



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for City Management and Air Quality
Date:	25 th March 2024
Classification:	General Release.
Title:	Waste Treatment and Disposal Contracts - Contract Awards and Extension
Wards Affected:	All
Policy Context:	Fairer Environment
Key Decision:	Key Decision - an entry has been included for 28 days on the list of forthcoming decisions.
Financial Summary:	<p>The estimated value of the spend in the contract extension period for Contract 1 is £140.2m including estimated contract inflation (3% each year). This gives a forecasted total contract spend of £208.9m.</p> <p>The estimated value of the spend in the new contract period for Contract 2 is £6.289m including estimated contract inflation (3% each year and for Contract 3 an income of £0.557m). This gives a forecasted total contract spend of £5.732m.</p>

Report of:

Frances Martin - Executive Director of
Environment and City Management

1. Executive Summary

1.1 This paper seeks authorisation to:

- extend the Residual Waste Treatment and Disposal Contract for waste incineration at SELCHP with Veolia (ES) UK Ltd. for a period of 8 years from 1st April 2024 to 31st March 2032 (“Contract 1”).
- award two new contracts for the Treatment of Dry Recyclables (“Contract 2”) and Treatment of Organic Waste (“Contract 3”) to Veolia (ES) UK Ltd for a period of 3 years from 1st April 2024 to 31st March 2027. The existing dry recycling and organic waste treatment contracts both expire on 31st March 2024 and cannot be extended. A competitive procurement process was undertaken to secure new contracts providing treatment capacity.

1.2 Contract 1 was awarded on 20 June 2016 (start date 16 September 2017) and deals with the most waste tonnage out of the three waste treatment contracts. In 2022/23 the contract handled 138,000 tonnes of residual waste. The gate fees paid for residual waste treatment represent value for money in comparison to the gate fees paid by other London boroughs.

1.3 The initial approved duration of Contract 1 expires on 31st March 2024 but includes a provision to extend up to 31st March 2032.

1.4 Contracts 2 & 3 for the Treatment of Dry Recyclables and the Treatment of Organic Waste were awarded in June 2016 and will expire on 31st March 2024. A procurement exercise was undertaken to secure treatment capacity after these contracts expire.

1.5 The Dry Recycling Treatment Contract is expected to handle around 36,400 tonnes of dry recycling in 2023/24. This waste is handled by the Southwark materials recovery facility (MRF) and Alperton waste transfer station (WTS). The services are provided by Veolia (ES) UK Ltd.

1.6 The Organic Waste Treatment Contract is expected to handle around 7,000 tonnes of organic waste in 2023/24. The treatment of food waste is sub-contracted by Veolia (ES) UK Ltd. to Biogen Ltd which handles this waste at their anaerobic digestion (AD) facility in Baldock, Hertfordshire. A very small volume of green waste (60 tonnes per annum) is handled by Veolia at one of their open windrow composting facilities (OWC).

2. Recommendations

2.1 That the Cabinet Member for City Management and Air Quality:

- (i) approves the extension of the Residual Waste Treatment and Disposal Contract (Contract 1) with Veolia ES (UK) Ltd for up to eight years; from 1st April 2024 to 31st March 2032. The value of spend during the extension

period would equate to £140.2m (excl. VAT). Coupled with expected spend to the end of the existing contract period of £68.7m, this would give a total contract sum of £208.9m (excl. VAT). Please note that the figures provided are estimates based on current waste tonnage and expected inflation rates.

- (ii) approves the award of the Treatment of Dry Recyclables (Contract 2) to Veolia ES (UK) Ltd for three years; from 1st April 2024 to 31st March 2027. The value of spend during the contract period would equate to £6.289m (excl. VAT). Please note that the figures provided are estimates based on current waste tonnage handled by the contract and expected inflation rates.
- (iii) approves the award of the Treatment of Organic Waste (Contract 3) to Veolia ES (UK) Ltd for three years; from 1st April 2024 to 31st March 2027. This contract generates an income for the city council. The value of income during the contract period would equate to £557k (excl. VAT). Please note that the figures provided are estimates based on current waste tonnage handled by the contract.
- (iv) note that under Section 357 of the Greater London Act 1999 the Mayor of London must be notified of any proposals to terminate or amend a waste contract.
- (v) note that the contractual spend above includes an estimate for indexation at 3% per annum to be included within the extension notice published to ensure the value published is more in line with likely spend.

3. Reasons for Decision

The proposed contract extension for Contract 1 and the award of Contracts 2 and 3 will enable the City Council to secure its future waste treatment needs at economically advantageous gate fees and comply with its legal duty to arrange for the treatment and disposal of waste. Due to the implementation of new national policy and legislation, the city council expects to recycle more of the waste it manages.

It will also allow for the continued direct delivery of residual waste to SELCHP and dry recyclables to the Southwark MRF which in turn ensures high levels of efficiency on the Contract for Waste and Recycling Collection, Street Cleansing and Ancillary Services. Contract 1 also gives the council access to the supply of electricity from SELCHP to power its electric waste collection fleet at economically advantageous rates compared to purchasing this electricity on the retail market.

4. Background, including Policy Context

- 4.1 The City Council is a waste collection and disposal authority with a legal duty to arrange for the collection and disposal of household, commercial and street cleansing waste produced within Westminster.

The council has a series of contracts that, combined, create an end-to-end waste collection and disposal service for around 180,000 tonnes of waste handled each year. There are currently four key contracts that make up this service, all of which are with Veolia. The four contracts are:

- Waste Collection and Street Cleansing ('Collection Contract')
- Residual waste treatment and disposal ('Contract 1')
- Dry recycling treatment ('Contract 2')
- Organic waste treatment ('Contract 3')

- 4.2 The initial contract term (6.5 years) for the Residual Waste Treatment and Disposal Contract services (Contract 1) will end on 31st March 2024 but it can be extended up to 31st March 2032. The current contracts for the Treatment of Dry Recyclables (Contract 2) and Treatment of Organic Waste (Contract 3) will expire on 31st March 2024.
- 4.3 Contract 1 deals with the most waste tonnage out of the 3 waste treatment contracts. In 2022/23 Contract 1 handled around 138,000 tonnes of residual-type wastes. This is waste that cannot or has not been recycled and is incinerated at Southeast London Combined Heat & Power (SELCHP). It allows the Council to dispose of waste without the use of landfill. Contract 1 also provides treatment of other residual waste streams, such as bulky waste, clinical waste, and mechanical street sweepings. These cannot be directly incinerated and require pre-treatment first. The current gate fee paid for incineration is good value for money.
- 4.4 Contract 1 offers the City Council access to preferential rates at SELCHP for the purchase of electricity that powers its low-emissions waste collection fleet. This in turn allowed for the acquisition and redevelopment of Landmann Way depot where the electric collection fleet is based.
- 4.5 Contract 2 provides the City Council with access to treatment capacity at the Southwark materials recovery facility (MRF) and Alpertons waste transfer station (WTS) for up to 55,000 tonnes per year tonnes of recycling (maximum contract tonnage). This includes receipt, handling, transfer, and haulage for around 11,000 tonnes per year tonnes of source segregated glass and paper/cardboard which is sent straight to recyclers.
- 4.6 The current gate fees and material sale rebates on Contract 2 provide a value for money treatment solution for recyclable waste.
- 4.7 Contract 3 provides the City Council with access to treatment capacity for up to 20,000 tonnes per year tonnes of organic waste (food and green waste). Food waste will be delivered to Alpertons WTS after which it is bulked, handled and hauled to Biogen's Baldock AD plant. Green waste will be delivered to the

Southwark WTs after which it is sent for composting at Veolia's OWC facility in Pitsea, Essex.

- 4.8 Veolia has a nationwide contract with Biogen for the treatment of food waste from both municipal and commercial sources. The council's tonnage will form part of the consolidated larger total volume Veolia is contracted to Biogen for. The contract between the council and Veolia will form a back-to-back arrangement with the contract between Veolia and Biogen.
- 4.9 The Resources and Waste Strategy (RWS) requires the city council to recycle and compost more of its waste. The new requirements were put into legislation via the Environment Act 2021. From March 2026 the city council is already required to collect garden waste from residents for composting. This requires a treatment outlet for this waste as part of Contract 3. From 2025 Extended Producer Responsibility for packaging waste (pEPR) will require the city council to collect more packaging waste for recycling if it is to benefit optimally from pEPR payments.
- 4.10 The 3-year contract term will ensure Contracts 2 and 3 are co-terminus with the council's major Collection Contract with Veolia to allow the city council to evaluate how several of the changes required by the RWS can be implemented from 2027 onwards.
- 4.11 This was an open tender that was compliant with both the PCR 2015 and WCC procurement code. After closure of the tender window, 1 bid was received from Veolia, who are the incumbent. The bid has been evaluated, moderated and reviewed to ensure the city council are happy to proceed to award.
- 4.12 Responsible Procurement – Veolia also actively supports the council's strategic priorities on social and environmental value through a range of projects and initiatives:
- Local Employment and Training - In collaboration with Westminster Employment Service (WES) Veolia runs an HGV apprenticeship programme; Veolia is offering this programme to four Westminster residents with the opportunity to increase the number of apprentices once the first cohort has been onboarded. The contract also continues to offer all new employment positions to Westminster residents first by working closely with WES. Lastly, the contract also works closely with the City Council's Special Educational Needs and Disabilities (SEND) support team to find internship opportunities for young adults with additional needs.
 - Community engagement and support – The SELCHP community fund has awarded over the years more than £260,000 to local community projects. The Veolia Environmental Trust has been supporting compliant community and environmental projects in England and Wales for 18 years by awarding grants through the Landfill Communities Fund. The revamp of the Lisson Green play

area was partially funded through this fund. Veolia regularly organises outreach events and interactive workshops for all sectors of the community including schools, older residents, and local community groups.

- Net Zero Target - The contract extension will support the council's Net Zero objective will in various ways including:
 - Continued access to waste treatment options that avoid the use of landfill (landfill diversion). The use of waste incineration for the Council's residual waste saves around 5224 tonnes of carbon emissions each year compared to sending this waste to landfill.
 - Access to economically advantageous electricity generated by SELCHP to help with the electrification of the waste and recycling collection fleet.

5. Financial Implications

- 5.1 The council has a statutory duty under the Environmental Protection Act 1990 to keep highways clean (to prescribed levels), collect household waste and collect commercial or industrial waste if requested. This includes the duty to arrange for the disposal of waste collected. The total contract expenditure in 2022/23 was £12.8m and is expected to be £15.3m in 2023/24.
- 5.2 The contract year runs from 1st April to 31st March and increases by inflation each April. The contract value can be increased or decreased by how much waste is handled by the contract and variations to the contract which includes service changes and MTFP savings. As spend is linked to utilisation (tonnage) and rebate price both of variable and cannot be controlled by the council they will be monitored monthly and spend exceeding budget will be highlighted to members at ELT.
- 5.3 Contract 1 commenced on 16th September 2017 and contract spend up to the end of the last contract year is £68.7m. The current annual contract value is £13.4m. At an estimated inflation rate of 3% per annum, the total spend will be £208.9m (ex VAT) once the contract extension ends on 31st March 2032. Contract spend is directly related to the total tonnage of waste handled by the contract.
- 5.4 Contract 2 will commence on 1st April 2024 and is a three-year contract. The estimated annual contract value in the first year is £1.951m based on current tonnage figures and contract rebate rates for the sale of recyclable waste. Contract spend is directly related to the total tonnage of waste handled by the contract.
- 5.5 The cost of Contract 2 is dependent upon the amount of recyclable waste collected by the city council, the composition of recyclable material and value of materials processed and sold by the supplier (for which the council receive a rebate). The procurement sought capacity for treatment of waste above current levels of usage to ensure no issues with growth in recycling over the contract period. The contract allows the council to deliver up to 55,000 tonnes of recyclable waste per year. However estimated usage per year during the

contract as indicated in 1.5 is 36,400 t/year for 2024/25 increasing up to 38,800 t/year in the third year 2026/27. Based on gate fees and rebates proposed, this produces an estimated total contract cost of £6.289m ex VAT.

- 5.6 Based on proposed fees and current rebates, Veolia's bid for Contract 2 potentially creates a small reduction in net cost overall, when compared to current contract rates. However actual spend and rebate received is likely to differ from this projection if tonnage differs from the projected levels.
- 5.7 The cost (and income) from Contract 3 is dependent upon the amount of organic waste collected by the city council. The delivery of food waste delivery and income but the treatment of garden waste attracts a cost per tonne of waste. The procurement sought capacity for treatment of organic waste above current levels of usage to ensure no issues with growth in composting over the contract period. The contract allows the Council to deliver up to 20,000 tonnes per year. However estimated usage per year during the contract is 7,000 t/year for 2024/25 increasing up to 11,200 t/year in the third year 2026/27. Based on gate fees and rebates proposed, this produces an estimated total income of £0.557m ex VAT.
- 5.8 The treatment of food waste via anaerobic digestion (AD) generates energy which is sold to the electricity wholesale market by Biogen, the sub-contractor running the AD facility. Due to the current high energy sale prices in the market, energy sale income will be advantageous. This gives the city council the advantage of having access to a stable income for each tonne of food waste delivered under the contract.
- 5.9 The treatment of garden waste via OWC comes at a cost to the city council. The gate fee is competitive and provides value for money.

6. Legal Implications

- 6.1 The City Council's Procurement Code requires that the award of a contract valued at £1.5m or more should be endorsed by CGRB and approved by the Appropriate Cabinet Member following recommendation from the appropriate Executive Leadership Team member. The three contracts referred to in this report have followed this process and are compliant with the Procurement Code.
- 6.2 Section 357 of the Greater London Act 1999 requires the Council (as a waste authority) to notify the Mayor of London of any proposals to terminate or amend a waste contract so that the mayor can consider whether the proposal is detrimental to the London Environment Strategy in which case it may give a direction to the Council (which the Council must follow). There is no specific timescale set out for the mayor to give any direction to the Council. It should be borne in mind that any decision made by the Cabinet Member to approve the recommended extension will be subject to direction from the Mayor of London.

Contract 1

- 6.3 In accordance with the current contract, the parties may agree to extend the contract until 31 March 2032. The increase in the contract value is largely attributed to inflation and changes in law that are permitted under the contract. This is permitted modification under the Public Contract Regulations 2015 for which a modification notice does not need to be published.
- 6.4 The extension and variation to the contract will be enacted by way of a deed of variation to be drafted by Legal Services.
- 6.5 Further legal implications are set out in part B.

Contract 2

- 6.6 The recommendation is for approval of the award to Veolia (ES) UK Limited (02481991) with a maximum contract spend of £11.429m for the period 1 April 2024 to 31 March 2027. The spend is based on variables of tonnage received and the rate of rebate over the term of the contract, the values are also subject to CPI. The payment mechanism in the contract sets out how the spend is calculated.
- 6.7 An open procurement process was undertaken with one bid received. That bid passed the standards set out in the tender and the Council may accept it on the basis that it meets Best Value.

Contract 3

- 6.8 The recommendation is for approval of the award to Veolia (ES) UK Limited (02481991) with a maximum net positive rebate of £557,070 for the period 1 April 2024 to 31 March 2027. The rebate is based on variables of tonnage received and the rate of rebate over the term of the contract, the values are also subject to CPI. The payment mechanism in the contract sets out how the spend is calculated. The award of a contract which anticipates an income of £50,000 or more to the Council must be approved by the Executive Director or Cabinet Member.
- 6.9 An open procurement process was undertaken with one bid received. That bid passed the standards set out in the tender and the Council may accept it on the basis that it meets Best Value. This contract should increase the level of rebate received by the Council.

Contracts 2 and 3

- 6.10 Legal services will assist in the preparation of the contract and arrange for it to be executed as a deed.
- 6.11 A Contract Award Notice must be published within 30 days of the award.

Part B Legal implications

Contract 1

- 6.12 The increase in tonnage rate is not accounted for in the contract. As the extension to the contract must be agreed between the parties the Council cannot insist that the current tonnage rate is retained through the extension

period. The report sets out the factors supporting how Best Value is obtained with the revised rate.

- 6.13 The Council may seek to argue that the variation to increase the tonnage rate is permitted as it comes within the safe harbour at Regulation 72(1)(e).
- 6.14 It is considered that the change in rate does not render the contract materially different in character; would not have allowed for the admission of other candidates, the acceptance of a different tender or attracted different participants; and it does not extend the contract considerably.
- 6.15 Finally, the Council needs to be comfortable that the change in tonnage rate does not change the economic balance of the contract in favour of the contractor. The financial implications estimate that the change in tonnage rate will increase the contract value by £16.4m.
- 6.16 This sum must be considered against the contract as a whole. As against the estimated total value of the contract at around £191m it is considered on balance that it does not change the economic balance of the contract in favour of the contractor.
- 6.17 It must also be considered if the increase is reflective of reasonable compensation for the contractor in the provision of the services. Taking into account the other tonnage rates that are paid by London waste disposal authorities the new tonnage rate remains competitive and suggests that it reflects a rate of reasonable compensation for the contractor and not a rate that changes the economic balance of the contract in their favour.
- 6.18 In relying on this modification ground the Council is not required to publish a modification notice under the Public Contract Regulations 2015.

7. Carbon Impact

- 7.1 The proposed extension of Contract 1 will have a positive carbon impact by continuing the incineration of residual waste. This saves the Council around 5244 tonnes of greenhouse gas equivalents (CO₂eq) each year compared to sending this waste to landfill.
- 7.2 The Carbon Metric, a carbon impact assessment for local authority waste management in England, which uses carbon factors calculated and supplied by WRAP, shows that the incineration of Council's waste emits 0.219t CO₂eq per tonne of waste. Landfill in comparison emits 0.257 tonnes of CO₂eq per tonne of waste. With 138,000 tonnes of waste sent for incineration in 2022/23, this gives a saving of around 5244 tonnes per annum.
- 7.3 By recycling and composting its waste, the city council saves around 24,000t of CO₂eq every year compared to incinerating this waste.
- 7.4 The council reports its carbon performance from waste management to the Greater London Authority on an annual basis according to the methodology they developed for the Emissions Performance Standard. This model uses the 2022 Carbon Metrics.
- 7.5 Over the duration of the contracts, we will continue to work with Veolia on options to encourage the reduction of waste volumes and associated disposal emissions.

8. Equalities Implications

The Council will work in partnership with Veolia's procurement team to introduce social value deliverables through the contracts they are entering into on our behalf. The aim is that these will include Fairer Environment, green economy work placement, skills and employment opportunities with vehicle suppliers through the electric vehicle maintenance and manufacturing contracts. Veolia will continue to deliver Responsible Procurement and Equality outcomes as part of the delivery of the service provision throughout the term of the contract.

9. Consultation

The proposed extension of Contract 1 is city-wide rather than specific to any ward. Contract 1 only provides waste treatment services for waste delivered by the Collection Contract operation. Ward member consultation has therefore not been conducted as there will be no change to the frequency or method of how waste, recycling or street cleansing operations are delivered to residents and businesses.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Jarno Stet, jstet@westminster.gov.uk

APPENDICES

- *None.*

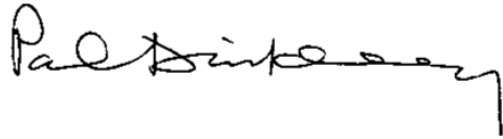
BACKGROUND PAPERS

- *None*

For completion by the **Cabinet Member for City Management and Air Quality**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report



Signed:

Date: 08/04/2024

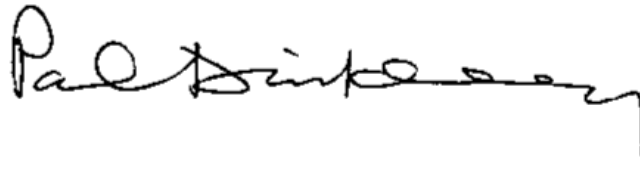
NAME: **Councillor Paul Dimoldenberg**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled Residual Waste Treatment and Disposal (Contract 1) - Contract Extension and reject any alternative options which are referred to but not recommended.

Signed:



Cabinet Member for City Management and Air Quality

Date: 08/04/2024

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services

(or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.