remains with MRWA. Whilst MERL are endeavouring to progress to FOD at the earliest possible opportunity and to accept as much as possible of the Authority's waste into the RTLS in the interim, the challenges they continue to face mean that they cannot currently provide certainty over waste acceptance.
- 3.6 MRWA had, until recently, access to contracted landfill arrangements at FCC's Arpley landfill site. These contract arrangements are due to end 31st January 2017, but Arpley closed in mid-December 2016. FCC have offered their Gowry landfill site as an alternative until this date, but this site is limited in the daily tonnage it can accept.
- 3.7 At the end of November last year during EfW commissioning, the Wilton facility was unexpectedly shutdown whilst the sub-contractor undertook their final works to complete the construction. The closure was imposed on MERL and meant that MERL ceased accepting the Authority's

commissioning waste entirely for a period of time. As a result of this closure and the restrictions of the FCC landfill contract, MRWA were left with no option but to swiftly enter into a temporary agreement with Suez for alternative waste disposal outlets. This agreement (and the decision to enter into it) is the subject of a separate Authority report.

- 3.8 The agreement with Suez is for disposal capacity and gate fee rates for a range of residual waste disposal outlets with third party operators across the north-west. The agreement, originally time-limited to 31st January 2017, will be extended in light of the anticipated further period of commissioning whilst MERL and Suez address the technical and operational issues at the Kirkby RTLS facility.

Impact of delay

- 3.10 There are not expected to be any impacts on District Council residual waste deliveries; they will continue to use existing disposal points at the Authority's transfer stations until further notice.
- 3.11 Because of the continued delay arising due to the ongoing commissioning challenges, there is expected to be an extended period of disposals to landfill, further increasing the amount of waste disposed to landfill above that anticipated for this current year.
- 3.12 The rate paid to MERL for commissioning and the rates currently being paid for the alternative interim disposal arrangements are currently less than the Unitary Charge rate that was budgeted to be paid to MERL from full service. For these reasons, there is not expected to be any net negative financial impact on the Authority, rather there is anticipated to be a financial saving as a result of the current delay. An estimate of the anticipated saving is included within the Budget Report.

4. Kirkby RTLS – Odour Management

- 4.1 The issue of odour management at the Kirkby facility was reported to the Authority last November. The key updates since that time are:
- i) a meeting was held on site between key local stakeholders (notably Knowsley MBC Councillors and senior management and George Howarth MP) and MERL / Suez senior management including Suez Chief Executive, David Palmer-Jones. At the meeting (which included a tour of the site), the Councillors and MP received assurances from Suez that they are committed to addressing the problems as swiftly as possible. A further meeting is to be held again imminently.

ii) Suez have commissioned independent odour specialists 'Odournet' to undertake a review of the facility and its operations with a view to recommending measures on improved odour management measures at the site. Odournet undertook their initial site survey in December and have provided Suez with an initial report. Further work is being undertaken, and their final report and recommendations are due in February. Suez will review this work with a view to implementing recommendations thereafter.

iii) as part of their operational improvements in odour management practices, Suez completely emptied and cleaned the waste reception pits and amended their configuration, placing a layer of inert material on the base to allow for improved turnover of waste removal.

4.2 Despite there having been a relatively limited number of direct complaints received by Suez since November (and they have received none since 19th December), the Authority remains focussed on odour management as a priority issue and is continuing to work with MERL, Suez and wider stakeholders (including the Environment Agency and Knowsley MBC) to ensure matters are appropriately addressed in an effective and co-ordinated manner.

5. Risk Implications

5.1 The key risks to the Authority arising from the matters highlighted in this report are as follows:

5.2 There is a risk that the ongoing delay to commissioning (and therefore progression to full operations) may be extended for a further period caused by delays in resolving the underlying technical and contractual issues. This may result in an extended liability on the Authority to have an alternative disposal outlet for waste that MERL does not request during ongoing commissioning.

5.3 There is a potential risk of challenge to the Authority's use of a negotiated, non-procured disposal agreement with Suez. Legal advice has been sought and supports the Authority's current approach.

5.4 There is a risk that the odour management issues may not be fundamentally resolved as swiftly as we would wish because of the challenges in identifying the underlying causes and suitable solutions.

5.5 Should the Environment Agency assess that appropriate measures have not been taken to address odour emissions, there is a risk of potential

enforcement action against Suez by the EA and subsequent reputational damage, not just to Suez, but also to the Authority.

5.6 A summary of the risks and mitigating actions is provided below:

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Extended commissioning and further delay to delivery of facilities and progression to 'full operations' with the need to continue with interim disposal arrangements.	4	3	12	1. Contingency agreement for alternative disposal arrangements made with Suez; 2. Legal advice has been sought on MWDA's options and contingency arrangements; 3. Situation and arrangements will remain under constant review by MRWA senior management.
Odours issues at Kirkby RTLS unresolved in the short-medium term resulting in the risk of environmental enforcement action and reputational damage to the Authority.	3	3	9	1. Legal advice has been sought. 2. Stakeholder engagement and co-ordinated action between key parties (EA/KBC/MWDA)

6. HR Implications

6.1 There are no HR implications associated with this report.

7. Environmental Implications

7.1 If the site odour management issues remain substantially unresolved in the short to medium term, there is the potential for continued odour impact on the local community.

7.2 Should MERL be unable to resolve the current technical issues in the short to medium term, and thereby be unable to accept all of the Authority's waste (as was anticipated from 1st October), there may be further waste disposed of to landfill during 2016/17.

8. Financial Implications

8.1 As the rates paid to both MERL for commissioning and to Suez for the interim alternative disposal outlets are lower than the rates that will be paid

once the contract is in operational full service (termed the 'Unitary Charge'), there is anticipated to be a net saving to the Authority in 2016/17 as a result of the delay. The detail of the anticipated saving is provided in the Authority's Budget Report.

9. Legal Implications

- 9.1 Legal advice has been sought in relation to the key matters highlighted in this report.

10. Conclusion

- 10.1 Positive progress has been made with the Wilton EfW facility now under Suez operational control. However, the Authority's strategic contract with MERL continues to experience some technical issues with the Kirkby RTLS facility, resulting in an ongoing delay to progression to full operations.
- 10.2 There are not expected to be any significant impacts on District deliveries during the continued commissioning period, and MRWA officers will continue to work with all parties to ensure that this continues to be the case.
- 10.3 The Authority will continue to use temporary, interim disposal arrangements agreed with Suez. The requirement for these will be routinely reviewed.
- 10.4 Odours management at the Kirkby facility remains a key priority for the Contractor to satisfactorily address to ensure both full compliance with relevant statutory consents and to prevent the facility causing nuisance to the surrounding neighbours.
- 10.5 A further update will be provided to the Authority in the April meeting.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.