

CABINET

17 JANUARY 2012

GATEWAY 4 PROCUREMENT POST PROJECT COMPLETION REVIEW:ORGANIC WASTE (GARDEN AND KITCHEN) PROCESSING

Portfolio Holder: Councillor Phil Filmer, Front Line Services

Report from: Robin Cooper, Regeneration, Community and Culture

Author: Sarah Dagwell, Head of Waste Services

Summary

This report seeks permission from Cabinet to review the progress of the garden and food waste processing contract currently delivered through Countrystyle.

This is based upon the procurement process that was undertaken during 2007 -2009 and which led to an award of contract by Cabinet on 22 September 2009 for service commencement on 4 October 2010.

The commencement and delivery of this procurement requirement was approved by Cabinet at Procurement Gateway 1 on 20 February 2007 and subsequent approval for contract award was provided by Cabinet at Procurement Gateway 3 on 22 September 2009.

Approved Procurement Gateway 1 and 3 Reports relating to this Gateway 4 report are available upon request.

This Procurement Gateway 4 report has been approved for submission to Cabinet after review and discussion Regeneration, Community and Culture Directorate Management Team meeting on 24 November 2011 and Strategic Procurement Board on 30 November 2011.

1. Budget and Policy Framework

1.1 Post Project Appraisal / Contract Management

- 1.1.1 This procurement post project appraisal and its subsequent review is within the Council's policy and budget framework and ties in with all the identified Core Values, Strategic Priorities, Strategic Council Obligations

and Departmental/Directorate service plans as highlighted within the Procurement Gateway 1 Report.

2. Background

2.1 Contract Details

This contract is a services contract.

2.1.1 Supplier Details

This Gateway 4 Report relates to the Organic Waste (Garden and Kitchen) Processing contract currently delivered by Countrystyle.

2.1.2 Contract Description

This contract is for the processing for collected garden and food waste (i.e. materials collected and delivered to their site at Ridham Docks, Sittingbourne, under the waste collection contract) with the aim of diverting biodegradable waste from landfill and producing a compost style product suitable for use on local agricultural land.

This contract follows the Council's core values to ensure we give value for money and fits with the strategic priority of a clean and green environment.

Such services need to support the Council's Waste Strategy that in turn provides the basis for targets in performance and community plans. The primary objectives are to:

- Ensure compliance with statutory duties.
- Meet statutory performance targets.
- Ensure continuity of a front line service.
- Provide services within agreed budgets.
- Meet requirements to achieve efficiency gains.
- Provide environmentally sustainable services

2.2 Permissions Required

This report seeks to provide Cabinet with a post project appraisal and continue this termed contract for remainder of the contract duration of 15 years (2010- 2025) without any further Gateway 4 or 5 reporting requirements.

This request is on the basis that this contract has fulfilled requirements in accordance with the service specification and associated contract terms and conditions (see section 4.1.1 Procurement Project Outputs / Outcomes) in the first year and because no major issues have been identified which cause concern for further continued contract management reporting to Cabinet.

It is acknowledged that if this option is granted and in the event of any major issues arising for the remainder of the contract term, a Gateway 5 report will be submitted with immediate effect for review by Cabinet or if

so required and instructed for review by Cabinet during the remainder of the contract term.

3. Options

In arriving at the preferred option as identified within Section 4.1 'Preferred Option', the following options have been considered with their respective advantages and disadvantages.

3.1 Conclude Current Contract and Provide Action Plan

3.1.1 The option of concluding the contract with immediate effect on the basis that the contract is a termed contract with provisions within the terms and conditions to cancel contractual arrangements for supplier non-performance and providing an action plan for future projects is not a viable option because this is a new contract for a period of 15 (plus 5) years, of which we are only at the end of year 1 and to break the contract would cost the Council several million pounds.

3.2 Continue With Current Contract and Negate Any Further Gateway 4 or Gateway 5 Reporting Requirements (unless a change in contract term is required)

3.2.1 The option of continuing with the current contract for the remainder of the contract term and negating any further Gateway 4 or Gateway 5 requirements has been considered and below are the advantages and disadvantages of this option:

Advantages

3.2.2 The contract is for processing waste only and has no direct impact on frontline service delivery. The main areas of risk were associated with the change of contractor and the interface with the collection contractor, all of which have gone smoothly.

3.2.3 The new contract is operating efficiently and there have been no periods of down time in plant or equipment or areas of concern raised within the first year.

3.2.4 Negotiations are underway regarding uptake of the 5 year extension which, if successful and efficiencies can be realised, would require a Gateway 5 report.

Disadvantages

3.2.5 None Identified

3.3 Continue With Current Contract and Subject Contract to Further Gateway 4 and/or Gateway 5 Reporting Requirements

3.3.1 The option of continuing with the current contract for the remainder of the contract term and subjecting the contract to further Gateway 4 and/or Gateway 5 requirements is not recommended because this contract is a processing contract with no direct implications on front line service

delivery. The contractor has delivered all year one-contract requirements (see advantages above) and there are no further targets set.

3.3.2 Negotiations are underway regarding uptake of the 5 year extension which, if successful and efficiencies can be realised, would require a Gateway 5 report.

3.4 Other alternative options

3.4.1 No alternative options have been identified.

4. Advice and analysis

4.1 Preferred Option

Further to a review of procurement options as highlighted within Section 3 'Options' above, the following preferred option is recommended to Cabinet:

Option 3.2 - Continue with current contract, negating the need for further Gateway 4 or Gateway 5 reporting requirements (unless a change in contract term is required)

This option is preferred, as stated in section 3.2 above, the contract has been running smoothly with no issues during its first year.

4.1.1 Procurement Project Outputs / Outcomes

The following procurement outcomes/outputs have been appraised in the table below to demonstrate how the supplier has delivered services within the first year.

Additionally, the annual report from Countrystyle has been included at Appendix 1.

Outputs / Outcomes	How has success been measured? Who has measured success of outputs/ outcomes? When was success measured? How has procurement contract delivered outputs/outcomes?
1. Ensure compliance with statutory duties.	<p>Medway Council has a statutory duty to divert organic waste from landfill under the Landfill Allowance Trading Scheme (LATS). The nature of this contract, processing garden and food waste to make a compost type material suitable for use on land, and hence diverting this waste away from landfill, will greatly assist Medway Council to ensure they meet their statutory duties.</p> <p>The success of this contract is measured via</p> <ul style="list-style-type: none"> – monthly contract meetings, – annual report to Overview and Scrutiny Committee (first due Dec 2011) – monthly corporate monitoring via Covalent returns, – national waste dataflow returns,
2. Meet statutory performance targets.	<p>During 2010/11 our statutory allowance for biodegradable waste sent to landfill under the LATS scheme was 46826 tonnes. By increasing the amount of organic materials (18,900 tonnes from Oct 2010-Sept 2011) we collect separately and hence send to Countrystyle for processing, Medway Council has lowered the amount of residual waste collected and sent to landfill. This contract has directly contributed to Medway Council having a surplus of landfill allowances as reported in the GW 4 report on waste collection/disposal .</p>
3. Ensure continuity of a front line service.	<p>Service continuity has been maintained; despite a change in contractor from Veolia processing waste at their open windrow site in Essex to Countrystyle processing via Invessel (with the ability to also take food waste) at their facility at Ridham Docks just outside of Sittingbourne. This was undertaken with no effect on the frontline service delivery.</p>
4. Provide services within agreed budgets.	<p>Monthly monitoring undertaken by Head of Service and Corporate Finance Officer. This is monitored monthly at a local level by the Assistant Director and quarterly at DMT, CMT and Cabinet. Waste Services is due to be audited (internal audit) in 2011/12. This contract is operating within the agreed budget. This contact is subject to RPI indices uplifts each year. Details of contract costing/income are in the exempt appendix.</p>

5. Meet requirements to achieve efficiency gains.	Discussions are underway with Countrystyle regarding the possibility of taking up the 5-year contract extension and hence achieving efficiency gains and a further Gateway report will be presented as/when these negotiations are completed.
6. Provide environmentally sustainable services	Undertaking recycling is a key feature of sustainable waste practices. Each year reports of energy and fuel usage are submitted to Medway Council as well as robust internal process for auditing their energy usage.

4.1.2 Procurement Project Management

This procurement project will be taken through the remainder of the Gateway Procurement Process through the utilisation of the following project resources and skills:

- Head of Waste Services supported by the Strategic Procurement

4.1.3 Post Contract Award Contract Management

The management of this contract will continue to be resourced for the remainder of the term through the following contract management strategy:

- Client management: These contracts are managed by the Waste Services team within Front Line Services (FLS). The team structure is detailed in Appendix 2.
- Contract management: The structure of Countrystyle contract management is attached in Appendix 2.

Waste Services holds regular meetings with Countrystyle to discuss service delivery, health and safety, financial issues and recycling statistics.

4.1.4 Other Issues

There are no other issues have been identified to date that could potentially impact the remainder of this contract term.

4.1.5 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it was identified at Procurement Gateway 1 that although this procurement contract award is related to a Services procurement, TUPE did not apply to this procurement process. There was no TUPE implications resultant from this recommended procurement contract award at Gateway 3.

4.2 Other Information

- 4.2.1 The procurement project management will need to be reviewed within the next 10 years to reassess the date for commencing the processes for the next waste garden/food waste processing contract to start in 2025 (or 2030 - depending if the 5 year extension period is undertaken at a later stage).

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement contract at this Gateway 4 Stage

Contractual delivery	X	Health & Safety	X
Service delivery	X	Legal	X
Financial	X		

For each of the risks identified above, further information has been provided below.

Risk Categories	Outline Description	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Plans To Mitigate Risk
a) Contractual delivery	<p>Default by Contractor needing emergency action</p> <p>Termination of Contract due to default by Contractor</p> <p>Volume of waste less than or greater than anticipated</p>	<p>D</p> <p>D</p> <p>C</p>	<p>II</p> <p>II</p> <p>III</p>	<p>Contractor to provide and/or pay for alternative action</p> <p>Adequate contract provision to enable the Council to take effective action when necessary. Clause in contract to enable Medway to reclaim losses.</p> <p>Allowance made for this in Contract conditions.</p>
b) Service delivery	<p>Closure of plant or inability to provide Service due to Force Majeure or relief events</p> <p>Failure of waste management services contractor to meet contract standards for service delivery to the Council.</p> <p>Interruption of availability of some facilities</p>	<p>E</p> <p>D</p> <p>C</p>	<p>II</p> <p>II</p> <p>II</p>	<p>Shared responsibility under Contract conditions.</p> <p>KPI & default system in place for financial compensation. Adequate contract monitoring and enforcement in relation to operations. In appropriate cases by including provisions in the contract for deductions where these standards are not met.</p> <p>Adequate contract monitoring and enforcement in relation to maintenance, security, health and safety, staff training. Contractual provision of back-up equipment and facilities. Fire insurance. In appropriate cases by including provisions in the contract for deductions where such interruptions occur</p>

	Non-household waste entering MSW waste stream or waste incorrectly dealt with according to its category.	C	III	Robust monitoring arrangements should be undertaken as part of Contract management for checking/validating wastes and issuing appropriate defaults. Failure will have significant financial implications.
c) Health & Safety	Serious injury/death of staff or public while services are in operation	D	I	Robust health and safety monitoring procedures in place; the Waste Services contracts in Medway are due to be audited by the HSE in 2011/12 as part of their routine inspections.
d) Legal	Changes in Government regulations/law	C	II	Incorporated into the contract that which is likely to be a known change. Clear ground rules have been incorporated into the contract conditions for negotiating future changes in law. However waste industry is likely to be affected substantially in future. Especially within the life span of a 15 (+5) year contract. The impact of these would be subject to review at the time of establishing whether the financial implications are the responsibility of the Council or shared.
e) Financial	Budgeted net expenditure exceeded	B	II	Prudent budgeting. Robust arrangements for management within budget. Prompt and accurate assessment of unbudgeted proposals and developments. Early negotiations undertaken with contractor when impacts of budget pressures are apparent.
	Overpayment to contractor	E	III	Robust contract procedures for checking contracts, validating invoices and recovering any overpayments. Staff training. Regular internal audit inspections.
	Contractor/employee fraud or corruption	E	II	Robust contract provisions for controlling payments and assets. Adequate supervision and transparency for contract management and negotiations. Staff training. Regular internal audit inspections.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

- 6.1.2 As part of this ongoing procurement contract management, the following mandatory internal stakeholder consultation is required:
- DMT (report approved 24 November 2011)

6.2 External Stakeholder Consultation

- 6.2.1 As part of this ongoing procurement contract management, no external stakeholder consultation is required unless changes in services are needed at some later date.

7. Strategic Procurement Board

- 7.1 The Strategic Procurement Board considered this report on 30 November 2011 and supported the recommendations set out in paragraph 9 below.

8. Financial, legal, Procurement and ICT Implications

8.1 Financial Implication

- 8.1.1 Detailed finance and whole-life costing information is contained within Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix. This has been reviewed and agreed by the finance team.

8.2 Legal Implications

- 8.2.1 The contract, under Clause 3.1.2, states:
If the Council determines that it would be beneficial to the provision of disposal services for Garden/Kitchen Waste in the Borough to extend the Contract, the Council shall serve a written notice upon the Contractor at least six (6) months before the Initial Expiry Date the effect of which shall be to extend the Service Period by up to 5 years from the Initial Expiry Date (the "Extended Expiry Date").

- 8.2.2 Medway Council can take up the option of the contract extension at any time earlier than 6 months before the initial expiry date of 31 September 2025. This option is being explored with Countrystyle and will be subject to a further Gateway 5 report as and when negotiations are complete.

- 8.2.3 This report has been reviewed and agreed by Legal Services.

8.3 Procurement Implications

- 8.3.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has no further procurement implications which Cabinet must consider.
- 8.3.2 The contract has delivered against the objectives set out as part of the original tender specification and as part of the Gateway 3 contract award

process. The supplier, through a robust internal contract management process, continues to provide the service in line with the contract terms and conditions and continues to deliver to the appropriate key performance indicators. This demonstrates that that the Gateway 3 contract award decision was both correct and based upon a robust procurement process that has enabled the contract to be delivered effectively in year 1. In line with Contract Procedure Rules, Cabinet must decide whether to require any further Gateway 5 reports for this contract during the remainder of the contract term. Any future contract variations shall automatically require a Gateway 5 report to be presented to Cabinet for a decision to be made.

- 8.3.3 Strategic Procurement supports the recommendation at 9(b) to continue with current contract, negating the need for further Gateway 4 or Gateway 5 reporting requirements, unless a change in contract term is required. Cabinet nonetheless needs to appraise whether this contract is considered of strategic importance to the Council and should be subjected to a minimum of one Gateway 5 per annum to ensure that the contract continues to deliver effectively throughout the contract term.

8.4 ICT Implications

- 8.4.1 This procurement does not have any ICT implications.

9. Recommendations

- 9.1 Cabinet is requested to:
- a) Note the progress made to date with the garden/food waste processing contract
 - b) Continue with current contract, negating the need for further Gateway 4 or Gateway 5 reporting requirements, unless a change in contract term is required

10. Suggested reasons for decision(s)

- 10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis that this contract is providing value for money, and that Countrystyle are delivering high quality services for the residents of Medway while greatly assisting to achieve our statutory LATS targets.

Lead officer contact

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Background papers

The following documents have been relied upon in the preparation of this report:

Description of document	Location	Date
Options Appraisal for Waste Collection Services	http://democracy.medway.gov.uk/ieDecisionDetails.aspx?ID=742	20 Feb 2007
Waste Collection Services and Waste Disposal Services: Award of Contracts	http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=3321	14 Jul 2009
Contracts for the Collection and Disposal of Waste Update	http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=3351	22 Sep 2009

Appendix 1

Countrystyle Annual Report – Year 1

Medway Annual Service Report

Please find below the 2010-2011 Annual report on the processing of Organic Waste into the Countrystyle Ridham Facility.

Waste Data Flow

Below is a monthly summary of inputs.

Month	Input
Oct-10	1281.3
Nov-10	1105.62
Dec-10	274.44
Jan-11	672.72
Feb-11	585.4
Mar-11	1229.06
Apr-11	2871.22
May-11	2849.61
Jun-11	2956.32
Jul-11	1727.38
Aug-11	1786.72
Sep-11	1640.28
Oct-11	1464.38
Total	19163.15

At present contamination is approximately 1% of total inputs into the facility at 45,000. The contamination is disposed of at Viridor Shelford Landfill.

Outputs to the site are in the form of PAS100 QP certified compost to 0-40mm grade for agricultural use only. Approximately 60% of this compost is deployed for use on agricultural land in the Swale area whilst the remaining 40% is deployed for use on agricultural land within a 15 mile radius of the site.

Legislative Compliance

Nothing to report

Health and Safety

During the first year of the contract the Ridham facility had no reportable incidents. Below is a list of accidents on site.

Date	Details	Reportable ?	Correc Tive Action
21/12/2010	Whilst walking on fresh snow the IP slipped over onto his right side. He continued to work but noticed a pain in his shoulder	n	Salt spread on the road and stockpile of 1T salt minimum on all yards
30/12/2010	Whilst doing up the curtain on a tautliner the IP's left index finger became trapped	n	Tool box talk carried out on safe method of operating the tautliner carried out to all drivers
18/02/2011	It was stated that whilst opening the door of a bin on a windy day the IP's thumb was squashed between security loop and the rear steel upright due to sudden movement of the door	n	Tool box talk carried out to remind all drivers on the hazards associated with their roles in windy conditions
13/04/2011	The IP stated his finger was squashed in the rear door of trailer T16	n	Tool box talk carried out to all drivers regarding the safe operation of trailer doors
26/05/2011	The IP parked the lorry alongside a low wall whilst loading a bin onto the trailer, the IP got out of the cab to check the bin was lined up correctly and slipped off the wall into a hole because it was wet, the IP then reported right arm, shoulder, leg and back pain.	n	Tool box talk carried out to remind all drivers they are not permitted to work at height
16/06/2011	Whilst filling up the adblue the can the IP was holding sprayed the adblue over the IP covering the top half of his body some entered his mouth and eyes	n	Revision of COSHH assessment to use safety glasses when filling containers
02/07/2011	Whilst blowing down the JCB 426 with the air hose the end struck me on top of the head	n	Hard hat area enforced
06/07/2011	Whilst the IP was dismantling the JCB 426 he lost his footing and fell onto the floor hurting his foot, leg, back and	n	Site Manager monitors the housekeeping

	shoulder. The IP returned to work.		
13/08/2011	Whilst shutting the tail gate a lump of Gypsum dust fell in the IP's eye	n	Reminder to drivers to ensure trailers are clear of all waste materials prior to closing doors
22/08/2011	Whilst opening the door wood fell and caught the IP's ankle grazing the skin	n	Full length trousers enforced on site

Visitors to the Facility

During May 2011 Countrystyle participated in 'Compost Awareness week' at Riverside Park, as a part of Medway's Compost Awareness and Community Week. On Saturday 7 May 2 members of staff attended the event to answer questions from the general public and gave a short presentation to EU Partners who are part of a cross-border community scheme, consisting of the UK, Belgium and France.

During October 2011 Countrystyle Ridham hosted the Annual Health and Safety Event for the Association for Organic Recycling. The day was attended by approximately 60 members of the association that during the morning attended presentations on Health and Safety Issues followed by an afternoon of a site visit to the Ridham site where various aspects of site operations were reviewed.

Internal Management Systems

Countrystyle successfully continues to uphold ISO 9001,18001 and 14001, with 6 monthly audits conducted in February 2011 and then again Sept 2011, the Ridham site being inspected in September 2011.

Further to the ISO audits by Lloyds Register Countrystyle produce a programme of internal audits at a minimum audit schedule of annually per site following the Management Review meeting. It takes into account the importance of the processes being audited, the results of previous internal audits and comments from the Directors at the Management Review process if relevant.

During the contract year we trained all of our site managers to IOSH 5 day 'Managing Safely'. Due to organisational arrangements our target is to maintain at least 75% of our Site Managers trained to this standard as a minimum.

Proposed amendments to the Service Delivery Plan

Nothing to report.

Any other issues

Nothing to report.

Structure Charts

Medway Council: Waste Services



