

CABINET – 18 December 2012

OXFORDSHIRE RESIDUAL MUNICIPAL WASTE BULKING AND HAULAGE PROCUREMENT – CONTRACT AWARD

Report by Director for Environment and Economy

Introduction

1. Members are asked to consider the proposed award of a contract(s) to provide bulking and haulage services for residual municipal waste. The purpose of the report is to explain the outcome of the evaluation of tenders submitted and seek authorisation to award a contract(s). This item was considered by Cabinet on 27 November 2012 and deferred for further clarification.
2. Oxfordshire County Council as a Waste Disposal Authority (WDA) has a responsibility to dispose of residual waste collected by the Waste Collection Authorities (WCAs) and residual waste delivered to Household Waste Recycling Centres (HWRCs). The Council currently manages approximately 300,000 tonnes of municipal waste per year.
3. In March 2011 the Council entered into a long term contract for the treatment of residual municipal waste with Viridor Oxfordshire Ltd (Viridor) who are constructing an energy from waste (EfW) facility at Ardley in north Oxfordshire. Under the terms of the contract all residual municipal waste that is processable must be delivered for treatment at the EfW facility once it is operational which is currently estimated to be in autumn 2014.
4. The main purpose of the proposed contract(s) is to secure a bulking and haulage service for residual municipal waste from the districts of South Oxfordshire, Vale of White Horse (VOWH), West Oxfordshire and the northern part of Cherwell to ensure that waste can be delivered to the EfW facility efficiently from those parts of the county that are furthest away from Ardley. Waste from Oxford and the southern part of Cherwell district will be delivered directly to the EfW without bulking. The proposed contract(s) will enable the Council to meet a key requirement of the residual waste treatment contract.
5. The proposed contract(s) allow for the bulking and haulage of municipal food waste collected by the WCAs for delivery to processing facilities in Oxfordshire operated by the council's food waste treatment contractor. In addition, bulking and haulage services have been sought for small quantities of clinical waste that WCAs collect from residents.
6. This procurement has also provided an opportunity to seek offers for bulking and haulage of a range of other materials commonly managed by WCAs e.g. carpets, mattresses, furniture, tyres, gas bottles, paint and others. The

Council may wish to work with the WCAs and contractors to help manage these materials over the course of the contract.

Exempt Information

7. This report contains information in Annex 1 that relates to a competitive procurement process and is commercially sensitive. The public should therefore be excluded during consideration of the Annex because their discussion in public would be likely to lead to the disclosure to members of the public present of information in the following categories prescribed by Part 1 of Schedule 12A to the Local Government Act 1972 (as amended): paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information). Since it is considered that, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, in that disclosure would distort the proper process of the transaction and the Council's standing generally in relation to such transactions in future, to the detriment of the Council's ability properly to discharge its fiduciary and other duties as a public authority.

Procurement process

8. The procurement process was undertaken by a project team of experienced Council waste management, legal, financial and procurement colleagues and WCA waste management officers. The project was managed by the Waste Project Manager following corporate project management guidance and procedures. As a key dependency for implementation of the residual waste treatment contract the procurement was overseen by the Waste Treatment Board which is responsible for residual waste treatment.
9. The procurement process was designed and carried out in accordance with the Council's Contract Procedure Rules and has followed the EU restricted procedure tendering process. It was conducted electronically using the South East Business Portal which provided an efficient, secure and auditable method of issuing documents, making submissions and seeking clarification of documents.
10. The contract was advertised in the Official Journal of the European Union (OJEU) on 9 March 2012 in four geographical lots;
 - Lot 1 – the northern part of Cherwell
 - Lot 2 – South Oxfordshire
 - Lot 3 – Vale of White Horse
 - Lot 4 – West Oxfordshire.
11. Four companies submitted pre-qualification questionnaires (PQQs) and successfully qualified. The Invitation to Tender (ITT) was issued on 22 May 2012. One company was then bought by another waste management company, and although the new company was given the opportunity to re-qualify and participate in the process it withdrew. Tenders were received from the remaining three companies on the submission deadline of 20 July 2012.

12. Tenderers were required to submit a standard bid that complied with the contract terms and conditions for each lot they wished to bid for. Up to two variant bids were also allowed, for example for different contract durations or combined lots.
13. The terms of the contract do not specify the location for waste transfer stations or whether these should be existing or new, and require the contractor(s) to finance, build and provide the infrastructure they require. It will be the contractor's responsibility and risk to gain planning consent and an environmental permit. Any planning applications required will be submitted to the Council as planning authority and determined by the Planning and Regulation Committee.
14. The standard contract duration is 15 years. The Council has the option to extend by any period of time up to 10 years. A minimum tonnage of 5,000 tonnes per annum for lots 2, 3 and 4 is offered in order to give market confidence for any investment required. The amount is less than half the current annual tonnage per district and the risk of not being able to deliver this amount is considered to be extremely low. This has not been included for lot 1 as the tonnage of waste is for only part of the district and is relatively small, and it is expected that Cherwell District Council will deliver most of its waste directly to the Ardley EfW facility. Therefore the Council has no minimum tonnage liability for Cherwell.
15. The requirements for onward haulage from waste transfer stations include compliance with the delivery procedures at the final destinations and any HGV routeing agreements. This includes a requirement to comply with the HGV routeing agreement for the Ardley EfW facility.

Consultation and stakeholder involvement

16. All the WCAs have been represented on the project team and they have provided information for and been consulted on the procurement strategy, specification, and the evaluation criteria and weightings. This has ensured that WCA requirements and costs have been taken into account.
17. Progress on the procurement process has been regularly reported to WCA partners through the Oxfordshire Waste Partnership. The proposed contract(s) will support implementation of Policy 9 of the Oxfordshire Joint Municipal Waste Management Strategy which seeks to recover value from residual waste.

Evaluation of tenders

Submitted tenders

18. Each of the three bidders has submitted a compliant tender and two variant bids. A high level summary of the bids received per lot is set out in Table 1. The compliant tenders included bids for all four geographical lots, although no

tenderer bid for all lots. The variant bids included combinations of lots in which one waste transfer station (WTS) would serve two district areas, variations to contract duration, and various amendments to terms and conditions.

Table 1 Summary of tenders

	Compliant bids				Variant bids	
	Lot1 North of Cherwell	Lot 2 South	Lot 3 VOWH	Lot 4 West	Variant 1	Variant 2
Tenderer 1		✓	✓	✓	✓	✓
Tenderer 2	✓	✓	✓		✓	✓
Tenderer 3				✓	✓	✓

Evaluation criteria and process

19. The evaluation criteria and weightings used to evaluate the tenders are set out in Table 2. The overall weighting of the scores was split 60% price and 40% technical and operational aspects, as agreed by the Waste Treatment Board in January 2012.

Table 2 Evaluation criteria, sub-criteria and weightings

Level 1 criteria	Weighting	Level 2 criteria	Weighting	Level 3 criteria	Weighting
Price	60%				
Technical & Operational	40%	Operations	32%		
				Site Operations	8%
				Travelling Distances	12%
				Haulage	8%
				Health & Safety	4%
		Organisation	8%		
				Recording & reporting	4%
		Staff	4%		
		Compliance with conditions of contract (standard bid)	PASS/FAIL		

20. The financial evaluation was based on submitted tender prices and assessed the annual cost of residual waste bulking and haulage based on indicative tonnages for 2011/12 as provided in the ITT. The Council also took into account the impact of any additional costs to the Council implied by a tender, and included the cost of excess mileage payments to WCAs where the WTS

would be located outside the district area to be served. Prices for food, clinical and other wastes were not included in the financial evaluation because they are opt in services that may not be taken up.

21. Within the technical and operational criteria, significant weight was given to travelling distances. The locations of waste transfer stations have both practical and cost implications for the WCAs in how waste collection rounds are organised. In effect this enabled the procurement to take into account the cost to the Oxfordshire tax payer as a whole.
22. For Lot 2 South Oxfordshire and Lot 3 VOWH tenders were received for both individual lots and bids that combined both lots. To enable a proper comparison of pairs of tenders for individual lots with combined tenders, all the possible combinations of lots 2 and 3 have been evaluated.

Evaluation outcome

23. The evaluation scores are summarised in Annex 1. Contract award will be based on the most economically advantageous solution to the council tax payer overall, taking into account the technical and operational evaluation criteria as set out in Table 2.
24. All the tenderers confirmed acceptance of the conditions of contract for their compliant tenders and therefore passed this pass/fail criterion.
25. The technical evaluation (40% weighting) has demonstrated that all the tenderers have offered solutions for residual municipal waste bulking and haulage that are capable of providing the specified service to the required standard and time. The written consent of the Council will be required to sub-contract any part of the service. Where a tenderer has proposed to sub-contract the haulage element of the service, the project team are satisfied that proposed sub-contractors will provide a satisfactory service as specified in the ITT.
26. The most significant area of difference between the tenders in technical terms relates to the travel distances for the WCAs delivering to the proposed waste transfer stations. Tenders that offered delivery points within the district to be served scored higher on this criterion and this has had an impact on the outcome. For the other technical criteria the differences between scores were less varied.
27. In terms of the financial evaluation (60% weighting) there were significant variations in price which produced a wide range of scores. Generally variant bids for combined lots or longer contract durations offered lower prices and scored higher. Additional costs were applied where delivery points for waste transfer were proposed in locations beyond five miles of the boundary of the district to be served and would therefore trigger excess mileage payments.
28. The evaluation results indicate that for each lot the following tenderers have achieved the highest scores.

- a) Lot 1, northern part of Cherwell – Tenderer 2, variant 2. Although only one tenderer submitted bids for this lot, comparison of the price per tonne submitted with the other tendered prices demonstrates that the price is competitive. This lot has no minimum tonnage enabling a flexible approach.
 - b) Lot 2 South Oxfordshire and Lot 3 VOWH – Tenderer 1, variant 2 is the highest scoring solution and most economically advantageous overall. This scored well in the financial evaluation and in relation to travel distances.
 - c) Lot 4 West Oxfordshire – the compliant bid submitted by Tenderer 1 has scored the highest for Lot 4 and scored well in the financial evaluation.
29. The highest scoring bids for lot 1 and lots 2 and 3 combined are for 25 year contract durations. A long contract term offers the Council security in three ways. Firstly, the contract duration would match the service period for the EfW contract, and maintaining a long term arrangement with a bulking and haulage contractor will reduce risk in terms of the Council's obligations to meet the delivery requirements at the EfW facility. Secondly, indexation of the contract price at RPIX would provide protection from the risk of fuel price inflation increasing above RPIX if the contract is re-tendered after 15 years. Thirdly, there is no change in law risk for the Council for a 25 year contract duration, whereas for a 15 year duration there would be some risk in any extended term.
30. A minimum tonnage of 5,000 tonnes per year has been offered for both lots 2 and 3. As the amount is less than half the current tonnage for each district the project team considers this is a low risk even over 25 years. Therefore, in light of the potential benefits described above it is considered that 25 year contracts for lots 1, 2 and 3 should be awarded.

Bulking and haulage of food and other wastes

31. The tenderers have all offered to provide food waste bulking and haulage and have provided prices for this and the other wastes. These are opt in services that can be taken up and paid for by the WCAs from the successful contractors if they choose to do so. The WCAs can decide to take up any of these services when the residual waste bulking and haulage service starts or at any time after.

Financial and Staff Implications

32. The affordability assessment for the residual waste treatment procurement included the costs the Council would incur for the transfer and haulage of residual waste to the Ardley EfW facility. The costs of the highest scoring tender submissions fall well within the value for money benchmark estimate, demonstrating that the tenders offered are both affordable and represent value for money.

33. Payment for the residual waste bulking and haulage service will only be made once the service has started in 2014, when the Council will pay a rate per tonne for waste delivered to the waste transfer stations and transported to the Ardley EfW facility. Payment for the service from 2014 is already built into the medium term financial plan, as part of the budget process for residual waste treatment.
34. The bulking and haulage of municipal food, clinical and other wastes will be paid for by the WCAs on a rate per tonne basis and as a cost pass-through if they choose to take up these services. There are no minimum tonnages for these waste streams which ensures flexibility in the offer to the WCAs.
35. The contract will be implemented and managed utilising existing staff resources. The project team including legal services consider that there will be no implications under TUPE. The process of preparing for a smooth transition from landfill to delivering residual waste to the Ardley EfW facility via waste transfer stations and direct delivery will require on-going liaison with the WCAs. This work will form part of the residual waste treatment project which is managing the transition and contract management during construction of the Ardley EfW facility.

Legal implications

36. The award of contracts to provide bulking and haulage services will help to fulfil the Council's legal obligations as WDA under the Environmental Protection Act 1990 to provide delivery points for the WCAs for municipal waste.
37. Award of the contracts is critical to enabling the Council to meet its obligations to deliver all residual municipal waste that can be processed to the Ardley EfW facility for treatment. Failure to do so would place the Council in breach of the exclusivity provisions in the residual waste treatment contract and at risk of financial penalties under the contract.
38. The Council will have the ability to terminate the contracts due to contractor default and a number of reasons including bribery, insolvency and change of control, and will have the right to recover any losses incurred. However, there is no unilateral right for the Council to break the contract. This was considered inappropriate for a contract potentially involving significant up-front capital expenditure as it would either have had a negative impact on pricing or it is possible that tenderers would not have submitted bids and therefore reducing competition.
39. The procurement has benefitted from support from officers in legal services and procurement, in a team approach which ensured that the process has been undertaken in accordance with EU and national procurement legislation and the Council's contract procedure rules.

Sustainability implications

40. A key objective of the bulking and haulage service is to provide for the efficient delivery of residual waste to the Ardley EfW facility by reducing vehicle movements and by using modern fuel efficient vehicles.
41. The alternative of all refuse collection vehicles (RCVs) and street cleansing vehicles delivering directly to the EfW facility would lead to more vehicles travelling longer distances, with increased fuel consumption and vehicle emissions. The WCAs would also face a need for more frequent vehicle maintenance, reduced vehicle life, and implications for the organisation of waste collection rounds due to longer journey times for vehicles and crews.
42. At the PQQ stage all the companies demonstrated satisfactory performance in terms of their environmental and carbon management policies and practices. The contract specification requires vehicle standards and maintenance, and driving practices to reduce emissions and maximise fuel efficiency.
43. Implementation of the residual waste treatment contract contributes to the Corporate Plan priority of enhancing the environment, and the bulking and haulage contract is a key dependency. Residual waste treatment at the Ardley EfW facility will achieve 95% diversion of residual municipal waste from landfill, reduce emissions of greenhouse gases by approximately 56,800 tonnes CO2 equivalent per year, and generate electricity for about 38,000 homes.

Risk management

44. Risks have been managed proactively by the project team and regularly reported to the Waste Treatment Board. The key risks relate to delay to the procurement, the planning or permit application processes or the construction of new waste transfer stations if required leading to inability to deliver all residual waste to the EfW facility.
45. The responsibility for obtaining planning permission and an environmental permit will be the contractor's. Should there be any delay or failure to maintain required consents for the duration of the contract, the contractor will be required to provide contingency arrangements at no additional cost to the Council.
46. The procurement has been undertaken to schedule and has been programmed to allow time for contractors to achieve necessary consents and build new infrastructure if they need to. The delivery programmes and contingency arrangements submitted in the tenders were evaluated and assessed to be feasible and deliverable.

Next steps

47. Following the Cabinet's decision, the contract award process will be completed as soon as possible. The start of the bulking and haulage service

will need to be coordinated with the EfW facility commissioning stage and operational start date which is dependent on future construction progress. Preparation for this will be a key work stream for implementation of the residual waste treatment contract over the next two years.

RECOMMENDATION

48. **The Cabinet is RECOMMENDED to note the outcome of the evaluation and endorse the award of contracts for the provision of residual municipal waste bulking and haulage services as follows;**
- (a) Lot 1 northern part of Cherwell to Tenderer 2 on the basis of their variant 2 tender ;**
 - (b) Lot 2 South Oxfordshire and Lot 3 Vale of White Horse to Tenderer 1 on the basis of their variant 2 tender; and**
 - (c) Lot 4 West Oxfordshire to Tenderer 1 on the basis of their compliant tender.**

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Background papers: Report to Cabinet 27 July 2010, Oxfordshire Residual Waste Treatment procurement – Award of Contract

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