



ADVIES/BESLISBLAD

Prioriteit: Hoog	DIV#: 4267 Datum: OCT 30 2015
Gevoeligheid: Normaal	MIN#: Datum:
	Controller#: Datum:
Ingekomen van: KabMin VROMI	
Onderwerp: Approval of the extension of the existing garbage collection contracts	
Inhoud en doelstelling van het voorstel: Approval of the extension of the existing garbage collection contracts with the four contractors	
Beslispunten: 1. For the Minister of VROMI to sign the extension of the garbage collection contracts with the four contractors.	
Interdepartementaal voorbereid met: Overeenstemming bereikt: <input type="checkbox"/> ja <input type="checkbox"/> nee <input checked="" type="checkbox"/> nvt Toelichting:	
Uitvoering opgedragen aan: Cabinet VROMI	
Verplichte Handtekening:	
Controller:	Datum:
SG(en):	Datum:
Minister(s): 	Datum:
<input type="checkbox"/> Te behandelen in de Ministerraad	
Paraaf:	Datum:
FINANCIËLE GEVOLGEN INCLUSIEF BEGROTINGSPOST:	
Voldoende financiële middelen beschikbaar: <input checked="" type="checkbox"/> ja <input type="checkbox"/> nee <input type="checkbox"/> nvt Toelichting: Budget neutral	
GEVOLGEN VOOR PERSONEEL EN ORGANISATIE:	
<input type="checkbox"/> ja	Toelichting:



<input type="checkbox"/> nee <input checked="" type="checkbox"/> nvt		
GEVOLGEN VOOR COMMUNICATIE:		
<input type="checkbox"/> ja <input type="checkbox"/> nee <input checked="" type="checkbox"/> nvt	Toelichting:	
JURIDISCHE GEVOLGEN:		
<input type="checkbox"/> ja <input type="checkbox"/> nee <input checked="" type="checkbox"/> nvt	Toelichting:	
BIJLAGEN: (dienen te worden afgevinkt en extra bijlagen te worden toegevoegd.)		
<input type="checkbox"/> Kredietbewaking <input type="checkbox"/> Persbericht <input type="checkbox"/> Verdragen	<input checked="" type="checkbox"/> Concept arbeidsovereenkomst <input checked="" type="checkbox"/> Concept brief <input checked="" type="checkbox"/> Andere Kopie paspoort/ID externen	<input type="checkbox"/> Concept verordening <input checked="" type="checkbox"/> Concept besluit
Contactpersoon 1:		
Contactpersoon 2:		
ALGEMENE TOELICHTING (voorstel uitwerken:		
<p>Notice has been taken of the content of the advice prepared on this subject matter under DIV 4160.</p> <p>This advice on crucial aspects fails to provide the necessary and substantive support on stances taken and the recommendation made.</p> <p>The approach to consider further segmenting the collection areas is worth considering when an underlying report is presented in which the required research and analysis is set forth demanding this further segmentation in the interest of quality improvement. Any advice in this regard must depart from a duly supported report on the quality of service and the performance level of the current contractors for garbage collection. The advice makes no proper mention of the execution of tasks of these contractors nor is an assessment of the level and quality of their service presented. Such an assessment should have been part of an ongoing evaluation process. Prior to making any recommendation to allow for a greater group (14) entities to undertake garbage collection through-out the Island considerations must include the level of investment that will be required for each entity to be able to meet the level expected of Government. This on its own means</p>		

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that a threshold for entry will apply which on its own may exclude any real potential to promote the entry of young entrepreneurs. This seems to be advocated and seems to be the basis on which the advice is based not to extend the current contracts and to permit a segmentation into 14 contracts. This Advice is further deemed not sound as the objective should be to attain the highest quality of service against the best price. This requires the ability to have and place into operation the appropriate equipment and resources which come at a high cost. Any decision made by the Government must also consider the investment made by current contractors to meet the service level required and beyond, for their current assigned areas. The obligations due to financial institutions for the tremendous investments made by these contractors will be affected. Financial institutions commonly do not extend financing facilities for short term contracts requiring high investments as would be the case here. So whilst the proposed approach for segmentation seems to serve the entry of young entrepreneurs nothing in the advice further supports that this is indeed attainable for this group. With this arises the fear that such competition with lowering thresholds to support the entry of young entrepreneurs will mitigate the quality of service. As the author of the advice admits on page 3: "One of the claims of the Contractors is that the current contracts have raised the quality of services to a new level. This assertion may be correct, however it is also concluded that the quality of work is not consistent across the board". The latter may be true or not given the fact that VROMI admits not to have the resources to properly execute oversight on these contractors. Fact is that there is an admission that the bar has been raised and any tendering would have to depart from such a level. The advice in no form or fashion supports the need for the further segmentation proposed, the manner how entrepreneurs will be able to succeed, to reach the threshold for entry potential and how the Ministry will be able to oversee 14 contractors when 4 provide difficulty. Given that the quality of service is not the main reason supporting the route to public tender at this time, but the desire to create jobs without proper mechanism proposed to safeguard quality, this advice cannot be followed. More entrants into an environment do not automatically translate in a higher quality of service, the opposite is proven to be the case. In addition to the considerations afore the following has been taken into account:

Meetings were held with the garbage collection contractors with regard to the extension of their present contracts. The contractors have submitted a request for renewal of the contracts, in which it is stated that the waste collection and cleaning services have been taken to a level of professionalism and efficiency that meets and exceeds the requirements of the Contract.

The contractors have also stated in their letter requesting for an extension of the contract, that in order to maintain that level, they have acquired financing to continuously invest capital in personnel and equipment and that such a financing is



based on a 10 year term. According to the contractors, required financing was obtained based on the repeated confirmations from the Ministry of VROMI as well as clause 126 section 3 of the Contract, that the contract term should be extended under the same terms and conditions.

Clause 126 Par 3: Lapsed and replaced by: *"Extension of the duration of the contract can only take place in the event contract parties (principal and contractor) agree to an extension before November 30th 2014."*

It must be noted that the four contractors were engaged retroactively, starting April 1, 2011 for a period of five (5) years and that the contracts are due to expire in March 31, 2016. Therefore, the extension of the duration of the contract date of November 30th, 2014 must be moved forward to November 30th, 2015

In its draft letter to the contractors, VROMI is stating that "While it can be stated that based on the current contracts, the level of garbage collection and cleaning of public areas may have improved compared to the situation preceding the contracts, the Government would like to make use of the opportunity to make further improvements to this service."

In its advice, VROMI recommends to change the scope of the works and segmentation of various contract areas and contract works in an effort to improve the services to the community. It further states that the separation of the district improvement and cleaning of public areas from the garbage collection and further subdividing the island into more smaller (possibly 14) separate sections, thus creating the possibility for 14 new contracts for young entrepreneurs .

As it stands presently, VROMI is not properly equipped with the necessary manpower to enforce control on the services provided by the four contractors. Adding an additional ten new contract in my opinion will create unnecessary and ill afford burden on Government to supervise the contractors. In the absence of the resources to enforce the controls poor service is a given not a possibility.

Based on the above, it is recommended to extend the contracts with the same four contractors for the same period & conditions that will be set forth in the Contract Extension.

It is also recommended to ensure that any sub-contractor(s) hired by the main contractor, be executed for a period with a minimum of two (2) years. This to ensure, that the sub-contractors have a sustainable & defined work period.



Ministerie van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur

ADVIES/BESLISBLAD

Handtekening(en) (Hoofd Dienst/Afdeling)

Datum



LANDSBESLUIT

Van de _____ no. _____

DE GOUVERNEUR VAN SINT MAARTEN,

overwegende:

- Dat de 4 bestaande vuilnisophaaldienst aanbieders het werk van vuilnisophaaldienst voor de laatste vijf (5) jaren hebben vervuld;
- Dat het aantal huishoudens de afgelopen jaren explosief is gegroeid en daarmee extra belasting heeft meegebracht voor de vuilnisophaaldienst aanbieders;
- dat de Minister van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur voornemens is een "contract verlenging" aan te gaan met de vier bestaande vuilnisophaaldienst aanbieders voor een periode van vijf (5) jaren met als begindatum van 1 april 2016 en met beëindiging op 31 maart 2021;
- Dat de verlenging wordt gehonoreerd gebaseerd op Artikel 126 Par.3 van het contract;
- dat het departement van VROMI hun argument voor het niet voldoende toekomen van de taak van de vuilnisophaaldienst aanbieders niet voldoende heeft gemotiveerd;
- Dat de controle over meerdere vuilnisophaaldienst aanbieders (14 aanbieders) zwaar zal wegen op het VROMI departement;
- Dat VROMI het bestaande structuur van vuilnisophaaldienst dient te herzien en dat als gevolg daarvan onvoldoende tijd aanwezig is om in openbare aanbesteding te volgen;
- Dat de Minister van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur de voorkeur heeft om de openbare aanbestedingsproces te herstructureren zodanig dat het meer transparant wordt uitgevoerd;
- dat tevens afgeweken dient te worden van de openbare aanbestedingsprocedure zoals genoemd in artikel 47, eerste lid, van de Comptabiliteitslandsverordening aangezien:
 - o de vuilnisophaaldienst aanbieders de nodige ervaring, materieel en mankracht bezitten;
 - o dat afwijken van de openbare aanbestedingsprocedure bij landsbesluit dient te gebeuren.

gelet op:

- De Staatsregeling;
- Artikel 21 van de Rijkswet financieel toezicht Curaçao en Sint Maarten;
- Artikel 41 van de Comptabiliteitslandsverordening;
- Artikel 47, vierde lid, onder b, van de Comptabiliteitslandsverordening.

HEEFT BESLOTEN:

Artikel 1

De Minister van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur een verlening van de overeenkomsten wenst aan te gaan met de bestaande vuilnisophaaldienst aanbieders:

- All Waste In Place N.V.
- Leonard Enterprises N.V.
- Meadowland N.V.
- o Clean St. maarten



Landsbesluit van:

nr:

Artikel 2

Op grond van artikel 47, vierde lid, onderdeel b, van de Comptabiliteitslandsverordening, wordt afgeweken van artikel 47, eerste lid, van de Comptabiliteitslandsverordening omdat het algemeen belang zich verzet tegen uitstel van de aanbesteding.

Artikel 3

De Minister van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur wordt hierbij gemachtigd de openbare rechtspersoon het Land Sint Maarten te vertegenwoordigen bij de rechtshandeling, zoals omschreven in artikel 1 en alles wat daaruit voortvloeit.

Artikel 4

Dit landsbesluit treedt in werking met ingang van de dagtekening van dit landsbesluit.

Philipsburg,

De Gouverneur van Sint Maarten

De Minister van Financiën
d.d.

de Minister van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur
d.d.

Afschrift dezes te zenden aan:

de Gouverneur van Sint Maarten;
de Ministerraad;
de Minister van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur;
de Secretaris-Generaal van Volkshuisvesting, Ruimtelijk Ordening, Milieu en Infrastructuur;
de Minister van Financiën;
de Afdeling Financiën;
de Staten;
algemene Rekenkamer;
JZ&W