

Cabinet – 4 September 2019

Contract for the treatment and recycling of “Dry Mixed Recycling Waste” – Public Session

Portfolio: Clean and Green – Cllr Oliver Butler

Related portfolios:

Service: Clean and Green

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

- 1.1 A new contract is required to ensure that the Council has in place appropriate Waste disposal arrangements for the dry mixed recycling waste collected.

2. Summary

Background

- 1.1 The budget allocated to cover the cost of dry mixed recyclable waste contract is included within Clean and Green’s mainstream revenue budget. In recent years, there has been significant volatility in the recycling market as a result of changes to the ways in which Material Recycling Facilities (MRFs) operate, increasingly stringent quality requirements, economic factors and China’s decision to severely restrict imported waste for recycling. As a consequence, Walsall has seen net prices for the disposal of such material increase dramatically.
- 1.2 Cabinet were informed of the need to re-tender the Council’s contract for the treatment and recycling of Dry Mixed Recyclable waste in July 2018 and received a report on 12 December 2018 detailing a procurement process that had been undertaken and asking Cabinet to approve either the option to Award the Contract or to Re-tender the Contract. Cabinet did not approve the award of the contract and asked Officers to re-tender the contract.
- 1.3 The current price has been negotiated under a six-month extension to the existing contract with the incumbent contractor and the increased costs are currently being funded from corporate reserves. The extension was agreed following an extensive tendering process during autumn 2018 which failed to deliver an economically viable solution.

- 1.4 In April 2019, a procurement process commenced under Regulation 32 of the Public Contracts Regulation 2015 (PCR2015), Negotiated Procedure without Prior Publication, under the following circumstance: no suitable tenders have been submitted in response to an open procedure, with the two service providers that had submitted bids under the previous process and a third provider that had been actively involved but were unable to submit a formal bid due to internal approvals and time constraints. This consisted of two separate phases of negotiations over a three month period and then the submission of a formal tender on 29th July 2019.

3. Recommendations

- 3.1 Following consideration of the confidential information in the private session of the agenda, Cabinet will be recommended to:
- 3.2 Approve the award of contract for the provision of the treatment and recycling of Dry Mixed Recyclable waste to Bidder 1 (Casepak) for an initial period of 3 years, to commence on 1 October 2019 and with an option to extend for up to two years.
- 3.3 Delegate authority to the Executive Director of Economy and Environment, in conjunction with the Portfolio Holder (Clean and Green) to enter into contract with the successful bidder by using the most appropriate procedures and, to authorise the sealing of deeds and/or signing of contracts and any other related documents for the provision of such services.
- 3.3 Delegate authority to the Executive Director of Economy and Environment, in conjunction with the Portfolio Holder (Clean and Green) to vary the contract during the contract period to ensure that the Council continues to achieve value for money.
- 3.4 Approve an increase in Clean and Green budgets to reflect the increase in contract costs.

4. Report detail – know

Legislative Drivers

- 4.1 As a Unitary Authority, the Council has responsibility for both waste collection and waste disposal. As a Waste Collection Authority (WCA) and Waste Disposal Authority (WDA), the Council has a number of statutory obligations. These include:
- A duty under Section 45 of the Environmental Protection Act 1990 (EPA 1990) to collect household waste and, if requested, commercial waste within Walsall.
 - Responsibility under Section 48 of the EPA 1990 to arrange and provide places for the disposal of waste collected by the Council within its function as a WDA.
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- 4.2 The Council is required to comply with the EU Waste Framework Directive, the (England and Wales) Regulations 2011 and the amendment to these regulations in 2012. From the 1st January 2015 this legislation requires waste collection authorities to collect paper, metal, plastic and glass separately unless it is not 'technically, environmentally and/or economically practicable (TEEP) to do so. Any change to the service, or re-procurement of a contract triggers a 'TEEP' review to assess if separate collections of these materials could be implemented.
- 4.3 A TEEP review of the recycling waste collection service, taking into account the outcome of the new DMR tendering process has been conducted by Clean and Green Services. The updated TEEP statement concludes that it is technically, and environmentally practicable to carry out single stream collections, but not at present due to current infrastructure (vehicles, transfer station and containers). It is not currently economically practicable due to the implementation costs of alternative collection methods.
- 4.4 The service is also subject to the following:
- The Controlled Waste Regulations 2012
 - GDPR 2018

Negotiations

- 4.5 Following the previous failed tendering process reported to Cabinet in December 2018, due to not being economically viable. Cabinet approved officers to re tender the contract for the treatment and recycling of Dry Mixed Recycling Waste via a Negotiated Procedure as detailed in 2.4 above.
- 4.6 Negotiations took place with two previous service providers that submitted bids, and a third provider, which consisted of two separate phases of negotiations over a three month period.
- 4.7 The re-tendering process commenced in July and evaluation of the submitted bids was completed in August 2019. The new contract is to commence in October 2019 for a period of three years with an option to extend for up to two years.

Award Contract

- 4.8 All three suppliers downloaded the invitation to tender with a return date of the 29th July 2019.
- 4.9 Shortly before the return date, we received formal notification from one Bidder that due to them recently winning a large contract they no longer felt that they had capacity to meet the requirements of the contract and were therefore withdrawing from the process.
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4.10 Tenders were opened on the 30th July by the Head of Clean and Green and an interim Procurement Officer, using a formal opening ceremony on the In-Tend e-tendering portal.

4.11 There were two submitted bids from Supplier 1 and Supplier 2 for the contract.

4.12 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 – Standard Selection Questionnaire (SSQ) Evaluation (Essential pass/fail criteria)

Stage 2 - Due Diligence (Evaluation of minimum standards)

Stage 3 - Quality and Price evaluation which were scored and weighted as follows:

- Quality 40%
- Price 60%

4.13 Tender Quality evaluations were initially scored individually by the Clean and Green Services' project team, comprising of three officers. The outcome of the Quality Evaluation is detailed below

Criteria	Weighting	Bidder 1 Score	Bidder 2 Score
Social Value	5%	3.75%	2.5%
Treatment and Processing	10%	5%	5%
Material Quality Monitoring	5%	3.75%	2.5%
Quality of Recycling	5%	3.75%	3.75%
Delivery Point and Transport	5%	2.5%	2.5%
Contractor Personnel	5%	2.5%	2.5%
Health and Safety	5%	1.25%	2.5%

4.14 Tender evaluation on Price was carried out by the Clean and Green officers in conjunction with Corporate Procurement. The outcome of the Financial Evaluation is detailed below.

Bidder 1	60.00%
Bidder 2	48.42%

- 4.15 A moderation meeting for Quality evaluation and Price was held on the 5th August 2019 and the outcome is detailed below.

Bidder Name	Quality Score	Finance Score	Total Score
Bidder 1	22.5%	60.00%	82.50%
Bidder 2	21.25%	48.42%	69.67%

- 4.16 Following evaluation of the tender submissions, the highest scoring bid and therefore the overall Most Economically Advantageous Tender was received from Bidder 1.

Council Corporate Plan priorities

- 4.17 Procuring these services will contribute to delivering the following priority as stated within the Corporate Plan 2018-21:
- Internal focus – All Council services are efficient and effective, modernising our services to meet the ever changing environment and behaviours, with the processing of dry mixed recycling waste being the most economically advantageous to the Council, providing value for money and being a resilient council.

Risk management

- 4.18 The markets for recyclable waste materials are subject to fluctuations in demand for the recyclates and the commodity prices that can be achieved. Currently waste streams such as plastic and paper are a cause for concern internationally, and the value of these materials will remain as a significant risk factor for the life of any future contract, with the potential for falls in demand.
- 4.19 The quality of materials sent for treatment/recycling can also pose a significant risk to the Council. Contamination levels are difficult to control, and residents frequently dispose of waste incorrectly. Each tonne of contaminated waste sent, incurs charges for transportation, processing and final disposal. An increase in contamination levels will create budget pressures.
- 4.20 The tendered contract price has been minimised by the Council taking 100% risk on changes to commodity prices. Commodity prices will continue to fluctuate and have an impact on resale value achieved by the Council.
- 4.21 In view of the issues highlighted above Clean and Green will continue to review the markets for recyclates and work with the supplier to ensure that the Council achieves the most cost effective disposal methods for the dry mixed recycling waste collected and where necessary vary the contract as permitted within the Public contracts Regulations 2015 and the Council's Contract Rules.
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- 4.22 Clean and Green will continue to educate residents and businesses and, take enforcement action where appropriate in order to minimise the risks associated with contamination.

Financial implications

- 4.23 If the Contract is awarded to Supplier 1 (Casepak), there would be an increase to the Council's annual costs for the processing of dry mixed recyclable materials to reflect the new prices.

Legal implications

- 4.24 The proposed contract terms and conditions are predominantly those used by the incumbent provider, but which have been updated and approved by Legal Services.

Procurement Implications/Social Value

- 4.25 Tendering of the current Contract has been undertaken with support and advice of the Legal and Procurement Teams.
- 4.26 The procurement and award processes are in accordance with the Council's Contract Rules.
- 4.27 The anticipated value of the service provision was above the current EU procurement thresholds, and the service provision was tendered in accordance with Regulation 32 of the Public Contract Regulations 2015.
- 4.28 Supplier 1, the winning bidder, has pledged to provide Social Value by doing the following:
- Employment of a local haulier to transport some of the waste
 - Offer of Apprenticeships and College / University work experience / placements

Property implications

- 4.29 None

Health and wellbeing implications

- 4.30 There are no direct health and wellbeing implications arising from this report. The service is considered to make a positive impact on general health and wellbeing by improving the quality of the environment within which our residents live.

Staffing implications

- 4.31 There are no staffing implications for Council staff.
- 4.32 TUPE Regulations may apply at the end of the proposed new contract term.
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Reducing Inequalities

- 4.33 Through liaison with the Consultation and Equalities team, it is considered that an Equalities Impact Assessment is not required.

Consultation

- 4.34 Consultation took place with potential bidders during the Negotiated Tendering Procedure as detailed in 4.5 to 4.7 above.

5. Decide

- 5.1 The Council is required to collect and dispose of household waste. There are currently no appropriate alternative options of disposing of this type of recyclable waste other than via a third party re-processing service provider via a compliant contract.
- 5.2 The negotiated tendering procedure has allowed us to work with potential bidders and secure the best available price within the current market.
- 5.3 The new process has achieved a reduction in costs from the original tendering process.
- 5.4 The new tendering process has achieved a winning bid.

6. Respond

- 6.1 Subject to Cabinet approval of the recommendation, the next steps for officers is to mobilise and implement the contract.

7. Review

- 7.1 There will be regular updates from Clean and Green services on contract performance and financial monitoring with Corporate Finance, the Portfolio Holder and Directorate Management Team as appropriate.

Author

Mark Holden
Head of Clean and Green
☎ 654201
✉ Mark.Holden@walsall.gov.uk

Stephen Johnson
Service Manager – Strategy
☎ 654227
✉ Stephen.Johnson@walsall.gov.uk



Simon Neilson
Executive Director

27 August 2019

Oliver Butler

Councillor Oliver Butler
Portfolio holder – Clean and Green

27 August 2019
