

Waiver of Contracts Procedure Rules (CPR) No 9.1 and 9.2, Competition for High Value for Procurements, to award Alfred H Knight Energy Services Ltd. a compositional analysis contract.

Date: 16th March 2023

Report of: Business Officer (Waste Management Contracts)

Report to: Chief Officer for Environmental Services

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- Alfred H Knight Energy Services Ltd undertook compositional analysis of the Leeds City Council residual and dry mixed recycling kerbside bins in 2022. This was a repeat of work they had completed in 2015.
- The supplier was found to be professional and efficient during projects, working well in partnership with the Council.
- Further composition analysis work is needed on an ongoing basis to inform future decisions about LCC waste services as a result of the Government's Resources and Waste Strategy.
- For consistency and accurate comparison of information the analysis needs to be repeated exactly, the most efficient way of achieving this is by using the same contractor.
- To appoint a contract directly to Alfred H Knight Energy Services Ltd. a waiver of the Council's Contracts Procedure Rules (CPRs) 9.1 and 9.2 is necessary.

Recommendations

- a) The Chief Officer for Environmental Services is recommended to note the content of this report and using authority under CPR 1.3 and CPR 27 waive CPRs 9.1 and 9.2 requiring competition for high value procurements, allowing the appointment of a compositional analysis contract to Alfred H Knight Energy Services Ltd. The contract will commence on 1st April 2023 and will run until 31st December 2027. The contract has an estimated total value of £114K.

What is this report about?

- 1 There is a need in Environmental Services for waste compositional analysis to be undertaken to inform the development of options to meet new kerbside service requirements as set out in the Government's Resources and Waste Strategy, particularly around food and glass collections. Compositional analysis has been used on an ad hoc basis in the past and proved to provide valuable information about the residual and mixed recycling kerbside bins in Leeds.
- 2 Because of the scale of change that is affecting Local Authority Waste Management Services a more structured approach to analysis is needed. This will take the form of a series of annual compositional analysis projects over the course of 5 years, supplemented by 2 additional specific projects in areas of Leeds that will be part of a kerbside glass trial.
- 3 The projects require the sampling and compositional analysis of waste, data entry and report of results including a calculation of material fraction bulk density.
- 4 Alfred H Knight Group have worked with the Council on previous compositional analysis projects and this experience puts them in a unique position to continue the work and be able to deliver true consistency and reliable data comparison.
- 5 In order to commission Alfred H Knight Group the Chief Officer for Environmental Services needs to approve the waiver of CPRs 9.1 and 9.2 using authority under CPR 1.3 and CPR 27. The purpose of this report is to brief the relevant decision maker on the waiver that has been recommended so that they may be satisfied it represents the best course of action for the Council.

What impact will this proposal have?

- 6 The proposal will provide crucial information about residual and recycling waste in the Leeds area which will allow informed decisions for the Waste Strategy for Leeds and associated future operational services.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 7 With climate change at the forefront of the issues the Council is currently engaged in, and the Waste Strategy as a subset of the overarching climate change strategy, there is a need for work to understand where the greatest climate related gains can be made in order to help prioritise the Council's action planning on waste. Since local authorities have more control over waste management activities than they do over some other sectors responsible for climate change emissions, a focus on waste can have more immediate and significant impact. To enable any carbon impact analysis on waste management, an accurate, reliable and recent compositional analysis is crucial.
- 8 This contract is needed to provide information to maintain appropriate and efficient frontline services provided by the Council's Waste Management Teams. The emphasis in contracts of this kind is to provide data that allows the Council to monitor, maintain and improve maximum 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, which in turn will improve the Council's carbon impact.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 9 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 the only consultation to date has been with the Chief Officer for Environmental Services. The information delivered by the contractor through the life of the arrangement will be used in a variety of consultation scenarios.

What are the resource implications?

- 10 The compositional analysis project work will be funded through monies identified for the waste strategy. The information arising from the contract is crucial in delivering the wider waste management strategy and ensuring Council resources are effectively deployed.
- 11 The completion of the waiver and the subsequent contract management of awarded contracts will be undertaken by the Environmental Services Contracts Team. The requirements of which have been identified in the Environmental Services procurement strategy.
- 12 The contract represents value for money for the Council as it ensures the work is being done in the most efficient way possible. This contract also delivers value for money through limiting procurement and contract management resource.

What are the key risks and how are they being managed?

- 13 A risk register has been developed and will continue to be maintained throughout the life of the contract. High or escalating risks will be brought to the attention of the Chief Officer Environmental Services.
- 14 The main risk for the contract is that the planned future projects won't be needed, or budgets won't allow them to be undertaken. This has been mitigated through appropriate future proofing in the Terms and Conditions which include a Break Clause mechanism that allows the Council to end the contract upon 3 months' prior notice when necessary.

What are the legal implications?

- 15 The waiving of any CPR is a Significant Operational Decision as a minimum and a report is required to meet the Council's obligations of transparency, openness and to show that the matter referred for consideration properly falls within CPRs. As a Significant Operational Decision this Delegated Decision Report is not subject to Call-In but will be published on the register of decisions. This report does not contain any exempt or confidential information under the Access to Information rules detailed in the Council's constitution.
- 16 Officers from Procurement and Commercial Services have been consulted and have ensured the Terms and Conditions being used are fit for purpose, including making amendments to protect the Council.
- 17 The value of the direct award detailed within this report is below the threshold for the application of the Public Contracts Regulations 2015 for the procurement of public services

contracts and therefore it is not subject to the full procurement rules. However, the Council's CPRs 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 CPRs is required to award a contract direct to Alfred H Knight Energy Services Ltd. Awarding a contract direct to the supplier without competition could 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. In terms of transparency, it should be noted that case law suggests that contracting authorities should always consider whether contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices etc.) and the geographical location of the place of performance. The decision maker has considered this and, due to the nature of the services being delivered, and the relatively low value and geographical location, is of the view that the scope and nature of the services is such that it would not be of interest to other contractors if the opportunity was published. In awarding the contract to Alfred H Knight Energy Services Ltd without competition, there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity, although this risk is considered low due to the reasons set out in this report. Although there is no overriding legal obstacle preventing the waiver of CPRs 9.1 and 9.2, in making their final decision, the decision maker should be aware of the risks of challenge to the Council identified above and be satisfied that on balance, the course of action chosen represents Best Value for the Council.

Options, timescales and measuring success

What other options were considered?

- 18 The alternative to not commissioning the compositional analysis work is to make future service decisions without the information it provides, this approach has an increased chance of errors being made in the delivery of services, and will not allow the Council to make any accurate carbon assumptions for the service. Because of the scale and value of decisions for Waste Management mistakes are very visible and costly to the Council.
- 19 The compositional analysis could also be opened up to the market through a competitive tender. This would be resource intensive both in terms of the procurement but also in ensuring a new supplier delivered consistency. The approach recommended offers better value for the Council.

How will success be measured?

- 20 Success will be measured through the contract management of the outputs produced by the supplier. Officers will be ensuring sampling and analysis is efficient and effective and the information provided is of a high quality on which informed decisions can be made.

What is the timetable and who will be responsible for implementation?

- 21 The contract will commence on 1st April 2023 and will run until 31st December 2027.

Appendices

- Appendix 1

Background papers

- None