

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

1 NOVEMBER 2016

REPORT ON THE WASTE MANAGEMENT SERVICES CONTRACT AWARD

1. Purpose of Report

- 1.1 The purpose of this report is to inform Cabinet of the proposed appointment of a preferred bidder under the Council's waste services procurement and subject to satisfactory completion of the legal processes formally enter into a contract with the preferred bidder for the provision of the Council's Waste Collection and Community Recycling Centre (CRC) Services for a period defined by the contract of seven years from the contract commencement date of the 1st April 2017.
- 1.2 An exempt confidential report is also separately submitted to Cabinet in respect of the award of the Council's Waste Collection and Community Recycling Centre (CRC) Services which is commercially sensitive or relates to the business and financial affairs of the Council and the preferred bidder and is not for publication under Schedule 12A of the Local Government Act 1972

2. Connection to Corporate Improvement Plan/Other Corporate Priority

- 2.1 The procurement will assist the Council in meeting stringent Welsh Government (WG) targets for recycling and diversion from landfill of residual waste. Increased waste minimisation and recycling will assist the Council in reducing the environmental footprint of the waste management service. The services described by the proposed contract contribute to the Council's goals under the Corporate Plan Priority 3 - (Smarter Use of Resources).

3. Background

- 3.1 Cabinet will recall at its meeting on 15th March 2016 (Minute No 867) approving proposals to re-procure the Council's waste collection and CRC services on the basis of securing improvements to the recovery and recycling of materials and consequently the Council's recycling performance as measured by the WG waste data flow performance management framework.
- 3.2 The procurement has followed the Competitive Procedure with Negotiation (CPN) procedure under the Public Contracts Regulations 2015 ('the Regulations') for the procurement of the Services. The relevant rules regarding the CPN procedure is set out in Regulation 29 of those Regulations. The procurement has also been subject to the Council's Contractual and Financial Procedure Rules.
- 3.3 On the 31st May 2016, a notice for the procurement of the Contract was published in the Official Journal of the European Union (OJEU) inviting expressions of interest from potential contractors to provide waste management services to the Council. The Contract is for 7 years with the option to extend by up to a further 7

years on agreement between the parties. The Contract is for collection and transfer of residual waste to the Council's nominated disposal facility, collection and transfer of food waste and other recyclate, management of the Council's commercial waste collection service, management of the Council's CRC's and Tondu Waste Transfer Station.

4. Current Situation

Tender Principles

4.1 The principle services to be provided by the bidders were specified as:-

1. Alternative weekly collection of residual waste (2 Bags per household - dispensation from this will be granted in certain circumstances) and transfer to the Council's nominated disposal point – the Materials Recycling and Energy Centre (MREC);
2. Introduction of an Absorbent Hygienic products collection Service;
3. Weekly collection of food waste and transfer to the Council nominated treatment haulier's container at Tondu;
4. Weekly collection, transfer and sale of Kerbside dry recyclate with income retained by the contractor;
5. Management of the Tondu waste depot and transfer facility;
6. Management and operation the Customer Care Centre;
7. Management of the three CRC sites at Brynmenyn, Maesteg and Tythegston with the cost of disposal of residual waste met by the Council and costs/income from recyclates incurred/retained by the contractor;
8. Introduction of re-use facilities at the CRC's;
9. Introduction of source separation and recycling maximisation of residual waste prior to householder arrival at the CRC's;
10. Management and operation of the commercial waste collection service by the contractor.

4.2 The contract includes a financial mechanism to share the fluctuations in the value of recycling income generated under the contract, based against market indices. This would mean that when the market value of recycling falls the Council would meet 50% of this cost but equally when it rises the Council would benefit to the same level. The Council's maximum exposure/benefit has been capped at £250,000 per annum. This was considered necessary to balance the risk between the parties and to ensure the Council secured a commercial bid. Additionally, to incentivise the Contractor to recycle as much material as possible at the CRC's, the contract makes provision for financial deductions to be applied for failing to meet a set recycling target (78%) but also rewards the contractor where he is able to exceed this target.

- 4.3 A performance management framework is also included in the contract with financial deductions for defaults to be applied when certain default thresholds are exceeded.
- 4.4 Annual contract payments will be subject to an annual inflation review. The review of the Annual payment will be based on agreed indices. There may also be an increase to the annual contract payments, due to increases in property numbers which has been allowed for in the pricing schedule. This will be based on the total household numbers as advised by the Authority's Council Tax Department on the 1st April each contract year.

Procurement Process

- 4.5 Initial Tenders were received by the Authority on 8th August 2016 from 4 bidders
- 4.5.1. The initial tenders were opened at 12.00 Noon on 8th August 2016 in the presence of the Mayor and Deputy Mayor and were evaluated between the 8th August and 31st August 2016.
- 4.5.2. It was concluded from this process that two bidders would be taken forward to the negotiation stage. The two bidders not taken forward to the next stage were informed of this and given their evaluation scores.
- 4.5.3 Dialogue discussions were subsequently held with the two selected bidders on 22nd September 2016 and 26th September 2016. On conclusion of the dialogue meetings, the Call for Final Tender (CFT) documents were issued to the two selected bidders on 30th September 2016. Final bids were received by the specified time (12 noon) on 7th October 2016.
- 4.6 Cabinet will be asked to award the contract to the preferred bidder and to delegate to the Corporate Director Communities in consultation with the Corporate Director – Operational and Partnership Services and the Head of Finance and Section 151 Officer finalisation and completion of the process of entering into the contract with the preferred bidder.

Collection Containers

- 4.7 The recycling collection containment methodology was not dictated by the procurement exercise. Bidders were directed to collect in line with Welsh Government guidelines but otherwise given the opportunity to propose the containment method that represented best value.

Legal Issues arising from the Procurement Process and Award of Contract.

- 4.8 Subject to Cabinet approval the Corporate Director – Operational and Partnership Services will be instructed to formally enter into the contract with the preferred bidder and to complete the contract.
- 4.9 TUPE (Transfer of Undertakings (Protection of Employment) Regulations) will apply to the contract.

- 4.10 Under the Public Contracts Regulations 2015 the Council must inform the other bidders that they have been unsuccessful and it is the Council's intention to award the contract to the preferred bidder. There is a requirement under the Regulations for there to be a statutory standstill period of at least 10 days before the Council can enter into a contract with the preferred bidder. This provides an opportunity for bidders to seek a de-brief as to why they have been unsuccessful and the Council are obliged to provide information under the legislation. It also provides an opportunity for an unsuccessful bidder to mount a legal challenge to the award of the contract. The Regulations state that proceedings generally have to be commenced within thirty days of the date when the bidder first knew or ought to have known that grounds for starting the proceedings had arisen.
- 4.11 In due course following completion of further aspects of the procurement process such as completion of the standstill period without challenge and the publication of the award of contract notice in the OJEU further information in respect of the contract can be put in the public domain. A further public report at that time may assist in this process.

5. Effects upon Policy Framework & Procedure Rules

- 5.1 The final tender submission made by the preferred bidder will improve the Council's environmental performance protecting future generations. It will assist the Council in meeting the WG waste targets and avoid the imposition of fines which are currently set £200/ tonne.

6. Equality Impact Assessment

- 6.1 An equalities screen exercise has been undertaken on the content of this report and the impact of the recommendations on the protected characteristics identified under the Equalities Act. There are no specific implications on such groups arising in this case.

7. Financial Implications

- 7.1 A growth bid will be submitted as part of the budget setting process for 2017/18 to secure additional resource to enable BCBC to provide the service going forward.
- 7.2 Further savings of £221,000 are anticipated from other waste budgets in 2017/18.
- 7.3 The procurement will assist the Council in meeting stringent WG targets for recycling and diversion from landfill of residual waste. If the WG recycling target of 58% is missed, this could lead to the imposition of fines. These range from £150,000 if the achieved target is 57% up to £600,000 if only 54% is achieved.
- 7.4 Future savings are anticipated due to the reduction of residual waste being sent to landfill. These savings are currently limited due to the fixed cost nature of the current arrangements at the MREC. The procurement exercise for the MREC is currently on-going.
- 7.5 Due to the nature of the financial mechanism to share the fluctuations in the value of recycling income generated under the contract, an equalisation reserve will need to be established to smooth the effect of annual movements on the budget.

8. Recommendation

8.1 Cabinet are asked to note the information contained in the report.

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