

TITLE OF REPORT: TRANSPORT AND SALE OF MIXED DRY RECYCLING

REPORT OF THE HEAD OF LEISURE AND ENVIRONMENTAL SERVICES

EXECUTIVE MEMBER FOR WASTE, RECYCLING & ENVIRONMENT

1. SUMMARY

- 1.1 North Hertfordshire District Council currently has a contract for the transport and onward sale/processing of mixed dry recycling, collected from grey 240l bins at the kerbside. This contract expires at the end of January 2017, unless extended.
- 1.2 Due to anticipated capacity issues, the existing Contractor does not wish to extend the contract beyond October 2017 without capital investment to upgrade its infrastructure.
- 1.3 The Council needs to procure a new contract before the current expiry date and due to the future joint collection contract procurement with East Hertfordshire District Council, officers are recommending a joint procurement.
- 1.4 Officers consider that a joint procurement with East Hertfordshire District Council for a new contract to run from February 2017 until May 20 is likely to result in overall best value and represents the best option overall.

2. RECOMMENDATIONS

Cabinet are requested:-

- 2.1 To agree to the procurement of a new joint contract for the transport, processing and sale of mixed dry recycling and the publishing of an OJEU notice.
- 2.2 To note the potential impact on the base budget of the requirement to retender for the transport and onward sale and processing of mixed dry recycling materials.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The award of the contract will be a key decision and therefore Cabinet's approval for the procurement process is requested.
- 3.2 The potential impact on the base budget is likely to be significant and notification to Cabinet is to identify that this may come forward in future finance reporting provided to Cabinet.

- 3.3 To ensure that a contract is in place for material processing and sale from February 2017 until May 2018 to coincide with the start of the new joint contract for waste collection and street cleansing contract.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Extension of the existing contract until May 2018 was considered however this would require both Councils to accept a degree of procurement risk and the current contractor has confirmed that it anticipates not having the capacity post October 2017. The premium to upgrade the site to take additional capacity beyond October 2017 would result in both Councils paying above market rates.
- 4.2 Extension of the existing contract until October 2017 and then re-procure from October 2017 until May 2018. However this would leave a gap between October 2017 and the start of the new joint waste and street cleansing contract in May 2018. This gap would be unattractive to future bidders and presents a material risk that we would be unable to secure processing for our material during this period.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Meetings have been held with partners from the Hertfordshire Waste Partnership to discuss and agree a procurement approach.
- 5.2 The procurement will not impact on the service provision to residents and further consultation is therefore not considered necessary.
- 5.3 Benchmarking has been undertaken to provide some assurances that there is sufficient interest in the market to procure a new contract from February 2017 until May 2018.

6. FORWARD PLAN

- 6.1 This item was notified to the forward plan on 29 July 2016

7. BACKGROUND

- 7.1 The Council recycled approximately 58% of its household waste in 2015/16. Residents are provided with grey bins for the collection of commingled recyclable materials – collected fortnightly and a blue box for the collection of separated paper. Collected commingled recyclable materials are deposited, by the Council's contracted waste collection service, at Radwell Barn, close to junction 10 of the A1.
- 7.2 Under the existing material processing and sale contract a service provider to the Council collects the commingled recyclables from Radwell Barn and transports it for processing to a facility for sorting, which is operated entirely independently of the Council. On average, just over 175 tonnes of commingled recyclables are collected from the kerbside per week for sorting and onward sale.
- 7.3 During the first year of the contract, which commenced in February 2014, NHDC received an income from the sale of commingled recyclables.
- 7.4 Tonnages for commingled recyclables are slowly but steadily increasing mainly due to population growth and increased consumerism.

- 7.5 Historically for local authorities, receiving income from the sale of dry recyclables that is in line with an annual budget and maintaining a stable budget from year to year are important factors, allowing the funding of services to be planned for more easily. However market fluctuations over recent years have led to contracts offering less favourable pricing and seeking a balance of financial risk between contractor and client.
- 7.6 The current contract expires at the end of January 2017 with the option to extend post October 17 not possible on the current terms.
- 7.7 New terms offered by the existing contractor can only provide competitive prices until October 17
- 7.8 Officers consider that a joint procurement with East Hertfordshire District Council is likely to result in more interest from the market and represents the best overall option and will therefore seek to agree a specification jointly with a similar specification to that outlined in the Waste Collection and Street Cleansing contract due to commence in May 2018, rather than procuring the contract separately.
- 7.9 The existing contract was procured using a restricted tender process and it is proposed to use this option for procurement.
- 7.10 The balance between quality and price evaluation at tender is important to ensure the procurement of both value for money services, and services which maintain a high standard.
- 7.11 In order to manage the risks associated with fluctuating markets and ensure that costs or income associated with the contract are transparent it is proposed to request separate haulage costs, and processing costs from the tendering suppliers.
- 7.12 The composition of the commingled materials, known as the 'basket of materials' is then used to calculate the value of the material per ton. This is then seen as an income which varies monthly and offsets some or all of the processing and haulage costs. This income will be identified through a defined mechanism based on the value of the composition of material sent for processing.

8. ISSUES

- 8.1 The market has been depressed over recent years and this has impacted on the price that bidders are prepared to offer for contracts. Some materials still have positive sales values for example aluminium cans and paper but others now have a cost to process, for example glass. Paying a fixed processing cost will ensure that there is a balance of risk between the contractor and Council. This also ensures the Council can see increases in offsetting income when the value of material increases.
- 8.2 The Council requires the services to continue until May 18 and the current contractor is unable to provide this service at a competitive price due to the capital investment required to increase capacity. A mini soft market test was undertaken to determine the likely interest in a contract with a 15 month term. This has shown interest from potential bidders, which should ensure some market competition.
- 8.3 The relatively short length of the contract may mean the best price can not be secured. However this is dependant on a number of market factors including current available capacity within the region and other contract outcomes coming forward.

9. LEGAL IMPLICATIONS

- 9.1 The Executive Member for Waste Management, Recycling and Environment is responsible for the proper administration of the Council's services under section 14.8.1 of the Council's Constitution. Given the impact that potential fluctuations in price for this contract; have on the budget, the Executive Member considers that is it appropriate for the Council's Executive to be made aware of this contract procurement.
- 9.2 The Waste (England and Wales) (Amendment) Regulations 2012 which transposed the requirements of the revised Waste Framework Directive also include a requirement that from 1 January 2015 an establishment or undertaking which collects waste paper, metal, plastic or glass must do so by way of separate collection. These requirements apply where separate collection:
- (a) is necessary, in effect, to provide high quality recyclates; and
 - (b) is technically, environmentally and economically practicable.
- Where waste paper, metal, plastic or glass has been collected separately all reasonable steps must be taken to keep that stream separate from other waste streams wherever this is necessary to provide high quality recyclates.
- 9.3 In maintaining the separate collection of recovered paper North Hertfordshire District Council is ensuring legislative compliance for this waste stream. NHDC will complete a further assessment under the requirements of this legislation in advance of the waste collection contract change in 2018. The provision of high quality recyclables will also be tested as part of the quality questions for procurement.
- 9.4 The anticipated value of the total contract for the period February 2017 until May 2018 plus potential extension is above the threshold of £164,176 for goods and services, referred to in the Public Contracts Regulations 2015. Contracts with a total contract value in excess of the threshold must be procured in accordance with the Regulations and the Council Contract Procurement Rules, otherwise the Authority may be presented with a legal challenge on the basis of a breach of legislation.
- 9.5 Contracts over £10,000 must be in a form approved by the Corporate Legal Manager.

10. FINANCIAL IMPLICATIONS

- 10.1 The original budget for financial year 2016/17, approved in February 2016 has provision of £251,000 for the current contract costs for Material Recovery Facility (MRF) processing and haulage. This budget is based on the current processing costs and haulage, and the collection of approximately 9,300 tonnes of commingled recycling collected in the year. Members should consider that, due to change in the recyclable material markets, contract prices secured may vary significantly from those of the existing contract and any financial change will come into effect in this financial year.
- 10.2 The requirement in the tender for separate pricing for haulage and processing will ensure a stable cost within the budget of approximately £500,000 per annum for processing (based on information from soft market testing) and further £110,000 for haulage (based on current estimated costs). It should be noted that we currently transport to our nearest available MRF and therefore transport costs will increase, the extent to which will be dependent on the additional distance travelled to the new supplier.
- 10.3 Income from the value of the basket of material will vary but is anticipated to remain a positive (income generating) value for the life of the contract to offset some of these costs.

- 10.4 Following confirmation of the contract award the budgetary position will be reviewed and any adjustment required to budget estimates in current and future years highlighted in the relevant General Fund monitoring report provided to Cabinet.

11. RISK IMPLICATIONS

- 11.1 The procurement is proposed to be undertaken by North Hertfordshire District Council on behalf of East Hertfordshire District Council. As the Contracting Authority the procurement risks are therefore with us, in addition there are reputational and operational risks should the procurement fail or be declared ineffective.
- 11.2 A Service Level Agreement will be required between NHDC and EHC to ensure NHDC have no financial liabilities for their commingled material.
- 11.3 Should the procurement not be successful in attracting bidders and the procurement fail. It will be necessary to seek an alternative disposal route and secure interim arrangements prior to an alternative contract procurement being undertaken.
- 11.4 The loss of income from the sale of commingled waste and the renewal of this contract has been recognised as a sub risk to the Top Risk of the Waste and Street Cleansing Contract Renewal. These risks are monitored through the Finance Audit and Risk Committee.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 All contract procurements require bidders to make declarations relating to the Equality Act 2010.
- 12.4 All existing services for residents which require assistance will continue as part of any new contract.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need to be applied. The award of a public service contract will be evaluated in terms of its social value through the joint procurement process.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 Staff shortage in the waste management team will continue to impact on the ability of staff to complete procurement work whilst maintaining standards in the existing services. The joint procurement of the contract assists in providing resilience to the Council and officers.

15. APPENDICES

15.1 None

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 None