

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	7 th January 2013
Report of:	Kevin Melling, Head of Environmental Protection and Enhancement
Subject/Title:	Residual Waste Interim Procurement Solution 1 st April 2014 – 31 March 2016
Portfolio Holder:	Cllr David Topping, Environment

1.0 Report Summary

- 1.1 Cabinet took a decision in principle in June 2013 to progress with the long term procurement of waste disposal arrangements whilst at the same time procuring interim disposal arrangements to ensure service continuity prior to the long-term arrangements being implemented.
- 1.2 These arrangements will be managed in the future by the Council's wholly owned Environmental Services company (Ansa Environmental Services Ltd) and will run from the expiry date of the current arrangements in March 2014 until the long-term solution commences in April 2016.
- 1.3 The interim arrangements have been developed to maintain the current high standards of service achieved by the Council's waste collection service and enjoyed by the residents of Cheshire East.
- 1.4 By way of background, a number of the existing arrangements have already been extended with a new arrangement established with Staffordshire County Council that will deliver a "step-change" in the Council's disposal methods, resulting in around 43% of the Council's residual waste being diverted away from landfill sites.
- 1.5 The interim arrangement will also allow for the transfer of waste from Cheshire to the Staffordshire facility, whilst at the same time receiving and disposing of the balance of the residual waste stream.

- 1.6 An OJEU compliant procurement is now under way to achieve this. The interim residual waste solution will involve:
- (a) the provision of a transfer station facility in the north of the borough to allow transport of waste to the Hanford Energy from Waste (EfW) facility in Stoke on Trent,
 - (b) the provision of a haulage contract to enable the transport of waste as described above,
 - (c) The provision of a deposition/disposal point in the south of the borough for kerbside black bin waste.

2.0 Recommendation

- 2.1 It is recommended that Cabinet give delegated authority to the Portfolio Holder for environment and the Executive Director of Strategic Commissioning to award the contract to the successful tenderer following submission of tenders on the 13th Jan 2014.

3.0 Reasons for Recommendation

- 3.1 It is necessary to appoint a contractor in January 2014 to allow them sufficient mobilisation time to take on the responsibilities of the contract from the 1st April 2014.
- 3.2 The interim haulage and transfer station solution will allow the Council to divert 43% of its kerbside black bin waste from landfill disposal to waste to energy. This is in line with the Council's sustainable community strategy and objectives to reduce dependency on landfill disposal.
- 3.3 The diversion to energy from waste will also provide savings to the Council over its existing landfill disposal option, as detailed in paragraph 7. Energy from waste is acknowledged as a better environmental option for disposal in the internationally recognised waste hierarchy and hence, although is a more expensive process in itself, it is not subject to landfill tax, therefore producing an overall saving.
- 3.4 The provision of a transfer station under this procurement also facilitates the collaborative agreement with Staffordshire County Council to utilise their Hanford EfW facility, aiding cooperation and mutual benefits for the two authorities.

4.0 Wards Affected

- 4.1 All wards

5.0 Local Ward Members

- 5.1 All members

6.0 Policy Implications

- 6.1 The procurement is in line with the draft waste strategy and section 5 'ensure a sustainable future' of the Council's Sustainable Community Strategy. The strategy objectives will also ensure the delivery of Outcome 4 of the Council's 3 year plan: Cheshire East is a green and sustainable place.

7.0 Financial Implications

- 7.1 The base budget for Landfill Contracts in 2014/15 (including a growth allowance for tonnage increases) stands at £8.646m. The proposed interim contracts as referred to above for the deposit of kerbside waste in the south, north waste transfer and haulage (kerbside) are forecast to cost £6.438m (based on latest market rates), in addition, the diversion to energy from waste 30kt (Treatment contract) is forecast to cost £2.232 giving a total cost of Landfill/Treatment of £8.67m an increase of £24k overall (as reflected currently in the business planning for 2014/15).
- 7.2 As reported above the cost of diverting circa 30kt of kerbside waste to energy from waste is currently £234k pa less than landfill costs. As a consequence of any excess north waste from either kerbside, HWRC diversion, Street Cleansing being also sent for disposal rather than treatment, the overall forecast is therefore mitigating the impact of the 30kt treatment savings.

8.0 Legal Implications

- 8.1 The Council has an existing contract for management of waste that expires on the 31st March 2014. Earlier advice from consultants identified a variety of options that could be pursued within the available time frame including: collaboration; short-term extension and interim procurement. As the project has progressed further consideration of the procurement procedures available under the Public Contracts Regulations 2006 combined with recent legal advice has confirmed to the Council that it is possible to run a procurement exercise for an interim contract within time available.
- 8.2 In line with the new advice, an OJEU procurement has been commenced for the award of an interim contract for two years with the possibility of extending for up to two years. Tenders are due to be returned and evaluated in mid-January 2014 with an award made soon after so as to give the successful tenderer the time to mobilise in preparation for the interim contract.

- 8.3 The Council is both a waste collection authority and a waste disposal authority for the purposes of the Environmental Protection Act 1990 and the speedy award of the interim contract will ensure that the Council is able to comply with its obligations under that Act.
- 8.4 The award of the interim contract may trigger a TUPE transfer of workers engaged in providing the existing contract to the successful tenderer. Both the existing contract and the interim contract contain provisions enabling the Council to police compliance by the outgoing contractor and the incoming contractor with their obligations under TUPE.
- 8.5 The Council has power to award the interim contract under a number of statutes including the general power of competence under the Localism Act 2011, the well-being powers under the Local Government Act 2000, s 111 Local government Act 1972 and s 1 Local Government (Contracts) Act 1997.

9.0 Risk Management

- 9.1 That the Council fails to have a disposal route for residual waste after 1st April 2014 as the current contract can not be extended. This interim procurement is designed to mitigate the risk, maintain the Council's ability to carry out its statutory functions in regards to municipal waste, and give the Council two years to undertake a longer-term procurement for its waste and recycling needs.
- 9.2 That infrastructure required to enable waste to be transported to the Hanford EfW plant will not be available for the 1st April 2014. The Council is working with the existing contractor to provide interim arrangements until June 2014 should they be required.

10.0 Background and Options

- 10.1 As a unitary authority Cheshire East Council has both waste collection and waste disposal responsibilities as defined in the Environmental Protection Act 1990 and associated regulations. In meeting its obligations the Authority has in place a number of contracts and arrangements for the collection, recycling, treatment and disposal of household waste. The key contract for disposal of residual waste expires in March 2014 and cannot be extended.
- 10.2 As a result Cabinet, at its 24th June 2013 meeting resolved that;
- a. The most appropriate interim residual waste disposal solution to be a 2 year award (subject to on-going appraisal) of 30,000tonnes of its required capacity to 'energy from waste' by entering into an agreement with Staffordshire County Council, with the remaining capacity to be treated through landfill by

awarding a 1 year rolling, contract to FCC Environment Ltd at its current Maw Green facility on the edge of Crewe;

- 10.3 Following further legal advice the Council has opted for procurement for the continuation of the disposal and transfer station element of this 2 year interim solution currently managed by FCC plus the associated haulage contract. It is this interim procurement that the Cabinet is requested to give delegated authority to the portfolio holder and Executive Director of Strategic Commissioning to permit award to the winning contractor in January 2014.

11.0 Access to Information

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