

CABINET

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WASTE COLLECTION AND CLEANSING CONTRACT 2019

Portfolio Holder: Councillor Alan Jarrett, Leader
Councillor Adrian Gulvin, Resources

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Summary

The Waste Collection and Cleansing contract with Veolia expires on 30 September 2019. This report reviews the contract procurement options and recommends the transfer of the Waste Collection and Cleansing Contract to the Medway NORSE Joint Venture from October 2019.

Medway Council has a long standing partnership with Veolia and this will continue with the Waste Disposal contract until 2035.

The exempt appendix provides detailed business case options and appraisals.

1. Budget and Policy Framework

- 1.1 Cabinet agreed the establishment of the Medway Norse joint venture company at its meeting on 12 March 2013. In approving the establishment of the joint venture, Cabinet agreed to the principle of adding further Facilities Management (FM) services, subject to agreeing a business case for such additions. The scope of the Medway Norse Joint Venture has, over time, with the agreement of Cabinet and Norse Commercial Services, extended well beyond FM to a range of other blue collar services, including grounds maintenance, transport and household waste recycling centres. The approval of transfer of relevant services to the joint venture remains a matter for Cabinet.

2. Background

- 2.1 The current Waste Collection and Cleansing Contract expires at the end of September 2019.
- 2.2 For clarity this contract covers:
- Kerbside refuse, recycling and organic waste collection;
 - Street cleaning; and
 - MRF (Materials recycling facility) – treatment of kerbside collected recyclable materials.
- 2.3 The current contract started in 2010 for a period of 7 (+2) years. The option to extend for 2 years was agreed at Cabinet on 17 January 2012 [decision number 8/2012].
- 2.4 The Waste Disposal contract with Veolia (expires 2035) and Organic Disposal contract with Countrystyle (expires 2025) are outside the scope of this procurement review.

3. Options

- 3.1 The Business Case which is set out in the Exempt Appendix contains detailed analysis of the three of options for the future delivery of the services.

- 3.2 The following options have been considered:

3.2.1 Option 1: Extension of existing contract

The option to extend the contract by two years, as detailed in the contract documentation, was undertaken in 2013. For a second extension to be legal and unchallengeable, the authority would have to meet the requirements of Regulation 72 of the Public Contracts Regulations 2015, which regulates how modifications to contracts can be made during their term.

3.2.2 Option 2: Retender via OJEU

Due to contract value, any competitive tendering process would need to follow the OJEU route. This is the standard option for waste collection and cleansing contracts and would likely attract a range of bidders.

3.2.3 Option 3: Enter into a Joint Venture with Norse

In accordance with the established Teckal exemption Medway Council can execute with Medway Norse, the collection and cleansing contract could become part of the established Joint Venture from October 2019.

4. Advice and analysis

- 4.1 Option 1: After careful examination of Regulations 72 with regards to contract extension, advice from legal contract experts is that *there are no applicable grounds for modification and therefore a new procurement procedure is required.*
- 4.2 Option 2: This has traditionally been the approach for Waste Collection and Cleansing Contracts and would likely attract a wide range of bidders. For the last collection contract at Invitation to Quote (ITQ) there were over 6 bidders, shorted down to 3 for Pre-qualification questionnaire (PQQ). It has low risk of

challenge if managed correctly and is an open and clear process. However, it is a lengthy and expansive process for both the Council and tenders. The last procurement needed external help with legal, contract development and financial for letting of 4 contracts (collection, disposal, organic waste processing and Household Waste Recycling Centres (HWRCs)) and cost in excess of £1.8million. The exact amount would depend on the amount of external support needed from consultants to formulate the policies ahead of procurement given the very tight timescales with this option. The additional cost by tenderer's would be reflected in costs of bids received.

- 4.3 Option 3: One of the core aims of the Joint Venture (JV) Company is to provide services to the Council more efficiently to give better value for money. The transfer of the services to Medway Norse will achieve better alignment of services, especially between street cleaning and green space management (already part of the Medway Norse JV) and achieve service efficiencies and savings, which will provide better value for money for Medway's residents. The Medway Norse JV partnership would use transparent open book accounting, allowing real time savings during the contract period. The council would agree service standards and costs in partnership with Medway Norse, as demonstrated by the recent successful transfer of the Household Waste Recycling Centre (HWRC) contract.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Procurement process	Due to the complex nature for the services and high value, if a decision on procurement options is not taken, it will limit the ability of the council to achieve best value services.	Implement and adhere to the timetable as detailed in the business case model, allocating appropriate internal resource as necessary.	E2
Financial	These are high value contracts. Historically the costs from private contractors have increased significantly over time due to RPIX increase and any efficiency changes have been complex and lengthy to negotiate.	By moving the contract into the JV, Medway will have direct input into how the services are run and ability to adapt the financial model as necessary without complex legal contractual negotiations.	D2

Reputational	The Council fails to implement a service which meets or exceeds the expectations of all the end users. It doesn't meet the fundamental requirements of the service.	The Council need to be mindful of communications with the end users and ensure that the transition is as seamless as possible. The service outcomes need to be closely managed and monitored against expectations to ensure they are aligned or explained if alignment is not possible. As the main risk is in transfer of service to new provider. Norse has a very good track record of service changes, most recently with the seamless HWRC transfer in October 2017.	D3
Global commodity markets for collected recyclable materials	The global commodity market drives the cost of processing recyclable materials	The Council is mindful of the global markets and would utilise the NEWS (Norse Environmental Waste Services) arm of Norse to ensure best value is achieved.	C2

6. Financial implications

- 6.1 The Exempt Appendix contains details of business case and financial modelling for the contract procurement.
- 6.2 The recommended proposal as set out in the report enable efficiencies between existing services already undertaken by Medway Norse and could generate opportunities to trade the service to the public and private sectors. Profits that will be shared 50/50 as per agreed existing arrangements with Medway Norse.
- 6.3 The business case model contains a number of reasoned assumptions that represent high risk items due to their value. It should be noted the global materials markets for recycle is undergoing a dramatic downturn, this would affect the procurement costs regardless of the route chosen.
- 6.4 During the next stage of the JV development these assumptions will be negotiated, refined and mitigation measures put in place to limit the financial risk whilst also realising additional savings where possible during the course of the next 18 months.
- 6.5 This will be reported to Members through the regular monitoring report on Medway Norse's activities which are submitted to the Cabinet and the Business Support Overview and Scrutiny Committee on a six monthly basis.

7. Legal implications

- 7.1 The Council can enter into a joint arrangement with Medway Norse for the Waste Collection and Cleansing contract without a procurement exercise, under Regulation 12 of the Public Contract Regulations 2015 (which incorporates the so-called “Teckal” exemption), when three tests are met. Firstly the Council must exercise control over the third party company, secondly more than 80% of the third party company’s activities must be for the Council, thirdly no direct private sector capital must be involved in the arrangement. Those three tests are met in this proposal.

8. Recommendation

- 8.1 It is recommended that Cabinet agrees to the transfer of the Waste Collection and Cleansing Contract to Medway Norse from October 2019.

9. Suggested reasons for decision

- 9.1 Option 3, entering the contract into the joint venture with Medway Norse offers best value for money, opportunities for efficiencies between existing contracts already part of the JV and flexibility in future service provision.

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Appendices

Exempt Appendix: Business Case

Background papers

None