



Open Report on behalf of Andy Gutherson, Executive Director - Place

Report to:	Councillor D McNally, Executive Councillor for Waste and Trading Standards
Date:	14 - 20 September 2023
Subject:	Approval to procure contracts for Haulage of Household Waste Recycling Centres Exit Waste Streams
Decision Reference:	I030180
Key decision?	Yes

Summary:

The Council's Haulage of Household Waste Recycling contract is due to expire on the 31 March 2024. This report sets out a proposed course of action for the procurement of new contracts on a lots basis, and delegation of the necessary decisions.

Recommendation(s):

That the Executive Councillor for Waste and Trading Standards:

1. approves the procurement via the open tender procedure of new contracts for the provision of haulage of household waste recycling centres (HWRC) exit waste streams with effect from 1 April 2024.
2. delegates to the Executive Director - Place in consultation with the Executive Councillor for Waste and Trading Standards authority to determine the final form of and the entering into of the new contracts referred to in paragraph 1 above and the arrangements for securing continuity of services under 2 above.

Alternatives Considered:

1. Not Awarding the Contract

The Council is obligated to procure services of the value of these services according to the Public Contract Regulations 2015.

The Council has a statutory duty under the Environmental Protection Act 1990 to dispose of waste materials deposited by Lincolnshire residents at HWRCs. The haulage of the exit waste streams is necessary for HWRC material to be transferred to various disposal points where the waste is then treated.

Failing to award corporate contracts would see an increase in off contract spend. Multiple arrangements in place with suppliers without a contractual performance framework would adversely impact on the reliability of the service resulting in reputational risk to the Council, and additional work for officers.

Reasons for Recommendation:

The course of action proposed is compliant with the Public Contract Regulations (PCRs) 2015 and is the most efficient route to procurement that is available to the Council. The Council needs surety of supply of these vital services to minimise disruption to the public and to meet its statutory obligations. The Council also needs to ensure a seamless transition with no disruption to a vital service should new providers be awarded the contracts.

1. Background

1.1 Context

Lincolnshire County Council has a statutory duty to dispose of exit waste stream materials deposited by Lincolnshire residents at its eleven Household Waste Recycling Centres (HWRCs).

The Council discharges this duty by hauling materials away from HWRCs to various disposal points around the County where the materials are then treated accordingly and removed from the waste stream.

Between 1st April 2022 and 31st March 2023, the Council has spent £831,000 on haulage of exit waste streams from HWRCs to disposal points. In the first six years of the current contract, since commencement in 2017, spend has totalled c£5m.

The Council's current contract for haulage of HWRC exit waste streams with Biffa Waste Services expires on 31st March 2024 with no further options to extend. The contract was procured via open tender, and was awarded to Glazewing Ltd, and later transferred to Biffa Waste Services in 2019, and the contract was novated accordingly.

The incumbent supplier has not always delivered to the contract and the collection plan, predominantly due to driver vacancies, and the difficulty to recruit due to a shortage of drivers in the job market both regionally and nationally.

When waste streams are not collected on time this can have an adverse effect at the HWRC and can result in the Council being unable to accept affected waste streams from the public, or in a worst case scenario, could result in the HWRC closing to the public until the waste backlog has been cleared. When collections are missed or declined, the waste team has to source alternative suppliers which is not an efficient use of staff time, and off-contract haulage rates tend to be higher than contracted rates.

For the re-procurement the intention is to award to multiple suppliers, with four lots to be awarded, comprising of two or three HWRCs per lot. HWRCs are to be allocated to lots within geographical areas, with HWRCs with low levels of demand being grouped with

higher demand sites where possible. Bidders will be permitted to tender for all lots, with lots awarded capped at a maximum of two lots per bidder. Each lot will be awarded to one supplier. This will result in overall demand being shared, sufficiency and efficient use of vehicles, improved resilience, and the collection plan delivered to schedule.

Pre-market engagement indicates that suppliers in the market welcome contracting on the basis of lots. Lotting the contract may encourage small and medium sized local suppliers as well as larger organisations to participate in the tender and could result in the Council increasing its local supply base.

The intended contract term is a period of 5 years with the option to extend for a further two periods of up 12 months each, a maximum of 7 years. Pre-market engagement has identified that suppliers will need to purchase new vehicles to service the contract. A duration of 5 to 7 years will enable suppliers to recover vehicle capital costs over the life of the contract, keeping costs down for the Council. A shorter contract duration is likely to result in higher rates per collection, therefore a longer duration will benefit the Council.

This contract will contribute to a number of the Council's corporate objectives including: increasing the Council's recycling rate; increasing the amount of household waste collected; and increasing the amount of household waste diverted from landfill.

1.2 Procurement process

Due to the value of the Contract being above the threshold for Services, the Council is required to procure new contracts in accordance with the Public Contracts Regulations 2015.

The intended route to market is open tender as the requirements, selection and award criteria are relatively straightforward, and it is the quickest route to market available to the Council.

Bidders will be required to declare that they have a valid waste operators' licence, and evidence this prior to award, which will demonstrate that their operational facilities and vehicles meet legal requirements.

The award criteria will have greater focus on quality, with a weighting of 60%, with price being assessed with a weighting of 40%. This is likely to provide a good balance of cost and quality of service. Qualitative aspects are of importance to this contract, as to be successful, suppliers will need to demonstrate and commit to delivering a reliable service and to meet key performance indicators in the contract.

Bidders will be asked to propose discounted rates if they are successfully awarded two lots and quantify this. Pricing will be evaluated for each individual lot, and discounted rates will not be included in the evaluation. If following evaluation there is the same preferred bidder on two lots, then the discounted rates will apply to the contract.

2. Legal Issues:

Public Services Social Value Act

In January 2013, the Public Services (Social Value) Act 2013 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 the Public Contracts Regulations 2015 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.

The HWRC haulage service contributes to the environmental wellbeing of the area by contributing to the effective treatment and disposal of household waste including recycled waste streams. The proposal to let the contract through lots may encourage local suppliers to bid thereby contributing to the local economy.

Ways will be explored of securing social value through the way the procurement is structured. As referred to above structuring the procurement into lots has the potential to secure social value through an increase in participation in the services by local firms.

Under section 1(7) of the Public Services (Social Value) Act 2013 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. This and the market engagement carried out is considered to be sufficient to inform the procurement. It is unlikely that any wider consultation would be proportionate to the scope of the procurement.

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 Equality Act 2010 has been considered, and the decision is not considered to have any implications for people with a protected characteristic.

Joint Strategic Needs Assessment (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 and Wellbeing Strategy (JHWS) in coming to a decision.

The decision is not considered to have any implications for the Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS).

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.

The decision is not considered to have any implications for the section 17 matters.

3. Conclusion

An Open Tender in accordance with the Public Contract Regulations will ensure a compliant procurement process and will enable a detailed and seamless implementation from the current supplier.

Awarding a contract on the basis of lots to multiple suppliers will ensure that targets are met through sharing demand, and efficiency and sufficiency of vehicles and drivers based on what suppliers in the market can have available to meet the Councils requirements.

4. Legal Comments:

The Council has the power to procure and enter into the contracts proposed.

The proposed continuation of services and procurement of a new contract are compliant with the Council's procurement obligations.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor

5. Resource Comments:

Cost pressures or savings from these changes to contracts is expected to be managed within the wider Waste Management revenue budget.

6. Consultation

a) Has Local Member Been Consulted?

N/A

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The decision will be considered by the Environment and Economy Scrutiny Committee at its meeting on 12 September 2023 and the comments of the Committee will be reported to the Executive Councillor

d) Risks and Impact Analysis

See the body of the Report

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Paul Beales and Mike Reed, who can be contacted on paul.beales@lincolnshire.gov.uk.

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