

Cabinet – 3 February 2016

Update on Contracts for the treatment, recycling and final disposal of municipal waste

Portfolio: Councillor L Harrison - Clean and Green

Related portfolios: Councillor Arif - Procurement

Service: Clean and Green

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.0 The Contracts for the treatment, recycling and final disposal of municipal waste report was presented to Cabinet in December 2015. Through the verification process and prior to the issuing of award letters an error was identified on the evaluation spread sheet of Contract 2. This meant that the scoring information reported to the December Cabinet was incorrect. The error has been corrected and this report presents the correct information.
- 1.1 This report relates to the renewal of the Council's contracts for the treatment, recycling and final disposal of municipal waste. It should be read in conjunction with the Waste Service Options Report (submitted to Cabinet on 16 December 2015) and the private report and its recommendations on the award of contracts for treatment, recycling, and final disposal of municipal waste considered by Cabinet on this Agenda.
- 1.2 In December 2014, Cabinet decided to re-tender Walsall Council's contracts for the treatment, recycling and disposal of municipal waste and for officers to start the procurement process. The existing contracts started on 1 April 2011 and expire on 31 March 2016, with no option to extend. This report presents the outcomes of the procurement process.
- 1.3 When the contracts were last tendered in 2010, the market was very buoyant and the Council secured high material prices. Since then the markets have suffered and material prices are lower, this is especially the case for comingled recyclable materials. With this in mind tenders were sought for two contracts:-
 - 1.3.1 Contract 1 - The provision of processing of Comingled Dry Recycling for a period of two years, to commence service delivery from 1 April 2016 until 31 March 2018, with an option to extend the initial term of such contract by up to one year.

- 1.3.2 Contract 2 - The provision of 9 separate Lots of Materials Processing, Treatment and Disposal Services, for a period of 4 years to commence service delivery from 1 April 2016 until 31 March 2020 with an option to extend the initial term of such contracts by up to two years.
- 1.4 The financial impact of the re-tendering process in respect of comingled recycling material (Contract 1) is to increase the Council's costs by an estimated £482,160 per annum. The overall budget impact for 2016/17 will be not be known until the new waste service (currently planned for October 2016) is implemented. With further waste diverted via the new service, the additional cost will be approximately £30,000 for a full year. The additional £512,160 has been allowed for in the Medium Term Financial Outlook.
- 1.5 The financial impact of the re-tendering process in respect of general waste materials (Contract 2) is an additional cost of £187,475 based on projected tonnages and existing budgets (£1,811,078). The estimated budget requirement for 2016/17 is £1,998,553.
- 1.6 Anticipating the market conditions referred to in paragraph 1.3, the Council have planned prudently in the Medium Term Financial Outlook to absorb the cost pressure of the additional £699,635 as detailed in paragraph 6.

2. Recommendations

- 2.1 Following consideration of the confidential report in the private session of the agenda, Cabinet approve the following recommendations:
- 2.1.2 That Cabinet approve the award of contracts, set out in paragraphs 2.1.3 to 2.1.13 of this report, on the basis that tenders have been submitted and evaluated in accordance with the published Invitation to Tender and are the most economically advantageous, based on the quality of their submission and unit cost provided used to project total contract values.
- 2.1.3 Approve the award of Contract 1 - For the provision of the Processing of Co-Mingled Dry Recycling, with a projected annual contract value of £242,160, to Bidder No 2. The contract is for an initial period of two years, to commence service delivery from 1 April 2016 until 31 March 2018, with an option to extend the initial term of the contract by up to one year from 1 April 2018.
- 2.1.4 Approve the award of Contract 2 - Lot 1, for the provision of street sweepings services and gully waste, with a projected annual contract value of £126,000 (including transport), to Bidder No 5. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.5 Approve the award of Contract 2 - Lot 2, for the provision of wood waste, with a projected annual contract value of £167,265 (including transport), Bidder No 3. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.

- 2.1.6 Approve the award of Contract 2 - Lot 3, for the provision of soil and rubble waste, with a projected annual contract value of £25,000 (including transport) per annum to Bidder No 2. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.7 Approve the award of Contract 2 - Lot 4a, for the provision of garden waste collected from the kerbside and directly delivered, with a projected annual contract value of £336,000 per annum, to Bidder No 3. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.8 Approve the award of Contract 2 - Lot 4b, for the provision of other garden waste services, with a projected annual contract value of £87,270 (including transport) per annum, to Bidder No 4. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.9 Approve the award of Contract 2 - Lot 5, for the provision of mixed municipal and domestic waste services, with a projected annual contract value of £1,116,635 (including transport) per annum, to (Bidder No 2). The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.10 Approve the award of Contract 2 - Lot 6, for the provision of ceramic waste, with a projected annual contract value of £5,500 (including transport) per annum, to Bidder No 1. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.11 Approve the award of Contract 2 - Lot 7, for the provision of plasterboard waste, with a projected annual contract value of £27,000 (including transport) per annum, to Bidder No 1. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.12 Approve the award of Contract 2 - Lot 8, for the provision of carpet waste, with a projected annual contract value of £56,025 (including transport) per annum, to Bidder No 1. The contract is for an initial period of four years, to commence service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.
- 2.1.13 Approve the award of Contract 2 - Lot 9, for the provision of mattress waste, with a projected annual contract value of £51,858 (including transport) per annum, to Bidder No 1. The contract is for an initial period of four years, to commence

service delivery from 1 April 2016 until 31 March 2020, with an option to extend the initial term of the contract by up to a further two years from 1 April 2020.

- 2.2 That Cabinet notes that financial impact on costs for both contracts on the 2016/17 budget is in the region of £699,635 which is currently included in the Medium Term Financial Outlook.
- 2.3 That Cabinet delegate authority to the Executive Director for Economy and Environment, in conjunction with the Portfolio Holder for Clean and Green, to enter into contracts with successful bidders by using the most appropriate procedures and to subsequently authorise the sealing of deeds and/or signing of contracts and any other related documents for the provision of such services.

3. Report detail

3.1 General

- 3.1.1 As a Unitary Authority, the Council has the responsibility to make arrangements for both the collection and disposal of waste.
- 3.1.2 Under the Environmental Protection Act (1990), Section 45 places a duty on the Council to collect household waste and, if requested, commercial waste within Walsall, while Section 48 places a duty on the Council to provide a place for the disposal of waste by the Council.
- 3.1.3 The UK has a statutory target to recycle 50% of municipal waste by 2020. In 2014/15 the Council achieved a figure of 42%.
- 3.1.4 The European Union have issued their intention to amend European waste legislation within their proposed “circular economy package” which is likely to change the regulatory framework for waste disposal and impose additional recycling targets on local authorities. This proposed legislative change was released on 2 December 2015 and the key elements of the revised waste proposal include:
 - i. a common European Union target for recycling 65% of municipal waste by 2030;
 - ii. a common European Union target for recycling 75% of packaging waste by 2030;
 - iii. a binding landfill target to reduce landfill to a maximum of 10% of all waste by 2030;
 - iv. a ban on land filling of separately collected waste;
 - v. concrete measures to promote re-use and stimulate industrial symbiosis – turning one industry’s by-product into another industry’s raw material; and
 - vi. economic incentives for producers to put greener products on the market and support recovery and recycling schemes (e.g. for packaging, batteries, electric and electronic equipment, vehicles).
- 3.1.5 These proposals are likely to have an impact on the Council’s waste collection and disposal arrangements in due course and further consideration and review will be necessary once the impact of the legislation becomes clear.

3.1.6 When the recycling contracts were last tendered in 2010 the market was very buoyant and the Council secured high material prices. Since then commodity markets have suffered and material prices are lower, this is especially the case for comingled recyclable materials. With this in mind, officers tendered two contracts:

- i. Contract 1 – Comingled material; and
- ii. Contract 2 - Materials processing, treatment and disposal.

3.1.7 Due to the change of market conditions set out in paragraph 1.3 of this report, it was anticipated that co-mingled materials' contractors would have little appetite for a long term contract during the current poor trading conditions. Consequently, the term for Contract 1 is shorter than that for Contract 2.

3.1.8 The evaluation process and budget information are based on estimated tonnages and assumed contamination rates and so that the actual costs may be different from those given in this report.

3.2 Procurement Process

3.2.1 The Council appointed Eunomia Consulting to provide service specialist advice and lead on the design, drafting and evaluation of the tender documents and the associated process. Because of Eunomia's involvement, it was agreed that the Council's Procurement and Legal Services teams only needed to have limited involvement in the procurement process.

3.2.2 A Contract Notice was placed by the Council's Procurement Service in the Official Journal of the European Union (OJEU) on 17 September 2015 for two contracts:

- i. Contract 1 - The provision of Processing of Co-Mingled Dry Recycling; and
- ii. Contract 2 - The provision of Materials Processing, Treatment and Disposal Services

3.2.3 Thirteen suppliers expressed an interest for Contract 1 and nineteen suppliers expressed an interest for Contract 2 through the Council's E-Tendering Portal and downloaded the Invitation to Tender with a return date of 2 November 2015.

3.2.4 Tenders were opened on 2 November 2015 by the Executive Director for Economy and Environment, using a formal opening ceremony on the In-Tend E-Tendering Portal. Tenders were received as detailed below.

3.2.5 Three suppliers submitted bids for Contract 1 and nine suppliers submitted bids for Contract 2 across the nine separate Lots.

3.2.6 The bids were evaluated using a three stage evaluation methodology and criteria, as published in the Invitation to Tender and as set out below:

Stage 1 Conformity Evaluation (Essential pass/fail criteria)

Stage 2 Due Diligence (Evaluation of minimum standards)

Stage 3 Quality and financial evaluation which was scored and weighted as follows:

Contract Price	60%
Quality	40%

3.2.7 Tender evaluations were initially scored individually by:

- i. a Waste Strategy Manager;
- ii. a Strategy Officer;
- iii. Clean and Green's Health and Safety Manager (health & safety evaluation only); and
- iv. Eunomia Consulting – External Consultant.

3.2.8 A moderation meeting for Contract 1 was held on Friday, 27 November 2015 and for Contract 2 on Monday, 30 November 2015. It was attended by:

- i. a Service Manager – Strategy;
- ii. a Waste Strategy Manager;
- iii. a Strategy Officer;
- iv. Clean and Green's Health and Safety Manager (health & safety evaluation only); and
- v. Eunomia Consulting – External Consultant.

3.2.9 The outcome of the evaluation process is detailed below. Cabinet members should refer to the private session report for confidential details and commercially sensitive matters relating to the evaluation:

3.3 Contract 1 – The provision of processing of comingled dry recycling

3.3.1 The comingled materials contract is to supply a Materials Recycling Facility (MRF) that can sort the recyclable materials collected by the Council.

3.3.2 Three bids were received for the contract.

3.3.3 Bidder 2 scored the most points and is therefore the winning bidder for this contract.

3.3.4 To secure best price for the Council, the new contract is subject to an indexed pricing mechanism that reflects the quality of the delivered materials, the onward sale value of the sorted materials, and a 50:50 price risk sharing with the contractor. The price will be reviewed quarterly. It should be noted that the price may go up or down throughout the life of the contract.

3.3.5 The new contract is more expensive than the current one and is anticipated to increase the Council's costs by an estimated £482,160 per annum, subject to tonnages and contamination.

3.4 Contract 2 - Materials processing, treatment and disposal

3.4.1 Contract 2 was split into nine Lots, as follows:

Lot 1 Street sweepings and gully waste;

- Lot 2 Wood;
- Lot 3 Soil and Rubble;
- Lot 4a Garden waste collected from the kerbside and directly delivered;
- Lot 4b Other garden waste;
- Lot 5 Mixed municipal and domestic waste;
- Lot 6 Ceramics;
- Lot 7 Plasterboard;
- Lot 8 Carpet; and
- Lot 9 Mattresses.

3.4.2 The markets for the materials covered in Contract 2 are more stable than comingled materials so this contract is for four years with an option to extend for up to two years, subject to performance.

3.4.3 Lot 1 - Street Sweeping and Gully Waste

3.4.4 Bidder 5 scored the most points and is therefore the winning bidder for this contract. The method of treatment is washing and screening and will count towards the Council's recycling rate.

3.4.5 The new contract is cheaper than the current contract and should deliver a saving of approximately £117,000 per annum subject to tonnages and contamination.

3.4.6 Lot 2 - Wood

3.4.7 Bidder 3 scored the most points and is therefore the winning bidder for this contract. The method of treatment is bio-mass (burning wood to produce heat and energy). This process is classed as recovery, not recycling, and so will not count towards the Council's recycling rate.

3.4.8 The winning bid is more expensive than the Council is currently paying and is anticipated to increase the current cost by approximately £50,890 per annum, subject to tonnages.

3.4.9 Lot 3 - Soil and Rubble

3.4.10 Bidder 2 scored the most points and is therefore the winning bidder for this contract. The method of treatment is washing and screening and will count towards the Council's recycling rate.

3.4.11 The winning bid is cheaper than the Council is currently paying and will reduce costs by approximately £3,875 per annum, subject to tonnes and contamination.

3.4.12 Lot 4a - Garden waste collected from the kerbside and directly delivered

3.4.13 Bidder 3 scored the most points and is therefore the winning bidder for garden waste collected from the kerbside and directly delivered to site. The treatment method is open window composting which will count towards the Council's composting rate.

3.4.14 The winning bid is cheaper than the existing contract and will deliver a saving of approximately £80,000 per annum, subject to tonnes and contamination.

3.4.15 Lot 4b - Other Garden Waste

3.4.16 Bidder 4 scored the most points and is therefore the winning bidder for other garden waste (from Household Waste Recycling Centres (HWRCs) and the Council's grounds maintenance activities). The treatment method is open window composting which will count towards the Council's composting rate.

3.4.17 The winning bid is slightly more expensive than the current contract and will cost an approximate £8,220 per annum more than at present.

3.4.18 Lot 5 - Mixed Municipal and Domestic Waste

3.4.19 This lot excludes waste that is contracted to W2R.

3.4.20 Bidder 2 scored the most points and is therefore the winning bidder for mixed municipal and domestic waste. This waste will go to landfill.

3.4.21 The new contract is roughly the same price as the current contract and it is therefore unlikely that any savings will be made.

3.4.22 Lot 6 - Ceramics

3.4.23 Bidder 1 scored the most points and is therefore the winning bidder for this contract. The treatment method will be washing and screening for recycling.

3.4.24 Whilst this is a low value contract, the new contract will deliver a small saving of approximately £2,057 per annum.

3.4.25 Lot 7 - Plasterboard

3.4.26 Only one bid was received for this Lot. Plasterboard will be treated as construction waste for sorting and recovery.

3.4.27 This is a new material for the Council to collect at the HWRC and can no longer be land-filled.

3.4.28 Lot 8 - Carpet

3.4.29 Only one bid was received for this Lot. The treatment method is the same as for mixed municipal waste where the material is turned into fuel for burning.

3.4.30 This is a new material for the Council to collect at the HWRC. The Council has recently undertaken some trial collections of carpets from the HWRC which have shown some degree of success.

3.4.31 Lot 9 - Mattresses

- 3.4.32 Only one bid was received for this Lot. The treatment method is the same as for mixed municipal waste where the material is turned into fuel for burning, with the metal being sorted for recycling.
- 3.4.33 This is a new material for the Council to collect at the HWRC. The Council has recently undertaken some trial collections of mattresses from the HWRC which have shown some degree of success.

4. Council priorities

- 4.1 At the Council meeting on 21 September 2015 new priorities were adopted to replace those previously agreed at Council in February 2015.
- 4.2 The new contracts contribute to delivering the new priorities by creating safe, sustainable and inclusive communities by:
- i. Reducing waste to landfill; and
 - ii. Maximising recycling collections.

5. Risk management

- 5.1 When the contracts were last tendered in 2011, markets were very buoyant and the Council secured very favourable prices. Trading conditions have been very poor for a number of years and this is reflected in commodity prices which regularly fluctuate.
- 5.2 Steps have been taken to minimise procurement-related risk. However, there will always remain an inherent risk of legal challenge associated with any procurement undertaken by the Council. The scope and value of these contracts is significant and requires compliance with the Public Contract Regulations 2015. Input has been sought from Procurement and Legal Services to ensure compliance with the Public Contracts Regulations and the Council's Contract Rules.

6. Financial implications

- 6.1 The financial impact of the re-tendering process in respect of comingled recycling material (Contract 1) is an increase in cost of an estimated £482,160. The overall budget impact for 2016/17 will be not be known until the new waste service, which is the subject of a separate Cabinet Report and decision on 16 December 2015, is implemented. This is currently scheduled for October 2016. With further waste diverted via the new service, the additional cost will be approximately £30,000 for a full year. The additional £512,160 has been allowed for in the Medium Term Financial Outlook.
- 6.2 The impact of the re-tendering process in respect of general waste materials (Contract 2) is an additional cost of £187,475 based on projected tonnages and existing budgets (£1,811,078).

- 6.3 In 2015/16 the budget shortfall in disposal costs is being covered by the use of reserves. Re-tendering of the above contracts has delivered a comparable saving of around £7,744 per annum.
- 6.4 The Council has enjoyed a surplus from the current contract of £240,000. Due to prevailing market conditions, the new contracting arrangements will now cost the Council £242,000, giving a variance of £482,160.
- 6.5 All costs are estimates based on projected tonnages and the relevant price mechanism for quarter 1 of 2016/17 for Contract 1 – Disposal of comingled recycling.
- 6.6 There is a variance of £699,635 from existing budgets for the disposal of waste via the new contracts. Anticipating the market conditions referred to, we have planned prudently in the Medium Term Financial Outlook to absorb the cost pressures.

7. Legal implications

- 7.1 The anticipated value of each of the two contracts will exceed the current European Union thresholds for procurement purposes, so they have been tendered in accordance with the Public Contract Regulations 2015. External consultants have led on this procurement exercise and Clean and Green have also taken advice as required throughout the process from Legal Services and Procurement.
- 7.2 From 1 January 2015 the Council's waste management service must be compliant with the Waste Framework Directive and the Waste (England and Wales) Regulations 2011. The award of the co-mingled recycling disposal contract to Bidder No.2 (as recommended in this Report) will allow the waste collection service to remain technically, environmentally and economically practicable (TEEP) compliant. The TEEP compliance statement is included in the Waste Service Options Report which was considered by Cabinet in December 2015.
- 7.3 All contracts have been prepared by external consultants in a written form approved by the Head of Legal and Democratic Services.

8. Property implications

- 8.1 None.

9. Health and wellbeing implications

- 9.1 In September 2012 the Council adopted the Marmot Objectives as objectives for improving Health and Wellbeing and reducing inequalities for the people of Walsall. These objectives have provided the framework for the Joint Strategic Needs Assessment, the Health and Wellbeing Strategy and the "The Walsall Plan". The recommendations in this report are consistent with these objectives.

10. Staffing implications

10.1 None.

11. Equality implications

11.1 None.

12. Consultation

12.1 The procurement of new waste disposal contracts did not require any public consultation.

Background papers

Cabinet Report dated 17 December 2014: Contracts for Treatment, Recycling and Final Disposal of Municipal waste.

Author

Mark Holden
Head of Service - Clean and Green
☎ 654202
✉ mark.holden@walsall.gov.uk



Simon Neilson
Executive Director

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Councillor Louise Harrison
Portfolio Holder
Clean and Green

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