
Report To:	Environment & Regeneration Committee	Date:	27 November 2018
Report By:	Corporate Director Environment, Regeneration and Resources	Report No:	ENV44/18/KL
Contact Officer:	Kenny Lang	Contact No:	01475 715906
Subject:	Residual Waste Strategy - Procurement Rationale		

1.0 PURPOSE

1.1 This report updates Committee on the procurement rationale with regard to the biodegradable municipal waste (BMW) landfill ban to come into effect in 2021 and seeks approval from Committee to agree to progress a collaborative procurement for residual waste disposal services for Inverclyde Council, West Dunbartonshire Council and the Lomond and Helensburgh area of Argyll & Bute Council.

2.0 SUMMARY

- 2.1 The Waste (Scotland) Regulations 2012 will ban landfilling of 95% of Biodegradable Municipal Waste (BMW) from 2021.
- 2.2 All Councils will require to have arrangements in place to divert this waste (BMW) and it is likely that this will require infrastructure to convert waste material to an energy source.
- 2.3 Inverclyde Council will therefore require to have an appropriate contract in place to meet these obligations
- 2.4 West Dunbartonshire Council and Argyll & Bute Council have contracts terminating in March 2019 and will look to procure a contract to meet the landfill ban. This would be a beneficial opportunity for Inverclyde Council to participate in, and benefit from, the economies of scale that this will bring. West Dunbartonshire Council will act as lead authority for this collaborative procurement for the three authorities

3.0 RECOMMENDATIONS

- 3.1 That the Committee note the contents of this report and procurement rationale in respect of the future residual waste strategy.
- 3.2 That the Committee agrees that the Council participate in the procurement of residual waste disposal services in collaboration with West Dunbartonshire Council and Argyll & Bute Council.
- 3.3 That the Committee notes that should the projected costs exceed existing budgets that this will be reported back to Committee prior to the Council formally agreeing to participate in the collaborative contract.

Scott Allan
Corporate Director
Environment, Regeneration and Resources

4.0 BACKGROUND

- 4.1 Inverclyde Council currently has a waste management contract with Barr Environmental Ltd for the disposal of residual waste. This contract expires on 16 August 2019 with the option to extend for two one year periods to 16 August 2021. The value of this contract is around £2.9m annually.
- 4.2 The Waste (Scotland) Regulations 2012 places a legal requirement for Councils to dispose of their waste and meet legislative requirements set out by Scottish Government in respect of the ban on landfilling BMW from 2021.
- 4.3 The shift from traditional landfill will require that the Council has arrangements in place with contractors to divert 95% of BMW. It is likely that this will involve a technology solution to convert waste material to energy or as a fuel stock. Direct incineration is not an option which meets the Scottish Government's aims in terms of dealing with residual waste.
- 4.4 West Dunbartonshire Council and Argyll & Bute Council's have residual waste contracts with Barr Environmental Ltd ending on 31 March 2019 and while they were not designed to be coterminous, this situation provides an opportunity for a collaborative approach. Officers from the authorities have met and have agreed to take this to the respective Council Committees for consideration.

5.0 PROCUREMENT RATIONALE

- 5.1 There is a statutory obligation on Councils to make arrangements to collect and recycle or process and dispose of waste from households and civic amenity sites. The waste stream of Municipal Solid Waste (MSW) is collected by the Councils and is streamed for recovery treatment or disposal. Residual waste collected by Councils decomposes over time emitting gasses and it is this material that will no longer be acceptable at landfill.
- 5.2 The EU's Landfill Directive aims to reduce the amount of waste to landfill and recover value from waste to develop more sustainable management practices of reuse, recycling or recovering forming the European Waste Framework Directive's waste hierarchy.
- 5.3 Disposal to landfill remains the least preferred option and landfill tax has been used as a fiscal measure to move waste up the waste hierarchy. Notwithstanding the Brexit considerations, the Scottish Government has committed to progressive bans on certain materials going to landfill, such as food waste as part of its Zero Waste Plan. The Waste (Scotland) Regulations 2012 places a legal requirement for Councils to dispose of their waste and meet legislative requirements set out by Scottish Government in respect of the ban on landfilling BMW from 2021.
- 5.4 A prime consideration therefore in developing the Council's future strategy will be to meet any obligations in respect of the forthcoming BMW ban from 1 January 2021 while maintaining a cost effective and sustainable contract. Non-compliance could result in the Local Authority being prosecuted by Scottish Environment Protection Agency and facing further legal challenge. Potential punitive financial action from the Scottish Government through the imposition of significant financial penalties could also be a possibility along with the attendant reputational damage to the Authority.
- 5.5 Inverclyde Council currently has a landfill contract with Barr Environmental Ltd to the 16 August 2019 with the option of 2 one year extensions which if both are taken would extend beyond the deadline to meet the ban. The current landfill contract will not be fit for purpose by 2021 and the Council will therefore require to have a compliant contract in place. It is anticipated that any future contract will require a technology element to reduce the element of BMW and recover value, most likely in the form of energy recovery or fuel feedstock. Inverclyde is well placed in that we have a waste transfer facility and there will be no change in terms of waste delivery to a new contractor for

onward processing.

- 5.6 This change in the treatment of waste has required Officers to undertake a review of our existing arrangements in order to meet the BMW ban criteria while delivering best value to the authority.
- 5.7 In considering the most appropriate procurement route the following key areas have been assessed:

Market Capacity

At present there is limited market capacity to deliver the 2021 BMW landfill ban. The Scottish Planning Policy published in June 2014, provides the planning policies that support Scotland's Zero Waste Plan and SEPA regularly reviews the shortfall in operational capacity required to meet the Zero Waste Plan targets and regulations. Despite the estimated decline in the amount of waste going to landfill. The Scottish Government estimate that nationally in Scotland there will be a processing shortfall for BMW of around 1m tonnes in the first year of the ban and that this shortfall will drop by 500k tonnes in 2022.

Although a number of planning applications have been issued for waste management facilities; the scale of investment and attendant risk means that Contractors are unlikely to develop speculative facilities in the absence of firm contractual commitments.

In order to ensure that Inverclyde Council has access to planned facilities, it is a requirement that we engage with suitable contractors in advance of the 2021 deadline and have contracts in place to meet the BMW ban obligations.

Technology

Technologies and systems that could ensure compliance with the ban can be broadly broken down as follows:

1. Energy from Waste (EfW)

Using the waste as feedstock in the generation of heat/ electricity producing an inert by product. Including:

- Refuse Derived Fuel (RDF) for supply to EfW plant
- Anaerobic Digestion (AD)

EfW has historically been an area of slow investment and growth in Scotland and has limited capacity available. This has led to shipping to further areas of the UK or export to Europe as alternate end destination after recovery. It has to be noted that the RDF market is likely to fluctuate in price particularly as a result of Brexit and growth in domestic market.

2. Composting

Compost is organic matter that has been decomposed in a process called composting. This process recycles various organic materials - otherwise regarded as waste products and produces a soil conditioner (the compost). Problems with the quality of material and compliance with the forthcoming ban have been experienced by

- Dumfries & Galloway: 25 year contract from 2004 until 2029 terminated 2018.
- Argyll and Bute: 25 year contract with Shanks signed in 2001, product would not meet new legislative targets. Review underway in 2018

Composting on an industrial scale requires large land areas for remediation or conditioning. The technologies which have been used for this method of diversion have also experienced difficulties in terms of the output quality of material largely as a result

of the mixed elements of municipal waste thereby requiring large scale front end extraction systems.

An alternate option for the BMW element is to landfill elsewhere in the UK or even the EU where there is currently no ban on BMW going to landfill.

The National Waste Plan allows for technological solutions that could convert waste to energy through thermal treatment, for use in district heating, in industrial processing or to generate electricity. SEPA's Guidelines for Thermal Treatment of Municipal Waste notes that economies of scale for building such plant may not occur within a single local authority.

A thermal treatment technology that recovers both heat and electricity or offers combined heat and power (CHP) would be consistent with the Scottish Planning Policy. It is unlikely that thermal treatment of waste without some form of energy recovery would be granted a permit. The evaluation of any technology to meet the BMW ban would be assessed under the criteria developed by SEPA and there are a number of technologies which have delivered high efficiencies in terms of energy recovery from waste.

The tender evaluation will require to take cognisance of the technology risk and compliance with Scottish Government policies.

Interim and Contingency arrangements

As contractors are not building any facilities without contracts in place there will be a lead-in time for the construction of facilities coupled with the technology solution. The specification will include for this and ensure that the risk of delivering the service is with the contractor from the outset. This approach differs from that taken by a number of authorities who have tied contractors in to a design and construction type contract. Where these have been let there are risks to the authority and the issue of any increased costs being borne through the contract pricing structure. The approach being developed minimises this risk and ensures contractors have either facilities in place or access to interim solutions to ensure that the Council will be compliant at a known and agreed cost.

Contract duration

In developing the rationale Officers from Inverclyde Council, West Dunbartonshire Council and Argyll & Bute Council have held a market analysis day with leading waste processors. A total of 6 presentations were made and, as identified in this report, there was a uniform consensus that a contract of 10 years with a 5 year extension would not only provide security to investors but would also provide surety to the council, in turn allowing budget certainty.

Informing this evidence have been a number of large scale waste contracts which were let for 25 years and have been beset with the technology and legislative changes.

More recently a significant 25 year waste contract has been identified as going £95m over budget resulting in significant costs to the Contractor. The Glasgow and Clyde valley waste project also signed a 25 year contract for £700m for 190,000 tonnes r. It is to be seen how these contracts are delivered over the longer term however, losses and contract risks at the level above cannot be sustained long term and it is likely that a specification to account for a commodity like waste which has a changing composition and reducing quantities would require costly future proofing adding to the overall gate fee

An initial contract period of 10 years supports the service providers and allows investment in infrastructure while minimising the risk of legislative developments and materials input. The 5 year option to extend should incentivise service providers to perform in the initial period and will also provide the Councils with an option to extend or

revisit the market should the contractor be underperforming or the market has changed.

Procurement Methodology

A collaborative approach by the Councils for the treatment of residual waste will be more attractive and allow for capital investment for the likes of EfW plants or material sorting facilities. Respective Council Officers have met with Scotland Excel and identified that Scotland Excel's Dynamic Purchasing System (DPS) will allow for the a further competitive procedure to be run with a pre-selected list of service providers who will have the capability, capacity and expertise to deliver a solution for the three councils.

Scotland Excel will have a pre selection list of service providers that have successfully passed the minimum qualification criteria, (capability to service, licensing, convictions, insurances etc), confirming that they are capable of providing the service as defined within the Contract Notice.

The DPS will allow the three Councils to achieve bespoke pricing based upon a commitment of municipal solid waste tonnage, the material content and quality as well as individual operational requirements. The contract can and will be tailored to meet the Councils' requirements in terms of price variations, terms and conditions and service delivery, allowing focus upon the areas that matter most to them, both in an operational sense, as well as areas such as community benefits and added value.

The minute of understanding for Roads Minor Works drawn up by our Legal Services will be used as the basis to support the collaborative tender. West Dunbartonshire Council have agreed to act as the lead Authority in any joint procurement exercise

As the Council does not currently have the same requirement to engage a new contract for the end of this financial year it would be considered appropriate that the Council retain an option to defer any decision to participate where the new contracted costs are not financially advantageous. This would also allow future costs to be considered through the budget setting process while allowing officers to monitor developing opportunities.

A further advantage is that West Dunbartonshire Council and Argyll & Bute Council currently haul their waste in refuse collection vehicles to landfill directly whereas Inverclyde Council has it's waste collected at Pottery Street and transported to landfill. Further potential exists where it may benefit the partner authorities to share the Council's transfer facility and generate income to this Authority and this can be explored at a later date.

6.0 IMPLICATIONS

6.1 Finance

One off costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments

Annually Recurring Costs/(savings)

Cost Centre	Budget Heading	With effect from	Annual net impact £000	Virement From	Other Comments
Waste Disposal		TBA	3,000		Minimum 10 year contract

6.2 Legal

There is a risk of non-compliance with The Waste (Scotland) Regulations 2012 if the Council does not have arrangements in place to secure a waste disposal route that meets new BMW landfill diversion requirements.

6.3 Human Resources

There are no human resources implications

6.4 Equalities

There are no equalities implications.

6.5 Repopulation

This report does not impact on Repopulation

7.0 REFERENCES

Treatment options for residual waste

http://www.parliament.scot/ResearchBriefingsAndFactsheets/S4/SB_13-41.pdf

SEPA – Thermal Treatment Guidelines

https://www.sepa.org.uk/media/28983/thermal-treatment-of-waste-guidelines_2014.pdf

<https://www.mrw.co.uk/latest/viridor-to-lose-95m-on-its-glasgow-efw-project/10029534.article>

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