

MUNICIPAL YEAR 2018/2019 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:
Director of Environment and
Operational Services

Agenda – Part: 1	KD Num: 4665
Subject: Contract Extension for the Provision of Processing, Bulking and Haulage of Co-Mingled Dry Recycling and Mixed Organic Waste	
Wards: N/A	

Contact officer and telephone number: Jon Sharkey, Head of Operations –
Waste, Recycling & Fleet, 020 8379 3072
E mail: jon.sharkey@enfield.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 Following an OJEU compliant procurement exercise in 2015 a contract was concluded for the provision of processing, bulking and haulage of co-mingled dry recycling and mixed organic waste.
- 1.2 The contract term is for five years beginning 1st October 2015 and handles approximately 24,000 tonnes of comingled recyclate and 18,000 tonnes of mixed organic materials per annum.
- 1.3 The contract contains provision for the Council to extend by a period of three years by giving notice of its intention to do so by 1st April 2018.
- 1.4 This report explores the rationale behind making the decision to extend the contract.

2. RECOMMENDATIONS

That the Director of Environment and Operational Services:

- 2.1 approves the proposed contract extension as detailed in this report until 29th September 2023

3. BACKGROUND

- 3.1 Following an OJEU compliant tender using the Open Procedure of the Public Contract Regulations 2015 ("Regulations") a contract for these services was awarded and commenced on 1st October 2015. This award was the subject of a previous report RE15/25.
- 3.2 The contract has provided high levels of service with vehicle delivery turnaround times well within contractual requirements and timely and accurate provision of financial and management information.
- 3.3 The financial payment mechanism submitted by the service provider in April 2016 showed a higher than anticipated contract sum and led to a formal negotiation process, supported by the Council's procurement partner and the services provider to improve the contract terms and reduce the financial impact upon the Council. This process concluded in November 2016 and was the subject of a previous report RE 16/114 and subsequent contract variation.
- 3.4 The contract originally contained provision to extend the contract by a period of three years by giving notice of its intention to do so by 1st April 2020. The agreed variation gave significantly improved contract terms for the Council. To secure the variation the Council agreed to bring forward notification date of the extension to the 1st April 2018. It has subsequently been extended to 1st July 2018 with the agreement of the service provider.
- 3.5 If a decision to extend is not made by the Council or not notified to service provider by the 1st July 2018 then the contract will simply continue under the original terms (notwithstanding any future variations the Council may agree) until the current termination date of 1st October 2020.
- 3.6 When the contract was originally tendered only one bid was received. This is because the current service provider's MRF is the only facility within the Borough and the costs of transporting material for processing elsewhere are prohibitively expensive.
- 3.7 If the contract is not extended a procurement exercise for the replacement contract would need to be commenced within 18 months. The local availability of MRF facilities will not change within this period and the likelihood is that the tender would again receive a limited response.
- 3.8 Recently the market for recyclable materials has moved considerably and in particular China has imposed significant restrictions on both the quantities and quality of paper that they import. This has significantly reduced the value of recovered paper produced in the UK and introduced considerable uncertainty into the markets for recovered material.

- 3.9 These market conditions will remain difficult for the foreseeable future as alternative capacity for paper processing will not become available for some time. Waste companies are therefore reluctant to bid for new contracts or are doing so at significantly increased prices that reflect the current risks associated with processing recyclate. This will impact negatively upon the likely price bid for a replacement contract if the Council chooses to retender.
- 3.10 The current market conditions will require considerable negotiation with the service provider to arrive at an acceptable outcome for both parties. Not extending the contract would weaken the Council's position in those negotiations and reduce the likelihood of a good outcome for the Council.
- 3.11 See Part 2 Report
- 3.12 In view of the current uncertain market conditions and the unfavourable competitive environment for MRF services in the Enfield area, it is unlikely that a new procurement would provide better value for the Council than the existing arrangements and therefore it is recommended that the existing contract be extended.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The impacts of not extending the contract are:
- Re-procurement risk and costs
 - Weakened negotiation position
 - Potential reduced support from service provider for service changes
- 4.2 The Council could deliver recyclate under the North London Waste Authority contract however the costs of doing so are currently more expensive than using the Council's current contract with the service provider.

5. REASONS FOR RECOMMENDATIONS

The proposed approach provides service continuity for the Council and enables a considered approach to the current market conditions relating to the contract for the provision of processing, bulking and haulage of co-mingled dry recycling and mixed organic waste.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

See Part 2 Report

6.2 Legal Implications

6.2.1 Section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions. Further, the Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. The recommendations in this report fall within these powers.

6.2.2 The Council must comply with all requirements of its Constitution, Contract Procedure Rules ("CPRs") and the Public Contracts Regulations 2015 ("Regulations").

6.2.3 As the anticipated total contract value (inclusive of the permitted extension) exceeds £250,000, this is a Key Decision and the Council must comply with the Key Decision (Ref: 4665) procedure. Once approved, the decision to proceed will be subject to the usual call-in requirements.

6.2.4 The CPRs permit extensions to contracts where, among other conditions, the terms of the contract allow for such an extension, the financial terms for the extension are as agreed in the original contract, and the appropriate authority is in place in accordance with the Council's scheme of delegations. There are provisions in clause 2.1 of the contract variation for the Contract Period to be extended in annual increments up to a maximum of 3 years from 30th September 2020 and the requirement for a written notice of the extension to be provided to service provider until 1st July 2018 in clause 2.1.

6.2.5 All legal agreements arising from the matters described in this Report must be approved in advance of contract commencement, by Legal Services. Contracts whose value exceeds £250,000 are required to be executed under seal.

6.3 Property Implications

None

6.4 Procurement Implications

The proposed extension to the existing contract must be undertaken in accordance with the Council's Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).

The formal extension and future management of the contract must

be managed through the London Tenders Portal.

7. KEY RISKS

That the extension does not provide value for money for the Authority which can be mitigated by use of specialist consultants to overview any negotiation and review potential outcomes.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The contract will maintain continuity of service for the benefit of all Enfield residents.

8.2 Growth and Sustainability

The contract supports the service which provides local employment opportunities and waste collection to local businesses.

8.3 Strong Communities

The contract supports the service to maintain a clean borough and better overall environment.

9. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is neither relevant nor proportionate for the approval of this contract as it is supporting an existing service. Further, within the procurement framework there is an obligation on contractors to assist the Council in meeting its obligations under the Equalities Act 2010.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The contract is managed through monthly contract meetings, ad hoc communications for operational details where required and through provision of monthly management information.

The impact of the proposal will be monitored and reported to Director of Environment & Operational Services monthly to ensure best outcomes are achieved.

11. HEALTH AND SAFETY IMPLICATIONS

None

12. PUBLIC HEALTH IMPLICATIONS

Managing waste in a cost-efficient and effective manner will improve the public realm and therefore public health. Waste that is not managed has the potential to facilitate vermin and other carriers of contagion or, if material waste constituting a blight on the environment.

Background Papers

None

MUNICIPAL YEAR 2018/2019 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:

Director of Environment
and Operational Services

Agenda – Part: 1

KD Num: 4655

**Subject: Appointment of contractor to
construct Edmonton Cemetery extension**

Wards: Bush Hill Park

Contact officer and telephone number: Matthew Watts – Ext. 5430

E mail: matthew.watts@enfield.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 This report sets out the background to the proposed contract award for the construction of the Edmonton Cemetery extension as agreed by Cabinet on 13th September 2017. The procurement process has been conducted in accordance with the Council's procurement procedures using the London Tenders Portal.
- 1.2 The recommendation is to award the contract to the bidder who provided the most economically advantageous tender based 100% on cost.
- 1.3 The contract with the successful bidder will cover all preparation works, demolition of the fourteen tennis courts that currently occupy the site and construction of the new cemetery as per the plans agreed by the Planning Committee.

2. RECOMMENDATIONS

That the Director of Environment and Operational Services

- 2.1 Agrees to award the contract to construct Edmonton Cemetery extension to bidder C.
- 2.2 See Part 2 Report.

3. BACKGROUND

- 3.1 On September 13th 2017 Cabinet gave approval for the extension of Edmonton Cemetery (the revised approach) as detailed within report number 54 (Key Decision 4558). The decision gave authorisation for the extension of the existing cemetery east onto the land adjacent that is currently occupied by fourteen tennis courts. Mitigation for the loss of the tennis courts has been agreed via a tennis investment strategy that is detailed within report RE 17/74 (Key Decision Number 4614).
- 3.2 An invitation to tender for the construction of the Edmonton Cemetery extension was issued by STACE, the project's appointed, quantity surveyor, with the tender running from 13th December 2017 until 2nd February 2018. The tender was conducted through a single stage process via the London Tenders Portal, for a JCT intermediate building contract with contractor's design, 2016 edition.
- 3.3 Planning Permission has been sought for the new cemetery, with permission awarded by the Planning Committee on Tuesday 20th February.
- 3.4 Tenders were invited to submit bids for the construction of the cemetery extension as per the designs agreed by Planning Committee, which included the demolition of the fourteen tennis courts that currently occupy the site, landscaping and all remedial works associated with the cemetery extension.
- 3.5 Five companies were invited to tender, following recommendations by the project team. The contractors were selected because of their relevant experience of similar projects, 'Construction Line' status, and their ability to deliver projects of the scale of the cemetery expansion based on factors such as company turnover.
- 3.6 Four of the five companies invited to bid submitted a tender response. STACE evaluated the tender returns on behalf of the Council and following clarification, the following tender price submissions were received:

Bidder	Tender Sum	Contract Period (weeks)
A	£1,433,523.94	24
B	£1,649,915.65	24
C	£1,350,477.36	21
D	£1,467,484.97	24

- 3.7 Based on the tender evaluation, the recommendation is to appoint Contractor C as they provided the most economically advantageous bid.

3.8 – 3.12 – See Part 2

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 To appoint one of the other contractors who responded to the tender.
- 4.2 Not to progress with the project.

5. REASONS FOR RECOMMENDATIONS

- 5.1 Bidder C has provided the most economically advantageous bid, and would provide the Council with the best value for the delivery of the extension works.
- 5.2 The extension of the cemetery is necessary to ensure that the Council can continue to offer burial space at Edmonton. The appointment of the contractor C will enable the cemetery extension and provision to continue of a range of burial options for the community.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 Please refer to Part 2 report.

6.2 Legal Implications

- 6.2.1 Section 111 of the Local Government Act 1972 gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions.
- 6.2.2 The works are below the threshold where a European procurement exercise is required under the Public Contracts Regulations 2015

(currently £4,551,413.00). Therefore the procurement was subject to the Council's Contract Procedure Rules.

6.2.3 In accordance with the requirements of CPR 3.5, five companies were invited to tender. Only four companies submitted bids. Therefore approval from the P & C Hub is needed for approval of the award. The service has confirmed that this approval has been obtained.

6.2.4 The Director has power to approve the recommendations under CPR 1.22.

6.2.5 Because the contract value is over £250,000, it constitutes a Key Decision. Therefore compliance with the Council's governance processes pertaining to Key Decisions is required (see CPR 1.22).

6.3 Property Implications

6.3.1 It is not believed that there are property implications from the recommendation to appoint bidder C.

6.4 Procurement Implications

6.4.1 The Procurement was undertaken in accordance with the Council's Contract Procedure Rules.

6.4.2 The minimum number of quotes were not received, however the Procurement & Commissioning Hub approves the award as the service area has demonstrated that the submitted tender offers value for money.

7. KEY RISKS

7.1 The contract should not only improve efficiencies and value for money but also minimise procurement risk for the Council.

7.2 There is a risk of a budget overspend on the project. However, this has been mitigated via:

- Independent quantity surveyors have supplied cost estimates for the project, with contractor C submitting an economically more advantageous bid than the pre-tender estimates.
- There is a contingency sum of £235k built into the project budget that is available should the cost of delivering the cemetery extension exceed the bid supplied by bidder C.
- Project spend will be monitored by the project team throughout the duration of the construction and any variations from the figures supplied at the tender will be flagged to the project group and reported via the capital monitoring programme.

- The Corporate Construction & Maintenance Team will appoint a clerk of works to ensure that the works are delivered to agreed specification.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The proposals outlined within this report will enable the delivery of the cemetery extension project that will provide additional burial space for residents within the Borough. The proposals include a choice of different burial options for the community.

8.2 Growth and Sustainability

The proposals outlined within this report will provide additional burial space that will meet the growing demand within the community. The proposals will also ensure that the Cemetery Service can continue to operate with financial sustainability.

8.3 Strong Communities

The proposed cemetery extension is focused on the future demands of residents within the Borough and allows for provision for non-residents with links to Enfield. The extension project will allow the service to adapt to future priorities of the borough and its community's needs.

9. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought, and it has been agreed that there are no equalities impacts from the recommendations within this report. However it should be noted that the any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

It is not believed that there are any performance management implications from the recommendations outlined within this report.

11. HEALTH AND SAFETY IMPLICATIONS

It is not believed that there are any health & safety implications associated with the appointment of bidder C to deliver the cemetery extension. Once appointed the contractor will be expected to submit a risk assessment and method statement as part of their construction management plan.

12. PUBLIC HEALTH IMPLICATIONS

It is not believed that there are any public health implications from the appointment of bidder C for the delivery of the Edmonton Cemetery project. However, the delivery of the wider project will allow the construction of four new tennis courts at Firs Farm Recreation Ground and improvements to courts across the borough.

Background Papers

None