

## **CABINET**

**9 MARCH 2010**

### **GATEWAY 1 OPTIONS APPRAISAL: SCHOOLS AND OTHER ESTABLISHMENTS WASTE COLLECTION CONTRACTS**

Portfolio Holders: Councillor Les Wicks, Children's Services  
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#### **Summary**

This report updates Members on the progress made to date with the procurement of the schools and other establishments waste contracts and puts forward recommendations for progressing this procurement in the shorter term and longer term.

#### **1. Budget and Policy Framework**

- 1.1 This procurement is consistent with the council's core values of ensuring we have services that put our customers at the centre of everything we do and giving value for money. It also fits with the strategic priority of a clean and green environment.
- 1.2 Such services need to support the Council's waste strategy that in turn provides the basis for targets in the Council Plan and the emerging Sustainable Community Strategy. The primary objectives are to:
  - Ensure compliance with statutory duties.
  - Meet statutory performance targets.
  - Ensure continuity of a front line service.
  - Provide services within agreed budgets.
  - Meet requirements to achieve efficiency gains.
  - Provide environmentally sustainable services.

- 1.3 The current fully integrated contract for waste collection and disposal has been extended for a period of up to two years (from September 2009 as per the provisions within the current contract terms and conditions), but it should be noted the aim is to complete procurement of the main collection and disposal contracts for commencement at the end of September 2010.
- 1.4 The procurement of any of these services has to comply with EU procurement and the Public Contracts Regulations 2006 and amendment regulations 2009. It must also take account of the interchange from current service provision to the potential new arrangement(s).

## **2. Background**

- 2.1 This report is directly connected to, and follows on from, the Municipal Waste Management Strategy agreed by Council on 19 January 2006 and the procurement of the waste collection and disposal contracts as per Cabinet decisions
- Procurement of Waste Services 20 February 2007 (decision number 42/2007)
  - Options appraisal for waste collection services 5 August 2008 (decision number 175/2008)
- 2.2 Under the Environmental Protection Act 1995, if requested, Medway has a duty to arrange for the collection and disposal of waste from schools.
- 2.3 Medway made the decision in February 2007 to split the current fully integrated contract into separate parts to ensure better competition and hence value for money. This procurement is intrinsically linked to that of the larger household waste collection and disposal contracts. All of the separated contracts must commence on the same day, currently programmed to be September 2010, to ensure service continuity.
- 2.4 Due to the integrated nature of the waste contracts for the last seven years, schools have received a very favourable rate for waste collection and a free recycling collection, with £5 per tonne collected paid back to them by the contractor. Due to rising costs of waste collection and disposal, this will not be sustainable.
- 2.5 The internal waste procurement historically sat within the corporate centre and this review is an opportunity to decide how best to deliver corporate waste requirements for the future.
- 2.6 Although this requirement was part of the overall Waste Contract which was presented to Procurement Board and Cabinet previously and has already been subject to a Pre-Qualification Process, both Strategic Procurement and Eversheds (legal advisors for the waste service team) concur that in light of the huge amount of time since the original

OJEU notice was published, it is best to conclude with current process and commence a new procurement.

### **3. Options**

- 3.1 Due to schools having devolved budgets: the responsibility for budget control lies with the school. Schools can either aggregate waste procurement or undertake separate arrangements. However traditionally 80% of schools have been part of the corporate waste contract arrangements.
- 3.2 The corporate waste collection has historically sat within the corporate facilities management and this review will present an opportunity to determine the best direction for the future. Dialogue has begun with this team but at this time needs and arrangement for future procurement are unclear and requires further internal consultation with key stakeholders.

#### **1) Via any existing framework agreements**

Further to guidance from Strategic Procurement, the Waste Services team has undertaken the research into potential EU compliant frameworks via the following purchasing organisations that could potentially negate the need to undertake a full EU procurement process.

- Yorkshire purchasing organisation (YPO)
- West Mercia Supplies (WMS)
- Eastern Shires purchasing organisation (ESPO)
- London Contracts and Supplies Group (LCSG)
- Essex procurement agency
- Waste information network

One framework agreement has been found, operated by ESPO. This would allow for the collection of waste and recycling from a variety of sized containers. The costs per 1100ltr bin lift are:

- £9.10 for refuse
- £6.00 for mixed recycling

#### **2) Schools procure on their own**

Benchmarking of suppliers and costs by calling local supplier shows that the costs per 1100ltr bin lift for refuse or mixed recycling varies greatly from £12 per lift down to only £7.50 per lift, additionally some companies charge for the hire of the containers. Several of the companies called would not supply a price over the phone due to the wide number of locations (i.e. 88 schools) and lack of certainty that they would all want to join in the contract.

There is one supplier who would collect clean paper only (no cardboard) separately from schools via an 1100ltr bank type collection, free of charge and would supply the schools with an income stream of approximately £10 per tonne (a full 1100ltr bin would produce an income of about £2.50 per collection).

### **3) Via joint procurement using EU procurement procedures.**

KCC are in the process of letting the schools waste collection and recycling contract, the estimated costs are between £7.50-£8.00 for Trade waste and £6.00 for recycling, this contract includes co-mingled waste. Although this would still be an increase, the contract terms are inline with the schools requirements.

### **4) Undertake a temporary one-year collection solution,**

This can be undertaken via the three quotes option, due to the lower value of contract, allowing a full options appraisal to be undertaken during the next year.

## **4. Advice and analysis**

- 4.1 There are 88 schools in the current schools waste collection contract, with 356, 1100ltr refuse bins and 102, 1100ltr recycling bins, all collected weekly for approximately 50 weeks a year.

### **Option 1: existing framework agreement**

Using the existing framework agreement there is a significant increase in costs for the schools, rising from £6 per lift for refuse to £9.20 - a 66% increase per lift; and recycling from free (in fact a small income stream) to £6 per lift which equates to an 100% increase for recycling. There are no procurement costs to Medway Council for this option.

The current contract for the framework does not allow for schools current individual needs to be addressed. The contract also has potential for additional costs, which are not in the current arrangement, i.e. bin and wheel locks for security.

There is also no financial penalty for non-collection of waste, which is a current deterrent for non-collections.

### **Option 2: schools procure individually**

As schools do not have to procure via an aggregated contract, they can opt to collect on their own. This will usually mean the schools Commissioning Team will take on the individual procurement on their behalf, in which case they would be open to Medway procurement rules that would mean a joint procurement as per option 3 below. If they decide to procure totally on their own, there are no procurement costs for Medway and they would not be subject to EU procurement rules as the costs will be below the threshold level of £156,442. There is a risk associated with this option as it could mean schools may opt to cease their recycling collections, however it should be noted that generally recycling collections are cheaper than refuse collections and a cost free solution is available for paper recycling, which makes up the bulk of the schools and office waste.

Conversely, this option removes the ability for schools/corporate buildings to benefit from potential economies of scale.

### Option 3: EU procurement

To date schools have not officially opted into or out of a joint procurement. If we progressed with a joint procurement immediately, without the full consultation and options appraisal, there is a risk that schools may opt out once costs are known and which could leave the council within breach of contract.

This procurement could either be undertaken by

- Waste Services using the team of external consultants Eversheds, Entec and Ernst & Young (at a significant cost).
- Children's Services led by the Commissioning Manager (Schools currently pay a SLA agreement with the Schools contracts team this would be funded from the fees from schools).

### Option 4: 1 year temporary contract

To enable a full consultation with schools, a temporary one-year contract could be let. If bin lift prices remain as currently paid at £6.20 per lift for refuse only and recycling remained free and all 88 schools are procured under a one year contract, this keeps the procurement under the EU threshold. This would allow time for a full options appraisal to be undertaken and extensive consultation with schools and gain a steer as to the options they would prefer.

## 5. Risk Management

No	Relevant Risk	Significance H, M or L	Likelihood H,M or L	Mitigating factors or action to be taken	By whom
1	Insufficient resources to deliver the project.	M	M	Advance planning and action when required.  Schools Contracts to take over the procurement of the process.  Use of external resources for project management, technical and financial advice available.	Proc. Board
2	Invitations to tender fail to stimulate a response from the market.	H	L	Ensure contract requirements are packaged appropriately to invoke sufficient interest.  Ensure all previous expressions of interest are advised of tender.	Project team

3	Changes in government regulations.	H	H	Incorporate into the contract that which is likely to be a known change.  Prepare clear ground rules to be incorporated into the contract conditions for negotiating future changes in law.	Project team  Legal services
4	Effect of change as a result of elections May/June 2010.	M	H	Whatever the outcome the council has to continue to comply with legislation.	
5	Tendered prices unacceptable to schools	H	H	Ensure there is a comprehensive consultation with schools to ensure that the risks are clearly defined and benchmarking is undertaken before any procurement.	Project Team
6	Project fails to achieve a solution in sufficient time to allow a smooth handover from existing to new contractor(s).	H	H	A framework agreement is available for buy in at any time.  Schools can procure their own waste arrangements as temporary contracts until a joint procurement is completed.	Project team  Project Board
7	Lack of consultation and engagement with schools and other Medway establishments	H	H	A one year extension will allow for a full consultation to be undertaken with schools and corporate management of the councils buildings	

## 6. Consultation

- 6.1 Due to the significant increase in costs to schools, which has been identified and discussed above, there is a requirement to carry out a full options appraisal. This will give schools the information they need to enable them to achieve best value for the collection and disposal of waste. Each individual school will then be required to confirm their

preferred option. The school contracts team, supported by the waste management team, would carry out this consultation.

## **7. Procurement Board**

- 7.1 The Procurement Board considered this report on 17 February 2010 and supported the recommendations as set out at section 9.

## **8. Financial and legal implications**

- 8.1 When budgets were devolved to the schools, this included the provision waste collection and disposal; hence costs will be borne by the schools. If the schools decide to aggregate their waste collection services the total life cost for this contract, is estimated to be between £800,000 – £1.5million over 7 years. Cost of procurement depends on option approved.
- 8.2 The procurement of a short term contract below the EU threshold would not require advertisement in accordance with the Public Contract Regulations 2006 and would give time for a longer term strategy to be determined, which may result in an EU procurement being undertaken for a new contract at the end of the short term contract.
- 8.3 Strategic Procurement supports the recommendation contained within this report as it should ensure compliance in the short term and should deliver best value in the long term in addition to potential synergies and economies of scale resultant from inclusion of corporate building's requirements. The client department, if seeking to contract for one year on the basis of a direct award without competition, must complete an exemption request form and submit to Strategic Procurement, a version signed by the Director of Regeneration, Community and Culture. This will then be reviewed and recommendations will be put forward to the Monitoring Officer accordingly by Strategic Procurement. In seeking an exemption the client department must demonstrate the benefits of doing so as opposed to undertaking a formal tender process and the value must not exceed the EU services threshold of £156,442.

## **9. Recommendations**

- 9.1 Cabinet is asked to agree to discontinue the current OJEU process.
- 9.2 Cabinet is asked to note the contents of this report and is recommended to agree a one-year temporary contract to allow comprehensive options appraisal and full consultation to be presented to the schools.

## **10. Suggested reasons for decision(s)**

- 10.1 This procurement is intrinsically linked to that of the larger household waste collection and disposal contracts. All of the separated contracts

must commence on the same day, currently programmed to be September 2010, to ensure service continuity.

- 10.2 Advice from Eversheds and Strategic Procurement (in section 2 of this report) that due to the huge amount of time since the original OJEU notice was published, it is best to conclude with current process and commence a new EU process (in due course).
- 10.3 In addition, the Council needs to revisit its requirements for schools and internal waste collection and disposal in light of other contractual arrangements for waste services, increasing costs and the needs of the schools and the council buildings.
- 10.4 To mirror the short term arrangement, and following on from the proposed consultation with the schools, a second gateway one report will be returned to Cabinet detailing the proposed longer term arrangements. This will also allow internal dialogue to take place with facilities management regarding the internal waste collection arrangements and opportunities for saving to be made in joint procurement of services.

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#### **Background papers**

The following documents have been relied upon in the preparation of this report:

<b>Description of document</b>	<b>Location</b>	<b>Date</b>
Options Appraisal for Waste Collection Services	Web site & waste services section	August 2008
Procurement of Waste Services	Web site & waste services section	February 2007
Reports on discussions with potential service providers.	Waste services section	Oct to Dec 2006
Municipal Waste Management Strategy	Web site & waste services section	January 2006
Review of Potential Partners for Medway	Waste services section	2006
The Best Practical Environmental Option	Waste services section	2005
Medway Waste Survey Final Report	Waste services section	2004