

REPORT TITLE: ENVIRONMENTAL SERVICES – AWARD OF CONTRACT

15 NOVEMBER 2019

REPORT OF CABINET MEMBER: Cllr Neil Cutler

Contact Officer: Steve Tilbury Tel No: 01962 848256 Email
stilbury@winchester.gov.uk

WARD(S): ALL

PURPOSE

The current contract for the collection of residual waste, recycling (now including kerbside glass) and garden waste across the district runs until the end of September 2020. An EU compliant procurement process for a new contract has been undertaken to obtain prices for that service over the next 8 years with an option to extend for a further 8 year period.

As agreed by Cabinet, bidders have submitted Initial Offers and these have been evaluated on the basis of a 50:50 price to quality split. A summary of the evaluation process is provided in the Evaluation Report attached to the report as an Exempt Appendix. Prices for a separate food waste collection service have also been submitted as a 'priced option'.

The tender process permits the Council to determine at this stage whether to include a separate food waste collection service in the contract and therefore negotiate and seek Final Offers from all bidders on that basis. If the Council does not wish to proceed with a separate food waste collection service then an immediate award of the contract may be made to the bidder with the highest score based on the published evaluation criteria. The decision on food waste determines the next steps in the procurement process as set out in the report.

The award of this contract would not fetter any decision to change the future operation of the garden waste collection service.

RECOMMENDATIONS:

It is recommended that:

1. The contract for the provision of waste collection services be awarded and let from 26th September 2020 without the inclusion of a food waste collection;
2. The contract for the provision of waste collection services be awarded to Bidder A in the sums tendered and on the terms set out in the procurement documents;
3. The Strategic Director – Services is authorised to issue notification of intention to award contracts to the bidder that received the highest score under the evaluation criteria and methodology used for the purposes of the tender evaluation and enter into the mandatory 10 day standstill period;
4. The Service Lead – Legal is authorised to finalise, prepare and enter into the contract(s) for the provision of waste collection services to commence on 26th September 2020 to give effect to the outcome of the tender process.

IMPLICATIONS:1 COUNCIL STRATEGY OUTCOME

- 1.1 The emerging Council Plan (considered by Cabinet in October 2019 and currently subject to consultation) includes the priority of "Your Services, Your Choice", with a clear aim towards continuous improvement and cost effectiveness in service delivery.

2 FINANCIAL IMPLICATIONS AND COMMENTS OF THE SECTION 151 OFFICER

- 2.1 The tender prices received for the provision of waste collection services, broken down by key separate elements are set out in Exempt Appendix 1. The appendix is exempt due to commercial sensitivity under Paragraph 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information) of Part I of Schedule 12A to the Local Government Act 1972.
- 2.2 Based on the lowest tender price maintaining a 'like for like' service provision of mixed dry recyclables, residual waste, free glass collection and a free garden waste service would require additional budget growth.
- 2.3 Based on the 'priced options' received, introducing a free food waste collection service from 2020 would require additional expenditure, over and above that referred to 2.2 above. It should be noted that tenders prices do not include the provision of "caddies" to all households (which are over and above the cost of collection) or any additional disposal costs charged by the County Council as part of their review of gate fees and other charges to collection authorities.
- 2.4 In light of the increasing budget shortfalls projected in CAB3178 (projected at £1.4m by 20121/22 increasing to £3.4m by 2023/24), the additional costs of a separate food waste collection service cannot be absorbed without significant effect on other services and inclusion of this service is therefore not recommended.
- 2.5 Following the consultation on its future waste strategy produced earlier in the year, the previous government indicated its policy intention to provide additional funding for food waste collection in the future and for this to become a mandatory service after 2023. If a newly elected government pursues these proposals and the financial position changes as a result, the Council can consider procuring this service separately at a time of its choosing. It is therefore important to make clear that the Council is not making a decision never to collect food waste separately, and that it will remain in a position to procure that service in the future.
- 2.6 From the tenders received the cost to the Council of retaining the free kerbside collection of garden waste sacks is apparent. This is a very significant budget item and as indicated in Cabinet report CAB3178 it may be necessary to review this service as part of the budget options.

- 2.7 Cabinet will also be aware that the County Council intends to change the way recycling credits are awarded and charge districts for disposal of contaminated recycling. Figures received from the County Council indicate that the cost to the City Council of these changes is estimated at an additional £500,000 per annum.
- 2.8 Due to its confidential nature, the tender pricing information has only been circulated to members of the Cabinet to aid their decision making.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The legal and procurement implications addressed in this report are additional to those made in previous reports to Cabinet. The procurement process conducted by the Council allows the Council to make a decision on whether to award the contract based on initial tenders (excluding food waste collection) or alternatively to open a negotiation phase of the procurement process if a food waste collection service is to form part of the contract.
- 3.2 If a food waste collection service is to be included, the next step in the procurement process would be to issue a revised set of Instructions to Tenderers, to enter into negotiations and then receive Final Offers for evaluation. There is no obligation for the Council to seek Final Offers if food waste is not included.
- 3.3 The current draft contract documentation enables the Council to remove the free garden waste service from the contract. This would either be done by way of serving 12 months notice, or by way of a “pre-commencement” variation under the Change Control process in the contract. The latter approach would be consistent with the service commencement date of 26th September 2020. The Council may incur some costs in doing so. If the Council were to move to a charged for service it would be advisable to do so prior to the mobilisation of the service by the appointed contractor.

4 WORKFORCE IMPLICATIONS

- 4.1 All work associated with the tender and associated changes in service will be undertaken within current resources.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 The new contractor will operate from the existing site located at Bar End.

6 CONSULTATION AND COMMUNICATION

- 6.1 A decision to introduce a food waste collection service is a matter for the Executive and whilst the Council will certainly wish to explain and engage residents with the roll out of such a service, it does not require formal consultation.

- 6.2 The option to implement an improved garden waste service on an opt-in basis has already been identified in the budget paper CAB 3178 considered by Cabinet on 23 October 2019. Although a specific question on a chargeable garden waste service was not asked in the budget simulator, those that responded indicated broad support for an increase in fees and charges across the board. This proposal has been aired in public previously and has been raised, if not discussed in detail, at a recent meeting of the Health and Environment Policy Committee.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 The Council considered the environmental impact of various service options throughout the options appraisal and contract preparation period before issuing tender papers. The proposals from Bidder A scored highly in respect of the relevant method statements. All refuse freighters operating on the contract will be Euro 6 compliant and supervisors will use very low emission vehicles. Numerous small but worthwhile measures are proposed to reduce the carbon emissions from the contractor's operation. The new service will therefore be more carbon efficient than the existing service.
- 7.2 A decision to collect food waste as a separate waste stream and to send that material to anaerobic digestion rather than incineration would achieve a net reduction in Winchester's annual carbon emissions estimated at approximately 2,250 tonnes of CO₂e. Although this will not be implemented at the start of the contract the Council will retain the option to collect food waste separately in the future.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to: (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and; (iii) foster good relations between those who have protected characteristics and those who do not.
- 8.2 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.
- 8.3 The recommendations in this report are to accept a tender based upon the existing service (with some minor improvements such as the collection of small waste electrical items) and there is therefore no impact on those with a protected characteristic.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required at this stage.

10 RISK MANAGEMENT

- 10.1 The Council has been fully supported by expert advice on the procurement process both internally and externally by Hampshire County Council, consultants WYG (waste experts) and Browne Jacobson (legal and procurement). Their advice has been followed throughout the process and no indication has been given by any participant of any concern or issue with the way the tendering has been carried out. The risk of challenge to the award of contract by an unsuccessful bidder always remains until the period for challenge has passed.
- 10.2 Following the award of the contract the mobilisation period represents a period of risk for the contractor and the Council as it prepares for the start of the new service, particularly if there are new service elements to prepare for. Bidders were required to submit a mobilisation plan as a component of their tender submissions and these were part of the evaluation. Bidder A's mobilisation plan was considered to be of good quality and to mitigate risks inherent in the process.

The risk table below has been completed on the basis of the recommendations of the report not in relation to any other possible options or decisions.

Risk	Mitigation	Opportunities
<p><i>Property</i></p> <p><i>That the Council will have purpose built accommodation not let to a contractor</i></p>	<p>This will not occur if a contract is awarded as proposed</p>	
<p><i>Community Support</i></p> <p><i>The collection of waste and recycling is a basic and high profile service which the public expect to be undertaken without problems</i></p>	<p>The appointment of an experienced contractor at a cost commensurate with the specified quality of service delivery</p> <p>The provision of a suitably resourced client team to oversee mobilisation and operation. The provision of good quality and accessible information for householders on the service they can expect and how to help increase recycling.</p>	

<p><i>Timescales</i></p> <p><i>Ensure contractor can mobilise and deliver from contract start date</i></p>	<p>Make a timely appointment of successful bidder in accordance with the procurement timetable as proposed in the report.</p>	
<p><i>Project capacity</i></p> <p><i>Ensure suitably experienced staff are engaged in each aspect of project delivery</i></p>	<p>A project team already exists and will continue to manage the mobilisation and delivery. Additional full time management expertise has recently been added to the establishment</p>	
<p><i>Financial / VfM</i></p> <p><i>Failure to obtain tenders at an affordable level</i></p> <p><i>Inclusion of additional services which are not affordable in the long term</i></p>	<p>Tenders have been received which would allow for an appointment to be made on the basis set out in the report.</p>	
<p><i>Legal</i></p> <p><i>Challenge to the procurement process or contract award</i></p>	<p>Extensive external and internal procurement support and advice has been applied to the project and is reflected in the recommendations of the report.</p> <p>Clarifications and matters raised during the tender process have been dealt with in accordance with the best advice available and with the intention of ensuring compliance with all legislation, regulations and to ensure equitable treatment of all bidders.</p>	

<p><i>Innovation</i></p> <p><i>The Council requires a high level of confidence in service delivery based on good industry practice without unnecessary constraints on innovation or methodology</i></p>	<p>The Council has been clear about the requirements it has and the quality evaluation process which examines service delivery proposals.</p>	<p>Where possible the Council has allowed for innovation in service delivery by bidders.</p>
<p><i>Reputation</i></p> <p><i>Poor implementation or service delivery will have a serious impact on residents' perception of the Council where a contractor is failing</i></p>	<p>The price/quality ratio was agreed by Cabinet to provide for a balance between price and service quality proposals to be reflected in evaluation.</p>	

11 SUPPORTING INFORMATION:

- 11.1 In accordance with the agreed procurement process, the Council has received tender prices for the operation of the waste collection contract. An evaluation based on the score allocation of 50% for price and 50% for quality has been undertaken. A report on the outcome of the evaluation process is attached as Exempt Appendix 2. Disclosure of the tender figures at this time could have serious implications for the Council and for the provision of its waste collection service because they are commercially confidential. For this reason the appendices are restricted in circulation to the decision makers only.
- 11.2 As agreed by Cabinet, bidders also submitted a 'priced option' for the introduction of a separate food waste collection service either from October 2020 (at the start of the contract) or October 2023. The Council has the opportunity to review the range of the tender figures received and advise the bidders whether it wishes to include one of those options in the evaluation of tenders after the receipt of a Final Offer.
- 11.3 The future cost of the service must be looked at in the round and against the background of the Council's Medium Term Financial Strategy and the Section 151 officer's comments and advice are included in the financial section of the report.

- 11.4 The previous central government's proposed waste strategy included a commitment to make the provision of kerbside food waste collections mandatory for all local authorities from 2023. This does not necessarily mean that collections would have to start on this date but more likely from the next convenient operational 'break point'. Importantly, central government held out a promise of additional funding for local authorities to undertake this service via a new system of payments from manufacturers under extended producer responsibility. Due to the general election there is no certainty that this strategy will be translated into legislation and if it is, what the timescales will be. There is still less certainty that the amount of funding provided will bear any relation to the actual costs involved for a given local authority.
- 11.5 Additionally the County Council, in its role as statutory waste disposal authority, is proposing to terminate the existing Project Integra agreement which defines how waste disposal costs and recycling credits are distributed between Hampshire authorities. The effect of this is to create considerable uncertainty over the charges which might apply to food waste presented to the County Council as a separate waste stream. If there is an additional gate fee for disposal of food waste or contaminated recycling material then this will need to be added to the cost of the service.
- 11.6 In light of the financial pressures facing the Council (as described in CAB3178 considered by Cabinet on 23rd October 2019), cost of the core services, and financial considerations as set out in this report, the inclusion of a food waste collection service in the contract is not an affordable option and not advisable to be pursued at this time. If the outcome of the central government's proposals for consistent national waste collection services and funding for these through extended producer responsibility is provided, and the Council is in a financial and legal position to procure a food waste collection service in the future then it will be free to do so. This should not therefore be seen as a decision that the Council will never collect food waste separately, but rather that it will review its options when the legislative and financial picture is clear.
- 11.7 If Cabinet agrees that food waste is not to be included then outcome of the evaluation process is that the tender submitted by Bidder A which scores highest on both financial and quality criteria can be accepted. No additional negotiation is considered necessary following the evaluation process and Cabinet is recommended to make a contract award to Bidder A subject to the completion of the necessary contract documentation.
- 11.8 Tenders were sought on the basis of continuing the existing free garden waste service but with an explicitly stated option to vary the contract either before mobilisation starts or during the contract at 12 months notice, to replace the free service with an improved service on a charged for basis. This would result in a substantial cost saving to the Council which would help to balance other budget pressures. CAB3178 sets this out as a budget option. Under the tender process the Council is not obliged to confirm its decision to the tenderers and therefore is able to adopt the recommendations in this report without pre-empting any decision on this aspect of the service.

12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 The option to introduce a separate food waste collection service in either 2020 or 2023 was considered but is considered unaffordable at this time on the advice of the Section 151 officer.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3178 Outcome Based Budget Challenge – 23 October 2019

CAB3169 Environmental Services Contract Procurement Process – 19 June 2019

CAB3108 Environmental Services Contract Update – 18 December 2018

Exempt Report CAB3044 –19 September 2018

Other Background Documents:-

None

APPENDICES:

Exempt Appendix 1 – Financial Information

Exempt Appendix 2 – Tender Evaluation Report