

Report title: Award of Service Orders under 0538 Residual Waste Disposal Framework	
Report to: Cabinet	
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Date: 23 November 2017	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This report includes a confidential appendix which is **NOT FOR PUBLICATION** because it includes exempt information by virtue of paragraph 3 of schedule 12A to the Local Government Act 1972.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 purpose of this report is to approve the award of a number of Service Orders to various 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 13 Service Orders to the relevant providers as set out in paragraph 3.4 for the period February 2018 – 31 March 2019, totalling £19.7m following a mini competition conducted in accordance with the Residual Waste Disposal Framework (reference 0538) with the breakdown of the individual order values as set out in the confidential appendix.
- 2.2 Note that the actual spend under each order will be determined by officers using delegated powers as set out in paragraphs 3.5-3.7 of this report.

3. Summary of issue

- 3.1 In accordance with the previous Cabinet Decision (reference FP/756/02/17) a medium-term framework was procured and is now in place for use by ECC for:
- a. the disposal of Refuse Derived Fuel (RDF); and
 - b. contingency disposal routes for residual waste arisings in Essex and Southend, in the event that the TOVI waste treatment facility were to become wholly or partially unavailable.

- 3.2 ECC ran a mini-competition for four out of the five lots listed below, to meet requirements for the fourteen-month period from 1st February 2018 until 31st March 2019.

<p>Lot 1 – Disposal Only of RDF and/or MSW (municipal solid waste)</p> <p>a. Total tonnage offered: 200,000 tonnes.</p> <p>b. Guaranteed Minimum Tonnage (GMT): 160,000 tonnes</p>
<p>Lot 2 – Disposal Only of MSW (Contingency)</p> <p>a. A contingency arrangement to be used by the Authority on an ‘as required’ basis.</p> <p>b. Any Service Order awarded for this Lot shall state a zero to 25,000 tonne range for the contract period, but no GMT or other supply assurance shall apply.</p>
<p>Lot 3 – Disposal Only of bulky waste (Contingency)</p> <p>a. A contingency arrangement to be used by the Authority on an ‘as required’ basis.</p> <p>b. Any Service Order awarded for this Lot shall state a zero to 25,000 tonne range for the contract period, but no GMT or other supply assurance shall apply.</p>
<p>Lot 4 - Transfer and Disposal of direct-delivered MSW (Contingency)</p> <p>Not offered in this mini-competition; no prevailing requirement</p>
<p>Lot 5 – Transfer and Haulage only of direct-delivered MSW (Contingency)</p> <p>a. A contingency arrangement to be used by the Authority on an ‘as required’ basis.</p> <p>b. No tonnage is forecast for this Lot and no GMT shall apply.</p>

- 3.3 All due diligence with regard to provider disposal facilities was carried out during the procurement of the Framework. As previously published when setting up the Framework, 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 was evaluated taking into account the location of waste arisings and ECC’s haulage costs to deliver waste to the bidder’s disposal facility.

- 3.4 Following evaluation of all mini-competition bids received, the following providers offered the most economically advantageous tenders for the relevant tonnages and are accordingly recommended for award of service orders:

Lot	Provider	Location	Tonnage Award
Lot 1 – Disposal Only of RDF and/or MSW	Suez Recycling & Recovery Ltd Suez Recycling & Recovery Ltd	Tilbury Barking	50,000 with GMT* 150,000 with GMT*
Lot 2 – Disposal Only of MSW (Contingency)	Cory Environmental (Glocs) Ltd Cory Environmental (Glocs) Ltd Veolia ES (UK) Ltd Viridor Waste Management Ltd Suez Recycling & Recovery Ltd	Bellhouse, Colchester Barling, Rochford Ockendon landfill Mason's, Ipswich Barking	0 – 25,000 tonnes 0 – 25,000 tonnes 0 – 25,000 tonnes 0 – 25,000 tonnes 0 – 25,000 tonnes
Lot 3 – Disposal Only of bulky waste (Contingency)	Cory Environmental (Glocs) Ltd Cory Environmental (Glocs) Ltd Veolia ES (UK) Ltd Viridor Waste Management Ltd	Bellhouse, Colchester Barling, Rochford Ockendon landfill Mason's, Ipswich	0 – 25,000 tonnes 0 – 25,000 tonnes 0 – 25,000 tonnes 0 – 25,000 tonnes
Lot 5 – Transfer and Haulage only of direct-delivered MSW (Contingency)	James Waste Management LLP Hadleigh Salvage & Recycling Ltd	Rochford Southend	0 – 25,000 tonnes 0 – 25,000 tonnes

* GMT is 80% of tonnage award

- 3.5 For Lot 1 all refuse derived fuel produced by the MBT facility in Basildon will be sent under this lot.
- 3.6 Lots 2 and 3 will be used as and when required. If we need to use these other refuse disposal lots we will use them in the order which is the cheapest 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.
- 3.7 Lot 5, which consists of haulage lots will be used in conjunction with the transport of waste for which ECC does not already have contractual arrangements. T

4. Options

- 4.1 Option 1 – Approve the recommendations as set out in this report as it will provide the medium-term capacity to deliver our statutory duties as a waste disposal authority.

4.2 Option 2 – Do not approve the Service Orders.

If the Service Orders are not granted, ECC will not be able to meet its statutory duties as a waste disposal authority. The previous medium-term framework has now expired and no further orders can be placed.

Next steps

4.3 Subject to approval of this decision, ECC will enter into the Services Orders with the relevant providers identified in paragraph 3.4. No further decisions are required.

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 fourteen-month period. Commissioners also requested a small amount of contingency in the event of the non-availability of the provider's plant, which amounts to a maximum of 10% of the total available tonnage.

5.1.3 The cost of the award for each service order is set out in the confidential Appendix. Whole system disposal costs total £52.5m which includes the costs of service orders. The profile of spend will be split across two financial years with £7.5m being spent in 2017/18 with £45m falling into 2018/19. It is assumed that all Lot 2 service orders – which are awarded on a contingency basis – receive zero tonnes during the service order period.

5.1.4 The remaining budget envelope for 2017/18 is £7.3m with a total budget of £44.9m available for 2018/19. This is for whole system costs. The award of this contract exceeds the budget envelope, as summarised in the table below;

Contract Award: RESIDUAL WASTE DISPOSAL

Financial Year	2017/18 £000	2018/19 £000
Budget Available	7,392	44,869
Award of Contract	7,478	45,009
Pressure	87	140

- 5.1.5 The pressure in 2017/18 will be offset by in-year opportunities. For 2018/19, the service will mitigate this pressure by utilising opportunities within the wider Waste Management budget.

Financial Risks

- 5.1.6 Fluctuations in tonnage can lead to the following financial risks:

- a) Service Orders with guaranteed minimum tonnage are not fulfilled leading to ECC paying a void. This has been mitigated within the Service Orders as providers will dispose of both SRF and MSW giving ECC the maximum flexibility and reducing the likelihood of this situation occurring.
- b) Tonnage exceeds current forecasts. The successful bidders do have a right to refuse additional tonnage under the Service Orders however if they accept, they do so at the awarded framework price. If additional tonnage is refused there are several providers within the contingency lots that would be able to offer capacity at the prices awarded under this mini-competition. Either way, any financial pressure arising from increases in volumes would require the service to mitigate/contain within the existing budget envelope.

Financial Opportunities

- 5.1.7 The Service Orders have been set up to maximise opportunities as follows:

- a) Flexibility to run mini competitions at intervals which are determined by the Authority.
- b) The option to extend the service orders by up to 18 months if required subject to agreement of the applicable price for such extension.
- c) The option to refresh the framework on an annual basis to attract new entrants or facilities onto the Framework.

5.2 Legal implications

- 5.2.1 The Framework has been established in accordance with the Cabinet Decision taken in March 2017 and the published tender documents.

- 5.2.2 The mini-competition has been conducted in accordance with the published procedures for awarding Service Orders under the Framework 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 and call-in, Service Orders will be completed in early December 2017 in order to allow providers sufficient mobilisation time prior to service commencement.

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

- 8.1 FP/756/02/17 – Medium-term Waste Disposal Framework