

**Report of: Waste Management Business Manager (Contracts)**

**Report to: Director of Environment and Housing**

**Date: 13th June 2016**

**Subject: Call Off from the Recycling and Composting Framework Contract**

**Contract Ref: 9KBA-M62F2H**

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: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## SUMMARY OF MAIN ISSUES

- 1 In 2015 the Council established a framework contract to deal with garden waste and a range of other wastes and recyclates collected by the service. At the same time the first call off from that framework was undertaken and tonnages allocated to a range of providers on that framework for the first contract year (March 15 to April 16).
- 2 The indicative allocation of these tonnages was based on the most cost effective and operationally viable model as determined by the evaluations which took into account the location of sites offered. The contract requires an annual review of these indicative tonnage allocations each year, and a new call off process to take account of any changes in circumstances which might affect those allocations or any changes in prices e.g. through voluntary reductions and/or RPIx review impacts if applied.
- 3 In some cases there have been changes to the pricing of the options available for this second call off as a result of voluntary price reductions and through some contractors making a request to invoke the RPIx review options within the contract.
- 4 Whilst there is no specific provision within the contract terms for the Council to insist on price reductions, there is the possibility for any contractor to offer voluntary price reductions through a variation as a means of attracting new business. Given the Council's budget pressures it is considered that there is merit in being pro-active with this opportunity and to write out to all contractors on the framework specifically highlighting this clause and then basing the tonnage allocations on any new improved prices we might obtain using the methodology described within the original contract documentation.

- 5 Concurrently with reallocating tonnages, there is also value in varying the contract for the benefit of Localities and Parks and Countryside teams to create more opportunities for them to undertake direct deliveries to a wider range of facilities, thus creating operational efficiencies.

## **RECOMMENDATIONS**

- 6 The Director of Environment and Housing is recommended to note the content of this report and:
  - a) Approve the decision to proactively seek new revised downward prices through a voluntary variation process. The new prices will then be used to determine the allocation of tonnages for the second contract year with this outcome being shared with the Director of Environment and Housing and Chief Officer separately to this Delegated Decision Process.
  - b) Agree to varying the contract to allow Localities and Parks and Countryside teams to direct deliver wastes to the providers on the framework.

## **1 PURPOSE OF THIS REPORT**

1.1 This report is intended to meet the requirements as described in the Council's Contract Procedure Rules (CPR's) with regard to the following two points in particular:

- Contract Procedure Rule 3.1.8 states that decisions to place a call-off under a framework agreement will not be treated as consequential decisions of the original award. A new Delegated Decision will be taken for each call-off;
- Contract Procedure Rule 21.7 states that variations also require a delegated decision process to be undertaken.

## **2 BACKGROUND INFORMATION**

2.1 In March 2015 a Framework Contract was established to deal with the following waste streams arising at the HWSS's:

- **LOT 1** - Garden wastes from the HWSS's and kerbside collections;
- **LOT 2** - Residual wastes from the Council's HWSS's;
- **LOT 3** – Timber from the HWSS's;
- **LOT 4** – Inert Wastes from the HWSS's;
- **LOT 5** - Plasterboard from the HWSS's;
- **LOT 6** - Offensive waste from the Council's kerbside clinical collection service.

2.2 Indicative tonnages were allocated to various (but not all) contractors on that framework for the first contract year with the intention to reallocate tonnages on an annual basis taking into account any changes in circumstances or prices. Within the contractual terms there is no guarantee of tonnages to any contractor

## **3 MAIN ISSUES**

### **3.1 Price Review Options**

#### ***Voluntary Price Reductions***

3.1.1 One particular contractor on the framework who wasn't actually receiving tonnages through the first call-off has offered a voluntary reduction in their tendered rates. There is no obligation on them or any other contractor on the framework to offer reduced rates, however, the terms of the contract allow for voluntary reductions through a contract variation process.

3.1.2 If the Council were to proactively invite voluntary price reductions (but with no opportunity for price rises) it would effectively be a secondary call for competition which in turn could potentially help drive down prices. Those revised prices could then be used to establish the reallocation of tonnages for the second year call-off.

#### ***RPIx Indices Review***

3.1.1 The contract terms allow for a request to invoke a review of prices in line with the RPIx indices. This review is not automatically undertaken and contractors are required to formally request this within a given timeframe each year. This year only one contractor has requested a review and clearly those revised prices could potentially affect the reallocation of tonnages for the second year call-off.

## 3.2 **Price Review Impacts**

3.3 Any variation of the prices for each offering on the framework means that a review of tonnage allocations would be required and the original evaluation model would need to be re-run in order to determine the most cost effective and operationally viable allocation of tonnages.

3.4 With the recommendation put forward within this report we are not suggesting making a price reduction a mandatory requirement, however, it provides those contractors not currently attracting any tonnages currently to potentially win work with the Service and for contractors already attracting tonnages to increase their allocation for the second year call off.

3.5 Should the revised prices mean that the tonnage delivery model differs from the current one then the operational implications, re-routing and contractor lead in times will need to be considered.

## 3.6 **Variation of Contract**

3.6.2 Through closer working with Localities Teams in the Environmental Action Service, discussions have taken place regarding how our contract can contribute towards better efficiencies in terms of their waste collections and disposals. The opportunity to use Waste Management's contracting arrangements as an option for direct deliveries is considered to provide operational efficiencies. The evaluation of outlets for these additional material sources will be undertaken using the same methodology but separately to that of the Waste Management Service as logistical capabilities and vehicle types/sizes dictate that outlet need to be more local to where the collections take place.

3.6.3 The current terms of the contract allows for the delivery of similar waste streams within each Lot from different sources through a variation of the contract.

# 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**

4.2.2 An Equality Impact Assessment has been completed and it is 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 openness, transparency and fairness are adopted when dealing with contractors in formal contracting arrangements. This procurement was originally undertaken through a formal competitive exercise and the proposed reallocation of tonnages through this second year call off 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 and it is not considered that the recommendations are in contravention of anything within the contract terms and conditions.

4.3.2 The issues being discussed within this report and the call off 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 The proposals described within this report are aimed towards ensuring that the Council obtains the best price which is available at the time. Whilst there is no obligation on any provider to provide revised prices it is considered that they may see this as a new opportunity to win business.

4.4.2 In this process contractors will be advised that there is no opportunity to offer increased prices and the existing prices will be maintained as a minimum.

4.4.3 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 that value for money is obtained and this process will be repeated once we receive any new prices.

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

4.5.1 Officers from Legal and Democratic Services have been consulted leading up to this proposal and have agreed that, other than from any organisation who has offered price reductions without prompting, there is no right of challenge to this proposal because all the Council is doing is drawing their attention to the relevant variation clauses in the contract and an open and transparent process will be followed.

4.5.2 The decisions to allocate tonnages are open for inspection through the Delegated Decision Process having been included on the Council's Forward Plan of Key Decisions as is required by the Council constitution.

4.5.3 The Decision is not exempt from Call-in.

#### 4.6 **Risk Management**

4.6.1 If the recommendation to invite new prices and to vary the contract as described within this report is not approved then the Council will not realise any potential savings which may be available for dealing with a number of waste and recycle streams collected by the Council.

4.6.2 The proposal is also intended to improve logistical performance for the Localities and Parks & Countryside teams, and if the recommendation to vary this contract to include their requirements is not approved then the range of their formal contracted outlets will be restricted and their collections performance may be compromised.

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 Chief Officer for Waste Management.

## **5 CONCLUSIONS**

- 5.1 The allocation of tonnages for the waste streams detailed within this report ensures the Council complies with EU Public Procurement Regulations and the Council's own CPR's.
- 5.2 A reminder of the variation clauses will re-introduce competition which in turn should drive down prices and ensure that value for money is been achieved.

## **6 RECOMMENDATIONS**

- 6.1 The Director of Environment and Housing is recommended to note the content of this report and:
  - a) Approve the decision to proactively seek new revised downward prices through a voluntary variation process. The new prices will then be used to determine the allocation of tonnages for the second contract year with this outcome being shared with the Chief Officer and Director of Environment and Housing separately to this Delegated Decision Process.
  - b) Agree to varying the contract to allow Localities and Parks and Countryside teams to direct deliver wastes to the providers on the framework.

## **7 BACKGROUND DOCUMENTS<sup>1</sup>**

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

---

<sup>1</sup> 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.