

AUTHORITY REPORT: ANNUAL BUDGET & SERVICE DELIVERY PLAN 2012-2013

1. Confidential Report

1.1 Part confidential (Appendix C)

2. Recommendation:

2.1 Members are asked to:

- a) Approve the Annual Budget & Service Delivery Plan (ABSDP) 2012-2013.
- b) Consider the continued annual allocation of £150k to support the ELWA Partnership communications strategy.

3. Purpose

3.1 To consider the Annual Budget & Service Delivery Plan 2012-2013, produced by ELWA Ltd (Appendix A).

4. Background

4.1 The Integrated Waste Management contract contains specific requirements regarding service delivery plans:

4.2 The Overall Service Delivery Plan (OSDP) of ELWA Ltd is a plan that covers the 25 years of the contract. This large document is a schedule to the contract and is essentially the operational and technical proposal by the contractor to meet ELWA's requirements.

4.3 The 3 or 5 year Service Delivery Plan (SDP) follows a similar format to the OSDP but provides a greater level of detail.

4.4 The ABSDP provides a further level of detail, particularly in respect of financial matters. The plan connects ELWA to the contractor (Shanks East London) through the conduit that is ELWA Ltd. The intention is for the authority to consider the ABSDP in the autumn prior to the commencement of the relevant financial year to which it relates. This is to ensure that the levy report in February can fully reflect the likely expenditure commitments arising from the contract.

4.5 Various penalties can be applied by the authority if these plans, once approved, are not adhered to and met. In extreme circumstances, the authority could terminate the contract. However, changes may occur due to circumstances beyond the control of the contractor, such as force majeure events.

4.6 The contractual arrangements concerning service delivery plans are quite specific and provide a firm foundation for the achievement of contractual targets. They also provide the flexibility to review and update plans as necessary over the life of the contract. In addition, the financial aspects of the ABSDP are important in the preparation of the ELWA levy.

5. Current Position

5.1 Shanks East London discussed and agreed a revised format for the ABSDP and submitted the plan to ELWA officers in line with the agreed timetable. The plan takes account of current and planned waste tonnages and operational performance in determining likely recycling and diversion rates for the coming year. In addition, the contract allows for an annual RPI inflationary cost increase. These three factors are the basis of the plan and the resulting contractual cost.

Tonnages

5.2 The Shanks forecast tonnage for 2011-2012 is 439,000 tonnes.

5.3 The 2012-2013 ABSDP estimates are for a reduction in general household waste of 1.2% and a reduction of 12% in RRC waste. In addition, officers from the London Borough of Newham have indicated there will be an additional 5,000 tonnes of household waste due to the 2012 Olympics. Therefore, the estimated total waste for the year is 434,890 tonnes. Appendix B details waste flows for the year.

Performance

- 5.4 The contractual recycling target for Shanks is 27% for 2012-2013. However, the ABSDP confirms does not indicate this level of performance for the year, due to Shanks' failure to secure an appropriate market for the fines material produced by the MBT process. This material represents approximately 3.5% of the annual recycled tonnage. Until last year, the material was further processed, by in vessel composting, by a sub-contractor to Shanks and then used in such a way that it was classified as recycled. However, following problems with the sub-contractors process, the Environment Agency made it clear that this processing did not result in an appropriately inert material for it to be considered as recycled, regardless of the end-use. Since then, Shanks have had difficulty finding a contractor willing to process the MBT fines material.
- 5.5 Shanks have begun construction of their anaerobic digestion (AD) plant and have confirmed the fines material will be processed using this technology. The processed material will be an inert product, classified as recycled once it is used as a product. The AD plant will not be fully commissioned until April 2013. Therefore Shanks face a year of not being able to include the material as recycled. However, some of the material should be processed during commissioning of the plant from September 2012, which will help reduce the recycling target shortfall.
- 5.6 Shanks' management have committed to identifying other means of increasing recycling to meet the shortfall. In reality, the only part of the waste disposal process where this is feasible is in relation to the RRCs. Shanks will increase staffing levels at the RRCs in order to manually extract recyclable waste. Elwa officers are pleased at this commitment but recognise the RRC waste is mixed and extracting all the recyclable material will be difficult. Therefore, there is no guarantee the shortfall will be fully met and Shanks consider it prudent to state a recycling rate of 25% for the year.
- 5.7 Overall diversion of waste from landfill is currently at 62%. Following the implementation of the agreement with Shanks to increase diversion by exporting coarse SRF, the 2012-2013 ABSDP diversion rate for the year, including recycling, is 78%.

RPI Inflation

- 5.8 Each year, 80% of the RPI figure for the month of October is used for the inflationary uplift to the contract. The assumed October 2011 RPI was 5.6%; therefore the inflationary uplift to the contract for 2012-2013 is 4.5%.

Contractual Cost

- 5.9 The combination of the waste tonnages, performance levels and the inflationary increase give rise to a contract cost of £53,623,000. It should be noted that this figure also includes an inflationary increase of £8/tonne in landfill tax. Appendix C summarises the financial information and is confidential.

Communications Budget

- 5.10 At the meeting of the authority on 29 September 2008 members approved the annual allocation of £150k to support the budget of the ELWA Partnership Communications Group. This funding was linked to the engagement of Waste Watch to deliver the partnership's communications strategy, following advice to the authority from WRAP.
- 5.11 The Waste Watch contract has been reviewed and group members consider it has successfully delivered an effective community engagement programme. Appendix D contains information from Waste watch about the Recycle for Your Community campaign activities and outputs, including a list of the additional activities the money would fund.
- 5.12 The Operational Management Team also considered the value of this work and agreed its continuance would be beneficial to the achievement of the Integrated Waste Management Strategy objectives. The contract with Waste Watch has been renewed for a further three years from April 2012 and members are asked to consider the continued annual allocation of £150k to support this work.

6. Conclusion

- 6.1 Officers recognise the ABSDP reflects a realistic position and understand the reasons for it including a recycling rate of 25%. Whilst it is disappointing and does not meet the

contractually agreed target of 27%, there are no contractual remedies ELWA can enforce. Shanks management have given valid reasons for the shortfall and officers are reassured by the proposed solution to the fines material problem and the introduction of increased staffing at the RRCs.

- 6.2 Officers consider Shanks plans to mitigate the loss of recycling are realistic. In light of this, and there being no contractual means to enforce the recycling target, officers recommend members approve the ABSDP.

7. Relevant officer:

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8. Appendices attached:

Appendix A: Annual Budget & Service Delivery Plan 2012-2013

Appendix B: ABSDP 2012-2013 One Year Waste Flow Summary

Appendix C: Summary of ABSDP 2012-2013 Financial Information (**Confidential**)

Appendix D: Waste Watch Recycle for Your Community campaign information

9. Background Papers:

Minute 1607 Partnership Communications Strategy.

10. Legal Considerations:

The arrangements of waste authority are to a significant degree set by the contractual relationship. It is crucial to the on going performance of the contract that it is monitored effectively and this Report contributes to that process. As paragraph 17 explains, the contents of part of this report are private and confidential by virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972 that is because it contains information relating to the financial and business affairs of the waste authority.

11. Financial Considerations:

11.1 The ABSDP provides detailed information on expenditure commitments, tonnage estimates and landfill diversion rates. It is vital that ELWA Officers are satisfied that these assumptions are accurate and achievable as they are used to underpin the assumptions within the calculation of the annual levy.

11.2 The Levy report appears elsewhere on your agenda. a further level of detail, particularly in respect of financial matters.

12. Performance Management Considerations:

The ABSDP sets the level of performance for the year.

13. Risk Management Considerations:

13.1 The decision to accept the ABSDP should help mitigate the following strategic risks:

- a) S1 - Corporate divisions and disagreements.
- b) S2 - Breakdown of relationship with contractor.
- c) S8 - Contract no longer affordable.
- d) S12 - Failure to deliver improved levels of contractual performance.

13.2 Acceptance of the ABSDP should help mitigate the following operational risks:

- a) O14 - Poor performance of collecting authorities
- b) O15 - Insufficient waste produced to meet contract minimums.
- c) O16 - Waste increases above budgetary assumptions.

14. Follow-up Reports:

None.

15. Websites and e-mail links for further information:

None.

16. Glossary:

ABSDP - Annual Budget & Service Delivery Plan

OSDP - Overall Service Delivery Plan

RRC – Reuse and Recycling Centre

SRF – Solid Recovered Fuel

RPI – Retail Price Index

MBT – Mechanical Biological Treatment

AD – Anaerobic Digestion

WRAP - Waste & Resources Action Programme

17. Approved by management board

23 January 2012

18. Confidentiality:

18.1 Appendix C of report is not for publication as it contains information relating to the business affairs of third parties and is therefore exempt from publication by virtue of paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

18.2 Reason for confidentiality: Appendix C contains commercially sensitive information that would impact contractually on partnerships and is market sensitive.