



Report of: Business Officer (Waste Management Contracts)
Report to: Chief Officer Environmental Services
Date: 19th May 2020
Subject: Waiver of CPRs 9.1 and 9.2 to place orders for bin liners and steel bins with Cromwell Polythene Limited and Storm Environmental Limited respectively. Subsequent approval to then conduct Call Off exercises for the same products from ESPO Framework 860 - Refuse and Recycling Products.

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):		
Has consultation been carried out?	<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
Will the decision be open for call-in?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, access to information procedure rule number:		
Appendix number:		

Summary

1. Main issues

- The contract for the supply of bin liner products with Cromwell Polythene Limited expired at the end of December 2019. Orders were raised under this contract by Cleaner Neighbourhoods (CNT) before its expiry and as such they are still valid, however, new arrangements are needed urgently specifically for the refuse collection service.
- The process to find suitable products that are compatible with a broad range of Council collection operations/services has taken a long period of time and has required numerous trials of products and adjustments to stock items. There is a need to continue with these reliable fit for purpose products whilst further trials of alternative suppliers products can be conducted and furthermore to allow a procurement to be undertaken to introduce competition between those suppliers. To continue to place orders with Cromwell polythene a waiver of CPRs 9.1 and 9.2 is required.
- Similarly with steel wheeled bins, there are no formal contractual arrangements in place for their supply for which the Council have a small but ongoing requirement. The current supplier which is being utilised, Storm Environmental Limited, have worked with the Council over a considerable period of time to establish specific bespoke solutions in an area that has been problematic in the past. A procurement is needed to establish who else can meet the Council's requirements and introduce

competition to that market, a waiver will allow orders to continue to be raised whilst that happens.

- Whilst orders are in place with the existing suppliers during this interim period, a new formal procurement is proposed to introduce competition as a longer-term solution. That procurement will be in the form of Call Off exercises from the existing Eastern Shires Purchasing Organisation (ESPO) Framework 860 - Refuse and Recycling Products, which has been reviewed by PACS Legal and will cover bin liners and steel wheeled bins. Existing orders that have been raised before contract expiry run until the end March 2021 and although the new procurement is expected to be concluded before that date it may be subject to delays as a result of the Coronavirus pandemic so the waiver will ensure appropriate arrangements are in place until the new financial year.

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

- The appropriate contracting of both steel wheeled bin and refuse liner supply arrangements supports the delivery of sustainable infrastructure under the Best Council Plan with the specific aim of reducing waste and increasing recycling.
- Utilising a waiver to continue with reliable products and the existing suppliers alongside a procurement for a longer term solution designed to ensure quality of both products supports 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

- The indicative value of this proposed waiver are included in Appendix A. Both of the existing suppliers are holding existing prices so there is no additional budgetary pressure from continuing to order with them.
- The completion of the Call Off from ESPO for both steel wheeled bins and liner products will be undertaken by the Waste Management Contracts Team and has been identified in the Waste Management procurement strategy.
- Orders from the existing liners contract are in place for the Cleaner Neighbourhoods Team for 2020 so the waiver only applies to the refuse collection service.

Recommendations

- a) The Chief Officer for Environmental Services is recommended to approve the waiver of CPR 9.1 and 9.2 to allow ordering with Cromwell Polythene Limited and Storm Environmental Limited for a period of 13 months from 1st March 2020 to 31st March 2021 at a total value of approximately £142K to ensure adequate supplies for the service.
- b) The Chief Officer for Environmental Services is also recommended to approve the commencement of a formal procurement exercise in the form of a call off from the ESPO Framework 860 for the supply of refuse liners and steel wheeled bins.

1. Purpose of this report

- 1.1 The proposed approach set out in this report seeks to ensure compliance in respect of waiving CPRs. The information as set out in this report also seeks to provide the

Chief Officer for Environmental Services with sufficient information to be satisfied the approach being taken is the most appropriate course of action for the Council in the circumstances.

2. Background information

- 2.1 The Council have used Cromwell Polythene since 2017 and as a supplier they have worked well with all the individual teams who have a liner requirement across the organisation. They have dedicated a lot of time during the course of the contract to understanding the differences between Council users and their individual product requirements.
- 2.2 On numerous occasions Cromwell Polythene have passed on savings to the Council that have arisen further up the supply chain that they were under no obligation to share. Cromwell can continue to supply existing products on existing prices.
- 2.3 A project is currently underway with Cromwell Polythene to investigate low carbon and high recycled plastic products as alternative options in response to Council's agenda to reduce single use plastic. This may result in further changes to the Council's liner requirements.
- 2.4 Storm Environmental have supplied steel bins for the past 5 years on the back of unsatisfactory quality standards of their competitors. This supply has covered standard replacement ordering but also sporadic large orders for specific housing developments with bespoke requirements.

3. Main issues

3.1 Reason for Contracts Procedure Rules Waiver

The implementation of a waiver allows the continuation of ordering from Cromwell Polythene and Storm Environmental for reliable products that have been proven to be suitable for the Council's requirements.

The subsequent call offs will establish which of the other suppliers, if any, on the ESPO framework can meet the Council's requirements in terms of quality and the supply of a suitable range of products, and then introduce competition in the most appropriate way. In the meantime the waiver allows front line services to continue to be delivered without disruption.

Call offs are being used rather than direct ordering as quality wasn't included in the Standard ESPO evaluation methodology, and experience has taught us that the quality aspect of the evaluation is very important for assessing compatibility with Council infrastructure e.g. litter bins for liners and bin lifting equipment for steel bins.

3.2 Consequences if the proposed action is not approved

If the implementation of a waiver is not approved the Council would have a choice between continuing with existing suppliers without the protection of a formal arrangement or direct ordering from the cheapest supplier on a suitable framework but receiving products that will cause operational issues for frontline services.

If the decision to use the waiver period to conduct call offs from the ESPO framework for refuse liners and steel wheeled bins is not approved the Council will have to choose between operating without the protection of a formal arrangement and using products for which the quality and compatibility with Council services are untested.

3.3 Advertising

No advertising for the implementation of the waiver has been undertaken. The Call Off contracts will be advertised in accordance with CPRs and the further competition requirements of ESPO framework 860.

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

4.3.1 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 waiver and also the procurement of the new contracts to be awarded through a Call Off from ESPO Framework 860.

4.3.2 The approach detailed in this report ensures products for delivering waste services are appropriately contracted, which aligns with Council policies to manage waste effectively and minimise its impact on our environment.

Climate Emergency

4.3.3 Formal contracting arrangements are needed to maintain the waste services provided by Leeds City Council. Ensuring continuity in the delivery of high quality sustainable waste services 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.

4.4 Resources, procurement and value for money

4.4.1 By implementing a waiver in order to conduct procurements for call off contracts, value for money is being delivered for the Council through ensuring both an appropriate short term solution and a robust longer-term strategy that introduces market competition in the most effective 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 value of the ordering detailed in this report is below the threshold for the application of Public Contracts Regulations 2015 for the procurement of public services contracts and therefore is not subject to the full EU procurement rules. However, the Council's Contracts Procedure Rules 9.1 and 9.2 require competition for procurements valued over £100K and the invitation of at least four written tenders. A waiver of these Contracts Procedure Rules is required to continue to order from Cromwell Polythene and Storm Environmental for a period of 13 months.
- 4.5.3 Although there is no legal obstacle preventing the implementation of a waiver, the contents of this report should be noted. In making the decision the Chief Officer for Environmental Services should be satisfied that the course of action chosen represents best value for money to the Council.
- 4.5.4 **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.**
- 4.5.5 **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 interim arrangements and the longer term procurement exercise. High risks or escalating risks will be brought to the attention of the Chief Officer for Environmental Services.
- 4.6.2 There is always a risk of challenge when awarding contracts through a waiver, however, in this case it has been deemed to be a low risk because of the opportunity for the counterparts of Cromwell Polythene and Storm Environmental to compete for business under the new call off contracts on the ESPO Framework.

5. Conclusions

- 5.1 The supply of refuse liners and steel wheeled 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 the Council. By waiving CPRs 9.1 and 9.2 appropriate short term arrangements can be put in place to allow a robust longer term strategy that focuses on quality products to be implemented.

6. Recommendations

7. The Chief Officer for Environmental Services is recommended to approve the waiver of CPR 9.1 and 9.2 to allow ordering with Cromwell Polythene Limited and

Storm Environmental Limited for a period of 13 months from 1st March 2020 to 31st March 2021 at a total value of approximately £142K to ensure adequate supplies for the service

8. The Chief Officer for Environmental Services is also recommended to approve the commencement of a formal procurement exercises in the form of a call off from the ESPO Framework 860 for the supply of refuse liners and steel wheeled bins.

9. Background documents¹

- 9.1 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.

What is your reason for waiving CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process e.g. to deal with the consequences of extreme weather.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Other (please provide summary here)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No