

Contract Awards following the second Further Competition Exercise (67759) of the Garden and Food Waste DPS (Dynamic Purchasing System) (DN455903).

Date: 8th June 2023

Report of: Waste Management Business Officer (Contracts)

Report to: Chief Officer Environmental Services

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- A 12-year Dynamic Purchasing System (DPS) for the recycling of garden and food waste was established in 2020. The Call Off contracts within the DPS end on 30th April 2023 and need to be replaced.
- The DPS provides protection for the Council through security of contracted services and flexibility in robust change mechanisms.
- A procurement exercise has been undertaken for the new contracts, according to the agreed DPS procedure, and a recommendation to award is being made based on the outcome of the process.
- The contracts will run from 1st May 2023 until 30th April 2029.

Recommendations

- a) The Chief Officer for Environmental Services is recommended to note the content of this report and approve the appointment of the following tenderers as suppliers under the second further competition exercise (1st May 2023 to 30th April 2029) of the Garden and Food Waste Recycling DPS. Estimated value of the contracts is £7.5m. A detailed breakdown of the tonnage allocation and annual value of the contracts for each supplier is contained within the confidential Appendix 1 attached.

Lot N°	Lot Description	Contractors Appointed	Sites Proposed
1	Garden Waste	Biffa Waste Services Ltd	Skelton Grange, Newsam Green
		Biowise Limited (T/A Wastewise)	Esholt Waste Water Treatment Works

2	Garden and Food Waste comingled	Lot not awarded – service not currently delivered
3	Food Waste	Lot not awarded – service not currently delivered

What is this report about?

- 1 A DPS for garden and food waste recycling was established in February 2020. The DPS is for material arising in both the Leeds City Council (LCC) area and that of Bradford Metropolitan District Council (BMDC). LCC is the lead authority for this DPS with both LCC and BMDC as the participating authorities. This allows each authority to award separate contracts taking account of specific service requirements.
- 2 A DPS works by effectively creating a list of prequalified organisations who have successfully passed questions contained within a selection questionnaire (SSQ). The organisations are then invited to bid for specific contracts under a further call for competition exercise which incorporates a service specific evaluation. Suppliers are not obliged to bid. Tenders appointed to the DPS were invited to tender on 02 March 2023 with a deadline of 31 March 2023. An outline of the procurement process and the evaluation undertaken is contained within Appendix 1 with the outcome summarised in the report recommendation.
- 3 The DPS is split into three Lots: Lot 1 garden waste only, Lot 2 food and garden waste combined and Lot 3 food waste only. The initial further competition exercise established contracts for a period of three years, from 1st May 2020 to 30th April 2023. A second further competition exercise has been undertaken in order to replace these expiring contracts.
- 4 A previous decision (D55985) detailed the evaluation methodology to be adopted and secured approval to award contracts to those suppliers who were successful in the tender process. This report advises the Chief Officer for Environmental Services of the outcome of the evaluation and recommends the award of LCC contracts for Lot 1 – Garden Waste to Biffa Waste Services Ltd and Biowise Limited (T/A Wastewise). BMDC will be awarding their own contracts in accordance with their governance processes.
- 5 Lots 2 and 3 are not being awarded at this time as services for these materials are not currently offered by LCC. The suppliers for these lots have received a letter outlining the need for the Council and the market to continue to engage with each other as more information is released from Central Government.
- 6 Contract Procedure Rule (CPR) 18.6 requires that a decision to award is made by the relevant Officer through the delegated decision process. The decision should outline why any tenderers were disqualified and the reasoning for the selection of the contractors. This information is included in Appendix 1.

What impact will this proposal have?

- 7 The proposal allows essential frontline services to be maintained across the city through appropriately contracted arrangements that offer security for the Council.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 8 The contracts discussed in this report treat key waste streams arising at both the kerbside and HWRC's. The emphasis in procurements of this kind, and for these waste streams, is to maximise adherence to the waste hierarchy where re-use and recycling is selected as the preferred method for dealing with these wastes ahead of other waste disposal or treatment technologies.
- 9 The evaluation criteria used in the further competition exercise requires contractors to show consideration for the carbon impacts of their own operations and challenges them to make improvements to their impact over the life of the contract.
- 10 This demonstrates efforts made to combat 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.

What consultation and engagement has taken place?

Wards affected: All

Have ward members been consulted?

Yes

No

- 11 It is not considered that the content of this report or the recommendations made will have a significant impact on a particular ward or community, and as such the only consultation to date has been with internal stakeholders.

What are the resource implications?

- 12 Awarding these contracts creates a budget pressure for 2023/24 of £174K, this figure can be offset by the performance and generation of income from other contracts in the Waste Management portfolio. The services under the DPS will be appropriately budgeted for over the remainder of the Call Off period.
- 13 The Finance Business partner for Waste Management will be kept up to date with supplier information that may influence price for the contract duration and will be able to advise the wider resource strategy accordingly.
- 14 The contract management of the awarded contracts will be undertaken by the Waste Management Contracts Team, the requirements of this have been identified in the Waste Management Procurement Strategy.

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

- 15 If the recommendation to award as described within this report is not approved, then the Council will risk being in a position where no formal contractual arrangements are in place for dealing with a key waste stream collected by the Councils.
- 16 Throughout the procurement a risk register has been developed and those risks have been adequately managed. The risk register will continue to be maintained until the conclusion of the procurement but also in terms of the ongoing management of the contract once awarded. Any high risks or escalating risks will be brought to the attention of the Chief Officer for Environmental Services.
- 17 It is imperative that secure outlets are available for materials collected by the Council. The risk of not having those outlets in place is that any available capacity may be taken up by other

organisations and/or prices and terms may be varied at short notice and without the consideration of the Council as a client.

- 18 Conclusion of this procurement will provide legally binding call-off contracts with the organisations from the DPS and the terms of those call-off contracts will protect the Council against adverse performance issues, site availability issues, health and safety concerns as well as protecting the rates agreed.

What are the legal implications?

- 19 Officers from Procurement and Commercial Services have been consulted throughout this tendering exercise and as such all legislative requirements surrounding EU Public Procurements have been adhered to. The DPS was advertised in the Official Journal of the European Union (OJEU) and a subsequent **Corrigendum notice published on Find a Tender Service** as is required of a DPS of this value and an open and transparent process has been followed.
- 20 The decision to award contracts under the further call for competition is made in compliance with the Delegated Decision Process. This is a Significant Operational Decision as a direct consequence of a key decision taken on 6 February 2023 D55985 and is therefore not subject to call-in. A standstill period has been observed without any issues being raised.
- 21 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.**
- 22 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.**

Options, timescales and measuring success

What other options were considered?

- 23 The alternative contracting options considered for these waste streams mainly focused on different timeframes for the Call Off contracts. The decision to let contracts for 6 years was based on taking the contracts beyond service changes that will be needed as a result of new legislation, shorter contracts would not be able to deliver this so would need to be replaced in potentially turbulent markets. Because the DPS has robust mechanisms for change it was considered a more favourable approach.

How will success be measured?

- 24 Success will be measured through a lack of disruption for the provision of key services and through the budget pressure for this area being minimised.

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

- 25 The contract will run from 1st May 2023 until 30th April 2029 with no options to extend.

Appendices

- Garden and Food Award 2023 Confidential APPENDIX 1.

Background papers

- [Council and democracy \(leeds.gov.uk\)](https://leeds.gov.uk)