Resource Recovery Contract - Progress Update

WDA/20/17

Recommendation

That:

1. Members note the current position regarding delivery of the Authority’s ‘Resource Recovery Contract’ and the key issues currently arising.

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Report of the Chief Executive

# Purpose of the Report

* 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.

# Background

* 1. Update reports have previously been presented at the Authority meetings on 25th November 2016, 3rd February and 21st April 2017. Additional background detail to the Contract is contained within those reports.
	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.
	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. Until then, MERL does retain contractual exclusivity over MRWA’s residual waste for the purpose of commissioning, as and when they request it.

# Contract progress update

Merseyside Waste Disposal Authority

23rd June 2017

*Wilton EfW*

* 1. As previously reported, the Wilton Energy from Waste (EfW) facility was completed and formally handed over from the construction contractor to MERL on 23rd December ’16. Suez have since been operating the facility.

*Kirkby RTLS*

* 1. The ongoing delay to formal completion of the facility arising from an accident that occurred at the site in January was reported in the April Authority Update Report. The repairs to the roof were finally completed on 11th May. Whilst roof repairs were underway, the facility could not load trains for transfer to the Wilton EfW facility and waste inputs to the site were restricted. Limited waste inputs have been delivered into the facility during this period, but have been transferred out to Wilton EfW by road haulage.
	2. Since completion of the roof repairs, Suez have recommenced use of the waste compactors, increased waste inputs and have begun transferring waste to Wilton by rail. Rail transport recommenced on 23rd May.
	3. Some outstanding issues relating to the operation of the facility compactors are now being addressed to enable them to operate in accordance with contractually defined parameters.
	4. At the time of writing, the Contract remains formally in commissioning although the Contractor is working to achieve full service (FOD) as soon as possible.

*Interim waste disposals*

* 1. Until full service (FOD) commences (and notwithstanding MERL’s exclusive right to any waste they call for during commissioning) the liability for ensuring suitable and sufficient outlets for residual waste remains with MRWA.
	2. As previously reported to the Authority, MRWA extended its interim waste disposal arrangements with Suez until the end of June 2017. These arrangements remain in place and any waste not requested by Suez for commissioning will be disposed of via the interim (mainly landfill) disposal facilities. With the increased inputs to the RTLS and return to transport of waste to Wilton EFW by rail, the need for interim disposal outlets has reduced.

# Kirkby RTLS – odour management

* 1. The issue of odour management at the Kirkby facility was previously reported to the Authority in the November 2016, February 2017 and April 2017 reports.
	2. Suez commissioned independent odour specialists ‘Odournet’ to undertake a review of the Kirkby facility, its operations and management arrangements with a view to recommending measures to improve odour management at the site. Suez received the final Odournet report in mid-May and are implementing its initial recommendations.
	3. A meeting was held on site on 12th May attended by MERL and Suez senior management team (including the Chief Executive of Suez and Chairman of MERL) and local political representatives including the Leader of Knowsley MBC and senior officers from the Council. The purpose of the meeting was for Suez to provide key local stakeholders with a formal update on actions being undertaken to address odour issues at the facility, and to allow the local stakeholders an opportunity to directly address concerns to the operators.
	4. The Authority remains focussed on odour management as a key issue of concern, and continues to work with the key stakeholders (including the EA and Knowsley MBC) to ensure matters are appropriately addressed in an effective and co-ordinated manner.

# Risk Implications

* 1. The key risks to the Authority arising from the matters highlighted in this report are as follows:
	2. There is a risk that the ongoing delay in progression to full operations will result in an extended liability on the Authority to have an alternative disposal outlet for waste that MERL does not request during ongoing commissioning.
	3. There is a potential risk of challenge to the Authority’s ongoing use of a negotiated procedure for the interim disposal agreement with Suez. Given the mitigating circumstances, the risk is currently believed to be low.
	4. There is a risk that Suez do not fundamentally resolve their odour management issues in reasonable timescales because of the challenges in identifying the underlying causes and implementing practicably deliverable solutions resulting in ongoing complaints and stakeholder concern.
	5. Should the Environment Agency assess that appropriate measures are not being taken by Suez to address odour emissions, there is a risk of further enforcement action against Suez by the EA (which could include suspension of their Permit) and subsequent reputational damage, not just to Suez, but also to the Authority.
	6. A summary of the risks and mitigating actions is provided below:

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| --- | --- | --- | --- | --- |
| **Identified Risk** | **Likelihood Rating** | **Consequence Rating** | **Risk Value** | **Mitigation** |
| Extended commissioning and further delay to delivery of the Kirkby RTLS and progression to ‘full operations’ with the need to continue with interim disposal arrangements, leading to risk of legal challenge. | 3 | 3 | 9 | 1. Contingency agreement for alternative disposal arrangements negotiated 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. |
| Odour issues at Kirkby RTLS unresolved by Suez 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 sought to inform the Authority’s position and appropriate response;2. Stakeholder engagement and co-ordinated action between key parties (EA/KBC/MWDA); |

# HR Implications

* 1. There are no HR implications associated with this report.

# Environmental Implications

* 1. If Suez fail to substantially resolve their odour management issues in the short to medium term, there is the potential for continued odour impact on the local community.
	2. As a result of the ongoing delays, further waste that was expected to be sent for energy recovery is expected to be disposed of to landfill.

# Financial Implications

* 1. During 2017-18 the cost of the commissioning tonnes and alternative interim arrangements is considered unlikely to exceed budgeted costs. The budget was based on achieving full service for the RRC, the cost of commissioning tonnes remains lower than the full service cost. Even where alternative arrangements are made their cost combined with that of the commissioning tonnes is considered unlikely to exceed the full service cost.

# Legal Implications

* 1. The potential exists for a challenge to the interim disposal agreement with Suez. Legal advice has been sought, and will continue to be sought as required to inform the Authority’s ongoing review of matters as is felt appropriate.

# Conclusion

* 1. Positive progress has been made with both the Wilton EfW and Kirkby RTLS facilities now under Suez operational control. The roof damage at the RTLS has been repaired, allowing rail transfer operations to recommence and final operational issues relating to waste compactors are being addressed. Whilst the Authority’s strategic contract with MERL continues to experience an ongoing delay to progression to full operations, operational full-service is anticipated to commence very shortly.
	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.
	3. The Authority will continue to use temporary, interim disposal arrangements agreed with Suez. The requirement for these will be routinely reviewed by senior management.
	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.
	5. A further update will be provided to the Authority at the September meeting.

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| The contact officer for this report is: Ian StephensonMRWA7th FloorNo. 1 Mann IslandLiverpoolMerseyside L3 1BPEmail: ian.stephenson@merseysidewda.gov.uk Tel: 0151 255 2532Fax: The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil. |