

Date - 29 September 2017
Report of the - Lead Director, Dr Anthony Leonard
Subject - Procurement Project Update

Recommendation: It be **RESOLVED:** That the progress of the project and the updated work streams and critical path of the project be noted.

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Introduction

1. Work is progressing to procure a new Joint Waste Recycling, Beach and Street Cleansing Contract which must commence on 29 June 2019. Hastings Borough Council (HBC), Rother District Council (RDC) and Wealden District Council (WDC) have signed the Inter-Authority Agreement (IAA) and committed to a joint procurement. This report describes the progress that has been made so far and the steps further required to deliver a successful outcome.

Project Planning and Key Decisions

2. Minute JWC17/10 introduced the Work Streams and Milestone Tasks document and this has been updated and is contained in Appendix 1. A detailed Project plan for Phase (i) has been prepared which lists required documents, deadlines, responsibilities, collaboration requirements and timelines for review.
3. The intended procurement procedure, Competitive Procedure with Negotiation (CPN), requires all documents to be ready for tender and complete at the point of placing the Official Journal of the European Union (OJEU) Notice to enable the contractor to assess the full scope and service requirements of the contract. The contractor must be able to make an informed commercial decision on whether to tender. The planned date for the OJEU Notice is no later than December 2017.
4. In practice, this requires the Councils to take decisions on their final service requirements prior to placing the OJEU Notice. Therefore, some of the work planned under Phase (ii), has been brought forward. Detailed planning for Phase (ii) and (iii) will only be undertaken when the Notice has been placed and the detailed timeline can be planned for. The detailed project plans will be created and updated regularly and are available upon request.
5. Pre-Market Engagement was undertaken in July 2017. This highlighted three key areas:
 - Ownership of Recycling and Risk.
 - Mobilisation timescales.
 - Robust and accurate baseline data.

6. The Pre-Market Engagement highlighted the ownership of the recycling as a particular area of concern. Four out of the five respondents wished to see this tendered as a separate lot or as a separate contract. This is addressed in paragraphs 10 and 11 below.
7. A six month period from December 2018 is currently planned for mobilisation of the new Contract. However two of the five respondents recommend a nine month period. Effective mobilisation of the service is primarily dependent on the lead time for vehicle purchases. The OJEU Notice will therefore need to be in place by the end of 2017 at the latest. Contract Award is currently being planned for December 2018 and officers will liaise with partners with regard to key decisions and Cabinet forward plans in due course.
8. Robust and accurate baseline data was also stressed by contractors as a key area of risk i.e. accurate street measurements for cleansing activities are essential for accurate resourcing (and therefore pricing). The Project Team seeks to ensure accurate data is available for tender, to mitigate this risk.

Project Resources

9. The required technical, legal and financial expertise to support the procurement of the new contract has been commissioned as detailed below. Waste Officers from the respective Councils are also involved in refining and approving the Specification going forward.

Technical Support (Waste and Recycling Management)

10. In September 2016, the Waste Resource Action Programme (WRAP) launched its framework for Greater Consistency in Household Recycling in England. The opportunity to seek funding was announced in early 2017 so officers bid for WRAP support to assess the business case for implementing recycling collection services and work towards implementation of collection service changes. WRAP agreed to support the Joint Waste Partnership (JWP) by providing the following technical support:
 - Appraisal of nine collection options to allow the JWP to test key aspects of WRAP's nationally recommended consistency framework for recycling.
 - Support with the development and identification of local opportunities and benefits.
 - Advice on collection system design.
 - Support with commissioning and introducing new collection services.
11. Currently, disposal responsibility for dry recycling lies with the collection contractor. Demand for recycled material offered a financial advantage in 2012 but the commodities market has changed significantly so the financial implications of collecting, handling and disposing of each recycling material is being re-evaluated. The Pre-Market Engagement exercise demonstrated that collection contractors will not accept all of the associated financial risks in future.
12. WRAP will meet the full revenue cost of the technical support needed to analyse the collection system options and have appointed Ricardo-AEA to work with the Partnership and East Sussex County Council (ESCC) appointed consultants (Local Partnerships) to ensure whole system costs (collection, handling and disposal) are analysed so that treatment and disposal costs are

included in the modeling work. The final outcome of this WRAP enabled project will be a draft Contract Specification describing the JWPs' requirements for residual waste, dry recycling, garden waste, bulky waste and clinical waste. The Joint Waste and Recycling Committee (JWRC) will therefore need to take decisions regarding this in November.

Technical Support

13. Ricardo-AEA has also been appointed by the JWP for Waste Consultancy and Procurement Support. They have so far delivered six officer workshops that have considered:

- Street Cleansing.
- Health & Safety.
- Performance Management Framework, Key Performance indicators and Monitoring.
- Client Management Structure.
- Payment Mechanisms and Cost-sharing.
- Waste Collection Options, as well as some ancillary matters.

Ricardo-AEA will also be delivering a workshop on Evaluation of the Selection Questionnaire, Evaluation Model for tender and approach to method statements.

All of these discussions will form the basis of a Specification that meets the future needs of the Partnership. Any significant revisions to the current Specification will be highlighted at the next meeting.

Legal Support

14. Bevan Brittan LLP has been appointed as Legal Consultants to the Project. Bevan Brittan LLP were involved in discrete aspects of the previous contract, including TUPE (Transfer of Undertakings [Protection of Employment]) and Pension Provisions. They were subsequently commissioned to consider the series of Kier contractual claims, subsequently the Mutual Exit Agreement and the implications of naming of the constituent authorities on the OJEU Notice in consultation with Lewes District Council's legal services.
15. A review of the current contractual conditions has been taking place to ensure lessons learned are reflected in the new contract and a new document will be adopted by the new partnership. The Partnership will be moving forward using this document for procurement and are working with Ricardo-AEA to ensure the documents dovetail and interface seamlessly with each other.

Finance Support

16. ESCC Finance officers have been appointed as Finance Support for the project to assist with the financial models used to evaluate tenders, review the design of the content and format of the pricing documents and input into how the tender prices should be presented. The officers have attended a briefing on the Procurement Project and participated and contributed to the Payment Mechanisms and Cost-Sharing workshop delivered by Ricardo-AEA.

Cost Plan

17. The costs for procurement (2017-2019) for the three councils are forecast to be £300k. However, the extent of consultancy support and costs required will vary dependent on the final decision on procurement procedure, which will be presented at the next meeting. The current cost plan is based on the work required to deliver a CPN. Schedule 2 of the IAA which has been signed by HBC, RDC and WDC and commits the Councils to share these costs equally with part of these costs being off-set by Kier's contribution.

Project Risks

18. A risk register for the procurement has been developed which will be maintained and updated regularly and high risks will be reported to the JWRC. This reflects the on-going approach to risk management that has been taken by the JWP since 2011.

Conclusion

19. The time available to deliver this procurement is limited, however the level of planning that is being undertaken seeks to ensure that a comprehensive suite of documents tailored to the needs of the JWP will be available to place the OJEU Notice and start the procurement process by the end December 2017.

Dr Anthony Leonard
Lead Director

Risk Assessment Statement

Due to the mobilisation requirements, the OJEU Notice must be placed by the end of December 2017 with a comprehensive suite of documents. Decisions therefore need to be taken and approval for the Specification and Conditions of Contract needs to be given at the meeting of 10 November 2017. Mobilisation time is limited and already shorter than the Pre-Market Engagement suggests as ideal. Officers will strive to deliver the project to the projected timescales to ensure a Contract is in place from 29 June 2019, but uncertainty as to any of the Service Requirements significantly increases the risk of service disruption in 2019.

Work Streams and Milestone Tasks

Work stream 1 : Development of Specification This work stream will deliver the final specification for the services.		
Phase (i) June to October 2017 <ul style="list-style-type: none"> • Development of final specification for tender (to include all items listed in Appendix 1). • WRAP consistency work for development of collection model. • Appoint waste technical consultant. • Refresh all quantities, e.g. street measurements, dog bins etc. • Undertake Pre-Market Engagement. 	Phase (ii) Nov 2017 to Jan 2018 <ul style="list-style-type: none"> • Gain approval to tender. • Place OJEU Notice. 	Phase (iii) Feb 2018 – Dec 2018 <ul style="list-style-type: none"> • Tender process (timeframes dependent on procedure used).
Work stream 2 : Development of conditions of contract and legal documents This work stream will deliver the legal basis for the contract and supporting documents required.		
Phase (i) June to October 2017 <ul style="list-style-type: none"> • Appoint Legal Consultant. • Review Conditions of Contract, including, but not limited to: <ul style="list-style-type: none"> ○ Performance ○ Payments ○ Certificates ○ Invoicing ○ Clause 23 ○ Annual uplift. • Refresh statutory documents (invitation letter, anti-collusion etc.). • Undertake Pre-Market Engagement. • Conditions of Contract complete for tender process. • Finalise Evaluation Criteria. 	Phase (ii) Nov 2017 to Jan 2018 <ul style="list-style-type: none"> • All documents fit for tender purposes. • Proceed with contract tender process. 	Phase (iii) Feb 2018 to Dec 2018 <ul style="list-style-type: none"> • Contract award by December 2018.

Work stream 3 : Development of the pricing documents

This work stream will define the costs associated with the contract.

Phase (i) June to October 2017 <ul style="list-style-type: none">• Appoint financial consultant (pending ESFOA consideration).• Financial forecasts including collection and disposal costs (WRAP and ESCC).• Development of Pricing Document (Bills of Quantity).• Finalise pricing document.	Phase (ii) Nov 2017 to Jan 2018	Phase (iii) Feb 2018 to Dec 2018 <ul style="list-style-type: none">• Financial evaluation of tenders.• Contract awarded December 2018.
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Work stream 4 : Establish Client Management Arrangements

This work stream will define the ICT, customer service, enforcement, performance management and other client side arrangements.

Phase (i) June to October 2017 <ul style="list-style-type: none">• Consider lessons learned.• ICT integration plans.	Phase (ii) Nov 2017 to Jan 2018 <ul style="list-style-type: none">• Approve any changes to be implemented.	Phase (iii) Feb 2018 to Dec 2018 <ul style="list-style-type: none">• Plan for implementation at June 2019.
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