



JOINT WASTE AND RECYCLING COMMITTEE MEETING

Friday 10 November 2017 – 3:00pm

Council Chamber, County Hall, Lewes

Minutes of the Joint Waste and Recycling Committee meeting held in the Council Chamber at County Hall, Lewes on Friday 10 November 2017 at 3:00pm.

Joint Waste and Recycling Committee Members present: Councillors C. Fitzgerald (HBC) (Chair), A. Ganly (RDC) (Vice-Chair), N. Bennett (ESCC), P. Chowney (HBC), D. Elkin (ESCC substitute), R. Galley (WDC), M. Kenward (RDC) and R. Standley (WDC).

Advisory Officers present:

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| East Sussex County Council: | Assistant Director Operations and Contract Management, Head of Transport and Operational Services and Waste Team Manager. |
| Hastings Borough Council: | Director of Operational Services and Assistant Director Environment and Place. |
| Rother District Council: | Executive Director of Business Operations (Lead Director), Executive Director of Resources (Secretary), Service Manager – Finance and Welfare, Service Manager – Community and Economy, Neighbourhood Services Manager and Democratic Services Officer. |
| Wealden District Council: | Director of Environment and Community Services and Lead Head of Service. |
| Central Client Team: | Joint Waste Partnership Manager and Deputy Project Manager. |

Others present: 1 member of the public.

Publication Date: 21 November 2017

The decisions made under PART II will come into force on 29 November 2017 unless they have been subject to the call-in procedure.

JWRC17/08. MINUTES

The Chair was authorised to sign the minutes of the meeting held on 29 September 2017 as a correct record of the proceedings.

The Chair confirmed that Councillor Ganly had been elected as the Vice-Chair of the Joint Waste and Recycling Committee for the ensuing municipal year.

JWRC17/09. **APOLOGIES FOR ABSENCE**

An apology for absence was received from Kevin Boorman – Marketing and Major Projects Manager (HBC).

PART II – EXECUTIVE DECISIONS – subject to call-in procedure under Item 10 of the Joint Waste and Recycling Committee Constitution by no later than 4:00pm on 28 November 2017.

JWRC17/10. **PRESENTATION BY EAST SUSSEX COUNTY COUNCIL ON (7) WASTE IMPLICATIONS OF COLLECTION METHODS AND WASTE DISPOSAL ROUTES**

Karl Taylor, East Sussex County Council's (ESCC) Assistant Director Operations and Contract Management advised that investigations had been undertaken and advice sought from Veolia, the current disposal contractor regarding waste disposal routes for the Partnership. To dispose of co-mingled recyclate materials including glass through the current Integrated Waste Management Services Contract (IWMSC) would cost the tax-payer an additional £950,000 per annum. This sum included bulking and storage of materials, as well as transport to and gate fees at the Viridor Materials Recovery Facility (MRF) at Crayford. ESCC's MRF based at Hollingdean was unable to process the mix of materials being proposed for collection. It was clarified that all the materials including glass could be accepted through the IWMSC even if they could not be processed through the Hollingdean facility.

Discussion followed concerning the potential impact on recycling credit payments made to each council under the Waste and Recycling Cost Sharing Agreement (WRCSA). Simon Hubbard, Hastings Borough Council's Director of Operational Services requested that a review of the current and future WRCSA be undertaken to reflect the actual recycling rates being achieved by Hastings who suffered from lower recycling credit payments than other councils under the agreement.

It was generally agreed that although disposing of the Partnership's waste through ESCC's IWMSC would be preferable, Members suggested that alternative disposal options be investigated.

RESOLVED: That alternative waste disposal options be investigated.

(Councillor Standley declared a personal interest in this matter in so far as he is an Executive Member at East Sussex County Council and in accordance with the Members' Code of Conduct remained in the room during consideration thereof).

JWRC17/11. **TENDER PROCEDURE AND EVALUATION (8.1)**

The report of the Lead Director updated Members on procurement progress of the new Joint Waste Recycling, Beach and Street Cleansing Contract due to commence on 29 June 2019. Hastings Borough Council (HBC) and Rother District Council (RDC) and

Wealden District Council (WDC) had formally approved commitment and signed the Inter-Authority Agreement.

Competitive Procedure with Negotiation (CPN) was the preferred procurement route which would allow the Partnership to negotiate key points to the specification. Once initial tenders were received, costs could be considered with sufficient certainty to award. Negotiation on these key points could then be used to reconsider the impact on pricing arising from key contractual provisions.

The Joint Waste Partnership Manager advised that the Official Journal of the European Union (OJEU) notice was due to be placed in December 2017 with the initial tender returns scheduled in July 2018. Should the negotiation stage be required, it would need to be completed by September 2018 to enable final tenders to be invited and evaluated for contract award in December 2018. This would provide the minimum recommended six month mobilisation period.

Pre-Market Engagement (PME) was a key element of the CPN procedure which enabled key issues to be identified within the specification. A summary of the PME exercise undertaken in July 2017 was appended to the report at Appendix 1. Consideration had been given to the views expressed when developing the tender documents.

Service specification would need to be finalised prior to placing the OJEU notice, followed by a selection questionnaire stage and then invitation to tender. During the negotiation stage it would not be possible to revise any specified service requirements, only proposed contractor solutions and associated pricing. After the submission of final tenders there would be no further option to negotiate. Agreement on a Tender Evaluation Model (TEM) would be essential for controlling potential financial risks within the Partnership. An additional financial risk could be the inclusion or non-inclusion of HBC's street and beach, fly-tip and bulky waste service. HBC intended to provide a separate bespoke service and would require a 'best-value' price for comparison. In order to mitigate procurement risk, legal advice was sought and it was concluded that HBC's street and beach, fly-tip and bulky waste service not be included in the TEM. However, should the winning tender offer an attractive price / solution, then HBC could decide to enter into the joint contract. Tenders would therefore be evaluated on the following five elements: HBC, RDC and WDC collections, RDC and WDC street cleansing, reducing the risk of procurement challenge and providing the opportunity to conduct a robust evaluation.

Another key element of TEM was the split between price and quality considerations. In 2012, joint waste tenders were evaluated on a 70:30 price / quality split. Current experience indicated that 70:30 reduced service quality and therefore it was recommended that for financial purposes a 60:40 split be applied.

Each bidding contractor would be expected to provide an evaluation of contractor solutions e.g. method statement. Each method statement would be evaluated against the requirements, scored and weighted to result in a final score for each contractor. Officers were currently

working on the requirements / weightings and a report would be presented at the next meeting.

Following discussion, Members agreed that the five service elements proposed above and a 60:40 price / quality split be incorporated into the specification and conditions of contract documentation. They also agreed, in order for the documentation to be finalised prior to placing the OJEU notice by the end of December 2017, that the Lead Director be authorised to finalise the documents provided there were no budgetary or policy implications. Members noted that the finalised documentation would be presented at the next meeting scheduled to be held on 15 December 2017.

RESOLVED: That the following key decisions be incorporated into the Specification and Conditions of Contract documents, as appropriate:

- 1) tenders are evaluated for the five service elements that will definitely proceed to Contract (Hastings Collections, Rother Collections, Wealden Collections, Rother Street Cleansing and Wealden Street Cleansing);
- 2) the Tender Evaluation Model is developed using a 60:40 price:quality split;
- 3) the Joint Waste Partnership Lead Director be authorised to take decisions as required to finalise the documents for Official Journal of the European Union (OJEU) (provided such decisions have no budget or policy implications); and
- 4) the timetable for procurement be noted.

JWRC17/12. **SPECIFICATION MATTERS** (8.2)

Members gave consideration to the report of the Lead Director which advised the Committee of a number of key decisions to be incorporated into the Specification and Conditions of Contract documents, as follows:

Administration of Garden Waste Services: The current Garden Waste Service (GWS) was administered in-house by each authority. Wealden District Council (WDC) offered a free service, whereas both Hastings Borough Council (HBC) and Rother District Council (RDC) charged. The following three options were considered for the new service: a) individual partners retain administration of their own service; b) a central Partnership function administration service on behalf of all partners; and c) the contractor provide administration for the service. Large unquantified potential benefits and risks were associated with each option and, after consideration, it was felt that the GWS be retained in-house by each individual partner at this time, but kept under review.

Street Cleansing: Subject to lessons learnt from the current contract, the Street Cleansing Specification (SCS) had been modified for both RDC and WDC. A copy of the draft specification was available upon

request. HBC had developed a separate bespoke specification and a tender price would be obtained during procurement.

Quantities and Measurements: Robust baseline data, with particular focus on street cleansing had been identified as a key issue during Pre-Market Engagement. Quantities and measurements had a direct impact on the baseline price and were a significant risk if found to be incorrect. To mitigate these risks it was recommended that a 10% margin of error / tolerance mechanism be incorporated into the contract.

Controlling Activities (& costs) for Footpaths and Public Rights of Way: Subject to lessons learnt from the current contract, the specification had been updated to include 'core' and 'ad-hoc' cleansing activities e.g. tarmac and dirt track respectively. Core services would form part of the scheduled work plan and priced in the contract. Ad-hoc activities would be undertaken if requested and incurred additional payments.

Kerbside Collection System: Several options had been investigated via the Waste Resources Action Programme (WRAP) and it was concluded that the most cost effective for the Partnership would be co-mingled recycling including glass and chargeable garden waste. Food waste collection had previously been considered by the Committee and it had been agreed that this service not be pursued at this time. The WRAP analysis had included the collection of food waste and concluded that there would be no financial benefit to the Partnership. However to 'future-proof' the contract, it was recommended that a price be sought for food waste collection using a separate vehicle. This would mean that in the event of potential legislation changes where food waste must be collected, the Partnership would not need to re-tender for this service.

Ownership of Recycling and Disposal: Three options were proposed for the disposal of dry and bulky recycling, as follows: a) the collection contractor arranged for the disposal of recyclate as a requirement of the joint collections and street cleansing contract on agreed financial terms; b) disposal arranged by the Waste Disposal Authority, East Sussex County Council (ESCC); and c) disposal arranged by the Waste Collection Authorities requiring procurement of a new contract. Whichever option was adopted there would be disposal complexities for kerbside collection. It was therefore recommended that tenders be invited without the contractor being responsible for bulking, transfer and processing of co-mingled recycling (including glass) and officers work with ESCC to explore the most cost effective ways for disposing of this waste.

After deliberation, the Committee agreed to recommendations 1) to 6) as detailed in the report. Members agreed that the wording on recommendation 7) be amended as follows: whilst not proposing to include food waste collections at the moment, tenders be invited to enable a priced option for food waste collections using a separate vehicle. It was also agreed that regarding recommendation 8), officers explore all waste disposal options and therefore it was agreed to remove the reference to ESCC.

RESOLVED: That the following key decisions be incorporated into the Specification and Conditions of Contract documents, as appropriate:

- 1) tenders are invited on the basis that the administration of customer subscriptions for Garden Waste Services be retained in-house (as is);
- 2) tenders are invited on the basis of the revised Street Cleansing Specification;
- 3) the contract includes a 10% error/tolerance mechanism that mitigates the risk of any inaccurate measurements or item quantities;
- 4) cleansing of public footpaths, rights of way and similar locations are split into “core” and “ad-hoc” requirements and dealt with through the payment mechanisms being developed for the contract;
- 5) tenders be invited on the basis that the kerbside collection option is co-mingled recycling (including glass);
- 6) tenders be invited on the basis of charged Garden Waste Services for Hastings Borough Council and Rother District Council, and pending agreement by Wealden District Council this same approach be taken for the Wealden area;
- 7) whilst not proposing to include food waste collections at the moment, tenders be invited to enable a priced option for food waste collections using a separate vehicle; and
- 8) tenders be invited without the Contractor being responsible for bulking, transfer and processing of co-mingled recycling (including glass) and officers explore the most cost effective ways for disposing of this waste.

(Councillor Standley declared a personal interest in this matter in so far as he is an Executive Member at East Sussex County Council and in accordance with the Members’ Code of Conduct remained in the room during consideration thereof).

JWRC17/13. CONTRACT MATTERS: FINANCIALS **(8.3)**

The Lead Director advised that all documentation would need to be completed prior to placing the Official Journal of the European Union (OJEU) notice for tender.

The contract price had increased annually to deal with the effect of inflation. The current contract used a Consumer Price Index (CPI) based mechanism; an alternative approach could be used for the new contract. The aim of an indexation mechanism was to protect the Partnership from over inflated contract pricing and under inflated resource costs.

Fuel and labour accounted for the highest proportion of resource costs. Fuel (prices) inflation remained volatile with the likelihood of significant variances during the contract period. Labour (wages) inflation was more stable however costs could be significantly affected by legislative changes to pension, minimum wage and employer contribution requirements. There were genuine risks to service performance should inflation become a significant factor, as the contractor could be expected to make reductions in resources to deliver the contract. The advantages and disadvantages of using a CPI index or basket / ranges of indices had been explored. At this stage it was proposed to adopt CPI with the caveat that the Partnership considered an alternative approach, if required. Members were supportive of this approach.

A Cost Sharing Agreement (CSA) would need to be developed to accurately apportion the additional costs that were anticipated. Analysis of current resource levels and productivity rates for rural and urban geographies would need to be completed. It was therefore recommended that tenders be invited using a detailed schedule of prices to support a CSA which enabled accurate cost apportionment and stabilisation for each partner Council. The Committee were in agreement.

The highest initial investment for the contract would be vehicle funding. The scale of funding required meant that the contract price would include annual contractor financing costs. It was therefore recommended that tenders be invited on the basis that Contractors fully funded vehicles, with the option of negotiation. This recommendation was fully supported.

RESOLVED: That the following key decisions be incorporated into the Specification and Conditions of Contract documents, as appropriate:

- 1) tenders are invited on the basis of Consumer Price Index linked indexation, with this item marked for possible negotiation, if required;
- 2) tenders be invited using a detailed schedule of prices to support a Cost Sharing Agreement which enables accurate cost appointment and stabilisation for each partner Council; and
- 3) tenders are invited on the basis that Contractors fully fund their vehicles, with this item marked for possible negotiation, if required.

JWRC17/14. (8.3) CONTRACT MATTERS: MOBILISATION, CONTRACT PERIOD AND PERFORMANCE MANAGEMENT FRAMEWORK

Consideration was given to the report of the Lead Director which updated the Committee on a number of contractual matters. In order to complete the specification / conditions of contract and prior to placing the Official Journal of the European Union (OJEU) notice in December 2017, a number of contractual matters would need to be finalised, as follows:

Waste Precedent Contract: Bevan Brittan, legal consultants had developed a comprehensive Waste Precedent Contract and it was proposed to use this document through the procurement process.

Service Mobilisation: New kerbside collection would commence on 29 June 2019. Changes to the system would be communicated to the workforce and general public in advance of this date. The incoming contractor would be expected to run Kier's current routes, as minimal changes to the service would decrease the likelihood of significant disruption. The contract allowed for an eight week 'grace' period where provision of the performance management framework (PMF) would not be applied to the waste and recycling collection services. A four week 'grace' period would apply to the clinical waste service and the PMF would be fully utilised. The incoming contractor would be permitted to either entirely re-route or roll-out (area by area) service provision from October 2019 to the second week of January 2020, to enable time for sufficient planning and communications. A second 'grace' period with no performance deductions would apply. Following expiry of the 'grace' period the PMF would apply in its entirety. A four week 'grace' period would also apply to the street cleansing, fly-tip and a bulky waste service, as the contract was due to start prior to the peak summer tourism season. The Partnership would support the contractor during this period to minimise disruption.

Contract Period: Following investigation, it was recommended that tenders be invited on a contract term of seven years, with a possible extension of up to seven years. This would allow bidders to recover the cost of vehicles over a reasonable term and ensure that the contract had a robust fleet to deliver the services required.

Performance Management Framework: A clear and unambiguous PMF was an essential requirement of contractual provision. The PMF aligned with specified requirements of the specification and ensured that the consequences of poor performance were clear and transparent to the contractor. The PMF would be streamlined and include a mechanism for managing whole road misses and non-completion of rounds. Ricardo AEA (waste consultants) was currently preparing / re-writing the PMF to include a deductions mechanism for breach, as well as a points system which could lead to termination of the contract; the finalised document would be presented at the next meeting.

After deliberation, the Committee agreed to the recommendations as detailed in the report.

RESOLVED: That:

- 1) the service mobilisation requirement includes:
 - a. new kerbside collection model to be implemented from 29 June 2019;
 - b. eight week 'grace' period at the beginning of the contract where the PMF will not apply for collections (except clinical waste which will have only a four week grace period);
 - c. eight week 'grace' period following optimisation of routes, where the PMF will not apply for collections;

- d. four week 'grace' period for Street Cleansing, Bulky Waste and Fly-tip services; and
- 2) tenders are invited with a Contract Term of seven years, with a possible extension of up to seven years; and
- 3) tenders are invited using a Performance Management Framework that includes both a deductions mechanism for breach and a points system.

JWRC17/15. 2018 MEETING DATES

(8.5)

The Committee was required to agree its meeting dates for 2018 as currently there were no dates in place for future meetings.

Due to the fact that each Partner authority published their timetable of meetings at different times of the year, the approach had been taken to 'set' dates in advance of all timetables being available. In order to avoid any other meetings of the Partner authorities, it was agreed that the same procedure followed by the Joint Waste Committee (JWC) be adopted by the Joint Waste and Recycling Committee (JWRC). Meetings to be held on Friday afternoons and start at 2:00pm, and where meetings are on the same day as a JWC meeting, the JWRC meet at 3:00pm or at the conclusion of the JWC meeting. Additional meetings would be required to ensure that key decisions were made in time for progression of the new contract. Members were therefore asked to agree Committee dates for 2018 as follows: 16 March; 8 June; 27 July, 9 November and 14 December, but could be subject to change or cancellation.

The Lead Director advised that informal briefings might be required pending the outcome of contractor discussions and progression of the new contract.

RESOLVED: That the following meeting dates be agreed for the Joint Waste and Recycling Committee for 2018:

- 16 March, to be held at 3:00pm, Town Hall, Bexhill;
- 8 June, to be held at 3:00pm, Muriel Matters House, Hastings;
- 27 July, to be held at 2:00pm, County Hall, Lewes;
- 7 September, to be held at 2:00pm, Town Hall, Bexhill;
- 9 November, to be held at 3:00pm, Town Hall, Eastbourne; and
- 14 December, to be held at 2:00pm, Muriel Matters House, Hastings.

JWRC17/16. DATE OF NEXT MEETING

(9)

The next meeting was scheduled to be held on Friday 15 December 2017 at 2:00pm in the Council Chamber, Town Hall, Bexhill.

CHAIR

The meeting closed at 3:40pm

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