
A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it refers to the financial and business affairs of any particular person (including the authority holding that information)

Cabinet

12 March 2019

Name of Cabinet Member:

Cabinet Member for City Services – Councillor Hetherton

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

All

Title:

Contract for Materials Recycling Facilities (MRF) and Associated Bulking and Transport.

Is this a key decision?

Yes

The Councils Rules for Contracts state that all procurement for spend over £1million per annum must be approved by Cabinet. The proposed extension to this contract will result in spend in excess of £1million per annum.

Executive Summary:

In line with Coventry City Councils Rules for Contracts, Cabinet are asked to consider the proposal go out to tender for a new MRF (Materials Recycling Facility) and associated Bulking and Transport contract. The current arrangement is in the final year permitted within the existing arrangements.

Under the revised Waste Strategy for England 2007 the Council has a statutory obligation to make collections of the following materials from the kerbside:

- Paper
- Metal
- Plastic
- Glass

This Contract supports the delivery of that statutory obligation.

This Contract was let in 2009 for an initial period of four (4) years with options to extend for up to a maximum of a further six (6) years (ten (10) year total). All options for extension have been exhausted.

The current contract proposed will expire on 6th September 2019, and there are no further provisions to extend beyond that.

The Contract is made up of 2 Lots. Lot 1 is for the provision of a MRF - a specialised facility which receives, separates and prepares recyclable materials for marketing to end-user manufacturers. This lot is currently operated by Biffa Waste Services. Lot 2 is for the provision of bulking and transport of the waste to the MRF and is currently operated by Tom White Waste.

The Lot 1 (MRF) proposed pricing, rebate and risk sharing would be on a similar basis as the current contract, and assuming the same volumes/quantities, will have an impact on the Waste Disposal budget. It is anticipated that Lot 2 may be subject to a small rise in costs associated with fuel and insurance price increases.

Recommendations:

Cabinet are asked to:

- (1) Delegate authority to the Deputy Chief Executive (Place) to undertake a tender exercise to let a new MRF contract which consists of both Lot 1 (Material Recycling Facility Treatment) and Lot 2 (associated bulking and transport) for a period of two (2) years with a maximum of a further three (3) years extensions available up to a (five (5) year total) and to negotiate and agree the terms of the contracts.
- (2) Delegate authority to the Deputy Chief Executive (Place) to enter into the contracts.

List of Appendices included:

None

Other useful background papers:

None

Other useful documents

Coventry City Council's Municipal Waste Strategy
http://www.coventry.gov.uk/downloads/download/1195/waste_strategy

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Extension of Contract for Materials Recycling Facilities (MRF) and Associated Bulking and Transport.

1. Context (or background)

- 1.1 In accordance with the Environmental Protection Act 1990 the Council has a legal obligation to undertake collections of household waste, including the separate collection of waste paper, metal, plastic and glass (The Waste (England and Wales) (Amended) Regulations 2012).
- 1.2 The MRF contract is utilised to dispose of recyclable materials collected at the kerbside by an in-house collection team.
- 1.3 The existing contract was let through a full OJEU procurement exercise in 2009, for an initial period of four (4) years, with possible maximum extensions of a further six (6) years. A two (2) year extension was agreed in 2013, 2015 and again in 2017. There are no further provisions within the existing contract to allow any further extensions.
- 1.4 Since the original contract was let in 2009 the commodities markets for recyclate materials (paper, metals, plastics and glass) have changed significantly, with increased volatility in recent years. This has resulted in changes in the payment mechanism for Lot 1 during each extension period.
- 1.5 The sale of commodities has been significantly affected by the global economic downturn, resulting in a drop in value. In addition, new government regulations introduced from the 1st January 2015 require the separate collection of paper, plastic, metal and glass separately unless Technically, Environmentally or Economically Practicable (TEEP) to do so. This has led to a MRF code of practice that applies stricter controls and quality checks, which inevitably has driven up processing costs. These changes mean that Local Authorities are seeing greater risk transfer to them through increased processing fees and capped contracts are no longer available in the market.
- 1.6 At the time of the last contract extension in 2017 the Council engaged in conversation with other local authorities who had recently been out to tender for MRF contracts, who reported little market appetite. An Authority within a 20 miles' radius of Coventry failed to award a contract at this time, which forced them into paying a 'spot' gate fee in excess of £70 per tonne (significantly higher than the City Council's gate fee), an agreement that has continued to today.
- 1.7 Pricing for Lot 1 (MRF) is based on the basket value of commodities (proportionate representation of materials delivered to the MRF) at the current market rate – as taken from www.letsrecycle.com figures. The pricing mechanism was originally based on 3 bandings, which determined the cost or rebate, if any, to the Council.
- 1.8 Market changes and uncertainty in 2015 were reflected in the MRF provider being in a strong position to renegotiate the Contract. Despite this, the average gate fee paid between 2015 and 2018 remained competitive. Conversations with the wider market place at the time of extension and following the restrictions in the Far East commodity market indicated that going out to the market at that stage would not have resulted in a significantly better deal.
- 1.9 Ahead of the need for a new procurement process officers have held discussions with MRF providers at industry days held throughout November and December 2018 which have suggested caution within the industry as a whole in response to closing markets in the Far East, and associated pricing of commodities.

- 1.10 Providers indicated they would be interested in Coventry's materials, on a risk share basis, similar to the arrangements Coventry has with the current provider, Biffa. Industry providers indicated any pricing mechanism would be subject to market fluctuations, with no appetite for a fixed gate fee or ceiling price.
- 1.11 As a whole providers indicated linking commodity values to an industry based index such as www.letsrecycle.com, reviewed quarterly, as an accurate way of measuring commodity values.
- 1.12 According to the Waste and Resources Action Programme (WRAP) the median processing gate fee paid by local authorities sent to MRF's increased by 47% in 2017-2018, with processing gate fees in the West Midlands ranging between £56 and £86. The Council's current gate fee is within this range and prices indicated by the market for any short term arrangement was in the region of £90
- 1.13 Market testing has indicated that when the Council goes back out to the market it would need to be more specific around expected tonnages. The existing contract allows for growth which is particularly beneficial to both domestic and commercial service areas who are both anticipating growth in the next 12 months.
- 1.14 Pricing for Lot 2 is based on tonnage banding. Any rise in cost is based upon out of hours scheduled deliveries to reflect the needs of all parties involved, and increased fuel and insurance costs.
- 1.15 Industry providers have indicated that Lots 1 and 2 remaining separate would achieve best value. There would be no restrictions on any supplier bidding for both lots independently if they wished.

2. Options considered and recommended proposal

- 2.1 **Option 1.** Tender for a new contract. From the market testing exercise undertaken through industry days held in November and December 2018, officers believe that it is likely that the City Council will see an increase in the cost of processing its recyclable waste. In addition, the City Council would retain associated risks with fluctuating market commodity values.

However, the City Council retains a legal responsibility to separately collect recyclable waste from households within their municipal boundary, and requires a facility to process this waste stream.

The medium term option for processing recyclable waste in Coventry is being considered with neighbouring authorities. The proposed procurement would support this process whilst ensuring that the City Council has a treatment for recycling waste collected in the City.

- 2.2 **Option 2.** Use of a national framework, let by a Public Buying Organisation – no such framework exists.
- 2.3 **Option 3.** Use of an in-house facility. This option would require significant capital investment and a substantial increase in tonnage throughput in addition to that supplied by Coventry. Delivery of this option requires a more detailed business case to determine a suitable site, capital investment, and tonnage input from other sources. The lead time associated with this option is significant and needs to take into account facility design, construction and commissioning. This option is therefore not recommended as an immediate solution.

2.4 **Option 4.** Extend the existing contract. This is not a possibility as it would be outside of the previous procurement, contract ability and the level of annual spend would make this a significant procurement risk. Furthermore, changes to the service delivery model of the existing supplier means that their appetite for an extension at existing prices is highly unlikely.

2.5 **Option 1** is therefore the recommended option.

3. Results of consultation undertaken

3.1 No consultation undertaken.

4. Timetable for implementing this decision

4.1 The existing contract expires on 5th September 2019. Subject to Cabinet approval and call-in processes, the Council would look to carry out a full OJEU tender for both Lot 1 and Lot 2 in February 2019 through competitive procedure with negotiation to seek best value. Contract award would be in May/June 2019, allowing sufficient time for any transition required to a new provider(s).

4.2 Any future re-tender of this contract would need a reasonable mobilisation period for any new Contactor and therefore, the project team will review this contract in 9-12 months' time to plan provision for post September 2020 and consider options for future contracts.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

This service is funded from the approved domestic waste budget. The Lot 1 (MRF) proposed pricing, rebate and risk sharing is likely to be calculated using the same method as currently used.

The impact of proposed Deposit Return Schemes by the Government will not be known until Summer 2019 at the earliest, but could have an impact on processing fees if materials are stripped from kerbside collections.

Better value may be achieved through Lot 2 (Bulking & Transport) by going out to market. It is anticipated that if a bulking site is located within the boundaries of Coventry there would be little financial impact to the Council.

Both of the above costs will vary with the level of waste collected and recycled, and are based on the current levels.

5.2 Legal implications

A Full OJEU procurement process will be undertaken in accordance with the Public Contract Regulations 2015 due to the value using the Competitive with Negotiation Procedure.

The Council have a duty as part of the Waste Regulations 2011 to separately collect four types of recyclable material (glass, metal, paper and plastic) and to ensure that collection methods pass Necessity and Practicability (TEEP) tests as well as following requirements regarding the waste hierarchy. The Waste Regulations transpose the Waste Framework Directive into UK law and are enforced in England by the Environment Agency.

6. Other implications

Any other specific implications

6.1 How will this contribute to achievement of the Council's Plan?

In accordance with the Environmental Protection Act 1990 the Council has a legal obligation to undertake collections of household waste, including the separate collection of waste paper, metal, plastic and glass (The Waste (England and Wales) (Amended) Regulations 2012).

The Council's Municipal Waste Strategy 2008-2020 outlines the Council's approach to meeting legal obligations and recycling targets set out in the Waste Strategy for England 2007. Namely, 45% of household waste arising to be recycled by 2020.

6.2 How is risk being managed?

Through Competitive Procedure with Negotiation, officers can best manage the risk associated with commodity market price fluctuations at this time. This procedure is also the most suitable for ensuring that bidders respond to this opportunity as it allows for risk sharing to be discussed.

By not going out to the market at this current time the Council will be in breach of Public Contract Regulations 2015, be at risk of not securing an outlet for the processing of recyclate collected at the kerbside, and could be exposed to spot gate fees (currently in the excess of £90/tonne). The current recyclate market is nervous to changing legislation and markets in the Far East, reflected in higher gate fees / risk of failure to secure a contract.

Having a bulking and transport point within the City under Lot 2 reduces the operational risk of requiring more rounds within the City to deliver the same service, time delays getting to the end destination site, and better utilises resources to run efficient collection rounds.

6.3 What is the impact on the organisation?

The Waste Strategy for England 2007 stipulates nation targets for recycling, namely, 45% of household waste arising to be recycled by 2020. Failure to secure a MRF contract and outlet for recyclable collected would result in recycling targets not being met.

6.4 Equalities / EIA

No formal equalities impact assessment has been carried out. However, it is not expected that there will not be any disadvantage to any group if the recommendation is approved.

6.5 Implications for (or impact on) the environment

The Waste Strategy for England 2007 outlines the Government's ambition to work towards a zero waste economy, in which material resources are reused, recycled or recovered wherever possible and only disposed of as the option of last resort. This means reducing the amount of waste produced and ensuring all material are pushed up the waste hierarchy. The benefits will be realised in a healthier natural environment and reduce the impacts on climate change.

6.6 Implications for partner organisations?

None

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