

Report of: Business Officer (Waste Management Contracts)

Report to: Deputy Chief Officer Waste Management

Date: 30 September 2019

Subject: Extension of the year 4 tonnage allocation Call-Off Contract with Biffa Waste Services under the Recycling and Composting Framework (9KBA – M62F2H) in accordance with Contracts Procedure Rules (CPRs) 21.1.

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

1. Main Issues

- The current Recycling and Composting Framework (9KBA – M26F2H) was awarded in 2015 and covers a range of materials (garden waste, residual waste, timber, inerts, and plasterboard) collected at the Household Waste Recycling Centres (HWRCs) and garden waste collected at the kerbside. It is an important contract for the Waste Management Service both in terms of tonnage but also in terms of scope.
- The Call-Off Contract under the above framework agreement included a 12 month extension option in the Call-Off Contract Terms and Conditions, and in February 2019, the 4th year Call Off under the framework (DN323246) was extended, however an extension was only requested for a 6 month period until 30 September 2019. At that point in time, an extension of 6 months was deemed sufficient to re-procure a new framework that covered all of the waste streams with the exception of garden waste.
- The garden waste composting market on a local level has been undergoing a period of change over the past 9 months and a decision was taken to re-procure garden waste in a stand-alone contract to allow the position to become clearer and to allow for further engagement with the market. In order for there to be adequate time now

for this re-procurement to be concluded, the remaining extension under the fourth year tonnage allocation needs to be utilised.

- Biffa Waste Services are the only garden waste contractor on the framework available to extend their contract as the other facilities under the 4th year tonnage allocation Call Off are no longer available to provide the service with effect from 1 December 2019 until the longer-term Dynamic Purchasing System (DPS) contract can be awarded. The additional tonnage that will be going to Biffa Waste Services in this period are detailed in Appendix 1.
- A separate arrangement will be put in place via a waiver report for the direct award of a short term contract with North Yorkshire County Council (NYCC) for October and November 2019. This will provide continuity of service to allow kerbside collections in the North West of the city to conclude for the year.
- Approval is needed from the Deputy Chief Officer for Waste Management for the additional extension provision to be actioned. The extension will be issued to Biffa Waste Services for a period of five months plus one month, to ensure consistency of service until the next DPS is established and a new garden waste contract is in place. This report seeks approval to utilise that extension.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- The appropriate contracting of key waste services supports the delivery of sustainable infrastructure under the Best Council Plan with the specific aim of reducing waste and increasing recycling.
- Utilising the existing extension and the associated procurement for a longer term solution also indirectly support a number of other priorities. Appropriate waste collection services help to avoid anti-social behaviour and environmental crime issues which allows safe, strong communities and friendly city priorities to be met.

3. Resource Implications

- Indicative costs for the five plus one month extension are included in Appendix 1. Because Biffa Waste Services are holding 2015 prices, the only additional cost comes from absorbing other contractors' tonnage allocation. Because Biffa's gate fees are broadly comparable and the additional tonnages are low because of the time of year, the additional costs of this proposal will be minimal.
- The completion of the procurement exercise and the subsequent contract management of the awarded contract will be undertaken by the Waste Management Contracts Team. The requirements of both the interim and longer term contract have been identified in the Waste Management procurement strategy.

RECOMMENDATIONS

The Deputy Chief Officer for Waste Management is recommended to note the content of this report and approve the issue of an extension notice to Biffa Waste Services under the Year 4 Call-Off (DN323246) from the Recycling and Composting framework (ref 9KBA-M62F2H) for a further period of five months plus one month from 1 October to 30 March 2020, in accordance with CPR 21.1.

PURPOSE OF THIS REPORT

- 1.1 The information as set out in this report seeks to provide the Deputy Chief Officer for Waste Management with sufficient information to be satisfied that granting an extension to the Year 4 tonnage allocation Call-Off contract (DN323246) with Biffa Waste Services is the most appropriate course of action for the City Council.

2 BACKGROUND INFORMATION

- 2.1 The Recycling and Composting framework was awarded in 2015 and included provision for annual Call Offs for the duration of the contract. The framework has now expired but a 6 month extension of the fourth year (2018/2019) Call Off was placed in April 2019. The Call-Off contract Terms and Conditions have scope for a total of 12 months' extension.
- 2.2 There has been satisfactory contract performance for the duration of the framework from Biffa Waste Services.

3 MAIN ISSUES

- 3.1 A procurement for a replacement Recycling and Composting Framework has been undertaken and will commence on 1st October 2019. Unlike the previous framework the new Household Waste Recycling Framework does not include garden waste. After changes in circumstances with garden waste providers at a local level, additional work was required to engage with the market and determine the best procurement route for the Council, so the decision was made to contract garden waste separately rather than delay the full framework.
- 3.2 The current year 4 Call Off extensions expire on 30th September 2019. At this point the Council would potentially be in a position of having no formal contract arrangements for garden waste.
- 3.3 A solution to provide continuity of service in the period between October 2019 and establishing the DPS, scheduled for March 2020, is to extend the current year 4 Call Off contracts which the Council have the ability to do under clause 6.9.1:

“Subject to satisfactory performance of its obligations under the Contract by the Contractor during the Initial Contract Period, the Customer may, by giving written notice to the Contractor prior to the last day of the Initial Contract Period, extend the contract for 12 months (such extension may not be taken up more than twice). The provisions of the Contract will apply throughout any such extension period”

- 3.4 The extension would not be a modification as it has already been provided for in the terms and conditions and as a result the security and service standards that are provided by the contract will simply be continued.
- 3.5 Biffa Waste Services are the only contractor available to extend their contract as the other garden waste facilities under the 4th year Call Off are not available for the period up to the scheduled start of the new DPS. Biffa Waste Services have the majority of the tonnage awarded under the framework and have agreed to accept tonnages allocated currently to other contractors as these other sites cease to be available. Because of the time of year these aren't material changes, details are included in Appendix 1.

3.6 Because of the time of year, garden waste tonnages will be steadily decreasing, and additional inputs don't therefore represent a significant change in either the tonnage allocation or the contract itself with Biffa Waste Services. Throughout the extension period Leeds City Council (LCC) will work alongside Biffa Waste Services to ensure compliance with planning and permit restrictions.

3.7 Indicative costs for the five month plus one month extension are included in Appendix 1. Because Biffa Waste Services are holding 2015 prices, the only additional cost comes from absorbing other contractors' tonnage allocation. Because Biffa's gate fees are broadly comparable and the additional tonnages are low because of the time of year, the additional costs of this proposal will be minimal.

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 the Best Council Plan

4.3.2 It is paramount that procurement activity in the authority is undertaken with a view to ensuring openness, transparency and fairness. All appropriate governance arrangements will be followed throughout the implementation of the extension and the procurement of the new garden waste DPS contract.

4.3.3 Utilising the extension provision available ensures key waste streams are appropriately contracted, which aligns with Council policies to manage waste effectively and minimise its impact on our environment.

4.3.4 The subsequent contract 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 Climate Emergency

4.4.5 This contract is needed to maintain the Waste Services provided by Leeds City Council. The emphasis in contracts of this kind is to maximise adherence to the waste hierarchy where re-use and recycling is selected as the preferred method for dealing with wastes ahead of other waste disposal or treatment technologies.

4.4.6 Ensuring continuity in the recycling of garden waste forms part of the Council's efforts to address the climate emergency situation which has been declared in Leeds, and contributes towards the Council's aspiration of becoming a carbon neutral city by 2030.

4.5 Resources, procurement and value for money

- 4.5.1 By implementing an extension, value for money is being delivered for LCC through ensuring both an appropriate short term solution which takes advantage of historical rates, and a robust longer-term strategy that introduces market competition in the most effective way. A market sounding exercise has recently been undertaken to inform the most appropriate longer term procurement route.

4.6 Legal Implications, access to information and call-in

- 4.6.1 As a Significant Operational Decision this Delegated Decision Report is not subject to Call-In but will be published on the register of decisions.
- 4.6.2 CPR 21.1 permits the extension of a contract where it is in accordance with the contract terms, is made before the expiry date of the contract and will deliver Best Value. Due to the matters set out in this report at sections 3 and 4.5 above it is considered that these requirements have been met.
- 4.6.3 Although there is no legal obstacle preventing the implementation of an extension, the contents of this report should be noted. In making the decision the Deputy Chief Officer for Waste Management should be satisfied that the course of action chosen represents best value for money to 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.

4.7 Risk Management

- 4.7.1 A risk register has been developed and will continue to be maintained in terms of the ongoing management of both the extension and the procurement exercise. High risks or escalating risks will be brought to the attention of the Deputy Chief Officer for Waste Management.

5 CONCLUSIONS

- 5.1 Garden waste collections are a key waste management function that need to be properly managed to ensure effective and efficient services can be delivered. By extending the current contract with an existing supplier appropriate short-term security can be put in place to allow a robust longer term DPS contract to be established.

6 RECOMMENDATIONS

- 7 The Deputy Chief Officer for Waste Management is recommended to note the content of this report and approve the issue of an extension notice to Biffa Waste Services under the Year 4 Call-Off (DN323246) from the Recycling and Composting framework (ref 9KBA-M62F2H) for a further period of five months plus one month from 1 October to 30 March 2020, in accordance with CPR 21.1

8 BACKGROUND DOCUMENTS¹

8.1 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.