

## **Cabinet – 11 July 2018**

### **Contract for the treatment and recycling of ‘Dry Mixed Recycling Waste**

**Portfolio:** Councillor Louise Harrison – Clean and Green

**Related portfolios:** None

**Service:** Clean and Green Services

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1.0 Summary**

- 1.1 This report informs members of the need to re-tender Walsall’s contract for the treatment and recycling of Dry Mixed Recycling Waste. This will ensure that the Council has in place an appropriate waste management contract essential to effective and efficient service delivery.
- 1.2 The existing contract commenced on 1 April 2016 and expired on 31 March 2018, however, an option to extend for a further 12 months (until – 31 March 2019) was agreed.
- 1.3 The anticipated future cost for treatment, recycling and final disposal of recyclable waste will exceed the Public Contracts regulations 2015 (as amended Dec 2017) procurement threshold of £181,302 and therefore, in order to procure such services to the Council, consideration must now be given to commencing the tendering process.
- 1.4 The EU Waste Framework Directive, the Waste (England and Wales) Regulations 2011 and the amendment to these regulations in 2012 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.
- 1.5 A TEEP review of the waste collection service will be conducted by Clean and Green Services. It is anticipated that the review will not highlight any compliance issues with the Waste Framework Directive.
- 1.6 This is a key decision because the cost of renewing this contract exceeds the threshold for significant expenditure and it will have an affect across all Council wards.

## **2.0 Recommendations**

- 2.1 That Cabinet agree for officers to commence the procurement process for this contract

## **3. Report detail**

- 3.1 As a Unitary Authority, Walsall Council has the responsibility to make arrangements for both the collection and disposal of municipal waste.
- 3.2 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 collected by the Council.
- 3.3 The Council has a statutory target to recycle 50% of municipal waste by 2020. In the year 2016/17, a figure of 41.3% was achieved.
- 3.4 The Council is required to comply with the EU Waste Framework, the (England and Wales) Regulations 2011 and the amendment to these regulations in 2012. From the 1<sup>st</sup> 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.
- 3.5 The indicative timetable for the procurement of the contracts is shown at **Appendix A**.

## **4.0 Council Corporate Plan priorities**

- 4.1 The re tendering of the Dry Mixed Recycling Waste contract links to the current priorities set out in the 2018-2021 Corporate Plan as follows:
- Internal focus – All Council services are efficient and effective, with the processing of dry mixed recycling waste being the most economically advantageous to the Council and providing value for money.

## **5. Risk management**

- 5.1 The markets for recyclable waste materials are subject to fluctuations in demand for the recyclate and the commodity prices that can be achieved. Currently waste streams such as plastic and paper are a cause for concern internationally, and will remain as a significant risk factor for the life of this contract, with the potential for falls in demand.
- 5.2 The Council will be required to meet costs in relation to the transportation and processing of waste, however, these costs are partially offset due to the commodity value of the recyclate captured during processing. Fluctuations in

commodity value are specified to take place every quarter, thus having an affect on the overall cost of the service.

- 5.3 The contract specification will provide some mitigation against the risks, by specifying to share such risks with the contractor appointed. The contract requires the contractor to share the risk of commodity price reductions on an equal basis with the Council.
- 5.4 The quality of materials sent for treatment/recycling can also pose a significant risk to the Council. Contamination levels are difficult to control, with various reasons why residents continue to 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 increased costs.

## **6.0 Financial implications**

- 6.1 Budgets for waste disposal will be reviewed once the outcome of the tendering process is known and will be reported to Cabinet. Bidders will be required to demonstrate best value for money.
- 6.2 As noted in 5.1 the market for recyclable waste is volatile, with commodity prices being unpredictable and subject to fluctuation. The budgets to cover the recyclable waste contract are included within Clean & Green mainstream revenue budgets - there is a risk that if tendered prices returned are higher than the existing budgets a revenue pressure may arise that will need to be managed.
- 6.3 An update will be provided to Cabinet on the outcome of the tendering process prior to award of the contract. Budget implications will be fully set out in this report.

## **7.0 Legal implications**

- 7.1 The anticipated value of the service being re-tendered is above the current EU procurement thresholds, which means the service provision must be tendered in accordance with Public Contract Regulations 2015 (as amended). The procurement process will be undertaken in accordance with the Council's Contract Rules and the new service provision will be evidenced by a written contract in a form agreed by the Head of Legal and Democratic Services, and executed in accordance with the Council's Contract Rules. Legal advice will be taken throughout the tendering process to ensure compliance.
- 7.2 The service due to be re-tendered is subject to the following:
- Environmental Protection Act 1990
  - The Waste Framework Directive
  - The Waste (England and Wales) Regulations 2011
  - The Waste (England and Wales) (Amendment) Regulations 2012
  - The Controlled Waste Regulations 2012

## **8.0 Procurement implications/Social Value**

- 8.1 The value of the anticipated treatment and recycling of Dry Mixed Recycling waste will be above the current EU procurement thresholds, which means the service provision must be tendered. Procurement support has been requested, and advice and guidance will be sought as required.
- 8.2 The procurement process will be conducted in accordance with the procurement rules as set out in the Public Contract Regulations 2015, the Council's Contract Rules and the Social Value Policy.
- 8.3 tenders will be evaluated based on their ability to add social value to Walsall.

## **9. Property implications**

- 9.1 None

## **10. Health and wellbeing implications**

- 10.1 There are no direct health and wellbeing implications arising from this report. The proposed re-tendering of this 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.

## **11. Staffing implications**

- 11.1 None

## **12. Reducing inequalities**

- 12.1 Through liaison with the Consultation and Equalities team, the feedback is that at this stage, an Equalities Impact Assessment is not required.

## **13. Consultation**

- 13.1 External consultation has taken place with potential bidders/interested parties, feedback can be seen at **Appendix B**.
- 13.2 Information from the consultation will be used in the development of the tender documents where appropriate and in the Council's interests.

## Background papers

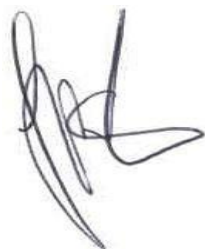
None

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Simon Neilson  
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28 June Month 2018



Councillor Harrison  
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28 June Month 2018

## Appendix A

### Indicative Timetable for the Procurement Process:

Date	Activity
August – September 2018	Prepare Tender Documents
September – October 2018	Post OJEU notice
October – December 2018	Tender Period
December 2018	Tender Evaluation
December 2018	Cabinet Report
January 2019	Award Contract
1 April 2019	Contract Commences

## Appendix B

### Consultation with Potential Bidders

A questionnaire was devised and sent electronically to the incumbent contractor, as well as all contractors that declared an interest during the previous tender process in 2016. In addition to these, a small number of other known contractors were also sent a questionnaire.

Questionnaires were sent to the following contractors:

- Casepak
- Veolia
- Biffa
- Kier Waste
- UPM Kymmene LTD
- Suez
- Viridor
- Blitz Recycling
- O'Brien Waste
- H W Martin
- Mid UK Recycling
- Weir Waste

There was a 42% response, with 5 of the 12 contractors returning a completed questionnaire.

See responses below:

***Q1. The current contract was for 2 years with an option to extend for a further year, is this an appropriate duration?***

2 of the 5 contractors believed this contract period to be appropriate, a further 2 contractors would prefer a 3 to 5 year period with the remaining contractor opting for 5 years or more.

***Q2. The value of materials processed within the contract were index linked to the WRAP Material Pricing Report, do you believe this index tracks the market adequately?***

***Q3. Would you prefer a link to the Let's Recycle pricing index as an alternative?***

Only 1 of the 5 contractors believed the WRAP material pricing report tracked the market adequately. 1 contractor opted for the Let's Recycle Index even though they had some reservations.

The remaining 3 contractors preferred there to be no link whatsoever, stating that the contracting authority should trust contractors to provide the best value for money.

***Q4. How do you believe the recyclable material market has changed since the contract was awarded in 2016?***

All contractors stated that current market conditions were much tougher than in 2016, with the mention of China and other countries massively reducing their demand for recyclable materials.

Poor quality material was also an issue with contamination being a major factor for this.

***Q5. Under the terms of the current contract, Walsall Council shares the risk of material price reductions as well as the profit from increases, when prices fluctuate below or above a baseline set of submitted prices for each waste stream. The current risk/profit share is 50 – 50. What is your preferred option of sharing price risk/profit?***

3 of the 5 contractors agreed that a 50-50 share was appropriate; however, the 2 remaining contractors believed the council should take more of the risk and opted for 70-30 & 80-20 respectively.

***Q6. Would you consider submitting a tender for this future opportunity? Use the space below to provide details of any key considerations.***

All 5 contractors stated that they would consider submitting a tender, however, this was dependant on a variety of factors such as, material quality, risk share, links to indices, contract flexibility etc.