

**OVERVIEW AND SCRUTINY COMMITTEE
9 OCTOBER 2017**

***PART 1**

AGENDA ITEM No.

5

**TITLE OF REPORT: SHARED SERVICE FOR WASTE & STREET CLEANSING –
APPOINTMENT OF CONTRACTORS**

REPORT OF THE HEAD OF LEISURE & ENVIRONMENTAL SERVICES AND THE HEAD
OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT

EXECUTIVE MEMBER FOR WASTE MANAGEMENT, RECYCLING AND ENVIRONMENT:
COUNCILLOR MICHAEL WEEKS

COUNCIL PRIORITY: ATTRACTIVE AND THRIVING / PROSPER AND PROTECT /
RESPONSIVE AND EFFICIENT

1. EXECUTIVE SUMMARY

In June this year, the Council commenced an OJEU procurement in order to procure a new waste collection and street cleansing contract (Lot 1) and recycling contract (Lot 2) to start in May 2018 for 7 years with the option to extend for a further 7 years. The new contract will provide combined services for North Hertfordshire District Council and East Hertfordshire District Council as both Councils look to achieve economies of scale and efficiencies through joint working.

This report asks the Cabinet to agree the acceptance of the most economically advantageous tender (MEAT) for the Lot 1, after first considering the financial and legal implications set out in the part 2 report, followed by consideration of the procurement process and its outcomes set out in this Part 1 report.

The tender period for Lot 2 has been extended and Cabinet is asked to delegate authority for the award of this contract, on the basis that this will be awarded to the most economically advantageous tender (MEAT).

2. RECOMMENDATIONS

This report recommends as follows.

- 2.1 That Cabinet accepts the MEAT for Lot 1 on condition that East Hertfordshire District Council also accepts the MEAT for Lot 1.

Provided the condition in paragraph 2.1 is satisfied this report further recommends as follows.

- 2.2 That Cabinet delegates authority to the Chief Executive (in consultation with the Executive Member for Waste Management, Recycling and Environment) to accept the MEAT for Lot 2.

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| <p>2.3 That the Head of Environmental and Leisure Services is authorised to issue notification of intention to award contracts to the bidders that submitted the MEAT for Lot 1 and Lot 2 respectively.</p> <p>2.4 That the Head of Environmental and Leisure Services is authorised to award contracts to the bidders that submitted the MEAT for Lot 1 and Lot 2 respectively upon conclusion of the standstill periods.</p> |
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3. REASONS FOR RECOMMENDATIONS

- 3.1 To achieve efficiency savings, including contractor economies of scale and route optimisation, client efficiencies and resilience and depot rationalisation, without a reduction in the quality of service.
- 3.2 The procurement timetable for Lot 2 was extended by a further 3 weeks and award of contract is scheduled for early November. The successful bidder is unlikely to meaningfully mobilise the contract for Lot 1 until there is certainty on the outcome for Lot 2 primarily because the collection arrangement for recyclable materials must correspond with the successful Lot 2 bid.
- 3.3 The new contract will provide combined services for the North Hertfordshire District Council (NHDC) and East Hertfordshire District Council (EHC) and therefore both Councils must agree to the award of Lot 1.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Strategic Business Case and Outline Business Case considered the preferred option and this was agreed by both Councils.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 Consultation with the Joint Project board of both Authorities and HCC as the disposal authority.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 5th May 2017.

7. BACKGROUND

- 7.1 ***Minute 44 of Cabinet on 26/7/16***
RESOLVED:

- (1) *That a Shared Waste and Street Cleansing Service be implemented with East Hertfordshire District Council, and a joint contract be procured to provide these services;*

- (2) *That the Shared Waste and Street Cleansing Service be implemented with East Hertfordshire District Council on the basis of the preferred option (Option 2) set out in the Outline Business Case;*
- (3) *That the Head of Leisure and Environmental Services be delegated authority to make minor changes to the scope of the Shared Service, in consultation with the Executive Member for Waste Management, Recycling and Environment and East Hertfordshire District Council; and*
- (4) *That the Executive Member for Waste Management, Recycling and Environment and all officers involved in the Shared Service project be thanked for their diligent efforts in producing the Outline Business Case.*

7.2 The contract documentation has been produced and agreed by Project Board and workshops with Councillors have been arranged to ensure sufficient awareness of the process.

7.3 Procurement documents were jointly produced and bidders were invited to tender on 30th May 2017. Closing date for receipt of all bids was Wednesday 9th Aug 2017, followed by an evaluation process.

7.4 There is an Intermediate Inter Authority Agreement (IIAA) in place between NHDC and EHC and a more detailed Inter Authority Agreement (IAA) which will set out, in a legally binding contract, the formal arrangements regarding management, finance and resources is currently under development and will be in place prior to the contract commencing.

7.5 The main depot for the contractors for both lots 1 and 2 is Buntingford and this will also be the location for the new shared client team that will be fully operational prior to the contract commencing. There will be satellite depot(s) due the large geographical size of both authorities. For NHDC these facilities will be used for the street cleansing contract and storage for many of the vehicles used within the District.

7.6 The contracts consist of

- Lot 1 – Main contract for collection of all waste and recycling and street cleansing
- Lot 2 – Contract managing the recycled materials collected from Households, which will include transportation of all recycled materials stores at Buntingford depot or other facilities to a processing plant that will separate the materials (MRF Material Recovery Facility)

These contracts are for seven years, commencing May 2018 with an option to extend for a further seven years.

Normally any significant changes will occur at contract renewal (2025 or 2032) as this is usually the best opportunity to maximise any potential savings &/or improvements. Up to a year before contract renewal, officers will benchmark and research opportunities for service improvement and further efficiencies.

7.7 The process agreed for procurement of these contracts was:-

1. Agree to the appointment of the contractors on the basis of the core contract which is the subject of this report.

2. Consider and agree any dependent options for the preferred bidders for Lots 1 & 2 and independent options. Decisions in respect of such options are the subject of a separate report.

7.8 The main driver for both authorities is to make financial savings whilst not adversely impacting on performance (recycling) and to consider overall “whole system cost” Therefore, there has been consultation with the disposal authority (Hertfordshire County Council) in particular with regard to the dependent and independent options.

7.9 All bidders were guided to consider how they could realise efficiency savings and were directed to look at maximising the utilisation of all of their resources and reducing vehicle movement by optimising routes. Therefore, there will be some impact on residents and this may include different day &/or time of collection. However, there will be a communication campaign to ensure all our residents are informed of any such changes.

8. RELEVANT CONSIDERATIONS

8.1 A quality and price evaluation was undertaken for lot 1 which is the main contract for shared waste collection and street cleansing with 40% awarded for quality and & 60% for price. The evaluation methodology is set out in Appendix 1.

8.2 Three bids have been evaluated for Lot 1 and the following table shows the results. There is further information in the Part 2 report regarding the bids received.

Lot/Service 1 Bidder	Score %		
	Quality X% (out of 40%)	Price Y% (out of 60%)	Total max 100%
A	32.7%	48.9%	81.6%
B	30.3%	60.0%	90.3%
C	33.1%	54.2%	87.2%

8.3 For lot 1, the bidder that achieved the highest score overall is bidder B and accordingly bidder B offers the MEAT for lot 1.

8.4 See Part 2 report

8.5 Whilst Lot 1 will be awarded completely independently of Lot 2 because they are separate contracts, there are options within Lot 2 that will impact on the ability of the Lot 1 contractor to fully mobilise for the new contract. It is therefore necessary for Lot 2 to be awarded as quickly as possible after completion of the evaluation. Please see paragraph 3.2 of this report and the recommendation to delegate authority for the award of lot 2.

8.6 See Part 2 report

9. LEGAL IMPLICATIONS

- 9.1 Within Cabinet's terms of reference are "*to prepare and agree to implement policies and strategies other than those reserved to Council*" and "*to approve those major service developments or reductions which also constitute Key Decisions.*" This procurement has been noted on the Council's forward plan as a key decision and therefore Cabinet is authorised to accept the most economically advantageous tenders for Lot 1 and Lot 2 respectively. Cabinet is also authorised to "*promote and develop external partnerships to meet strategic objectives*" and therefore Cabinet is authorised to give effect to the collaboration with East Hertfordshire Council in order to meet the Council's strategic objective to secure economies of scale and efficiencies through joint working. Regarding Lot 2, Cabinet may delegate a key decision to Council Officer(s)
- 9.2 The Council has a statutory duty to collect household waste under section 45 of the Environmental Protection Act 1990 and a further statutory duty to collection recyclable waste under section 45A of this Act. The acceptance of these tenders ensures the Council fulfils its statutory duty.
- 9.3 Section 67 of the Public Contracts Regulations 2015 requires the Council to base the award of public contracts on the MEAT assessed according to the prescribed evaluation methodology. The evaluation methodology was set out in the Council's invitation to tender and the recommendations in this report ensure the Council meets this legal requirement.
- 9.4 Upon communication of acceptance of the MEATS for Lot 1 and Lot 2 respectively, the Council would need to observe a 10 clear day standstill period. Upon expiry of this period, the Council may then proceed to formally award contracts.
- 9.5 The procurement process may be challenged by any bidder under Chapter 6 of the Public Contracts Regulations 2015 or by judicial review.
- 9.6 The Council will be the administrative authority with respect to the working arrangement with East Hertfordshire District Council. This means that the new waste contracts will be between the Council and the bidders for Lot 1 and Lot 2 and an Inter Authority Agreement will be signed between the Councils in order to regulate the relationship between both Councils and secure the financial arrangement. As lead authority, the Council will also be the employer of the shared client team and the Inter Authority Agreement will provide for the costs of the shared client team to be shared equally between the Councils.

10. FINANCIAL IMPLICATIONS

- 10.1 Paragraph 8.6 highlights the expected cost of the new contract compared with budget. The costs of the contract will increase in later years with growth in number of households that require waste collection together with inflationary increases to the annual contract price. The core contract price is based on elements where a reliable estimate could be made on volumes of usage. The bidders have provided costs based on volumes and for ad-hoc activities. The values in paragraph 8.6 include an allowance for ad-hoc costs, but the actual amounts will depend on actual requirements and usage.

- 10.2 Bidders were asked to provide an option for the Council to purchase the vehicles that would be used on the contract. Even if this option was not taken up it is still possible that an element of the contract would be treated as capital expenditure. This is due to the substantial use that the Councils would be making of the vehicles involved.

11. RISK IMPLICATIONS

- 11.1 There are many risks associated with these major contracts which have been subject to Scrutiny by both Councils over recent years and identified as corporate risks. These risks have been managed and reported accordingly. In addition, Project Board, consisting of senior Councillors and Officers, has been regularly updated with risk and issue log and has taken measures, where appropriate, to mitigate and manage risks for both Councils. Broadly these risks have been regarding financial, operational, governance, contractual, legal and reputational.
- 11.2 The award of contract without delay materially reduces legal and financial risk to the Council.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2 The award criteria for Lot 1 do not propose any service change and, as such, an equalities impact assessment is not required. The equalities implications in respect of the options are discussed in a separate report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 Public Services (Social Value) Act 2012 requires public authorities, in respect of all procurement above the relevant EU threshold, to consider:-
- (a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
 - (b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

The Act applies to this procurement because the contract is above the EU threshold for services. The Council has considered how social value could be achieved in the context of the services to be provided under the contract and as a result quality questions relating to environmental protection, health and safety and staff resources were included and scored. The terms and conditions of contract also require the contractor to comply with the Equalities Act 2010.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 For both the contractor of Lot 1 and the shared client team, there will be some impact on staff. The contractor of Lot 1 will be responsible for all staff engaged within the contract to ensure it complies with employment law. The Council has assessed the bidder's proposals as part of the quality evaluation and will be liaising closely with the contractor during mobilisation. Although the Council is not responsible for the TUPE implications and requirements, it will work with the contractor where appropriate to ensure a smooth transition because this is in all parties' interests.
- 14.2 With regard to both Councils, we are in the process of setting up a shared client team and have undertaken a consultation with all staff affected. It would be not practical to have separate client teams managing a single contract and therefore it is intended to have the new shared client team in place as soon as possible and operational prior to contract commencement. Clearly, over the next few months, there will be challenges to maintain the existing contract whilst mobilising the new contract. The Council's Human Resources Department has assisted with the process and the staff consultation.

15. APPENDICES

Appendix 1 – Evaluation methodology

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 Strategic Outline Case (SOC), Outline Business Case (OBC), Project board Reports, previous reports to Committees