

Report of: Business Officer (Waste Management Contracts)

Report to: Deputy Chief Officer Waste Management

Date: 1st March 2019

Subject: Waiver of Contract Procedure Rules (CPR) 8.1 and 8.2 to award a new contract to Storm Environmental Limited for the supply of bins for the Sweet Street development and approval to conduct a Mini Competition exercise from the Eastern Shires Purchasing Organisation (ESPO) Refuse and Recycling Products Framework for future supply.

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 type="checkbox"/> Yes	<input checked="" 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

Leeds City Council currently has no contract in place for the supply of steel wheeled bins. The Council only has a relatively small ongoing requirement for them as the standard provision is to supply plastic containers wherever possible. However, there is a significant development being constructed on Sweet Street in Leeds that due to the design of the bin store facilities requires steel bins instead of plastic.

Because of the lead in time for supply of the containers an order for the bins needs raising immediately. Deputy Chief Officer approval is needed to waive CPR 8.1 and 8.2 and award a compliant standalone order to Storm Environmental Limited for the supply of 76 1100lt bins to be used in the Sweet Street development. CPR 8.1 requires competition for procurements between £10K and £100K and CPR 8.2 requires at least three written tenders.

To ensure any future requirements are appropriately contracted this report also seeks approval to use the ESPO Refuse and Recycling Products Framework and conduct a LCC specific Mini Competition exercise from the ESPO framework to establish a preferred supplier for the containers going forward.

RECOMMENDATIONS

The Deputy Chief Officer for Waste Management is recommended to note the content of this report and approve:

- The waiver of CPR 8.1 and 8.2, using authority set out in CPR 1.3, to permit a direct award of an order for the bin supply in the Sweet Street development to be raised with Storm Environmental Limited.
- The use of the ESPO Refuse and Recycling Products Framework and to approve conducting a Mini Competition exercise from the ESPO framework to establish a formal contract with one of the suppliers on the ESPO framework for future requirements.

PURPOSE OF THIS REPORT

- 1.1 This report aims to outline an overall strategy for steel bins that satisfies the Deputy Chief Officer for Waste Management is the best procurement approach for the Council. It seeks approval to waive CPRs 8.1 and 8.2 to fulfil a short term requirement but also to gain approval to conduct a mini competition from the ESPO framework to ensure an appropriate contract is in place.

2 BACKGROUND INFORMATION

- 2.1 The standard container provision from LCC is plastic wheeled bins of a range of sizes that can be tailored to individual requirements of a site. Plastic containers are cheaper than steel and are robust enough for general day to day requirements.
- 2.2 On occasion steel bins are more appropriate to use than plastic. This can be for a variety of reasons for example if the risk of fire at a site is particularly high or if the location dictates something sturdier is required. In 17/18 ad hoc orders to Storm totalled 110 1100lt bins whereas orders for plastic communal bins were for 790 bins.
- 2.3 The specific future requirements for steel bins are unclear mainly as they are placed in response to specific scenarios rather than used as standard however it is anticipated LCC will always have some level of need.
- 2.4 Approval of Terms and Conditions are needed for the use of any third party framework and this has already been secured from LCC's Procurement and Commercial Services lawyers for the ESPO Refuse and Recycling Products Framework.

3 MAIN ISSUES

- 3.1 The housing development on Sweet Street in Leeds has been designed with underground bin stores that require bins to be towed up ramps to be presented for collection. The towing will be undertaken by staff on site but the bins that will be used need to be suitably durable to withstand the additional strain of the towing action.
- 3.2 Storm containers have been used in the past by LCC and have always been found to be a product of a good standard that is supported by an efficient customer services team. For this particular requirement Storm will supply non-standard reinforced containers with heavy duty towing castors, tow links and eyes. Appendix 1 provides details of the quote.

3.3 Although it is expected that other suppliers may be able to provide suitable products, so direct ordering under the ESPO framework would be an option, without the opportunity to put the bins through the physical testing element of an LCC evaluation the prices on their own don't provide enough information about the suitability of alternatives. Experience with using Storm containers however provides assurances that they are fit for purpose.

3.4 Physical testing has been used when procuring plastic containers previously and has helped identify sub-standard bins which have subsequently been removed from consideration. This testing will be a major component of the LCC mini competition exercise from the ESPO framework which will establish the preferred supplier going forward for steel bins. The ESPO framework has been selected for the range of suppliers, that includes Storm) available and the competitive published prices that will form the baseline for the LCC price evaluation. The call off will be designed to maximise competition within the structure of the ESPO arrangement with the added benefit of reflecting LCC priorities.

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 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

4.3.2 It is paramount that procurements in the authority are undertaken with a view to ensuring openness, transparency and fairness. This includes waivers and their function in respect to CPR compliance. All appropriate governance arrangements will be followed throughout the implementation of a waiver and this report forms part of that process.

4.3.3 The subsequent call off contract under the ESPO framework will be established through a formal competitive exercise and the award based on an evaluation which achieves a cost/quality balance offering best value to Leeds.

4.4 Resources and value for money

4.4.1 By implementing a waiver value for money is being delivered for LCC through ensuring both an appropriate short term solution and a robust longer term strategy that introduces market competition in the most appropriate way.

4.5 Legal Implications, Access to Information and Call In

4.5.1 As a Significant Operational Decision this Delegated Decision Report is not subject to Call-In but will be published on the register of decisions.

- 4.5.2 The financial value of the contract to Storm Environmental Limited is below the threshold for the application of the Public Contracts Regulations 2015. However, awarding a contract directly to Storm Environmental Limited could still leave the Council open to a potential claim from other providers, to whom this contract could be of interest that it has not been wholly transparent as the opportunity is not being advertised. This risk needs to be balanced with the requirement for a short term solution. The decision has also been taken in the context of this procurement being subject to a mini competition under the ESPO framework as part of a robust longer term strategy.
- 4.5.3 Although there is no overriding legal obstacle preventing the waiver of CPRs 8.1 and 8.2 using the authority set out in CPR 1.3, to award a direct contract to Storm Environmental Limited without seeking competition, the contents of this report should be noted. In making the final decision, the Deputy Chief Officer for Waste Management should be satisfied that course of action recommended represents best value for the Council.

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 A risk register has been developed and will continue to be maintained in terms of the ongoing management of both the waiver and the procurement. High risks or escalating risks will be brought to the attention of the Deputy Chief Officer for Waste Management.
- 4.6.2 There is a risk of challenge of the decision to award an order directly to Storm Environmental without seeking competition however this is mitigated by alternative suppliers being included in the procurement that will follow.
- 4.6.3 It is important that a reliable quality source for steel bins is secured and maintained in order to preserve the collections infrastructure that allows LCC to fulfil our statutory duty to collect waste from Leeds residents. The risk of not having appropriate arrangements has both an operational impact considering the front line collections service and a financial one in terms of spot pricing and lack of contract security.

5 CONCLUSIONS

- 5.1 The supply of bins is an important part of waste management infrastructure that needs to be properly managed to ensure effective and efficient services can be delivered. By waiving CPRs 8.1 and 8.2 a short term requirement can be met. Approval to then commence a procurement using an approved third party framework ensures all future requirements are appropriately contracted.

6 RECOMMENDATIONS

The Deputy Chief Officer for Waste Management is recommended to note the content of this report and approve:

- The waiver of CPR 8.1 and 8.2, using authority set out in CPR 1.3, to permit a direct award of an order for the bin supply in the Sweet Street development to be raised with Storm Environmental Limited.
- The use of the ESPO Refuse and Recycling Products Framework and to approve conducting a Mini Competition exercise from the ESPO framework to establish a formal contract with one of the suppliers on the ESPO framework for future requirements.

7 BACKGROUND DOCUMENTS¹

7.1 None.

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.