

**CONTRACT PROCUREMENT UPDATE**  
**WDA/19/23**

**Recommendation**

That Members:

- Agree that the Chief Executive should identify and appoint a Procurement Director for an interim period to develop the initial procurement plans for the Authority.
- Delegate authority to the Chief Executive in consultation with the Chairperson to secure additional Procurement Director support for the remainder of the procurement.
- Authorise the Chief Executive to develop and report back on proposals to enable the costs of the procurement to be funded fairly over time through the Levy.

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## **CONTRACT PROCUREMENT UPDATE**

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### **Report of the Treasurer**

#### **1. Purpose of the Report**

- 1.1 This report is to update Members on the Authority's preparations for the prospective procurement of a contract that will replace the Waste Management and Recycling Contract (WMRC) which concludes in 2029. The report seeks Members' approval for taking the next steps to secure resources to enable the Authority to make progress in developing the procurement approach, noting that this will include any decision to extend the current contract beyond 2029.

#### **2. Background**

- 2.1 Members were advised of the need to prepare for a procurement in an Authority report presented in April 2023 and agreed that officers should:
- draw up plans for a dedicated in-house procurement team to deliver an effective procurement.
  - identify the most appropriate way to obtain specialist consultancy advice so that the procurement achieves the best outcome for MRWA and its partners; and
  - work with District Council partners to identify the most appropriate outcome for services going forwards.
- 2.2 Members are reminded that in November 2022 there was a report to the Authority following a review by North West Employers. The review recommended the establishment of a new Assistant Director post to consider service developments and to take a lead on procurement for the Authority (among other things). It was not envisaged at the time that the prospective procurement was covered by the review.

**Merseyside Waste Disposal Authority**

**22<sup>nd</sup> September 2023**

- 2.3 In addition, during the summer of 2020 the whole authority undertook a full Functional Analysis review which identified the workloads of staff at all levels across the organisation. The Functional Analysis did not identify significant capacity among the Authority's staff for taking on substantial additional duties.
- 2.4 In the years prior to the previous procurements (WMRC first followed by RRC) the Authority established an in-house procurement team, on a fixed term basis, led on a consultancy basis by a temporary Procurement Director.
- 2.5 Members supported the development of a further reports to consider more details of the potential role(s), posts, and costs of establishing a temporary procurement team to support the procurement challenge going forwards.

### **3. Progress in developing options for Members**

- 3.1 In responding to the review by Local Partnerships the Authority drew up a job description and person specification that would enable it to fill the proposed Assistant Director post. However, despite advertising the vacancy, seeking specialist employment agency support, and following an interview and selection process the post has not been filled.
- 3.2 The recognition that the Assistant Director post was not likely to be filled has led to a review of the options facing the Authority. There is a need to move forward with the proposed procurement to enable all the elements that need to be considered to be put in place. To that end it is proposed that, at least for the interim, the Assistant Director post be left vacant. On reflection, it is proposed instead to move forward to appoint a person to act as a Procurement Director to lead the development of the Authority's approach to the procurement and to be in a position to lead us through the stages of the procurement process.
- 3.3 One of the key factors in determining the need to identify a Procurement Director at this stage has been the discussions held by the Chief Executive with both colleagues at other similar Waste Disposal Authorities and discussions with Local Partnerships. In each case it has been made clear that the individuals who could provide Procurement Director support are currently relatively scarce in the marketplace and so the Authority would be advised to move to make an appointment sooner rather than later.
- 3.4 To that end the Chief Executive has begun to explore the options available in the marketplace to potentially provide Procurement Director support for the Authority. This has been to identify the prospective candidates, their

experience and availability as well as whether they appear to form a 'good-fit' for the Authority. Should the proposed appointment be a success the person fulfilling the role will be expected to be working alongside the Authority for a number of years and so it will be important to understand not just what they can do for the Authority but how they go about it.

- 3.5 At the same time, the Chief Executive has been working with colleagues to establish the terms of reference for the proposed Procurement Director's post, by reference to job descriptions and person specifications both from the Authority's experience and from the perspective of others who have gone through this process more recently. Taking this twin track approach will enable the Chief Executive to establish the boundaries of the role and the assessment criteria for filling it.
- 3.6 The proposed way forward for this is to have informal discussions with 'candidates' for the position, prior to inviting them to take part in a more formal process, which could include the use of a 'framework contract' for the appointment.
- 3.7 If the Project Director is a good fit with the Authority, they are likely to be with us for a number of years whilst we develop the procurement approach and up to the delivery of a new contract. To that end the Chief Executive is asking Members to support the appointment of a Procurement Director for an initial period, potentially for 3-6 months, with a view to their delivering a specific work programme that will provide assurance about the value they can add to the Authority and the procurement.
- 3.8 It is also considered unlikely that for the initial 3-6 months the appointment would amount to a full-time post at this stage of the procurement. The Authority will look to the appointee to develop the Authority's procurement approach by way of reference to the Zero Waste Strategy being developed across Merseyside. The approach will enable the Authority to work with the District Councils via the LCR Strategic Waste partnership to develop a shared approach to services and infrastructure going forward and which will involve the appraisal of different options to ensure the approach is agreed.
- 3.9 Should the initial appointment be considered successful Members are asked to delegate authority to the Chief Executive, in consultation with the Chairperson to extend the appointment. Similarly, if deemed unsuccessful there may be a need to return to the marketplace.

- 3.10 In making any appointment to the proposed Procurement Director post officers and Members should be mindful of the costs of the appointment. The skills and experience required to enable the Authority to deliver a successful procurement will come at a premium cost. Whilst the Authority has not yet fully explored the costs, were the post to be full time it would be likely to be in excess of £100-150k pa. For the initial period of the appointment the costs are unlikely to be this high as at this stage of the procurement the time required of the Procurement Director would only be a few days each month. However, further into the project the Procurement Director is likely to be spending several days each week on the project and the costs during the more involved stages of the procurement will be higher.
- 3.11 At this stage, whilst the Authority is aware that an additional fixed term team is likely to be needed to support the procurement the scope of the team and its scale have not been finalised. This will need to be reviewed and considered as part of the requirement to fund the procurement.
- 3.12 Similarly, to date there has been no market testing of the scale and size of fees that may be required for the external advisers that will be required to support the Authority through the procurement. The Procurement Director will help the Authority to identify the support needed, but the costs are likely to be significant and Members will need to work with the Chief Executive in agreeing proposals for fairly funding the costs through the Levy over time.

#### **4. Risk implications**

- 4.1 The contract extension or the procurement of the future arrangements carries a high level of risk, and it will be important that a separate risk register is developed as part of the procurement process so that officers and Members have a good understanding of the risks facing the Authority and the mitigations that may be put in place.
- 4.2 High level risk Implications include:

<b>Identified Risk</b>	<b>Likelihood Rating</b>	<b>Consequence Rating</b>	<b>Risk Value</b>	<b>Mitigation</b>
Failure to proceed in a timely way. Delay in procurement and	2	4	8	The development of a procurement strategy and approach together with

provision of continued and new services.				decisions on officer and specialist support.
Failure to consult partners over the requirements for the next procurement	2	4	8	Recommendations to include District Councils from the outset and throughout the procurement process.
Failure to specify a service that meets the requirements of MRWA, partners, legislation, and best practice	2	4	8	Collaborating with partners in the Joint Partnership to develop a procurement strategy and then with specialist officers and advisers to respond by specifying a service that meets those demands.  Appointment of Procurement Director
Failure to manage the procurement process	3	3	9	Appointment of Procurement Director and a specialist procurement team to deliver the procurement, supported by specialist advisers, both of whom will guide the Authority through the procurement process
Failure to deliver an effective procurement	2	3	6	Effective decisions by Members early in the process will enable

				the Authority to ensure it has appropriate arrangements in place to deliver an effective outcome for all parties.
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## **5. HR Implications**

- 5.1 None directly associated with this report, although there may be implications in the near future. This may involve decisions on how to proceed with a longer-term Procurement Director post. In turn that will also impact on when and how a procurement team approach might be developed.

## **6. Environmental Implications**

- 6.1 The extension of the existing contract arrangements or the procurement of a new contract will need to ensure it meets all the current, planned, and prospective environmental challenges so that the contract promotes the Authority's support for Climate change, Carbon reduction, Zero Waste and making effective contributions to the UN SDGs.

## **7. Financial Implications**

- 7.1 In overall terms as the proposed Procurement Director post has been identified after the Authority's budget was approved there is no direct provision. However, with Members approval, and as the Assistant Director post has not been filled, it is proposed to re-direct the budget provision for the currently vacant AD post to provide such support for the proposed Procurement Director post as is required. The AD post has not been filled during the first half of the year, and nor is it expected to be filled so the whole of that amount (including on-costs) is available to support the Procurement Director post, initially on a part time basis, for the remainder of the year. Should the Authority proceed with the Procurement Director post in the medium term then there will be a request to add the costs to the next budget for the Authority in 2024-25.
- 7.2 The budgetary provision for the (currently) unfilled AD post, including on costs, is some £80k. It is not anticipated that this amount will be required in full. However, should the requirements of the proposed post be greater



than the amounts set out then there may be a need to call for some funding to be set aside from the Authority's General fund, this is considered unlikely.

- 7.3 In the short to medium term the Authority will need to identify the proposed size and scale of an in-house team to support the procurement. This is likely to be on a fixed term basis, over the life of the procurement, but will come at additional cost to the Authority. This will need to be funded through the Levy. The Procurement Director will advise the Chief Executive on the nature of the team that will be required to support the procurement.
- 7.4 In committing to a procurement, the Authority will need to recognise that the significance and complexity of the arrangements is likely to require additional support from external advisors. The scale of the advice required will be likely to come at a significant cost and the Chief Executive will work with the Procurement Director to develop both a cost envelope for the work and proposals for ensuring it may be fairly funded through the Levy.

## **8. Legal Implications**

- 8.1 The Authority may make an appointment of a contractor subject to the Authority's tendering rules. Normally for contracts above £20k but below £100k the rules require that four tenders be sought. The Chief Executive may make an exception under contract procedure rule 11 if she considers there to be no reasonable alternative or the works are of a specialised nature. It may be that the process of interview and selection will enable the Chief Executive to be satisfied on these points.
- 8.2 In the longer term the costs of the potential Procurement Director post are likely to require a further tender exercise as the costs over time will be more than likely to amount to a sum in excess of £100-150k per annum over a number of years.
- 8.3 It may be that there is a prospect of adding the Procurement Director post to the Authority's establishment on a medium-term basis, in which case rather than a tender an interview and selection process may suffice. Further legal advice is likely to be required over these options.

## **9. Conclusion**

- 9.1 The current arrangements under the WMRC will come to the end of their normal term in just under six years. The Authority will be required to

commission services that provide a modern alternative to those arrangements and meet all the environmental and performance standards that MRWA and its partners need.

9.2 The procurement and the processes that underpin the procurement are very extensive and will require both dedicated and specialist support if the Authority is to achieve an effective outcome.

9.3 It is recommended that Members:

- Agree that the Chief Executive should identify and appoint a Procurement Director for an interim period to develop the initial procurement plans for the Authority.
- Delegate authority to the Chief Executive in consultation with the Chairperson to secure additional Procurement Director support for the remainder of the procurement.
- Authorise the Chief Executive to report back on proposals that will enable the costs of the procurement to be funded fairly over time through the Levy.

9.4 Officers will bring further reports on these processes for Members consideration and approval on a regular basis as the procurement progresses.

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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.