

SURREY COUNTY COUNCIL**CABINET MEMBER FOR BUSINESS SERVICES AND
RESIDENT EXPERIENCE****DATE: 1 DECEMBER 2015****LEAD****OFFICER: JOHN STEBBINGS, CHIEF PROPERTY OFFICER****SUBJECT: AWARD OF CONTRACT FOR THE PROVISION OF WASTE
CONTRACT SERVICES BY UTILISING EAST SUSSEX COUNTY
COUNCIL FRAMEWORK****SUMMARY OF ISSUE:**

This report seeks approval to award a call off contract for the provision of waste contract services for the corporate estate by utilising the East Sussex County Council Framework Agreement for the benefit of the Council to commence on 1 January 2016 as detailed in the recommendations as the current arrangements expire on 31 December 2015.

The report provides details of the procurement process, including the results of the evaluation process and, in conjunction with the Part 2 report, demonstrates why the recommended contract award delivers best value for money.

Due to the commercial sensitivity involved in the contract award process the financial details of the potential supplier has been circulated as a Part 2 report.

RECOMMENDATIONS:

It is recommended that a call off contract is awarded to Sita UK Ltd from 1 January 2016 for two years with an option to extend for a further two periods of one year each for Surrey County Council.

REASON FOR RECOMMENDATIONS:

Following an assessment of a number of options it was decided that a call off contract using the East Sussex County Council (ESCC) Soft Facilities Management Services Framework Agreement for Lot 2 – Waste Contract Services awarded to a single supplier was deemed the most appropriate route to market.

The tender for this framework agreement was undertaken in compliance with the requirements of Public Contracts Regulations 2006 and the Council's Procurement Standing Orders. The recommendation provides best value for money for this contract in following a thorough evaluation process.

It also provides an appropriate and flexible service which delivers best value for money for the Council and offers potential cost efficiencies through working together with ESCC as Orbis.

DETAILS:

Business Case

1. Surrey has an existing call off contract for corporate premises waste collections with Sita UK Ltd which is due to expire on 31 December 2015. This arrangement was put in place through a call off contract entered into on behalf of the Council as the owner and procurer of the General Waste and Recycling Management Framework Agreement awarded to this supplier for 4 years in November 2011.
2. The approach taken by Procurement is to secure the continuation of this service for the Council by entering into a call off contract under the ESCC Soft Facilities Management Framework Agreement which is available to all local authorities and members who form the SE7 and to which the Council therefore has access. This will ensure that the Council not only fulfils all of its statutory obligations and duty of care responsibilities in relation to health and safety but also in relation to the EU Waste Directive transposed into law through the Waste Regulations 2011. The solution also delivers a cost effective and flexible solution to address the needs of the organisation.
3. The contract will be managed and monitored by Property Services on behalf of the Council.
4. In support of the Council's Joint Municipal Waste Management Strategy with a target of 70% of waste recycled, to reduce carbon emissions from collections and also implement cost savings, the supplier has committed to working with the Council to identify sites where currently mixed recycling can be collected in separate streams and audit sites to reduce the frequency of collections where possible.

Procurement Strategy and Options

5. ESCC undertook a full tender process for the framework agreement, compliant with the Public Contracts Regulations 2006 and the Council's Procurement Standing Orders, to appoint a single supplier to operate this framework agreement and which included advertising the contract opportunity in the Official Journal of the European Union (OJEU) on 4 September 2014.
6. On 14 May 2015, ESCC awarded a four year framework agreement under Lot 2 for Waste Contract Services to Sita UK Ltd following a thorough evaluation process which took into consideration price, policies and quality of services to be supplied. Participating authorities can access the framework agreement by completing an Access Agreement and thereafter placing orders directly with the supplier in accordance with the conditions of the framework agreement, contract conditions and price schedule.
7. Several procurement options were considered when completing the Strategic Procurement Plan (SPP) prior to commencing the procurement activity. These included the following options:
 - a) extend the arrangement with the current supplier;
 - b) undertake a full EU compliant tender exercise and establish a contract;

- c) utilise an external organisation's framework agreement (other than that of ESCC);
 - d) utilise the ESCC Framework Agreement available to the Council.
8. After a full and detailed options analysis, the process described in paragraph 7(d) was chosen as the framework agreement offers value for money, there is no disruption to service as the supplier will not change, there are opportunities to work across Orbis for cost efficiencies and it avoids further procurement costs. Option 7(a) was rejected as the Surrey County Council (SCC) framework four year term has ended, and this option is no longer available to the Council. Option 7(b) was rejected as the tender process would incur additional cost and resources and this is currently not the best option open to the Council. Option 7(c) was rejected as for the two frameworks considered, the ESPO Framework (379) is near to its end (December 2016), and the NHS London Procurement Partnership Framework (L0018) would require a mini-competition among listed suppliers incurring procurement costs as well as rebate charges for use.

Key Implications

9. By awarding a contract to the supplier as recommended for the provision of waste and recycling collection services for corporate estate to commence on 1 January 2016, the Council will be fulfilling all of its statutory obligations and duty of care responsibilities in relation to health and safety and the environment and will be ensuring best value for money for this service in the context of increasing landfill tax and gate fees for processing recycling.
10. In particular, the solution supports the Council's Joint Municipal Waste Management Strategy with a target of 70% of waste recycled while also driving cost efficiencies across the estate. Three sites have already been identified at which separate waste stream recycling will be implemented which will generate a cost saving against presenting mixed recycling for collection, to be accompanied by an education programme offered to Council staff and contractors at centralised venue.
11. Further, the supplier has committed to working with the Council to audit all sites within the first three months of contract implementation to identify other locations where this could be implemented and the frequency of collection can be reduced. The latter as well as having the ability to generate cost savings will also have the effect of reducing carbon emissions across the county with reduced collections and journeys required.
12. In terms of providing added value, the supplier has also offered to undertake career talks in selected local schools and colleges spanning a range of careers available in the waste and recycling industry including Communications, Sales and Marketing, Health and Safety and the Environment and Legal.
13. This contract with pre-agreed terms and conditions offers an arrangement which is compliant with the Council's own standard contracts.
14. Appropriate contract management and monitoring of services will take place throughout the duration of the contract and be reviewed at regular contract meetings. The management responsibility for the Council's contract lies with

Property Services who will maintain a process to ensure the services is monitored in accordance with the conditions of the agreement

15. For the framework, the contract rates for provision of the services, including those for deductions relating to non-achievement of the set key performance indicators, may be reviewed annually to consider any increase or decrease in contract rates. Any change to rates will take effect on 1 April 2017 each year.
16. Reviews will be undertaken with the purpose of maintaining cost neutral status or a reduction in cost which the supplier is able to pass on. The index used to calculate any price increase or decrease will be the Consumer Price Increase (CPI) figure for October of the previous year in which the review takes place. Any proposal for an increase in contract rates will only be considered by the Council subject to the agreed key performance indicators (KPIs) having been consistently and effectively achieved for the contract year in question.
17. The supplier will be not be required to pay ESCC a financial rebate based on the value of works accessed through the framework through SCC's call off contract so this will prevent cost increases requested by the supplier on this basis.
18. The supplier has confirmed they will continue to use locally based depots used for the current contract where this is possible for the service to the Council.

Competitive Tendering Process

19. Suppliers expressing an interest in the advertised tender opportunity were invited to tender for the framework through a restricted tender procurement process which commenced 4 September 2015. For the pre-qualification stage, suppliers were evaluated to ensure that they had the legal, financial and technical capacity (including health and safety and equal opportunities policies) to undertake the contract for the framework agreement. A total of 67 suppliers expressed an interest, 36 of which submitted a pre-qualification questionnaire.
20. Following the completion of a pre-qualification process, short listed suppliers were required to submit their tenders.
21. Tender submissions received from four suppliers for Lot 2 were scored against management structure and support, waste management, human resources and training, health and safety and price award criteria and weightings as shown below.

Award Criteria	Weighting
Management structure and support	12%
Waste Management	15%
Human Resources and Training	10%
Health and Safety	8%
Price	40%

22. Each question, apart from the price element, was marked using a score range from 0 – Very poor, bid excluded from further consideration to 10 – Very high – proposals likely to exceed all delivery targets.
23. For price, the lowest total cost for the schedule of rates received the maximum score and the remaining bids were scored according to their relationship with the lowest bid.

CONSULTATION:

24. Key internal stakeholders have been consulted at all stages of the commissioning and procurement process.

RISK MANAGEMENT AND IMPLICATIONS:

25. Risks were appropriately identified and have been satisfactorily mitigated. These risks and action to mitigate them include:
 - a) Financial (price increases due to market conditions) – Reviews will be undertaken with the purpose of maintaining cost neutral status or a reduction in cost which the supplier is able to pass on.
 - b) Reputation and Service (the supplier does not meet delivery times or recycle the waste collected) - ongoing checks and monitoring will be undertaken by Property Services to maintain standards
 - c) Supply (supply disruption during changeover of suppliers) – The risk is minimal as the Council is not changing supplier, however, as four weeks has been allocated for implementation to ensure the branch of Sita (Crawley) who will be overseeing the contract is fully ready for the launch of the new contract.
26. The contract includes termination provisions to allow the termination of the framework agreement at any time giving the supplier three months notice, however, termination of the framework will not affect the validity of any call off contract in place. The Council may, in addition to its rights under any other provision of the contract, terminate the call off contract at any time by giving the Contractor six months' written notice.
27. The supplier recommended for contract award was assessed by ESCC as satisfactory for all financial checks.

Financial and Value for Money Implications

28. Full details of the contract including values and financial implications are set out in the Part 2 report.
29. The contract will deliver a flexible solution at a competitive price given the current market conditions giving the Council and supplier the ability to drive savings through conversion of sites with mixed recycling collections to separate recycling collections and auditing sites to reduce the frequency of collections.
30. In summary, the oil price has remained low for the past nine months which affects the recycling of plastics by making this material unattractive to

manufacturers who can purchase fresh plastics at a lower price. The knock-on effect is that gate fees at processors for mixed recycling in the South East of England have gone up from £25 per tonne to over £75 per tonne. The cost per bin lift for mixed recycling is therefore around £9 and for general waste is £19 per bin. The prices obtained through the framework agreement are significantly lower than these market prices and can be offered to the Council due to the volumes collected and relative route density for collections.

Section 151 Officer Commentary

31. The Section 151 Officer confirms that the estimated cost of the proposed call off contract for waste services is provided for in the current MTFP. The report clearly states that costs are likely to increase, however this is not material.

Legal Implications – Monitoring Officer

32. The risk of a legitimate legal challenge is considered very small. The call off is from a single supplier lot on the Framework. No other supplier has locus to challenge the Council's award.
33. East Sussex County Council established the Framework Agreement. This means that provided ESCC complied with EU procurement law, the Council is deemed to have done so.
34. There is nothing to suggest that ESCC did not comply with EU procurement law when setting up the Framework. SCC has complied with the Framework and has obtained the necessary approvals from the Procurement Review Group and has followed and complied with the Council's own Procurement Standing Orders.

Equalities and Diversity

35. The need for an Equality Impact Assessment (EIA) was considered, however, a conclusion was reached that as there were no implications for any public sector equalities duties due to the nature of the services being procured, an EIA was not required. Despite this, the supplier will be required to comply with the Equalities Act 2010 and any relevant codes issued by the Equality and Human Rights Commission.

Other Implications:

36. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Public Health	The contract supports the Council's ability to meet its duty of care requirements in relation to health and safety
Climate change	No significant implications arising from

	this report
Carbon emissions	Depots in the South East of England will supply the services as required. A site audit will be undertaken within the first three months of contract award to rationalise the number of bins on site with a view to reducing frequency of collections. Both will reduce carbon emissions from transport

WHAT HAPPENS NEXT:

37. The timetable for implementation is as follows:

Action	Date
Cabinet Member decision to award	1 December 2015
Cabinet call in period	2 to 9 December 2015
Contract Signature	December 2015
Contract Commencement Date	1 January 2016

Contact Officer:

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Consulted:

None

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