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Report title: Award of Residual Waste Service Orders	
Report to: Cabinet	
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Date: 26 November 2019	For: Decision
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County Divisions affected: All Essex	

This report includes a confidential appendix which is **NOT FOR PUBLICATION** because it includes exempt information by virtue of paragraph 3 of schedule 12A to the Local Government Act 1972.

1. Purpose of Report

- 1.1. The Council is the waste disposal authority for its area. We have set up a framework agreement which we can use to easily buy capacity to dispose of waste to meet the business as usual needs as the waste disposal authority for Essex.
- 1.2. This report seeks approval to award twelve Service Orders to multiple waste disposal providers following a mini-competition conducted pursuant to the 0538 Residual Waste Disposal Framework set up by Essex County Council (ECC) in October 2017.

2. Recommendations

- 2.1 Agree to award Service Orders to the waste disposal providers detailed in paragraph 3.5 for a period of 12 months commencing on the 1 April 2020.

3. Summary of issue

- 3.1 In accordance with the previous Cabinet Decision a medium-term residual waste framework was procured to meet normal business need and is now in place for use by ECC for:
 - a) the disposal of Refuse Derived Fuel (RDF) produced by the mechanical and biological treatment (MBT) facility in Basildon. This material has undergone treatment to remove certain recyclables and reduce its biological content making it less active; and
 - b) contingency disposal options for residual waste arisings in Essex and Southend, in the event that the MBT facility were to become wholly or partially unavailable.

- 3.2 Following the setting up of the Framework Agreement, a mini-competition was run in 2017 resulting in the award of Service Orders to successful bidders to meet the residual waste disposal requirements of ECC and Southend on Sea Borough Council. These Service Orders are due to expire on 31 March 2020 which means that we need to make replacement arrangements to ensure the waste disposal obligations of ECC can be fulfilled after that date.
- 3.3 A further mini-competition was run for the four lots detailed below to ensure the future waste disposal requirements of ECC could be met:

Lot 1: Disposal of Refuse Derived Fuel (RDF) and/or Municipal Solid Waste (MSW)	
a.	This will be used for the disposal of RDF produced by the MBT facility in Basildon and any MSW arisings requiring disposal
b.	Anticipated tonnage available for disposal is up to 200,000 tonnes
c.	Guaranteed Minimum Tonnage (GMT) will be offered to suppliers as required to secure necessary disposal capacity
Lot 2: Disposal of Municipal Solid Waste (MSW) only (Contingency)	
a.	This will be used as a contingency arrangement to dispose of MSW not treated via the MBT facility on an as required basis
b.	No tonnage is forecast for this Lot and any Service Orders awarded shall provide no GMT or supply assurances
Lot 3: Disposal of bulky waste (Contingency)	
a.	This will be used as a contingency arrangement to dispose of bulky MSW not treated via the MBT facility on an 'as required' basis
b.	Any Service Order awarded for this Lot shall provide no GMT or supply assurances
Lot 4: Transfer and Disposal of direct-delivered waste (Contingency)	
a.	A contingency arrangement to be used by the Authority on an 'as required' basis.
b.	No tonnage is forecast for this Lot and any Service Orders awarded shall provide no GMT or supply assurances

- 3.4 All due diligence of provider disposal facilities was carried out during the procurement of the Framework Agreement in 2017. The mini-competition evaluation is based 100% on price and evaluated using an award model based on a whole system cost. Each bidder's gate fee has been evaluated considering the location of waste arisings and ECC's haulage costs to deliver waste to the bidder's disposal facility. This approach ensures the total cost is considered when awarding service orders. This evaluation approach is consistent with the terms of the Framework Agreement.

- 3.5 Following evaluation of all mini-competition bids received the following providers offered the most economically advantageous tenders for the required service need and are accordingly recommended for award of service orders to ensure that ECC can meet its obligations as waste disposal authority:

Lot	Provider	Location	Tonnage Award
Lot 1: Disposal of RDF and/or MSW	Enovert South Limited Suez Recycling & Recovery Ltd	Bellhouse Landfill Barking Transfer Station	200,000 with GMT at 80% of tonnage award 0 – 50,000
Lot 2: Contingency Disposal of MSW	Veolia ES (UK) Ltd Veolia ES (UK) Ltd Viridor Waste Management Suez Recycling & Recovery Ltd	Ockendon Landfill Rainham Landfill Masons Landfill Barking Transfer Station	0 – 125,000 0 – 50,000 0 – 25,000 0 – 50,000
Lot 3: Contingency Disposal of Bulky Waste	Enovert South Limited Veolia ES (UK) Ltd Veolia ES (UK) Ltd Viridor Waste Management Suez Recycling & Recovery Ltd	Bellhouse Landfill Ockendon Landfill Rainham Landfill Masons Landfill Site Barking	0 – 75,000 0 – 50,000 0 – 50,000 0 – 25,000 0 – 50,000
Lot 4: Transfer and Disposal of Direct Delivered Waste	James Waste Management	Rochford Waste Transfer Station	0 – 50,000

- 3.6 For Lot 1 all refuse derived fuel (RDF) produced by the MBT facility in Basildon will be sent under this Lot for disposal.
- 3.7 Lots 2, 3 and 4 will be used as and when required on a contingency basis. If needed, tonnage will be allocated according to the cheapest disposal solution depending on the volume of each order which has already been used and the location in which the waste which needs to be disposed of arises.
- 3.8 The maximum tonnage award that ECC can commit to has been assumed for the purposes of this report however the maximum tonnage may need to be adjusted downwards if the waste disposal providers do not have this capacity at the time that the Service Order is entered into.

4. Options

4.1 Option 1 – Do Nothing:

This is not recommended. By doing nothing and not awarding new Service Orders, ECC would not have an outlet for the disposal of RDF or residual waste beyond March 2020. As the current service orders cannot be extended the Council would be at a high risk of being unable to meet its statutory obligations as Waste Disposal Authority.

4.2 Option 2 – Do Not Award Service Orders and Undertake a New Procurement:

This is not recommended. Whilst undertaking a new OJEU compliant procurement would provide ECC with an opportunity to engage with the whole market, which may reduce financial impact, it presents a significant risk and a beneficial financial outcome is not guaranteed. The time required to carry out such a process, with no guarantee of a better outcome, may lead to ECC being unable to secure suitable alternatives prior to the existing Service Orders expiring. The Framework Agreement was set up in 2017 to enable the Council to efficiently source supply as and when needed by running mini-competitions.

4.3 Option 3 – Award Service Orders:

This is the recommended approach. By awarding service orders as detailed in paragraph 3.5 the required capacity will be secured to ensure that ECC is able to fulfil its statutory waste disposal obligations for the next 12 months, with the opportunity to extend for a further 18 months if desired (subject to a further decision).

Next steps

- 4.4 Subject to approval of this decision, ECC will enter into the Services Orders with the relevant providers identified in paragraph 3.5.

5. Issues for consideration

5.1 Financial implications

- 5.1.1 The financial evaluation of treatment options for residual waste cannot be based solely on the disposal price per tonne and cannot be evaluated in isolation as they are linked to contractual haulage payments made through the Integrated Waste Handling Contract. These are known as whole system costs upon which the evaluation is based.

- 5.1.2 In order to try and secure the best price from off-takers, guaranteed minimum tonnage has been offered by ECC where possible for the twelve-month period.

However, some contingency arrangements are needed where offering a guaranteed minimum tonnage is not appropriate.

- 5.1.3 The cost of the award for each service order is set out in the confidential Appendix. The whole system disposal costs total £52.9m which includes the costs of service orders and applicable Landfill Tax. For this calculation, it is assumed that Lots 2, 3, and 4 Service Orders – which are awarded on a contingency basis – receive zero tonnes during the Service Order period.

5.2 Legal implications

- 5.2.1 The Framework Agreement was procured and implemented in accordance with the Cabinet Decision taken in March 2017 and the published tender documents.
- 5.2.2 The Framework Agreement provides for mini-competitions to be carried out when services are needed by ECC. The mini-competition has been conducted in accordance with the published procedures for awarding Service Orders under the Framework Agreement and notification letters will be issued to successful bidders pending approval of this decision. Under the Public Contracts Regulations 2015, a standstill period is not required for awards under a framework agreement.
- 5.2.3 Subject to approval of this decision, Service Orders will be completed in order to allow providers sufficient mobilisation time prior to commencement of the Service Orders.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will

not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

7.1 Equality Impact Assessment

7.2 Confidential Appendix – Service Order Values

8. List of Background papers

Framework agreement