



Mayor and Cabinet

Permission to procure a contract for the disposal of organic waste

Date: April 2021

Key decision: Yes

Class: Part 1

Ward(s) affected: All

Contributors: Strategic Waste and Environment Manager, Support and Engagement Officer, Procurement and Contracts Manager, Group Finance Manager

Outline and recommendations

The purpose of this report is to seek agreement from Mayor and Cabinet to commence the procurement process for the disposal of organic waste.

It is recommended that Mayor and Cabinet approves the commencement of a multi-lot, open procurement process for the organic waste disposal contract. It is recommended that the Council procures a 5 year contract with the option to extend for up to 2 years at the Council's discretion. The estimated value of this contract can be found in the appendices of this report.

Timeline of engagement and decision-making

February 2021 – Evaluation of current waste disposal contract

March 2021 – Officers engaged in a soft market testing exercise to explore procurement opportunities

1. Summary

- 1.1. Lewisham's current agreement for the disposal of mixed organic waste is with Veolia. This contract began in January 2019 and is due to end in January 2022. It has an option to extend for up to 2 years however, for the reasons set out in this report officers are recommending that the option to extend is not exercised and a new contract is procured to secure an avenue for the disposal of organic waste.

2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet approves the commencement of an open procurement process for the provision of organic waste disposal for a period of 5 years with the option to extend for up to 2 years at the Council's discretion. The cost is likely to be higher if the waste is delivered to a waste transfer site, bulked and then transferred to a disposal site due to the increase in vehicle usage and staff. A break down on cost is provided in the attached confidential appendix A.

3. Policy Context

- 3.1. The Waste Strategy for England "Our Waste, Our Resources: A Strategy for England" was published in December 2018. This strategy states that by 2035 65% of municipal waste should be recycled.
- 3.2. In May 2018 the Mayor published his London Environment Strategy. The Strategy sets out objectives, targets and policies for the effective management of London's municipal waste and to accelerate the transition to a circular economy. The Strategy's waste objectives, targets and minimum service levels for London are:
 - a) Objective 7.1 - Drive resource efficiency to significantly reduce waste focusing on food waste and single use packaging
 - b) Objective 7.2 – Maximise recycling rates
 - c) Objective 7.3 - Reduce the environmental impact of waste activities (greenhouse gas emissions and air pollutants)
 - d) Objective 7.4 - Maximise local waste sites and ensure London has sufficient infrastructure to manage all the waste it produces.
- 3.3. London-wide targets:
 - a) To cut food waste and associated packaging waste by 50 per cent per person by 2030
 - b) To achieve a 65 per cent municipal waste recycling rate by 2030, including a 50% recycling rate for local authority collected waste (LACW) by 2025
 - c) To send zero biodegradable or recyclable waste to landfill by 2026
 - d) London to manage net 100 per cent of all the waste it produces by 2026
 - e) Minimum level of household waste recycling service
- 3.4. Strategy Proposal 7.2.1.a sets a minimum level of service for household waste recycling that waste authorities should deliver by 2020, being that all properties with kerbside recycling collections to receive a separate weekly food waste collection service and all properties to receive a collection of, at a minimum, the six main dry materials, glass, cans, paper, card, plastic bottles and mixed rigid plastics (pots, tubs

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

and trays). The purpose of the separate food waste collection is to increase the supply of high quality organic waste available for anaerobic digestion

- 3.5. Strategy proposal 7.3.2a outlines the Emissions Performance Standards (EPS) that Local Authorities are expected to meet. One of the suggestions for how authorities can meet these standards is through the generation of low carbon energy via anaerobic digestion of organic waste.
- 3.6. In addition, the GLA Act 2007 provided the Mayor of London and the GLA with new powers and roles, which meant that London's waste authorities will be required to be in "general conformity" with the Mayor's Municipal Waste Management Strategy, backed up by the Mayor's power of direction.
- 3.7. The context for the above is the EU Waste Framework Directive introduced in 2009 and revised in 2010, which provides the legislative framework for the collection, transport, recovery and disposal of waste. The Waste (England and Wales) Regulations 2011 were introduced to deliver on the 2008 Directive and the Waste (England and Wales) (Amendment) Regulations 2012 replaced the earlier version to address the 2010 revision of the Directive. These regulations require member states to take appropriate measures to encourage the prevention or reduction of waste production and to adhere to the waste hierarchy when disposing of waste.
- 3.8. Increasing the participation and effectiveness of the organic waste collection services is considered an essential element of the Council's approach to managing waste and recycling. Through this contract the Council expects the successful provider to fully support the Council's education and awareness raising initiatives and help the Council explore opportunities to improve organic waste services.
- 3.9. In February 2019 Lewisham Council declared a climate emergency. It is important that the Council takes action to achieve its goal of carbon neutrality by 2030. This requires looking at all aspects of the Council's work, including waste management.
- 3.10. In our corporate strategy the council made a commitment to making Lewisham greener. Successfully making Lewisham greener involves taking better care of our local environment and the planet. Efficiently dealing with organic waste will help the council to deliver this outcome.
- 3.11. Lewisham along with all other Local Authorities have engaged with and recently provided input into the 4 recent Government consultations around recycling. We responded to the consultations around the Deposit Return Scheme, Consistency across boroughs, End Producer Responsibility and Plastic Tax. As these proposals have a wide-ranging impact for local authorities, it was important that local authorities took the opportunity to help the Government implement a set of policy measures that are ambitious, transformative, and will deliver in practice.
- 3.12. In line with these consultations and the countries increasing concern for waste disposal, specifically plastics, it is important that the end destinations of all materials are fully auditable and compliant with Environment Agency regulations.
- 3.13. The proposals set out in this report will assist the Council to deliver against that policy context.

4. Background

- 4.1. This contract will be for the processing of organic waste. In line with the Mayor of London's minimum level of service, food waste and green waste will be collected separately. Separate collections allow for food waste to be disposed of via anaerobic digestion while green waste is disposed of via composting.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 4.2. Lewisham's current agreement for the disposal of mixed organic waste is with Veolia. This contract began in January 2019 and is due to end in January 2022, this is a 3+1+1 contract. The estimated value of this contract is £6,078,672.
- 4.3. Officers undertook a rigorous soft market testing exercise, engaging with a number of private contractors via video calling. This exercise provided valuable feedback on the current state of the food waste market, and how the market is going to recover post COVID-19.

5. Service Delivery

The continuation of the provision of disposal services for organic waste is a key and essential service for the council, for the reasons set out in the 'Policy Context' above. The current contract expires in January 2022, and so a suitable route for the provision of this service after this date needs to be found. All food waste will go for anaerobic digestion and the garden waste to a composting facility however there are numerous options in the way that the waste reaches the disposal site and this will have an impact on the price of the contract. The preferred method for delivering this contract would be direct delivery of both food waste and green waste which means that Lewisham trucks will take the waste direct to the disposal sites. This is likely to be the cheapest option however it cannot be guaranteed that the Council will receive bids from contractors that have a facility within a 45 minute proximity, for logistical and environmental reasons exceeding a 45 minute drive time is not practical. If there are no disposal sites that are within the 45 minutes driving time or no disposal sites bid that are within the 45 minutes driving time then Lewisham may have to bulk its waste at a waste transfer facility where it is then taken to a disposal site by a contractor. As a result alternative lots have been provided to cover the different possible ways for delivering this service. The lots are set out below:

- 1) Direct delivery for disposal of food waste (preferred option) – direct disposal of the waste to a disposal facility
- 2) Direct delivery for disposal of green waste (preferred option) – direct disposal of the waste to a disposal facility
- 3) Disposal of bulked food waste treated via AD – this means that the contractor accepts bulked waste from a waste transfer site
- 4) Disposal of bulked green waste treated via composting – this means that the contractor accepts bulked waste from a waste transfer site
- 5) Tipping of food waste at a waste transfer site - this means that the Council's trucks tip at a waste transfer site and the waste will then need to be transferred by a contractor to a disposal site
- 6) Haulage of food waste from waste transfer site to disposal site
- 7) Tipping of green waste at a waste transfer site - this means that the Council's truck tip at a waste transfer site and the waste will then need to be transferred by a contractor to a facility
- 8) Haulage of green waste from waste transfer site to disposal site

Contractors will be able to bid for any lot that they are able to provide. The bids for each lot will be evaluated against each other. A combination of the lots required to deliver the service will be evaluated against the lots for direct

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

delivery to determine which contractor(s) will be selected.

- 5.1 5.1 Officers have produced a number of models to estimate the cost to the council for the disposal of organic waste through several different avenues, these figures are included in the confidential appendix of this report. Over the next few years London boroughs will begin procuring Anaerobic Digestion disposal routes for their organic waste. This is an enclosed system that captures and contains the biogas that is generated by the digestion process. Generally plants (disposal sites) are self-sustaining as a portion of the biogas outputs, generate energy for use within the plant and some plants use the bio gas to fuel their own vehicles.. Lewisham Council are in a position to capitalise on the current low demand for AD services and potentially secure a more favourable contract than if the Council were to extend their current contract sending the organic waste for in-vessel composting and begin this procurement at a later date. In past years, the anaerobic digestion (AD) industry lowered its fees to attract more food waste, but as reported in the Resources and Waste Strategy 2018, the plan to introduce separate food waste collections to all households and businesses will fully utilise AD plant capacity and it is extremely likely that prices will once again increase.
- 5.2 Officers have considered various possibilities for the provision of the service, in particular, carrying out a competitive process to find a contractor, insourcing the contract, a joint working contract with another borough and extension of the current contract.
- 5.3 **Insourcing** – It would not be possible to insource the contract for the following reasons:
- a) Lack of land – the Council would need a large plot of vacant land to set up the facility, this land would need to be within a reasonable tipping distance for our vehicles. The Council does not currently own any suitable land.
 - b) Lack of equipment – a successful food waste processing plant would require a large amount of specialised equipment.
 - c) High cost and barrier to entry – the Council would need to purchase land, purchase equipment, build a facility and hire staff to operate the facility. This would be a considerable cost. There would also be further operational costs after the initial set up costs.
 - d) Lack of expertise.
- 5.4 **Joint Contract** – It is not currently possible for the Council to jointly procure this service with another borough because the Council's procurement timelines do not currently line up with those of the neighbouring boroughs.
- 5.5 **Extension of current contract** – The council has the option of pursuing the extension of the current organic waste disposal contract. In order to comply with the Mayor of London's environment strategy, Lewisham will have to implement separate collections of food and green waste, favouring anaerobic digestion for the disposal of food waste. Prior to the completion of this report officers engaged in a soft market testing exercise to gain information about the state of the organic waste disposal market, average gate fee cost and capacity available within the market. From this testing officers have concluded that based on the current organic waste market it would be financially favourable to pursue an AD contract now rather than one or two years in the future. It is likely that over the next few year's gate fees for AD disposal will begin to rise as demand for these services increases.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 5.6 **Outsourcing via a Competitive Process** – This will allow the Council to ensure a high level of service is provided and will allow for due consideration to be given to the cost of delivering the service. A competitive process will encourage contractors to provide value for money when bidding.
- 5.7 In order to maximise the number of bids it is recommended that the procurement process used is the open procedure. It is recommended that this is a multi-lot procurement. The procurement will include the following:
- a) The Council follows the most simple process, by using an open procurement process rather than a restricted process which entails a larger number of stages;
 - b) The Council is seeking two different disposal routes for its organic waste, AD for food waste and composting for green waste. This is because garden waste can't go through the anaerobic digestion process. In order to ensure value for money multiple lots will be available for the disposal of food waste and green waste. It is possible that by tendering the contract with multi lots Lewisham could have a number of separate contractors providing these services. Though it is likely that the maximum number would be 4, these would be to provide the disposal of food waste, the disposal of garden waste, waste transfer site for the tipping of both waste types and a haulage company providing the transport for both waste types.
 - c) The contract for disposal will follow the industry standard approach to pricing. Bidders will submit a 'gate fee', this is the set price per tonne. The gate fee is the baseline used to calculate the final price per tonne.
 - d) The contractor will add a 'residual charge' for non-processable materials that are brought to the disposal site above a defined percentage limit i.e. if more than 5% of a loads material was non-processable the residual charge would be added. The residual charge will be applied to the gate fee and will increase the price per tonne.
 - e) Pricing for non-disposal lots will also follow industry standards. Bidders for the haulage lots will provide a cost per load to transport waste from the transfer site to the disposal site. Bidders for the waste transfer site lots will provide a fee per tonne for tipping at the site.
 - f) The contract term is a 5 year initial term with a 1+1 extension. This is to make the contract more attractive in terms of gate fee and number of bids because of the initial longer term period of secure tonnage; and
 - g) The contract will allow for some flexibility in the tonnages, this is to allow for an increase in food waste tonnages as the service is rolled out to more properties in the borough.

6 Contract terms

- 6.1 As set out above, it is proposed that the contract is for an initial period of 5 years, with the possibility of extensions totalling up to an additional 2 years, at the Council's discretion. A longer term contract will provide security of throughput tonnage for the contractor. This security may result in a more attractive gate fee. The option of an extension totalling up to 2 years allows the Council to evaluate its position and look at other options after the 5 years is up.
- 6.2 Given the level of spend on the Contract and the need to deliver significant efficiency

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

savings while at the same time ensuring that quality of service is maintained, officers are of the view that the evaluation should be undertaken with price and other financial factors having a 60% weighting, and quality and other non-financial factors a 40% weighting within the model used. By establishing clear requirements for the contract and by setting minimum quality thresholds the Council can ensure that the non-financial factors of the contract are weighted sufficiently. It is recommended that 5% is dedicated to social value. Due to the nature of the service being procured the majority of environmental issues have been addressed within the contract specification.

- 6.3 In terms of price, tenderers will be requested to provide prices based on an estimated tonnage of 10,000 tonnes of food waste per year and 1,500 tonnes of green waste per year.
- 6.4 In compliance with the London Environment Strategy policy 7.3.1 the contractor must ensure that all vehicles used in the processing and or sale of output material meet the vehicle exhaust standards set by the Ultra-Low Emission Zone. The contractor must show that they are minimising the movement of vehicles in the processing and sale of output material. Where practicable the contractor should prioritise the transport of output material by rail or river.
- 6.5 The Contractor shall implement 'The Waste Hierarchy' by maximising recycling rates and undertaking energy recovery from Non-Recyclable Materials to reduce waste to landfill to the lowest possible level. For the avoidance of doubt it is anticipated that the Contractor will prioritise energy from waste for the disposal of all material not sent for onward processing where practicable to do so. Where material is sent for energy recovery the contractor must demonstrate that it meets the carbon intensity floor as detailed in the London Environment strategy proposal 7.3.2.b. If the contractor is unable to meet the carbon intensity floor they must show demonstrable steps as to how they will meet it in the short term.

7 Financial implications

- 7.1 This report is seeking the approval of Mayor and Cabinet to commence a multi-lot, open procurement process for the organic waste disposal contract. The report recommends that the Council procures a 5 year contract with the option to extend for up to 2 years at the Council's discretion.
- 7.2 The current contract began in January 2019 and is due to end in January 2022, and is a 3 year contract extendable by up to 2 years. The estimated value of this contract is £6,078,072. This report recommends tendering for a new contract instead of extending the current contract by a possible further two years.
- 7.3 The service has undergone soft market testing with positive results when efficiencies in price and total costs were considered. Based on the vigorous soft testing undertaken, there is the potential to make efficiencies of approximately £3m over the recommended contract period under the direct delivery option, when compared to the current contract. These potential efficiencies reduce when the alternative disposal option is considered. However, it is anticipated that reductions in current costs will be achieved through this process.

8 Legal implications

- 8.1 The report seeks approval to future delivery of organic waste disposal services by an external provider. Given the potential spend on this contract (at a length of 5 + 2 years) this contract would be categorised by Contract Procedure Rules as a Category A

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

contract. The report sets out the other options considered and explains the rationale for the recommended option.

- 8.2 Assuming that Mayor and Cabinet accepts the recommendation for the future delivery of organic waste services by an external provider, Contract Procedure Rules place requirements on how that should happen. The Rules require that when letting contracts steps must be taken to secure value for money through a combination of cost, quality and competition, and that competitive tenders or quotations must be sought depending on the size and nature of the contract (Rule 5). Given the potential spend on this contract the Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment) Regulations (EU Exit) Regulations (“the Regulations”) will apply. The requirements of both Contract Procedure Rules and the procurement regulations would be satisfied by use of an open tender procedure through lots. The process for procurement by the open procedure and the award of the contract would have to be in accordance with the Contract Procedure Rules. As a Category A contract, it would be for Mayor and Cabinet to take a decision on the award of any contract.
- 8.3 In taking this decision, the Council’s public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.4 In summary, the Council must, in the exercise of its functions, have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; foster good relations between people who share a protected characteristic and those who do not.
- 8.5 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made bearing in mind the issues of relevance and proportionality and understanding the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.6 The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found on the EHRC website.
- 8.7 The EHRC has issued five guides for public authorities in England giving advice on the equality duty. The ‘Essential’ guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

9 Equalities implications

9.4 There are no direct equalities implications.

10 Climate change and environmental implications

10.4 The proposals in this report and the services that will be delivered within the contract are environmental in nature.

10.5 The services are specifically designed to improve the rates of recycling in the borough.

10.6 This contract will ensure that more waste is diverted from landfill and incineration in accordance with the principles of the waste hierarchy.

10.7 The contract will ensure compliance the London Environment Strategy.

10.8 The contract will help the Council meet the targets set out in the Waste Strategy for England.

11 Crime and disorder implications

11.4 There are no direct crime and disorder implications.

12 Health and wellbeing implications

12.4 There are no direct health and wellbeing implications.

13 Report author and contact

13.4 Wendy Nicholas, Strategic Waste and Environment Manager,
Wendy.Nicholas@lewisham.gov.uk

13.5 020 8314 2194

14 Comments for and on behalf of the Executive Director for Corporate Resources

14.4 Shola Ojo, Shola.Ojo@lewisham.gov.uk, 020 8314 7778

15 Comments for and on behalf of the Director of Law, Governance and HR

5.1. Mia Agnew, Mia.Agnew@lewisham.gov.uk, 020 8314 7546

16 Appendices

16.4 Part 2 – Financial figures

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>