

Forward Plan reference number: FP/913/12/20

Report title: Integrated Waste Handling Service Delivery - Materials Marketing Procurement	
Report to: Cllr Simon Walsh - Cabinet Member for Environment and Climate Change Action	
Report author: Samantha Kennedy - Director Environment and Climate Action	
Date: 09 March 2021	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To provide information about Essex County Council's (**ECC**) arrangements, as the Waste Disposal Authority (**WDA**), to ensure suitable arrangements for the disposal and recycling of certain wastes collected at the ECC Recycling Centres for Household Waste (**RCHWs**).
- 1.2 To seek approval for the proposed procurement approach for the marketing of all materials collected at the RCHWs except residual and green waste, and certain materials aggregated at Waste Collection Authority (**WCA**) depots.

2. Recommendations

- 2.1 To agree that ECC will go out to the market to procure a contractor to provide marketing materials services using the competitive procedure with negotiation.
- 2.2 To agree the proposed evaluation criteria of 40% price and 60% quality (of which 5% is social value).
- 2.3. To agree the contract length of 3 years with the potential for an additional 3 years extension.

3 Summary of issue

- 3.1 ECC, as WDA for Essex, must provide RCHW services, and ensure that suitable arrangements are in place to treat and dispose of all Local Authority Collected Waste (LACW). Such waste arises from the kerbside waste collections undertaken by the Essex Waste Collection Authorities (WCA) and from the RCHW. As part of this service ECC provides Waste Transfer Stations (**WTs**) where LACW is bulked for more efficient onward transport.
- 3.2 The materials marketing services form an integral part of the RCHW service to ensure that majority of wastes streams collected at the sites are managed to maximise reuse, recycling and recovery to avoid disposal to the greatest

extent possible. This involves establishing commercial arrangements to achieve best value from the sale or treatment of this material.

- 3.3 Cabinet decision FP/803/09/20 on 24 November 2020 approved that after the expiry of the current contract on 31 March 2022, the Council will assume responsibility for operating RCHWs and WTSs using a Hybrid Sourcing Model. This will include the direct delivery of the service by ECC while haulage, plant and equipment and the marketing of materials would be procured for delivery by contractors.
- 3.4 The decision also delegated authority to the Cabinet Member for Environment and Climate Change Action in consultation with the Cabinet Member for Finance to approve the procurement approach evaluation criteria, contract length and terms of the award for the Materials Marketing Services contract.
- 3.5 The Materials Marketing Services are currently provided by Veolia under the Integrated Waste Handling Contract. The existing contract arrangements with Veolia end on the 31 March 2022 and a new contract agreement needs to be in place by this time to coincide with the implementation of the new Hybrid Sourcing Model.
- 3.6 Recyclate value and material markets are subject to various external pressures and the exit from the European Union and Covid-19 are likely to cause long term market volatility. As a result, the contract needs to provide maximum flexibility to ensure that ECC achieves best value for materials and secures sustainable disposal and reprocessing outlets.
- 3.7 The procurement of a Materials Marketing contract will ensure that Essex County Council (the Authority) will have suitable arrangements to ensure that:
 - a) The optimum amount of materials collected at the twenty-one (21) RCHWs and WCA depots (where applicable) are reused or recycled to achieve statutory and local recycling and diversion targets.
 - b) Materials are moved up the waste hierarchy to maximise reuse, recycling and recovery (in that preferential order) and to avoid disposal to the greatest extent possible.
 - c) Optimum value is obtained in terms of any collection, bulking, haulage, income and fees associated with marketing of materials.
 - d) Destinations for the recycling, reprocessing and disposal remains compliant with relevant legislation and protects ECC reputationally.
- 3.8 The proposed procurement approach would consist of a two-stage procurement which will require bidders to pre-qualify before moving to the tender stage. To ensure that best value can be obtained, the proposed tender process is competitive procedure with negotiation.

- 3.9 The basis for using the competitive procedure with negotiation shall be to enable the Authority to clarify bids with bidders after they have submitted fully developed tenders. The Authority anticipates that the tender is sufficiently complex to warrant this approach but will have the option to accept the tender at the first submission if no clarification is required.
- 3.10 The estimated contract value is £12 million for the 3 year contract duration, including the potential extension period. The value of the contract is subject to fluctuations as the Authority will pay actual reprocessing costs for the materials managed under this contract.
- 3.11 Bids will be evaluated on the basis of the following split: price (40%), quality (60%) (of which 5% is social value).
- 3.12 The tender has been balanced more in favour of quality on the basis that the majority of the cost is a pass through of actual costs achieved by the supplier. Therefore, the quality of the supplier drives the total costs for the Authority and is more important in the overall evaluation. The quality aspects of this evaluation will assess the robustness of bidder's responses for: mobilisation and resourcing, material marketing plan, business continuity planning; Environmental, Quality and Health and Safety Management, and social value. These will include minimum standards to ensure that bids are of sufficient quality.
- 3.13 To ensure that the contract meets ECC's future aspirations for carbon reduction and environmental improvement, the contract will include a requirement for vehicles to be of the latest emissions standards. The successful bidder will also be required to identify ways to improve their environmental performance throughout the life of the Contract.
- 3.14 Mandatory Key Performance Indicators (KPIs) will ensure that sufficient capacity for Contract Material at the RCHWs is maintained, reprocessing facilities remain compliant with relevant legislation and social value requirements are delivered.
- 3.15 Additional Value KPIs will encourage bidders to deliver savings through innovation and identify waste diversion opportunities to improve ECC's recycling performance
- 3.16 The contract will be developed to allow access from partnering authorities, particularly focusing on materials collected by WCAs, as part of their kerbside collection services.

3 Options

- 3.1 The following options were considered for the development of this recommendation:

Option A – The Do Nothing (“not recommended”)

- 3.2 This option means that ECC, as the WDA, could fail to meet its contribution to England’s obligations under Schedule 1 Part 2 para 11 of The Waste (England and Wales) Regulations 2011 (as amended) to achieve 65% recycling by 2035.

Option B – Procurement: Competitive Procedure with Negotiation (“recommended”)

- 3.3 This option would involve undertaking a two-stage procurement process using the competitive procedure with negotiation to appoint a contractor to manage Materials Marketing for recyclables and other waste streams collected at the RCHWs and WCA depots.
- 3.4 The approach will enable ECC to achieve its strategic objectives to meet statutory and local obligations by maximising the recycling and/reuse of municipal waste collected at the RCHWs and derive best value from these materials.
- 3.5 The proposed contract length would be for period of 3 years with a potential extension of a further 3 years.
- 3.6 The payment mechanism for the contract will be subject to limited negotiation using the following approach:
- a) A Monthly Services Payment to include a Contract Management Fee, Key Performance Indicator Adjustments and Pass Through Costs for material reprocessing.
 - b) Key Performance Indicator Adjustments will be calculated on the successful bidder’s performance against the following:
 - i. Mandatory KPIs, which will contribute towards their Contract Management Fee.
 - ii. Additional Value KPIs, which will allow bidders to earn additional self funding payments for achieving savings or environmental benefit.
 - c) Bidders will submit evidenced baseline prices for materials at the tender stage. During the life of the contract the Authority will pay the actual cost for disposing of the recyclables. To ensure the supplier is obtaining the best prices for the materials, the supplier will be required to conduct routine benchmarking (minimum of 6 monthly), to demonstrate that prices represent best value to the Authority. Where the supplier identifies lower prices during this exercise, they shall report this to the Authority and ensure that these prices are passed through.

- 3.7 In order to evaluate the quality element of the proposals, Bidders will be asked to provide method statements addressing the following critical areas for effective contract delivery:
- a) Mobilisation & Resourcing Plan
 - b) Contract Material Marketing Plan
 - c) Business Continuity Plan
 - d) Information Management and Reporting Plan
 - e) Environmental, Quality and Health and Safety Management Plan
 - f) Social Value Plan
- 3.8 The use of the competitive procedure with negotiation will enable the Authority to clarify bids with bidders after they have submitted fully developed tenders. The ability to discuss certain elements of the specification allows the Authority to ensure that best value is being achieved and that bidders have fully grasped the requirements of the tender and understand potential risks.
- 3.9 Feedback from market engagement has suggested that bidders in this market would also prefer the negotiated procedure, as the opportunity to clarify the specification and pricing mechanism provides them the opportunity to fully understand the requirements and reflect this in their tender.

Option C – Procurement: Restricted Procedure (“not recommended”)

- 3.10 This option would be similar process to option B, but without the negotiation element.
- 3.11 The timescales for this procurement would be shorter and would provide increased mobilisation time to the successful contractor. However, this is not significant and potential bidders have already confirmed during market engagement that a minimum of 4 months to mobilise the contract would be sufficient.
- 3.12 Bidders will still be able to clarify requirements in writing under this procedure, but the absence of any face to face meetings to discuss their tender, prior to award, means that the Authority will not have the opportunity to clarify bids with potential suppliers. Due to the complex nature of this tender, the lack of the negotiation step means the opportunity to clarify and potentially reduce costs is lost under this approach. .

4 Issues for consideration

4.1 Financial implications

- 4.1.1 The contract value is estimated at £12M across the 3 year initial term including the 3-year extension period, plus any further required extensions to facilitate future procurement. Most of this cost is a variable element

relating to the disposal/income costs paid/ received from reprocessors for the materials, alongside the tonnage actually received into ECC sites.

4.1.2 A review of the Medium Term Resources Strategy (MTRS) implications will be carried out once the procurement exercise has been completed before contract award.

4.1.3 Financial evaluation of the Bidders will review bids on a whole system cost basis, including internal haulage requirements to deliver the materials to the Bidders designated disposal points. This ensures solutions proposed deliver the best value for ECC.

4.2 **Financial risk**

4.2.1 The materials recycling market is volatile having seen significant peaks and falls influenced by global economic behaviours. Throughout the contract term and extension, the value will be subject to these changes. During the contract term it is anticipated that these market fluctuations will result in budget pressures or a surplus which would be outside of the MTRS.

4.3 **Legal implications**

4.3.1 Option A, “do nothing,” could leave ECC unable to meet its contribution to England’s obligations under Schedule 1 Part 2 para 11 **of The Waste (England and Wales) Regulations 2011 (as amended) to achieve 65% recycling by 2035.**

4.3.2 The procurement must be conducted in accordance with the Public Contracts Regulations 2015 and ECC’s internal policies and procedures. Rules regarding the competitive procedure with negotiation must be observed.

4.3.3 Negotiation on certain elements of the specification will be allowed under this procedure, but the minimum requirements must be maintained. Any areas for negotiation must be clearly identified within the documentation and process must be transparent for bidders.

5 **Equality and Diversity implications**

5.1 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.

5.2 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).

5.3 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.

6 List of appendices

Appendix 1 – Equalities Impact Assessment

7 List of Background papers

7.1 November Cabinet paper - Integrated Waste Handling Contract Service Delivery (FP/803/09/20)

I approve the recommendations set out above for the reasons set out in the report.	Date
Councillor Simon Walsh, Cabinet Member for Environment and Climate Change Action	19.03.21

In consultation with:

Role	Date
Councillor Christopher Whitbread, Cabinet Member for Finance	18 March 2021
Executive Director, Finance and Technology (S151 Officer) <i>Please send to your Head of Finance/Finance Business Partner who will arrange S151 sign off.</i>	18 March 2021
Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	18 March 2021
Paul Turner	