

Report of the Strategic Director (Place) to the meeting of Environment and Waste Management Overview and Scrutiny Committee to be held on 31st October 2017

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Subject:

Outcome of the Procurement for Waste Treatment Services

Summary statement:

The purpose of the report is to inform the Environment and Waste Management Overview and Scrutiny Committee of the outcome of the procurement for waste treatment services, following a detailed evaluation of bid submissions by the project team.

Steve Hartley
Strategic Director, Place
Portfolio:

Environment & Waste

Report Contact: Richard Longcake
Phone: (01274) 432855
E-mail: richard.longcake@bradford.gov.uk

Overview & Scrutiny Area:

1. SUMMARY

The purpose of the report is to inform the Environment and Waste Overview and Scrutiny Committee of the outcome of the procurement for waste treatment services, and the Officer decision taken at Project Board on 31st March 2017 to select a Preferred Bidder, namely Associated Waste Management (AWM), a regional waste management company with operations in both Bradford and Leeds, following a detailed evaluation of bid submissions by the project team.

The outcome of this procurement was reported to Executive on 12th September 2017.

This report is the last of several update reports brought to this Committee over the span of the procurement process, and seeks to bring together a summary of the context of the procurement, the outcome, and what this means in terms of the operational shape of the Contract.

2. BACKGROUND

The withdrawal by DEFRA in February 2013 of financial credit support for the Waste PFI procurement resulted in the Executive decision on 4th February 2014 to cancel the PFI procurement, and for a new waste strategy to be developed which would lead to a new procurement. This new waste strategy (Municipal Waste Minimisation and Management Strategy) was developed and subsequently adopted by the Executive on 13th January 2015. This strategy included the nature and scope of a new procurement to secure affordable, dependable and sustainable waste treatment and disposal services for the district's residual waste from 2017/18, when the present interim contract ends. A new procurement (this procurement) commenced in April 2015, and concluded in September 2017.

The new contract between the Council and AWM was formally signed on 21st September 2017, the operational start date of the Contract is 1st April 2018.

Procurement Vehicle

The procurement has followed the EU Procurement Rules using the Competitive Dialogue Procedure.

Governance

In line with policy for major projects within the Council, this procurement has an established governance structure. The project team report to a Project Board chaired by the Strategic Director of Place, and comprises of the Assistant Director for Waste, Fleet and Transport Services along with senior officers from Waste, Procurement, Legal, Finance and HR. Regular updates on procurement progress have been provided to the Environment and Waste Overview and Scrutiny Committee.

Procurement Team

The Procurement Team sits within Waste Services, and comprises x 1 Project Manager, x 1 Executive Officer and is supported by internal specialists from Legal, Human Resources, Procurement, Finance, Health and Safety, Strategic Support, Planning and Communications. Further support is provided by external Technical, Financial and Legal Advisors (Jacobs, Grant Thornton and DLA Piper respectively).

Scope

The scope of the procurement is for the reception, treatment and disposal of local authority collected waste (municipal waste), predominantly residual household waste from kerbside collections, to consist of facilities offering diversion of waste from landfill with energy recovery and further recycling contribution to assist the Council's long term aim of minimising waste, boosting recycling and obtaining value from its residual waste.

Key elements are:

- The contract is for the waste treatment and disposal of the Council's collected residual waste
- The contract period is for 12 years (to 2030) with an option for a further 3 years
- The annual maximum tonnages under the contract which the Contractor is obliged to accept is set at 164,000 tonnes for the life of the contract
- The annual minimum tonnages that the Council will be obliged to deliver to the Contractor (guaranteed minimum tonnage) is set at 100,000 tonnes for the life of the contract
- The Contractor performance will guarantee to:
 - accept our waste
 - divert from landfill over 90%
 - recycle a minimum of 6%
 - recover 95% value from the waste (energy)
 - The Contractor will be subject to penalties should there be a failure to meet performance targets

Shape of the Waste Treatment Solution

The solution offer from AWM will see the Council deliver its waste to two sites, the primary site, and the one which will accept the vast majority of our waste (including all kerbside residual waste) is located at Valley Farm Road in south Leeds. The secondary site is located at Canal Road, Bradford. This site will receive some trade waste, street cleansing waste, and Household Waste Recycling Centre residues, but will not accept any kerbside residual waste from the Council save for a contingency need. The main contingency site is located at Gelderd Road Leeds.

The waste reception sites will process the waste to capture recyclates and prepare the waste as a fuel (known as Refuse Derived Fuel - RDF) for onward shipment to energy recovery. From September 2019 the energy recovery site will be the newly opened FM2 facility operated by the energy company SSE at their Ferrybridge site close to the A1/M62 junction (SSE are AWMs main sub-contractor). Prior to this arrangement, to cover the first 18 months of the contract will see the RDF exported

to energy recovery facilities in Europe. All these facilities will generate power from the waste, with less than 10% going to landfill.

Contract Management

Following the commencement of the contract, contract management will be undertaken by Waste Services to monitor and manage the contract to ensure the contractor AWM meets the required levels of performance under the contract. Appendix 2 provides some details as to the performance management element. It is proposed that an Annual Report on the performance of the Contract and the Contractor will be brought to this Committee.

3. OTHER CONSIDERATIONS

Waste Growth and Composition

The procurement has modelled both the likely impacts of increased housing (estimated at 1% or 2000 new houses per year) and population, and the effects of the waste collection policy and Alternate Weekly Collections would have on waste tonnages and composition over the life of the contract.

Climate Change

Climate Change Legislation aims to reduce carbon emissions. The waste treatment solution offer has been subjected to a WRATE analysis (Waste and Resources Assessment Tool for the Environment), which shows it provides a positive carbon saving of 49,000 tonnes of CO2 equivalent.

National Waste Targets

- EU Landfill Directive

The 2020 target requires that municipal waste sent for landfill disposal must reduce to no more than 35%. The guaranteed landfill disposal performance will see the Council exceed this target with less than 10% going to landfill.

- Value Recovery

The guaranteed recovery performance will see the Council exceed the 75% value recovery target for municipal waste in 2020 by achieving 95% recovery.

- Recycling

A combination of the waste collection policies and Alternate Weekly Collections, together with the recycling guarantees under this contract, it is anticipated the Council will exceed the 50% target for household waste set for 2020 as measured by National Indicator NI 192.

Evaluation

Details of the bid evaluation are given in Appendix 1. The outcome of the Evaluation and thus the Procurement is to award the contract to AWM Ltd as the Preferred Bidder.

4. FINANCIAL & RESOURCE APPRAISAL

The bid price falls within the financial affordability envelope set for this procurement as agreed with the Strategic Director of Corporate Services, and is considered to be a competitive price, which offers a fixed price subject to annual indexation. However the Council will take the risk on Exchange Rate fluctuations in the first 18 months of the contract prior to the Ferrybridge FM2 facility coming on line in September 2019, owing to the need to export RDF into Europe (Euro Zone) prior to that date. Steps will be taken to manage this risk via a hedging mechanism should the Pound weaken against the Euro.

The cost of the new Contract have been built into the Council's medium term financial plan.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

The procurement for waste treatment services is a major project which has its own governance structure in line with Council policy for major projects, including the management of risks which are reported to Project Board via a risk register that is regularly updated and reviewed by the project team.

The legal contract has been drafted to achieve an acceptable risk transfer to the contractor AWM. Apart from the foreign exchange risk noted above, there are no significant risks to the Council beyond delivering the guaranteed minimum tonnage of municipal waste to the contractor for the duration of the contract period. Should the Council during Contract wish to break it, there will be breakage costs for the Council as is standard with such contracts.

6. LEGAL APPRAISAL

The Contract has been developed by the legal firm DLA Piper based on a standard PPP type contract. AWM have accepted the contract drafting with only minor amendments, and overall meets that Council's required risk allocation position. The contract structure itself is relatively straight forward, with AWM as the contracting party (no Special Purpose Vehicle) and only one proposed subcontractor which is SSE relating to Ferrybridge FM2.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

N/A

7.2 SUSTAINABILITY IMPLICATIONS

The management and operation of waste treatment services has sustainability implications. Sustainability is a key evaluation criteria for the project, an example of this is given in Appendix 1.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

The treatment and disposal of waste will create greenhouse gas emissions, it is important to minimise these, or mitigate their impact. The procurement key criteria is to reduce deposit of waste to landfill in favour of more sustainable means, which will have positive impacts over alternatives, again Appendix 1 is an example of how impacts are to be assessed and measured and thus evaluated.

7.4 COMMUNITY SAFETY IMPLICATIONS

N/A

7.5 HUMAN RIGHTS ACT

N/A

7.6 TRADE UNION

Since that start of the procurement, this topic has been a standard item on the waste services level 3, with regular updates provided. It is the position that there are no known TUPE implications for Council staff, or job losses arising from this Contract.

7.7 WARD IMPLICATIONS

The Council will utilise its existing operational waste transfer stations in Bradford and Keighley to deliver waste under this Contract, located in Bowling and Barkerend, and Keighley Central wards respectively. Further the existing AWM facility at Canal Road will also see some deliveries of waste (not including kerbside residual waste), and is located in Windhill and Wrose ward close to the boundary with Heaton ward.

7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

N/A

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

N/A

10. RECOMMENDATIONS

The outcome of the procurement for waste treatment services be noted for information.

11. APPENDICES

Appendix 1 - Evaluation

Appendix 2 – Performance Management

12. BACKGROUND DOCUMENTS

1. Exec Report 4th Feb 2014 Waste PFI
2. O&S Report 2nd September 2014 part 2 “Waste Strategy”
3. Exec Report Jan 2015 new MWM&MS
4. O&S Report 28th July 2015 Section 2.3.3 “Procurement of a Waste Treatment Solution”
5. O&S Report 3rd November 2015 “Procurement of the new Waste Treatment Contract for treatment of kerbside residual waste”
6. O&S Report 26th July 2016 “Procurement of the new Waste Treatment Contract for treatment of kerbside residual waste”
7. O&S Report 28th February 2017 “Procurement – Waste Treatment Services”

APPENDIX 1

EVALUATION

The evaluation was structured with a set of overarching criteria, as shown below:

Summary Evaluation criteria	score
Cost	50
Financial Robustness, Transparency and Payment Mechanism	10
Technical and Sustainability	30
Insurance	Pass/Fail
Legal	10
Total Points	100.00

Cost Evaluation

Cost Evaluation was on the “whole system cost” of the bid submission.

The whole system cost is the aggregate cost value of the bid submission plus any additional haulage costs that the Council may have in relation to the submission. The whole system cost was evaluated on a net present value basis.

Financial Robustness Evaluation

The financial robustness evaluation assessed the quality of the bid in terms of being able to demonstrate the process by which the bid costs have been developed. This required the bidders to produce a Financial Model, plus a qualitative assessment of the extent to which the Payment Mechanism (produced by the Council) was accepted by the bidder.

Technical and Sustainability Evaluation

Given below is the technical and Sustainability criteria.

Ref. No.	Headline Criteria	Sub Reference	Technical Sub-Criterion	Overall weighting	Relevant Submission Documents
T1	Performance	T1.1	Waste treatment solution accepts the whole contract waste tonnage over the entire contract period	PASS/FAIL	• Waste Flow Model (for the entire contract period of 12 years)
		T1.2	Landfill Diversion Performance	[20%]	• Schedule of Guaranteed Performance Levels • Waste Flow Model
		T1.3	Recycling Performance	[10%]	• Schedule of Guaranteed Performance Levels • Waste Flow Model

Ref. No.	Headline Criteria	Sub Reference	Technical Sub-Criterion	Overall weighting	Relevant Submission Documents
		T1.4	Value Recovery Performance	[10%]	<ul style="list-style-type: none"> • Schedule of Guaranteed Performance Levels • Waste Flow Model
		T1.5	Environmental Impacts	[5%]	<ul style="list-style-type: none"> • Environmental Management Plan
					<ul style="list-style-type: none"> • WRATE submission (Proforma and model for verification) (CFT Stage Only)
T2	Deliverability of Proposed Solution	T2.1	Waste Reception Proposals	[15%]	<ul style="list-style-type: none"> • Waste Reception Facility – Planning and Consents
					<ul style="list-style-type: none"> • Waste Reception Plan
		T2.2	Waste Treatment Proposals	[15%]	<ul style="list-style-type: none"> • Waste Treatment Facility – Planning and Consents
					<ul style="list-style-type: none"> • Waste Treatment Plan
T3	Service Delivery and Contract Management	T3.1	Health & Safety	[5%]	Health and Safety Plan
		T3.2	Contract and Service Delivery	[10%]	<ul style="list-style-type: none"> • Contract Management Plan
					<ul style="list-style-type: none"> • Employment and Staffing Plan
					<ul style="list-style-type: none"> • Marketing Plan
					<ul style="list-style-type: none"> • Maintenance Plan
					<ul style="list-style-type: none"> • Contingency Plan
		T3.3	Added Value	[10%]	<ul style="list-style-type: none"> • Added Value Statement
Total				100.00%	

Insurance

The evaluation assessed the extent to which the bidder submission demonstrated compliance with drafting requirements, and is a simple pass or fail criteria.

Legal Evaluation

Legal evaluation was based on an assessment of the acceptance by the bidder of the legal principles and risk transfer, and Contract drafting by the Council's legal advisors.

APPENDIX 2

PERFORMANCE MANAGEMENT

The Bidders were required to bid back a number of Key Performance Indicators, namely:

- Landfill Diversion Performance
- Recycling Performance
- Recovery Performance

The above form part of an overall Performance Framework, which details all of the performance criteria against which the successful Bidder when in Contract, will be measured. The bid backs were evaluated and scored as part of the Technical and Sustainability criteria.

Where the measurement of performance shows poor Contractor performance taking place, financial deductions will be applied, and failure points accrued as set out in the Performance Framework. Should the level of poor performance reach a trigger point, the Council will required to Contractor to produce a Rectification Plan stating how the poor performance is to be rectified. However should poor performance continue, ultimately the Council will have the “right to place the Contractor in default”, which can lead to termination of the Contract.

Absent from the 3 bullet points noted above, is perhaps the most fundamental requirement of the contractor, namely to “accept all of our contract waste for the whole of the contract period”, this is because this element, being so fundamental is dealt with specifically under the Contract itself. Failure to accept our waste will result in a Contractor default, which can trigger termination.

There are several other performance indicators which are dealt with in similar way to those described above, the most significant being the target turnaround times for our waste delivery vehicles delivering waste to the Contractor’s facilities.

All the performance requirements of the Bidder when in contract, and how they will be delivered by the contractor, are contained within a series of Plan Documents, again these are scored as part of the Technical and Sustainability criteria.

The full list of Plans required is shown below:

Name	Comment
Employment & Staffing Plan	Details management structures, staffing levels, training and any TUPE issues
Health & Safety Plan	Details all H&S activities
Schedule of Guaranteed Performance	Relates to the bid backs and the Performance Framework
Marketing Plan	How outputs (eg recycles and energy) will be marketed
Contingency Plan	Should the Contractor's primary facility fail, this details the alternative options
Waste Acceptance Plan	How and what arrangements there are for the Contractor accepting our waste at their facilities
Waste Reception Facility Plan	Details all relevant permissions and consents to operate their facilities
Service Reports	Monthly (invoice), Quarterly and Annual

	submission on contract performance
Maintenance Plan	Details maintenance arrangements of their facilities
Contract Management Plan	Identifies how the Contractor will manage this contract with the Council
Environmental Management Plan	Includes the WRATE outputs and other environmental control systems
Added Value Statement	Details any benefits to the local community in and around Bradford
Waste Treatment Plan	Details the waste treatment solution, its technology and process stages

The above Plans, known as Contractor's Proposals or Method Statements form schedules to the Contract.