
Meeting: Executive
Date: 19 August 2014
Subject: Future Residual Waste Disposal
Report of: Cllr Brian Spurr, Executive Member for Community Services
Summary: The report proposes the Executive approve the proposed approach to securing residual waste treatment and disposal services and the provision of delegated authority to the Director of Community Services in consultation with the Executive Member for Community Services to enter in to a contract for residual waste treatment and disposal.

Advising Officer: Marcel Coiffait, Director of Community Services
Contact Officer: Tracey Harris, Head of Waste Services
Public/Exempt: Public (Appendices A and B are exempt by virtue of paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972)
Wards Affected: All
Function of: Executive
Key Decision Yes
**Reason for urgency/
exemption from call-in
(if appropriate)** In order to meet externally set timeframes.

CORPORATE IMPLICATIONS

Council Priorities:

The recommendations of this report support Central Bedfordshire Council (CBC) in delivering the following priorities:

Great universal services – by providing disposal services to enable the continued collection of waste in Central Bedfordshire.

Value for money – Updated market sounding and current market information has ensured this proposal would secure the required services whilst providing value for money and reductions in the MTFP.

Financial:

1. The Authority is facing significant financial pressures in the coming years and in light of this it is essential that Value for Money is a key deliverable of the proposal alongside environmental and performance considerations.
2. As an ongoing statutory service, adequate financial provision is made in base budgets for this service. The proposal will secure services which provide savings on the treatment of residual waste in 16/17 and 17/18 against the latest Medium Term Financial Plan (MTFP) and thereby reducing the impact of the

waste service on the Authority's budget. The financial basis for the recommendation is set out in Appendix A.

Legal:

3. CBC is a Waste Disposal Authority (WDA) under Sections 51 and 55 of the Environmental Protection Act 1990 and is under a duty to dispose of controlled waste collected within its administrative area. Undertaking this proposal will allow CBC to contract for the services to meet these duties.
4. In delivering this proposed recommendation, the Authority is acting in accordance with EU Procurement Directives and the Public Contracts Regulations 2006. The legal basis for the recommendation and the conditions which are required to be achieved beforehand are set out in Appendix B to this report.

Risk Management:

5. The Authority has a statutory responsibility to dispose of the waste collected within its administrative area under Sections 51 and 55 of the Environmental Protection Act 1990 and Section 1 of the Refuse Disposal Amenity (RDA) Act 1978. This proposal will mitigate the risk of not discharging this and broader statutory responsibilities.
6. The key risks related to this proposal include:
 - The legal implications and conditions as set out in Appendix B.
 - A full procurement to test the market is not being undertaken.
 - Failure or delay in developing a waste transfer facility for waste in the south to be bulked and transferred.
 - Failure of the neighbouring authority's facility to deliver CBC requirement, for example, due to delay in the delivery of the facility beyond September 2016, or failing to have sufficient capacity to process the required tonnage
7. The key risks to the Authority that will be mitigated through the delivery of this proposal include:
 - Current contracts expiring with only high cost replacement services available due to a contracting market for residual waste treatment and disposal services.
 - Legislative change increasing the requirement to divert waste from landfill
8. The legal risks related to this proposal have been minimised by taking external specialist legal advice and the proposed approach, including conditions for further mitigation, is set out in Appendix B.

The risk of failure to secure the best value for money by not carrying out a full procurement process has been reduced by securing market intelligence and benchmarking activities.

The risk of failure to delivery either the waste transfer facility or the neighbouring authority's facility is managed under individual risk registers for each project which will be closely monitored by the relevant project teams.

Staffing (including Trades Unions):

9. There would be no impact on staffing as a result of this recommendation.

Equalities/Human Rights:

10. In establishing the original contractual arrangement, the neighbouring authority's procurement processes will have had to ensure that due regard was given to the requirements of equality legislation.

Public Health

11. The health and well being of residents would be negatively impacted if waste disposal services were not in place for an extended period of time impacting on collections.

Community Safety:

12. The Councils 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 a waste disposal service facilitates collection and allows residents to safely deposit their 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 ensures the Council fulfils its statutory duties in relation to crime and disorder.

Sustainability:

13. Landfilling waste leads to the release of substantial amounts of methane, a potent greenhouse gas with over twenty times the climate change potential of carbon dioxide. Through this proposal the Authority would maintain high landfill diversion performance and potentially increase the recyclable materials extracted from the residual waste.
14. A local tipping point will be required to reduce the mileage travelled by the collection fleet in the south and therefore reduce the carbon impact of collection vehicles. There would also be, on average, much shorter haulage distances to the treatment and disposal facility than at present. By reducing its carbon footprint the Authority is reducing the risk of incurring fines in the future if carbon charging is applied to Local Authorities.

Procurement:

15. Accessing the neighbouring authority's framework is a compliant procurement route to market which provides a value for money outcome. The legal basis for the recommendation and the conditions which are required to be achieved beforehand are set out in Appendix B to this report. Added to this, CBC has previously been to market for residual waste treatment services through the BEaR project procurement which was abandoned due to unaffordability.

16. With the market for processing of residual waste becoming more difficult/ limited, it's expected that the cost of procuring residual waste services will increase in the near future. In other words further delay may result in increased costs.
17. CBC's procurement team will continue to be engaged in the process throughout and a full audit trail will be put in place covering the entire process which will be retained as a record for the required period.

Overview and Scrutiny:

18. The vice-chair of the Sustainable Communities Overview and Scrutiny Committee has agreed to this report being considered by the Executive as an Urgent item. This matter has not been considered by Overview and Scrutiny

RECOMMENDATION(S):

The Executive is asked to:

- 1. Approve the proposed approach to securing the residual waste disposal services as set out within this Executive Report and conditional on points 1 to 4 set out in Appendix B being achieved beforehand; and**
- 2 Authorise delegated authority for the Community Services Director in consultation with the Executive Member for Community Services to enter in to a contract for residual waste treatment and disposal services.**

Reason for Recommendation(s): To enable the continuation of residual waste treatment and disposal services in a way that is considered to deliver best value for the Authority at this time.

Executive Summary

19. Central Bedfordshire Council needs to deliver a sustainable residual waste management solution which minimises the future costs of waste disposal on the Authority's budgets, delivers high levels of landfill diversion, meets government and Council targets, reduces risk from future legislative change and minimises the Authority's carbon footprint.
20. A neighbouring authority awarded a contract in June 2013 to a large, commercial waste services provider to design, build and operate a waste treatment facility to handle up to 132,000 tonnes of residual waste every year. Construction of the facility commenced in June 2014 and it is anticipated the facility will be commissioning from March 2016 onwards and will be fully operational by September 2016. The contractor will run the plant for 15 years on behalf of the neighboring authority.
21. The neighbouring authority's procurement allows for the provision of residual waste disposal services to other Local Authorities via a framework which it is currently finalising. It specifies those whose borders are within approximately a 30 mile radius which would include Central Bedfordshire.

22. The Authority would enter into a contract with the contractor via a framework for the treatment of Residual Waste collected at the kerbside in Central Bedfordshire together with suitable residual waste collected from the four Household Waste Recycling Centres and from street cleansing activities. The anticipated contract start date would be 1 September 2016, with the waste going to the facility via a transfer station within Central Bedfordshire.
23. Recent comprehensive market sounding and current market information has demonstrated that the proposal provides the best opportunity for delivering the requirements of the Authority at an affordable level.
24. This report seeks approval to enter in to a contract with the contractor for residual waste disposal services. The length of this contract to be determined but this will aim to balance security of treatment, cost with the flexibility to take advantage of market developments.

Purpose of Report

25. This report sets out the proposed approach to delivering a new residual waste treatment contract for the Authority. A decision is required from the CBC Executive to approve the contractual arrangement as set out in this paper to reduce the risk of rising costs to the council.

Background Information

26. The Authority is currently in the initial term of its two Residual Waste Treatment Contracts which both run until March 2015. These are currently both low cost contracts, having taken advantage of temporary capacity at treatment facilities due to their short term.
27. Following the abandonment of the BEaR Project a new procurement strategy was approved by Executive on 18 March 2014 (see Background Papers). The relevant key drivers set out in the report are to:
 - Secure treatment capacity for the medium term (residual waste stream) at an affordable cost to the Authority
 - Develop the Authority's infrastructure including the redevelopment of the HWRC network and the provision of an in district Waste Transfer Station (WTS)
 - Achieve high levels of landfill diversion
 - Where it provides value for money, facilitate a further increase in recycling and composting rates
 - Minimise the carbon impact of waste management in Central Bedfordshire
28. The strategy set out the following objectives in relation to its residual waste treatment requirements:
 - Length of Contract – 10 years plus the option of a 5 year extension

- Contract Style – likely to be a merchant offering, with an Operation and Maintenance (O&M) contract for waste transfer included if required.
 - Authority to separately deliver a Waste Transfer Station if required.
29. The strategy for residual waste disposal also included the potential for partnership working with other Local Authorities in proximity to CBC including but not limited to Milton Keynes, Bedford Borough and Luton Borough Councils and that joint working opportunities could include utilising spare capacity at treatment facilities that have been delivered specifically for other Authorities Residual Treatment contracts.
30. The current contracts allow for 3 x 6 month extension periods and the Authority are negotiating with both contractors to extend to 31 September 2016. The current MTFP includes pressures for increasing costs of both bulk handling and disposal of our residual waste however the Authority is facing significant financial pressures in the coming years and in light of this it is essential that Value for Money is a key deliverable of any new contract.

Proposal

31. The neighbouring authority has run a procurement for the build and operation of a residual waste treatment plant. It is in the process of constructing a waste treatment facility including mechanical treatment to remove recycling and a gasification plant which converts the remaining waste to gas which is then burnt to produce electricity. The neighbouring authority is setting up a framework to allow other authorities to 'call off' disposal services under their contract. As Bedfordshire's waste (along with other neighbouring counties) was cited in the procurement process for this new facility, CBC is able to enter into this contract via the framework without undertaking a procurement process.
32. The proposal with the neighbouring authority and their operator is for a set price within the framework agreement. The neighbouring authority will receive a small royalty from this to contribute towards the capital costs of what is a major capital investment for them. CBC would enter in to a call off contract via the framework agreement which uses the same or broadly similar operating contract terms as procured by the neighbouring authority.
33. The facility will be able to accept black bin residual waste collected at the kerbside and a percentage of the residual waste from the Council's Household Waste Recycling Centres (HWRC's) and street cleansing activities. The process will divert up to 95% of this waste from landfill and recycle up to 9% which would contribute to the the Authorities longer term recycling target of 60%. The carbon impact of waste disposal would also be reduced with a transfer facility in Central Bedfordshire and much shorter haulage distances, on average, than at present.
34. The framework will be open for up to 4 years but another organisation has already secured some of the remaining capacity and, in a rising market, it would be sensible to progress the arrangement as swiftly as possible.

35. The proposal will require the provision of a waste transfer facility, initially for bulking and haulage of waste from the south of Central Bedfordshire but potentially including the north from 2021. Procurement for the operation of such a transfer facility will be included in the procurement for the management and operation of the Council's four HWRC's. Treatment and disposal of the remaining, smaller, residual waste streams- bulky waste, street sweepings, clinical waste and the remaining Household Waste Recycling Centre waste- will be procured separately.

Current Market State

36. There have been a number of recent changes in the market place that have impacted on the Authority's approach to its residual waste treatment procurement strategy. When preparing the report to March 2014 Executive the total capacity of waste disposal facilities either in operation or being developed within realistic travel times of Central Bedfordshire was around 2,360,000 tonnes. Since then this has reduced to 1,710,000 tonnes.
37. Plans to build a large scale Energy from Waste plant to serve the needs of Hertfordshire County Council, near Hatfield in Hertfordshire were turned down earlier this month by the Communities Secretary. The 380,000 tonne facility was originally awarded planning in October 2012 but was called in by the Communities Secretary in 2013. The Secretary of State considered the facility to be too large to fit in with the existing structures in the surrounding area and considered the proposed building would have a harmful impact on the Green Belt. As a consequence Hertfordshire have now been left without a long term residual waste treatment solution. For Central Bedfordshire, the failure of this facility to secure planning permission significantly reduces available merchant capacity in the area, increases competition for capacity and prices for the capacity that is available.
38. In Norfolk the County Council's contract for its own facility was withdrawn at the beginning of April 2014 due to planning delays reducing value for money over the term of the contract. Norfolk handles almost 270,000 tonnes of residual waste which will come on to the market between now and 2016, again increasing competition and prices.
39. Earlier this year the Authority carried out market sounding meetings with 12 waste management companies, all of which have experience in delivering residual waste disposal services. All companies indicated a similar or higher price for residual waste treatment than that being offered under the framework agreement. In addition to this we have benchmarked these costs using the latest DEFRA gate fee data (December 2013) which would put these costs towards the lower end of the price range for this type of facility. Also, investigations have found that a major waste disposal provider increased their treatment costs by 8% (negotiated down from 12%) when an Authority extended their contract recently.

40. The market has also started to develop in terms of Partnership arrangements to share residual waste treatment capacity. Norfolk County Council have entered into a landmark deal with their neighbouring authority Suffolk County Council for the treatment of 40,000 tonnes of residual waste at Suffolk's new Energy from Waste Plant. The agreement is subject to Defra approval, but waste is expected to start being delivered to the plant in August.

Financial Implications

41. The proposal would secure services which provide savings on the treatment of residual waste in 16/17 and 17/18 against the current Medium Term Financial Plan (MTFP) and thereby reduce the impact of the waste service on the Authority's budget. The financial basis for the recommendation is set out in Appendix A.

Legal Implications

42. In delivering this proposed recommendation, the Authority is acting in accordance with EU Procurement Directives and the Public Contracts Regulations 2006. The legal basis for the recommendation and the conditions which are required to be achieved beforehand are set out in Appendix B to this report.

Conclusion

43. Following the collection and analysis of market information it can be demonstrated that the market for the treatment and disposal of residual waste is shrinking and that this contraction of capacity is expected to push prices upwards. The set cost of the framework agreement is in line with or lower than suggested market rates for the service.
44. This report recommends that CBC enters in to a contract via the neighbouring authority's framework, as it is considered to deliver value for money for the Authority at this time. It would provide savings against the current MTFP and also presents a good fit with our requirements as it would:
- Secure treatment capacity for the medium term at an affordable cost to the Authority within our current MTFP
 - Achieve high levels of landfill diversion with up to 95% of waste being recycled or converted to energy
 - Facilitate a further increase in recycling rates with up to 9% recycling helping to achieve local, national targets and EU targets
 - Reduce the carbon impact of waste management in Central Bedfordshire with a local transfer facility within central Bedfordshire and on average shorter haulage distances to the treatment and disposal facility than at present

45. The Executive is requested to approve the recommendations set out in this report to enable the Director of Community Services in consultation with the Executive Member of Community Services to deliver the contract arrangements.

Appendices:

Appendix A – Financial Implications (Exempt)

Appendix B – Legal Implications (Exempt)

Background Papers:

Executive Report, 18 March 14, Waste Procurement Strategy