

Report of: Waste Management Business Manager (Contracts)

Report to: Director of Environment and Housing

Date: 11th March 2015

Subject: Landfill Aftercare Services Contract

Contract Ref: YORE-9FFFPJ

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4 (3) Appendix number: Appendix 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

SUMMARY OF MAIN ISSUES

- 1 A procurement process to appoint an organisation to provide a range of closed landfill aftercare services has now been concluded.
- 2 Once awarded, the outcome will be a seven year contract with a single organisation that will carry out the services required within the contract to ensure that the closed landfill sites vested with the Council are robustly managed from both an environmental and public safety perspective, and to maximise the potential for electricity revenue from one of the sites.
- 3 The contract provides an element of flexibility as the services within the contract will be reviewed on an annual basis to determine whether any efficiencies can be achieved in the services provided as the environmental risks and the ability to produce electricity at one of the sites decline.
- 4 Competitive tenders have been received and evaluated on a price quality basis. Ener-G Natural Power is the organisation recommended by the evaluation panel to be awarded the new contract, based on delivering the best overall option for the Council as determined by the evaluation criteria.

RECOMMENDATIONS

- 5 The Director of Environment and Housing is recommended to note the content of this report and approve the award of the contract to deal with a range of closed landfill aftercare services to manage the environmental risks at closed landfill sites across Leeds to Ener-G Natural Power.

1 PURPOSE OF THIS REPORT

- 1.1 Contract Procedure Rule 18.5 requires that a decision to award is made by the relevant Officer through the delegated decision process. The delegated decision should outline why any tenders were disqualified and the reasoning for the selection of the contractors.
- 1.2 The purpose of this report is to brief the Director of Environment and Housing on the processes adopted for the procurement and advise of the outcomes it has achieved in order to demonstrate that a fair and transparent process has been followed. The report seeks further to request approval for the award of the contract to Ener-G Natural Power.

2 BACKGROUND INFORMATION

- 2.1 Whilst an in-house team within Waste Management Services currently carry out monitoring at closed landfill sites across Leeds, there remains a requirement for an external service provider to undertake specialist services at the Council's most active sites. These services include:
- Monitoring and maintenance of landfill gas and leachate collection systems,
 - Provision of a gas powered engine to generate electricity from the landfill gas extracted at the Gamblethorpe site;
 - A service for the brokerage of electricity generated through the Gamblethorpe site;
 - Additional closed landfill monitoring services, and
 - An emergency call out service.
- 2.2 There are currently 2 organisations providing the above services at the 3 most active closed landfill sites, these being Gamblethorpe, Middleton Broom, and Morley Greaseworks. One of these organisations operates under a historic contract which will remain in place up until it is no longer viable, with the other organisation operating in accordance with the original contract terms which expired in July 2011. There is currently no service being provided for the generation of electricity at Gamblethorpe due to a decision made in August 2014 to cease the arrangement as it was no longer proving to be financially viable.
- 2.3 Although the existing arrangements provide the Council with the specialist services it requires, they do not provide the Council with the protection and security of a formal contract. Also, it is considered that having several separate arrangements do not necessarily provide the most efficient means of managing the decreasing level of risks at the sites due the lack of flexibility within the original service requirements.

3 MAIN ISSUES

3.1 Main Features of the Contract

- 3.1.2 The contract is to be let for seven years with extension options of 3 x 12 months being available. This duration was selected on the basis of the period of time for which the Gamblethorpe site would be likely to be providing an electricity generation opportunity and to maximise the successful contractor's ability to recover any capital costs of generation equipment.
- 3.1.3 The procurement followed an EU procurement that followed the open procedure with Bidders being asked to submit a Pre-Qualification Questionnaire and Tender concurrently.

- 3.1.4 The contract had a 70/30 split for price and quality with price applying to the 70% element.

3.2 **Evaluation Process**

Pre-Qualification Questionnaire (PQQ) Stage

- 3.2.1 PQQ's were received from the following organisations:-

- Initial Projects Ltd.
- Uniflare Ltd.
- Ener-G Natural Power Ltd.

- 3.2.2 No service specific technical questions were asked within the PQQ document. All 3 organisations passed the PQQ vetting stage and were subsequently invited to tender.

3.3 **Evaluation of Tenders**

- 3.3.1 An evaluation panel of officers from the Waste Strategy and Infrastructure Team was established.

- 3.3.2 The evaluation was conducted on a consensus basis with the panel reaching an agreed score for each aspect of the evaluation criteria, at a meeting following independent review.

- 3.3.3 Scoring was carried out on a 0-10 basis with bidders being required to meet minimum score thresholds of 40% for individual questions and 50% as an overall bid. There was also a requirement to achieve a minimum of 60% in Quality Criteria 2. (Environmental Monitoring and Maintenance) as this was considered to be a particularly important aspect of the service required. If bidders did not meet minimum thresholds they were removed from further consideration.

- 3.3.4 The quality element of the evaluation considered the criteria and sub-criteria included within the tender documentation and that was approved by the Chief Officer Waste Management as detailed in paragraph 4.3.3. The confidential Appendix 1 details the scoring achieved through the evaluation process.

4 **CORPORATE CONSIDERATIONS**

4.1 **Consultation and Engagement**

- 4.1.1 It is not considered that the content of this report or the recommendations made will have a significant impact on any particular ward or community, and as such no consultations have taken place.

4.2 **Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality Impact Assessment was completed in April 2014 and it was not considered that the content of this report or the recommendations made will have any impact on any specific individual or group in terms of equality, diversity, cohesion and integration.

4.3 **Council policies and City Priorities**

- 4.3.1 It is paramount that procurements in the authority are undertaken with a view to ensuring openness, transparency and fairness. This procurement has been undertaken through a formal competitive exercise and the award will be based on an evaluation which achieves

a cost/quality balance which subsequently offers best value to the authority. All appropriate governance arrangements have been followed throughout.

- 4.3.1 The issues being discussed within this report along with the contract we are looking to award will all have specific implications with regard to our environmental performance and the aspirations stated within our environmental policy where we are aiming for improved environmental protection. The following are all relevant contributors to meeting the needs of this Council policy:

- Preventing pollution and minimising our environmental impact
- Taking steps to reduce carbon emissions
- Improving our resilience to current and future climate change.

4.4 **Resources and Value for Money**

- 4.4.1 By undertaking a formal tender process as described in this report an element of competitiveness has been introduced in the market place and this helps drive down prices.
- 4.4.2 The evaluation criteria used for selecting service providers was developed in conjunction with the financial officer supporting Waste Management Services with a view to ensuring we obtain value for money.
- 4.4.3 The criteria in terms of price/quality split and the actual quality requirements were also presented to the Director of Environment and Housing for approval prior to tender.
- 4.4.4 Subsequently, the tender exercise has resulted in a new contract that looks to provide a saving against the current budget (2014/15) for the landfill aftercare service.

4.5 **Legal Implications, Access to Information and Call In**

- 4.5.1 Officers from Legal and Democratic Services have been consulted throughout this tendering exercise and as such all legislative requirements surrounding EU Public Procurements have been adhered to. The contract was advertised in the official Journal of the European Union (OJEU) as is required of a contract of this value and an open and transparent process has been followed.
- 4.5.2 The Decision is not exempt from Call-in.

Note that by virtue of Access to Information Rules 10.4.(3) the Appendices attached to this report are restricted as confidential. This is on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.

It is considered that the public interest in maintaining this information as exempt outweighs the public interest in disclosing the information, as disclosure may prejudice the outcome of the procurement process, whilst the details of the tender proposals within the appendices also contain the financial details/business affairs of individual companies.

4.6 **Risk Management**

- 4.6.1 If the recommendation to award as described within this report is not approved then the Council will risk remaining in a position where no formal contractual arrangements are in place for managing the environmental risks at closed landfill sites across Leeds.

4.6.2 If the service continues without a formal contract being in place the terms and conditions that currently apply would be at risk of change without notice. The Council would also be at risk of the quality of service reducing and being without the protection and means of redress that a formalised arrangement would provide.

4.6.3 Throughout the procurement a risk register has been developed and those risks have been adequately managed. The risk register will continue to be maintained in terms of the ongoing management of the contract once awarded and any high risks or escalating risks will be brought to the attention of the Director of Environment and Housing.

5 CONCLUSIONS

5.1 The procurement for the closed landfill aftercare services detailed within this report ensures the Council complies with EU Public Procurement Regulations and the Council's governance. The requirement to seek competition in these circumstances is at the core of these rules.

5.2 A tender process has introduced competition which in turn has driven down prices and ensured that value for money has been achieved.

5.3 The award of the contract will provide the Council with formal terms and conditions which provides the legal framework protecting service levels and prices etc.

6 RECOMMENDATIONS

6.1 The Director of Environment and Housing is recommended to note the content of this report and approve the award of the contract to deal with a range of closed landfill aftercare services to manage the environmental risks at closed landfill sites across Leeds to Ener-G Natural Power.

6.2 The Chief Officer is to be satisfied that the award of this contract has been undertaken through following a fair and transparent process and with a view to achieving Best Value for the Council.

7 BACKGROUND DOCUMENTS¹

7.1 In compiling this report no additional background papers were used.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.