

**Open Report on behalf of Richard Wills,
Executive Director for Environment & Economy**

Report to:	Councillor E J Poll, Executive Councillor for Commercial and Environmental Management
Date:	15 September 2017
Subject:	Countywide contract for the bulk haulage of residual waste to the Energy from Waste facility
Decision Reference:	I014210
Key decision?	Yes

Summary:

The report seeks the approval to continue with the provision of the bulk haulage of the Municipal Solid Waste from the Waste Transfer Stations to the Energy from Waste Facility and other final disposal points on occasions, as operationally required.

The present contract extension finishes on the 31st March 2018 and the contract needs to be re-tendered to continue this essential waste service provision.

Recommendation(s):

That the Executive Councillor

1 approves the carrying out of a procurement process for the award of a new contract for the bulk haulage of Municipal Solid Waste for the period 1st April 2018 to the 31st March 2023 with the option of a two year extension, to the 31st March 2025; and

2 delegates to the Executive Director for Environment and Economy in consultation with the Executive Councillor for Commercial and Environmental Management authority to take all decisions in connection with the procurement including the decision to award the contract and to enter into all documentation necessary to give effect to the service.

Alternatives Considered:

There have been no alternatives considered as the Council has a statutory duty to dispose of waste and therefore to transport waste to the disposal facilities and does not have the equipment or experience to deliver such services itself.

Reasons for Recommendation:

The Council has a statutory duty to dispose of waste and therefore needs to be able to transfer waste to ultimate disposal facilities. Without the award of a contract for haulage of waste the Council will not be able to fulfil this statutory duty.

1. Background

Lincolnshire County Council is seeking to procure a services contract for the Bulk Haulage of Waste in order to transport Municipal Solid Waste (MSW), and more specifically the fraction of residual waste (waste that is left over after recycling and composting) from various Collection Points throughout the county, which are normally a network of 5 Waste Transfer Stations (WTS), to final disposal points, normally an Energy from Waste (EfW) facility in North Hykeham, Lincoln.

A proportion of waste will need to be delivered to various final disposal points, at times throughout each year. This is mainly due to the planned yearly maintenance at the EfW). Indicative total figures from April 2016 to March 2017 were that 131,838 tonnes of MSW was transported from WTS to either the EfW facility or final disposal points, usually landfill.

The present contract extension will end on the 31st March 2018 and to ensure this essential service provision continues, the county needs to procure a new contract.

This Service contract shall be for a five-year duration with an option for a further 2 years extension. The value of the contract is anticipated to be around £9.1 million over the expected contract length of 7 years.

It is expected that this new contract will be within the present allocated budget, but this is dependent on the tendered prices received and evaluation.

In January 2013 the Public Services (Social Value) Act came into force. Under the Act the Council must before starting the process of procuring a contract for services consider two things. Firstly, how what is proposed to be procured might improve the economic social and environmental wellbeing of its area. Secondly, how in conducting the process of procurement it might act with a view to securing that improvement.

The Council must only consider matters that are relevant to the services being procured and must consider the extent to which it is proportionate in all the circumstances to take those matters into account. In considering this issue the Council must be aware that it remains bound by EU procurement legislation which itself through its requirement for transparency, fairness and non-discrimination places limits on what can be done to achieve these outcomes through a procurement.

Ways have been explored of securing social value through the way the procurement is structured. It is considered that local businesses will be enabled to compete by the essentially local nature of the services.

Under section 1(7) of the Public Services (Social Value) Act 2012 the Council must consider whether to undertake any consultation as to the matters referred to above. The service and the value it delivers is well understood and it is unlikely that any wider consultation would be proportionate to the scope of the procurement.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- * Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- * Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- * Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- * Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is

identified consideration must be given to measures to avoid that impact as part of the decision making process.

The Energy from Waste facility, the Waste Transfer Stations and the final disposal points such as landfills are not open to the public and therefore none of their protected characteristics are affected. As this is a contracted service, the contractors will be responsible for undertaking and complying with Equality obligations.

Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The Energy from Waste facility and the Waste Transfer Stations, provide the strategic infrastructure to effectively and efficiently collect, bulk-up and process the kerbside collected MSW, as presented by the public and delivered by the District Councils. This contributes to health and wellbeing

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

This service provision is not used by or accessible to the public and therefore it is considered that crime and disorder effects are extremely unlikely.

3. Conclusion

The present contract has worked well and it is expected that this new contract provision will continue to provide a high performing and effective service.

4. Legal Comments:

The Council has the power to procure the proposed contract which contributes to the performance by the Council of its statutory duties as waste disposal authority.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor if it is within the budget.

5. Resource Comments:

The currently approved revenue budget for Waste Management has sufficient resources to meet the costs of contracts awarded as a result of approving the recommendation set out in this report.

6. Consultation

a) Has Local Member Been Consulted?

Not applicable as countywide service provision

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This has not been considered to a scrutiny committee.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

See the body of the Report

7. Appendices

There are no appendices.

8. Background Papers

No background papers were used in the preparation of this Report.

This report was written by Sean Kent, who can be contacted on 01522 554833 or sean.kent@lincolnshire.gov.uk .