

Cabinet Meeting on Wednesday 19 February 2020

Award of the Contract for Waste Transfer Station Facilities and Associated Services for East Staffordshire (REF IA1766)



Cllr Mark Deaville, Cabinet Member for Commercial said,

“As a county council we want to play our part in delivering a greener county and a greener country – and recycling and waste management can help us in these aspirations.

“This report will look at the procurement process for the award of the contract for waste transfer facilities in East Staffordshire.”

Report Summary:

Staffordshire County Council (SCC) is undertaking an OJEU procurement to provide waste transfer facilities to which East Staffordshire Borough Council (ESBC) will deliver both General Waste (see below) and Recyclable Waste (see below), and from where the waste will be transferred to various treatment facilities, dependent on the type of Waste.

This procurement is made up of 2 lots which are as follows:

- Lot 1 is for the provision of a specific physical transfer site and associated on site services to receive, prepare and forward residual waste, household waste, fly tipped waste, bulky items and road sweepings (together now referred to in this Report as “General Waste”). This lot will also have provision for the successful provider to transport the various types of General waste to its final destinations for disposal/treatment and will result in a contract between SCC and the successful service provider in respect of the use of the physical site and the services. The contract will be for a period of 2 years with one optional 12 month extension plus two optional additional 6 month extensions. The maximum Contract Term including all possible extensions is four years.
- Lot 2 is for the provision of a physical transfer site and associated on site services to receive, bulk up and forward recyclable waste (now referred to in this Report as “Recyclable Waste”) to treatment facilities. Because ESBC as WCA (see below) have currently elected to also dispose of their own Recyclable Waste, the contract for services arising from this Lot 2 will be between ESBC and the successful provider. This contract will also be for a period of 2 years with one optional 12 month extension plus two optional additional 6 month extensions. The maximum Contract Term including all possible extensions is four years.

It is anticipated that the aggregate value of this procurement (both lots) will exceed £2M (see Finances below). The full financial details of this contract are set out at section 4 Finances of this Report below. This report is therefore presented to Cabinet to request that Cabinet delegate authority to the Director for Economy, Infrastructure & Skills (Darryl Evers) to run a procurement process for this value, including both Lot 1 and Lot 2 and to give delegated authority to the Director for Economy, Infrastructure & Skills (Darryl Evers) to agree, finalise and let the contract for Lot 1 to the successful service provider.

Recommendation

I recommend that:

Cabinet grant delegated authority to the Director for Economy, Infrastructure and Skills to:

- a. Run a procurement process for the value above, including both Lot 1 and Lot 2:
and
- b. Agree, finalise, execute and enter into the contract for Lot 1 with the successful bidder; and
- c. In the event that ESBC elect not to dispose of their Recyclable Waste, to step into, execute and formally enter into the contract awarded under Lot 2, and manage and deal with any other direct or indirect implications arising from such a change initially between ESBC and the successful service provider.

Local Members Interest
N/A

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Recommendation of the Cabinet Member for Commercial

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Report of the Director for Economy, Infrastructure and Skills

Reasons for Recommendations:

Legislative Framework

1. The Environmental Protection Act 1990 (EPA) established the process by which domestic waste is managed. In Staffordshire, District and Borough Councils (known as Waste Collection Authorities or WCA's) are responsible for collecting waste at the kerbside from domestic dwellings, and for delivering the waste they have collected to disposal facilities provided by SCC (known as the Waste Disposal Authority or WDA).
2. The waste disposal or transfer facilities, provided by the WDA, must to be 5 miles or less outside the administrative boundary of the WCA, or the WDA has to either:
 - a. make a financial contribution to the transport of the waste; or
 - b. as an alternative to the contribution, the WDA may provide the WCA with a more local tipping point (i.e. a Waste Transfer Station ('WTS')), to which the WCA delivers the waste, and from which the waste is then transferred and forwarded to the disposal facility at the WDA's cost.
3. Lot 1 of this procurement will see SCC contract with the successful provider to provide East Staffordshire Borough Council (ESBC) with a local Waste Transfer

Station to which they can deliver their General Waste (defined above). The cost of the WTS in respect of the General Waste is to be borne by SCC (i.e. the WDA), thus avoiding having to contribute to ESBC's Waste Transfer Costs, because the WTS will either be within the WCA's administrative boundary or the price provided by the successful provider is likely to factor into the total price any additional transport costs.

4. The EPA also makes provision for WCA's to retain recyclable materials that they have collected and make their own (i.e. the WCA's) arrangements for those recyclable materials to be treated. In so doing, the WCA incurs additional costs. The EPA therefore makes provision for the WDA to make a payment to the WCA (known as a Recycling Credit) for every tonne of Recyclable Waste that the WCA has retained and treated at the WCA's own cost.
5. ESBC has elected to treat its own Recyclable Waste that it collects and ESBC is therefore in receipt of Recycling Credits from SCC. As such ESBC is solely responsible for the cost of treatment of the recyclable material, including any transfer costs to the treatment facility that may be incurred.
6. Lot 2 in this procurement will see ESBC contract with the successful provider to provide ESBC with a local WTS to which their recyclable materials can be delivered, received, bulked up and transferred to a different site for treatment. Lot 2 will be the subject of a separate contract between ESBC and their appointed service provider. After completion of the joint procurement exercise, SCC will have no ongoing involvement in this contract under Lot 2. However, ESBC may at any time in its absolute discretion choose not to elect to treat its own Recyclable Waste and the responsibility would at that point immediately fall to SCC as the WDA. To provide for this eventually SCC has reserved for itself the right of contractual 'step-in' if ESBC elect not to treat its own Recyclable Waste before the end of the contract term for Lot 2.
7. The market for recyclable materials is volatile at best, and the precise nature and cost of any step-in treatment arrangements cannot, in detail, be determined unless and until ESBC elects not to treat its own Recyclable Waste. The precise arrangements would depend, amongst other factors, on whether other WCA's also elected to cease treating their own Recyclable Materials. Payment of Recycling Credits from SCC to a WCA would cease at the point at which a WCA ceased treating their own Recyclable Materials. The Recycling Credit payments retained by SCC would then meet, or at least contribute to, the costs incurred by SCC in arranging treatment of the Recyclable Material, including any transfer costs that might be involved.

Service History

8. The transfer of ESBC's General Waste from the current site in Burton to the Staffordshire Energy Recovery Facility (ERF) at Four Ashes is the subject of a current Contract, PC460A, "Waste Transfer Station Facilities and Associated Services". The Initial term of this contract was 1 April 2016 to 31 March 2018, with options to extend by an additional 2 years. Including the optional extensions, this

contract will end on 31 March 2020. Lot 1 of this procurement will replace this contract when it expires.

Waste Strategy and Proposed Service Provisions

9. The Staffordshire ERF at Four Ashes is at the core of SCC's strategy for the treatment of General Waste. In order to ensure that SCC retains the maximum capacity and potential benefit from the Staffordshire ERF, it is essential that SCC delivers 138,000 tonnes per annum of waste to the Staffordshire ERF between 2019 and 2024. If SCC delivers less than 138,000 tonnes per annum to Four Ashes between 2019 and 2024, the capacity available to SCC at Four Ashes between 2024 and 2029 will be reduced. Any reduction in capacity at Four Ashes will have cost implications because the surplus capacity will have to be dealt with at Hanford ERF. Increases in capacity used at Hanford will have the knock-on effect of reducing potential income generated from allowing third party disposal at Hanford.
10. The ability to deliver a substantial proportion of ESBC's waste to Four Ashes between 2019 and 2024 is an essential component in achieving the 138,000 tonne per annum target. The waste transfer services in Lot 1 of this procurement will provide the means by which this element of SCC's waste strategy is achieved.
11. ESBC are contractually committed to delivering their dry mixed recyclables (DMR) to Biffa at Aldridge until 2022. ESBC's existing arrangements for the transfer of DMR to Biffa at Aldridge are co-terminus with SCC's contractual arrangements referred to in 8 above. SCC have agreed to provide support for ESBC in the preparation of contract documentation and the procurement process to enable ESBC to identify a new service provider and let their own contract to facilitate the transfer of DMR to Aldridge until 2022.
12. The two Lot approach therefore facilitates the requirements of both SCC and ESBC.

Alternatives

13. SCC will have contractual access to two energy recovery facilities in the period 2020 to 2024. The Staffordshire ERF at Four Ashes is one, the Hanford Energy Recovery Facility located at Stoke on Trent is the other. The two plants are approximately equidistant from Burton on Trent, as a result of which the transfer of waste to either plant requires waste transfer facilities and incurs similar (identical under the current contract) transfer costs.
14. SCC could direct ESBC to deliver General Waste directly into the Staffordshire ERF Four Ashes or Hanford ERF, however this option could result in ESBC increasing its collection fleet to accommodate longer travel times from collection rounds to disposal points. This additional cost would be levelled at SCC who would be required to pay ESBC a Tipping Away Payment, a financial reimbursement for delivering to a treatment facility in-excess of 5 miles outside of their administrative boundary.

15. ESBC direct delivering would also have a negative impact on the environment, with more vehicle movements to transport the waste to the disposal points, increasing carbon emissions.
16. SCC could seek alternative disposal facilities, but this would inevitably be significantly more expensive than disposal at either Hanford ERF or Staffordshire ERF at Four Ashes, and would have a substantially adverse effect on SCC's future share of waste inputs to Staffordshire ERF at Four Ashes.

Financial

17. It is estimated that the aggregate value of Lot 1 over the maximum 4 year term would be £1.9M, and the aggregate value of Lot 2 over the maximum 4 year term approximately £0.35M. The total estimated procurement value is therefore £2.25M.
18. It should be noted that although the estimated procurement value is £2.25M, the contract value to be incurred by SCC is estimated at £1.9M. The remaining £0.35M of estimated contract value will be the subject of separate contractual arrangements between ESBC and their chosen service provider. SCC will only become responsible for the remaining pro-rata portion of the contract under Lot 2 in the event that SCC need to step into that contract where ESBC elect not to continue to process their own Recyclable Waste.
19. The substantial difference in value between Lot 1 and Lot 2 arises in part because the estimated tonnage under Lot 1 is double the tonnage in Lot 2, and in part because Lot 1 includes both Management Charge and Transfer Charge, whereas Lot 2 only includes the Management Charge that relates to the Recyclable Waste to be delivered by ESBC. Haulage costs for ESBC's Recyclable Waste under Lot 2-are included in an entirely separate Contract between Biffa and ESBC.

Legal Implications

20. The potential value of spend under both Lots requires the procurement process to strictly follow the law under the Public Contracts Regulations 2015. The implications of any process failing to follow these Regulations could lead to serious legal challenges to the SCC with the probable halt by a court of any contract award. A contract has been drafted by the Waste Management Team within SCC, with support from the Procurement Team, utilising the SCC's Legal high value model contract terms with additional service schedules relating to the specific waste operations required.
21. There are additional amendments to the model terms to ensure that there are appropriate contractual terms to allow SCC to step into the contract under Lot 2 originally between ESBC and the successful provider in the even that ESBC do not continue to elect to process their own Recyclable Waste. There are no other legal implications.

Resource and Value for Money Implications

22. The agreement will be commissioned by SCC, led by a Waste Management lead, and procured using the open procurement process under the Public Contracts Regulations 2015. The process will be run by the SCC's Commercial Team. Day-to-day contract management will be delivered by the existing Sustainability and Waste Management team. There are no resource implications known at the time of writing this report. Any resource implications which may arise in the event that ESBC do not continue to elect to process their own Recyclable Waste will be considered if and/or when that change arises and authority to manage and allocate resources (if any) regarding that potential change has been delegated to the Director of Economy Infrastructure & Skills.
23. In reference to Lot 1, the General Waste collected by ESBC must be transferred to one of SCC's contracted energy recovery facility disposal options, irrespective of whether this transfer service is procured by ESBC or SCC. This competitive tender process will ensure that SCC retains financial and operational control of the transfer service. If ESBC procured the service, SCC would lose this direct financial and operational control, and in addition to monitoring the service, would also have to monitor and manage the resulting tipping away agreement with ESBC. Therefore, the procurement approach detailed in this report is considered the best way to achieve best value.
24. Please note Lot 2 has no financial implications for SCC.

List of Background Documents/Appendices:

Community Impact Assessment

25. The need for a community impact assessment (CIA) has been considered as part of this procurement. However, given this is a re-procurement for an already existing and currently operational waste transfer facility, a CIA has been deemed not necessary.

Contact Details

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