

CABINET

7 JUNE 2022

GATEWAY 3 CONTRACT AWARD - RECYCLING RESOURCE MANAGEMENT CONTRACT

Portfolio Holder: Councillor Phil Filmer – Portfolio Holder for Front Line Services

Report from: Ruth Du-Lieu – Assistant Director, Front Line Services

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Summary

This report requests the Cabinet's agreement to award the procurement of the Recycling Resource Management Contract (Oct 2022).

Procurement Overview

Total Contract Value: £4,470M

Project Budget: £6,698M

Contract Term: 48 months (24 Month + 24 Month extension)

1. Budget and Policy Framework

1.1. This procurement board report is within the Council's policy and budget framework and ties in with all the identified Core Values, Strategic Priorities, Strategic Council obligations and Departmental/Directorate service plans.

2. Background Information and Procurement Deliverables

2.1. The current Recycling Resource Management contract was entered into via a VEAT notice with Veolia and commenced 01/10/2019 for an initial term of two-years with a further one-year extension (three-years total until 30/09/2022).

- 2.2. The services this contract relates to include:
 - 2.2.1. Provision of a transfer station (for clarification, a transfer facility is a key piece of waste infrastructure where waste is delivered for bulking and onward transportation).
 - 2.2.2. Haulage and treatment of:
 - 2.2.2.1. Kerbside recycling (container mix and fibre)
 - 2.2.2.2. Ancillary recycling (such as bring sites)
 - 2.2.3. Transfer only of:
 - 2.2.3.1. Organic waste
- 2.3. Under the current contracted arrangement, the services detailed in 2.2.2. are delivered through the Veolia owned and operated transfer station at Whitewall Road, Strood.
- 2.4. Currently Medway Council take full risk on the recyclate material prices as dictated by the market conditions at the time. This means that materials that produce an income are offset against the total contract costs payable by Medway Council and conversely that any material that costs for disposal falls to Medway to pay full price.
- 2.5. Over the three-year life of the current contract (01/10/19 – 30/09/22) an estimated 194,000 tonnes of recycling will have been processed at an estimated cost of **£4.7M**.
- 2.6. Proposed contracted services:
 - 2.6.1. The new contract was advertised in two lots as follows:
 - 2.6.1.1. Lot 1 – Transfer station and haulage
 - 2.6.1.2. Lot 2 – Recycling treatment
 - 2.6.2. The successful bidder for Lot 1 and Lot 2 services will provide a solution of up to four-years which meets Medway's requirements as detailed in 1.2.2 and complies with statutory duties.
 - 2.6.3. Market engagement was undertaken prior to the tendering process to ensure that Medway had hit the right tone for current market conditions.
 - 2.6.4. The proposed contract will see Medway share risk on the recyclate material prices as dictated by the market conditions based on an 80/20 split (Medway/Bidder). This is more favourable than the 100% risk share that currently sit with Medway.
 - 2.6.5. The proposed contract includes a new mechanism for Lot 1 services where the bidder can recharge Medway for rejected and contaminated waste loads. This is a standard clause common in waste contracts and presents a risk for the residual waste budget. However, it is important to highlight that this risk is lowered as a result of:

2.6.5.1. Clear Medway Norse procedures in terms of collection method, including financial penalties for Medway Norse if contamination is high.

2.6.5.2. Strong Lot 1 contract clauses relating to waste acceptance procedures

2.6.6. The proposed contract will be for up to four-years (as opposed to the previous three-year contract) processing an estimated 265,000 tonnes of recycling throughout its life at an estimated cost of **£5M** based on the contractors bid.

2.7. Parent Company Guarantee/Performance Bond Required

2.7.1. The requirement to seek a Parent Company Guarantee or Performance Bond was waived within the Gateway 1 report due to limited number of economic entities able to deliver this service and their general financial strength and position with their corporate hierarchy.

3. Procurement Process

3.1. Procurement Process Undertaken

3.1.1. Despite the positive response received at market engagement, especially for Lot 2, this opportunity attracted three bids as follows:

3.1.1.1. Lot 1 – one bidder (as expected) due to requirement for transfer station in Medway

3.1.1.2. Lot 2 – two bidders

3.1.2. During bid evaluation, one bid was deemed non-compliant leaving one bidder for Lot 2.

3.1.3. Medway Council conducted this procurement under the Open Procedure pursuant to Regulation 27 of the Public Contracts Regulations 2015 (“the 2015 Regulations”) as per table 1 below.

Activity	Date
25/11/2021	FTS issue and ITT start date
25/11/2021 – 18/01/2022	Clarification period
18/02/2022	Submission deadline
21/02/2022 – 18/03/2022	Evaluation period
21/03/2022 – 25/03/2022	Moderation period

Table 1 – Procurement process

3.2. Evaluation Criteria Used

3.2.1. Bidders were asked to provide information on a ‘selection questionnaire’ which was scored using a pass/fail criterion by Medway’s Procurement team to determine if the bidder has met relevant grounds for exclusion.

- 3.2.2. Following this, bids were checked for ‘conformity and completeness’ to determine whether submissions were in line with invitation to tender instructions.
- 3.2.3. Bidders must pass both stages detailed within 3.2.1. and 3.2.2. to move onto the following stages.
- 3.2.4. The quality, price and social value elements of bids were assessed in line with the evaluation criteria as detailed within table 2 and table 3 below.

Lot 1 evaluation criteria			
Tier 1	Tier 1 Weighting	Tier 2	Tier 2 Weighting
Quality	40%	MS1: Mobilisation	2
		MS2: Materials Reception and Storage	6
		MS3: Materials Loading and Dispatch	6
		MS4: Materials Haulage and Delivery	6
		MS5: Business Continuity	4
		MS6: Contract Management	2
		MS7: Data Recording and Reporting	4
		MS8: Health, Safety, Environment and Quality	4
		MS9: Expiry	2
		MS10: Integration with other Waste Services	4
Price	50%	Price	50
	10%	Social Value	10
Total	100%		100

Table 2 – Lot 1 evaluation criteria

Lot 2 evaluation criteria			
Tier 1	Tier 1 Weighting	Tier 2	Tier 2 Weighting
Quality	40%	MS1: Mobilisation	2
		MS2: Materials Reception	6
		MS3: Materials Processing Capability and Operations	6
		MS4: Materials Marketing	6
		MS5: Business Continuity	4
		MS6: Contract Management	2
		MS7: Data Recording and Reporting	4
		MS8: Health, Safety, Environment and Quality	4
		MS9: Expiry	2
		MS10: Integration with other Waste Services	4
Price	50%	Price	50
	10%	Social Value	10
Total	100%		100

Table 3 – Lot 2 evaluation criteria

3.3. Contract Management

3.3.1. Overall responsibility for this contract will fall under the Head of Climate Response and Environmental Services remit. Contract management will be the responsibility of the Waste Disposal Manager.

4. Risk Management

Risk Description	Risk Category	Likelihood	Impact	Plans to Mitigate
Volatility of recycling commodity markets causing budget pressures	Financial			Contractor shares risk of recycling commodities alleviating some budget pressure and encouraging them to find best available markets.
Changes imposed on how Local Councils collect waste as a result of the upcoming Environment Bill leading to collection methodology changes and potential material composition changes.	Legal	C	III	Contract for recycling management does not run beyond the Environment Bill implementation date. Clear ground rules set out in the contract in terms of negotiating future changes in law.
Failure to secure a contract post 1st October 2022 leading to Medway Council being unable to deliver a kerbside recycling service and not meeting statutory obligations as set out in this report.	Reputational	D	IV	Secure a contract for recycling management as set out in this report.
Changes imposed on how Local Councils collect waste as a result of the upcoming Environment Bill leading to risk pricing at tender process.	Financial	E	III	Contract for recycling management does not run beyond the Environment Bill implementation date. Clear ground rules set out within the contract in terms

Risk Description	Risk Category	Likelihood	Impact	Plans to Mitigate
				of negotiating future changes in law.
Failure to secure a contract post October 2022 resulting in recycling being disposed of via energy recovery/ landfill routes and Medway Council not meeting statutory obligations set out in this report and climate change objectives	Climate Change	E	IV	Contract for recycling management secured as set out in the recommendations of this report. Clear ground rules set out within the contract to ensure the appropriate management of recycling materials.
Given that Medway Council do not own a waste transfer facility the location of this infrastructure is key to this procurement and failure to secure one within Medway's boundary (or within a very reasonable operating distance on the boarder) could lead to financial and operational impacts on waste collection service delivery.	Service Delivery	B	III	Procurement of a contract with a facility within Medway's boundary (or within a very reasonable operating distance on the boarder).
Successful contractor disposes of waste unlawfully leading to reputational damage (for example - waste sent to a foreign market and unlawfully flytipped).	Reputational	E	II	Robust contract clauses ensuring that the contractor meets its duty of care responsibilities in line with waste industry regulation. This will be complimented by continued spot checks and audits by the Waste

Risk Description	Risk Category	Likelihood	Impact	Plans to Mitigate
				Disposal team to ensure waste is managed properly.

5. Financial Implications

- 5.1. There are no financial implications. Tender price is within current budget.

6. Legal Implications

- 6.1. A procurement under the Open procedure has been carried out which is compliant with both Medway's Contract procedure rules and the public contracts regulations.
- 6.2. The provision of waste collection services is a statutory function of the Council and therefore the Council has a duty to ensure that the service is provided to all residents within the area.
- 6.3. Although the low number of bidders is disappointing it is not a bar to a lawful award as the procurement itself was correctly undertaken.

7. Other Implications

7.1. TUPE Implications

- 7.1.1. There are no TUPE implications on this contract procurement.

7.2. Procurement Implications

- 7.2.1. This procurement has been conducted as a Public Contracts Regulations 2015 compliant open procedure. Whilst it would have been preferential to have received more bids, thorough pre-market engagement was conducted with all key players in the market so procurement board should be assured this represents the best offer we could have received at the point of tender.

7.3. ICT Implications

- 7.3.1. There are no ICT implications on this contract procurement.

8. Social, Economic & Environmental Considerations

- 8.1. As part of this procurement, bidders were asked to demonstrate how the delivery of these services met social and economic considerations to show additional value as a benefit to the local community.
- 8.2. These considerations are detailed within Appendix 1 of this report and included:

- 8.2.1. Promoting local skills and employment
 - 8.2.2. Opportunities for disadvantaged people
 - 8.2.3. Improved skills for disadvantaged people
 - 8.2.4. Staff wellbeing and mental health
 - 8.2.5. Reducing inequalities
 - 8.2.6. Supporting growth of responsible regional business
- 8.3. Bidders are required to demonstrate their commitment to environmental considerations, especially climate change, as part of the evaluation criteria. Environmental and climate considerations have been included in the main contract conditions as these services have a direct impact on environmental issues.

9. Recommendation

- 9.1. It is recommended that the Cabinet agrees to award the contract to the bidder outlined in section 3.2 of the exempt appendix as they have been evaluated as the most economically advantageous against the Council's award criteria as per the evaluation spreadsheet contained within 3.1 of the Exempt Appendix.

10. Suggested reasons for decision

- 10.1. The bidder outlined in section 3.2 of the exempt appendix has been evaluated as the most economically advantageous against the Council's award criteria preferred procurement route. Securing a contract ready for 1 October 2022 will enable Medway Council to meet its statutory obligations.

Appendices

Exempt Appendix 1 – Financial Analysis

Background Papers

None.

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