

**Forward Plan reference number: FP/126/08/21**

<b>Report title:</b> Award of Residual Waste Service Orders	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Cllr Malcolm Buckley, Cabinet Member for Waste Reduction and Recycling	
<b>Date:</b> 21 September 2021	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

This report has a confidential appendix which is **NOT FOR PUBLICATION** as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

## 1. Purpose of Report

- 1.1 Essex County Council established a framework agreement in October 2017 for the treatment and disposal of residual waste. This report seeks approval to the award of call-off contracts from the framework agreement to secure the short term residual waste disposal requirements of ECC.

## 2. Recommendations

- 2.1 Agree to award service orders to the waste disposal providers detailed in paragraph 3.8 of this report for a period of up to 18 months commencing on 1 October 2022.

## 3. Summary of issue

- 3.1 Essex County Council is the statutory Waste Disposal Authority (WDA) for Essex and is required to make necessary arrangements for the disposal of local authority collected waste. ECC provides extensive opportunities to help people reduce their waste, recycle more, and reduce their carbon footprint in partnership with the Waste Collection Authorities which contributes to our net zero target commitment. However, despite success in this area some residual waste remains requiring disposal. As the Mechanical Biological Treatment (MBT) facility that was intended to take ECC's residual waste is currently unavailable it has been necessary to use contingency landfill arrangements. Landfill remains an unsustainable long-term waste solution and it is a desire that there should be an end to landfill by ECC at the earliest opportunity. However, these contingency arrangements, which are due to expire shortly, need to be maintained for a short period to ensure the WDA can meet its

statutory responsibilities with respect to waste disposal and to provide the necessary time to evaluate other residual waste disposal approaches. These options, which will enable ECC to cease the use of landfill as a primary waste disposal route, will be reported to Cabinet in due course.

- 3.2 In accordance with the previous Cabinet Decision (FP/756/02/17), a residual waste framework agreement was procured. This enables ECC to meet its obligations as a WDA, and is in place for:
- the disposal of Refuse Derived Fuel (RDF); and
  - Municipal Solid Waste (MSW) whilst the MBT facility is unavailable.
- 3.3 Mini-competitions under the Framework Agreement have been run, and service orders have been placed, since the framework agreement was established to meet the residual waste disposal requirements of ECC. The current framework agreement expires in October 2021 and current service orders expire on the 30 September 2022. To ensure ECC continues to meet its statutory waste disposal obligations in the short term it is necessary for new service orders to be in place from 1 October 2022.
- 3.4 COVID-19 and imminent legislative changes continue to exert an influence on the quantity of waste which ECC is required to dispose of and market appetite to provide such services. During this period of uncertainty, the framework remains the most suitable and flexible approach for ECC to ensure its short term waste disposal requirements are secured. Using the framework for a short flexible period in this way will afford ECC the appropriate time to develop and deliver on its plans to cease using landfill for the disposal of waste.
- 3.5 ECC is permitted to run mini competitions under this existing framework up until its expiry in October 2021. A mini-competition was run under the framework during July 2021 across the five lots detailed below to maximise the opportunity for an appropriate blend of solutions and outlets to be secured to meet the short term waste disposal requirements of ECC:
- Lot 1:** Disposal Only of Refuse Derived Fuel (RDF) and/or MSW  
**Lot 2:** Disposal Only of MSW only (Contingency)  
**Lot 3:** Disposal Only of Bulky Waste (Contingency)  
**Lot 4:** Transfer and Disposal of direct delivered waste (Contingency)  
**Lot 5:** Transfer and Haulage of direct delivered waste (Contingency)
- 3.6 All necessary due diligence of the facilities was initially carried out during the procurement of the Framework Agreement in 2017. Facilities have been subject to periodic review during the term of the Framework Agreement to ensure continued compliance with all necessary requirements. 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 the costs associated 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.

- 3.7 The mini-competition received bids from four waste disposal providers across the five available lots. This is a smaller range of providers than has been the case in previous mini-competitions. Although the bids received meet the anticipated waste disposal needs of ECC, the reduced number of providers and the greater reliance on landfill as a disposal route increases operational risks. Landfill operations are more likely to close or reduce vehicle throughput during inclement weather placing increased pressure on the waste operations, particularly if multiple sites are affected. ECC will mitigate this risk by:
- Use of the full range of framework providers, thereby spreading operational risk associated with the non-availability of a facility, particularly at peak times or during inclement weather
  - Utilisation of the ECC waste transfer station network to better manage waste flows through disposal facilities
- 3.8 Following evaluation of all mini-competition bids received, the providers detailed in Table 1 below 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 short term disposal needs (up to 18 months from October 2022).

**Table 1**

<b>Lot</b>	<b>Provider</b>	<b>Location</b>	<b>Tonnage Award (p.a)</b>
<b>Lot 1 and Lot 2 combined (GMT)</b>	Enovert	Colchester	240,000 GMT
<b>Lot 1 (Non-GMT):</b> RDF and/or MSW	Veolia Veolia Veolia Viridor	Ockendon Pitsea Rainham Ipswich	0-250,000 0-25,000 0-100,000 0-25,000
<b>Lot 2 (Non-GMT):</b> MSW only	Veolia Veolia Viridor	Ockendon Rainham Ipswich	0-200,000 0-50,000 0-25,000
<b>Lot 3 (Non-GMT):</b> Bulky Waste	Enovert Veolia Veolia	Colchester Ockendon Rainham	0-50,000 0-25,000 0-25,000
<b>Lot 4 (Non-GMT):</b> Transfer and Disposal	James Waste	Rochford	0-100,000

<b>Lot 5 (Non-GMT):</b> Transfer and Haulage	James Waste	Rochford	0-25,000
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GMT: Guaranteed Minimum Tonnage

- 3.9 The maximum tonnage award that ECC can commit to has been assumed for the purposes of the financial implications of this report however the maximum tonnage awarded to the providers may need to be adjusted if the waste disposal providers do not have capacity available at the time that the service order is entered into or waste is delivered.
- 3.10 In entering into the combined Lot 1 and Lot 2 service order with Enovert, ECC is committed to meeting 80% of the quoted Guaranteed Minimum Tonnage ("GMT") input into the Enovert (i.e.192,000 tonnes) for the initial 12 months of the service order. The forecast residual waste requiring disposal indicates that ECC is able to fulfil this commitment.
- 3.11 Enovert is in the process of submitting a planning application to the Waste Planning Authority to extend the operational life of the Bellhouse landfill site. The grant of this application is necessary to fulfil the proposed service order for Lot 1,2 and 3. If the planning application is unsuccessful, ECC may need to consider other arrangements to ensure that there is capacity for the disposal of this waste.

## 4 Options

### 4.1 Option 1 – Reprocure Alternative Short Term Waste Disposal Arrangements (Not Recommended):

This option is not recommended. By not awarding new service orders and instead procuring a new short-term solution there is a risk that ECC would not have a secure outlet for the disposal of RDF or residual waste beyond September 2022 due to the time needed to procure and mobilise alternative arrangements. 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 – Award Service Orders to Secure Short Term Waste Disposal Arrangements (Recommended Approach):

This is the recommended approach. The Framework Agreement was set up in 2017 to enable the Council to efficiently call-off services as and when needed by running mini-competitions and remains the most appropriate way to secure requirements at this moment in time. By awarding new service orders the required capacity will be secured to ensure that ECC is able to fulfil its statutory waste disposal obligations for a period of up to 18 months from October 2022. This will provide the necessary time to procure suitable medium term disposal arrangements.

## **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 haulage costs incurred via a combination of ECC managed vehicles and an externally provided bulk haulage contract. These are known as whole system costs upon which the evaluation is based.
- 5.1.2 In order to secure value for money from providers, guaranteed minimum tonnage has been offered by ECC where possible for the eighteen-month period. Guaranteed Minimum Tonnages are not offered for the contingency arrangements.
- 5.1.3 The cost of the award for each annual service order is set out in the Confidential Appendix. The whole system disposal costs total £73.45m for the 18-month period which includes the costs of service orders and applicable Landfill Tax. This is in line with the current Medium Term Resource Strategy (MTRS) and will be contained within the existing waste budgets.
- 5.1.4 Delivery of the whole system cost has been considered on a price optimum basis as per the procurement specification and award criteria for the framework agreement. Any subsequent costs (if any) of additional third-party handling in order to optimise the Waste Collection Authorities (WCA) logistics is outside the scope of this contract award and meeting such costs are an obligation of the relevant WCA.

### **5.2 Legal implications**

- 5.2.1 The Framework Agreement was procured and implemented in accordance with a 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 services.

## **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

## **8 List of Background papers**

Framework agreement