
Meeting: Executive
Date: 15 July 2014
Subject: Extension of the Waste Collection and Street Cleansing Contract (North)

Report of: Cllr Brian Spurr, Executive Member for Community Services

Summary: This report seeks to secure agreement from Executive to extend the contract for Waste and Recycling Collection and Street Cleansing for the North of Central Bedfordshire, for a period of 2.5 years from 4 October 2016 to 31 March 2019. This period will allow the contract to align with the end of the South Waste and Recycling Collection and Street Cleansing contract on 31 March 2019. As a result, a single, harmonised contract can be procured from 1 April 2019 to serve the whole of Central Bedfordshire. This is expected to deliver significant financial savings from 2014/15.

Advising Officer: Marcel Coiffait, Director of Community Services

Contact Officer: Melanie Clay, Chief Legal and Democratic Services Officer
Tracey Harris, Head of Waste Services

Public/Exempt: Report Public. Appendices exempt under category number 3 and 5

Wards Affected: All

Function of: Executive

Key Decision Yes

**Reason for urgency/
exemption from call-in
(if appropriate)** N/A

CORPORATE IMPLICATIONS

Council Priorities:

The action supports the CBC priorities of:

- Managing growth effectively; and
- Creating safer communities

by providing collection of household waste and recycling (s.45 of the Environmental Protection Act 1990); achieving reductions in waste to landfill (Waste & Emissions Trading Act 2003, Waste Strategy 2007 and Waste Regulations 2011) and keeping public access land and highways clean and free of litter (s.86 EPA 1990).

Financial:

1. As an ongoing statutory service, adequate financial provision is made in base budgets for the period of the extension.

Legal:

2. The EU Procurement Directives and the Public Contracts Regulations 2006 (as amended) apply in light of the value of the contract exceeding the EU procurement threshold, as do the Council's Procurement Procedure Rules. This is a part A Service
3. The legal basis for the proposed recommendations is included in Appendices A and B to this report. It is proposed to publish a Voluntary Transparency Notice in the Official Journal of the European Union (OJEU) detailing the Council's intention to extend the contract to allow for any prospective service suppliers to come forward. If the market responds with any potential challenge further legal advice will be given to allow the Council to react appropriately.

Risk Management:

4. An options appraisal setting out the risks are included in Appendix A. If the extension to the waste collection contract is not agreed then the Council will risk significant operational difficulties and financial pressures from letting the contract to a new provider. The risk of challenge in this case is low due to the short term nature of the contract. Also the main opportunity for the long term combined contract for the whole of CBC will be openly procured to commence in 2019 which will be a more attractive offering to the market. This reduces the risk of challenge set out in paragraph 3 above.

Staffing (including Trades Unions):

5. Not applicable.

Equalities/Human Rights:

6. Not applicable - this decision would affect all residents equally and would not impact on the provision of assisted collections.

Public Health:

7. The health and wellbeing of residents would be negatively impacted if waste collections and street cleansing were disrupted or unavailable for an extended period of time.

Community Safety:

8. The Council's statutory duty under section 17 of the Crime and Disorder Act 1998 includes the need to address environmental crime such as fly tipping. The provision of the waste collection service allows residents to safely deposit their recycling and waste items, in a responsible and legal manner. If the provision of the service were disrupted it could lead to an increase in incidents of fly tipping, a criminal offence. The recommendation to agree to extend the North Waste Collection and Recycling contract ensures the Council fulfils its statutory duties in relation to crime and disorder.

Sustainability:

9. This proposal supports the continued efforts of CBC to manage waste as high up the waste hierarchy as possible as dictated by EU and UK legislation. As well as collecting residual waste for treatment and disposal it allows residents to continue to use the kerbside recycling, garden and food waste collections schemes to remove biodegradable waste from landfill, ultimately saving resources and reducing landfill gas emissions.

Procurement:

10. The implications for compliance with the European Procurement Rules, the Public Contracts Regulations 2006 and the requirement to suspend the Council's Contract Procedure Rules are set out in the legal implications in Appendix B to the report. This proposal for an extension to the contract as a sensible approach as a short term contract of this nature would be unattractive to the market due to the depreciation of plant and equipment over a short period and significant time/cost involved in mobilisation. For these reasons they are an unattractive and unrealistic proposition for other potential providers. Also the main opportunity for the long term combined contract will be openly procured to commence in 2019 which will be a more attractive offering to the market.

Overview and Scrutiny:

11. This matter has not been considered by Overview and Scrutiny.

RECOMMENDATION:

The Executive is recommended to:

1. **authorise Officers to issue a Voluntary Transparency Notice in the OJEU indicating the Council's intention to agree an extension to the existing Waste Collection and Street Cleansing Contract (North); and**
2. **subject to recommendation 1, agree to extend the contract for Waste and Recycling Collection and Street Cleansing for the north of Central Bedfordshire, for a period of 2.5 years from 4 October 2016 to 31 March 2019 and for this purpose, to suspend the Council's Contract Procedure Rules.**

<i>Reason for Recommendation:</i>	<i>This extension will allow the North Waste and Recycling Collection and Street Cleansing contract to align with the end of the South contract on 31 March 2019. As a result, a single, harmonised contract can be procured from 1 April 2019 to serve the whole of Central Bedfordshire.</i>
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Executive Summary

12. The Waste and Recycling Collection and Street Cleansing services in the North and South of Central Bedfordshire are delivered under historic contracts procured by the two predecessor district councils. Both are operated by Biffa Municipal Ltd. The North contract runs to 3 October 2016 and the South to 31 March 2019 with an optional 6 year extension to 2025.
13. The North contract is due to be retendered shortly for a new contract to start on 4 October 2016. However, a separate north procurement does not allow for the harmonisation of the north and south contracts in to a single contract, with common outputs, performance framework and terms and conditions.
14. This report seeks approval to extend the contract for Waste and Recycling Collection and Street Cleansing for the north of Central Bedfordshire, for a period of 2.5 years from 4 October 2016 to 31 March 2019 and for this purpose, to suspend the Council's Contract Procedure Rules. This extension will allow the North contract to align with the end of the South contract on 31 March 2019. As a result, a single, harmonised contract can be procured from 1 April 2019 to serve the whole of Central Bedfordshire.

Background

15. Under section 45 of the EPA 1990 it is the duty of CBC as a Waste Disposal Authority to provide the collection of waste from residents. UK targets for reductions in waste sent to landfill are set out in the WET Act 2003, Waste Strategy 2007 and Waste Regulations 2011. CBC is also a Principle Litter Authority and as such is responsible for keeping public access land and highways clean and free of litter as defined in section 86 of the EPA 1990. Under these obligations, CBC provides the kerbside collection of residual (black bin) waste, co-mingled recycling, green garden waste and food waste and also street cleansing, litter bins, dog bins and fly tipping collection services across the area.
16. The Council's overall objective is for the procurement of a single, harmonised service to cover the whole of Central Bedfordshire as this provides an equitable service and the opportunity to make savings. The contract would have a single set of outputs, performance framework and terms and conditions and has the potential to save costs and deliver service efficiencies. This is unachievable with the current contract end dates and a solution needs to be found.

17. The Waste and Recycling Collection and Street Cleansing services are delivered under separate historic contracts for the North and South of Central Bedfordshire which were procured by Mid Beds and South Beds District Councils respectively. Both are operated by Biffa Municipal Ltd. The North contract runs to 3 October 2016 and the South to 31 March 2019 with an optional 6 year extension to 2025. There is a 2 year 6 month period between the end on the north contract and the end of the south contract.
18. Both contracts perform well in the market. They have been benchmarked across other similar local authority contracts and are financially comparable. They are also well performing from a customer satisfaction perspective with very low volumes of complaints and few general service issues. Some progress has been made to utilise resources across the two contracts such as bulky waste collection and clinical waste collection resources. This has made savings which have been included in previous year's budgets. However any further progress to harmonise the contracts such as route optimisation has been unworkable due to the differing end dates.
19. The annual value of the contract is £4.4m and as such the EU Procurement Regulations and the Council's Contract Procedure Rules apply for a contract award for supplies and services over the threshold value of £172,514 per annum (2014 values).

Options

20. To inform the approach for the continuation of the service, two options have been considered:
 - a) Conduct a full EU procurement for the service for 2.5 years.
 - b) Extend the current contract to 31 March 2019.

The impacts of each option are set out in Appendix A- Options Analysis- North Waste Collection & Street Cleansing Contract.

21. A third option for a separate standard procurement for each of the north and south was not considered as it does not allow for the harmonisation of the north and south contracts in to a single contract as per the Council's objectives.

Summary

22. **Option a) To conduct a full EU procurement for the interim period**

This option fulfils all requirements under EU contract law. However, as detailed in Appendix A, it has significant commercial risk implications for the Council such as risk of non-deliverability; additional costs to the council; lack of savings opportunity; additional resource requirements; potential TUPE transfer process; not utilising existing fleet and plant; significant disruption to services and reduced performance. For these reasons it is recommended that this option is not taken forward.

23. Option b) To extend the current contract to 31 March 2019

This option holds the risk of potential challenge, and related costs, from other potential service suppliers. It is intended to test the market by issuing a Voluntary Transparency Notice in OJEU. If the market responds with any potential challenge this will be assessed with further legal advice. However the likelihood of any challenge is reduced due to the short term nature of the contract being unattractive to the market, and conversely the opportunity for a subsequent procurement for the full service across both the north and south to commence in April 2019 being very attractive to the market.

24. Option b) also has several other advantages. It is easily deliverable; generates no additional service costs to the Council; has no requirement for additional resources; does not necessitate an additional TUPE process; utilises the remaining life of the current vehicles and plant; has no impact on service operations and, importantly, enables the realisation of significant savings on revenue costs for 2014/15 onwards which would be negotiated with the current contractor.

Recommendations

25. In conclusion, given the particular set of circumstances with which we are faced, there is significant justification for the approval of option b) to extend the current contract to 31 March 2019. It is recommended that Members:
1. Authorise officers to issue a Voluntary Transparency Notice in OJEU indicating the Council's intention to agree an extension to the existing Waste Collection and Street Cleansing Contract (North).
 2. Subject to recommendation 1 agree to extend the current Waste Collection & Recycling and Street Cleansing Contract for the north of Central Bedfordshire, for a period of 2.5 years from 4 October 2016 to 31 March 2019 and for this purpose to suspend the Council's Contract Procedure Rules.

Appendices:

Appendix A- Options Analysis- North Waste Collection & Street Cleansing Contract. (Exempt)
Appendix B – Legal Implications (Exempt)

Background Papers:

None