

Date	-	29 September 2017
Report of the	-	Lead Director, Dr Anthony Leonard
Subject	-	Inter-Authority Agreement and Procurement of Joint Waste Services

Recommendation: It be **RESOLVED:** It be noted that:

- 1) the Joint Waste Committee will remain until 28 June 2019 to conduct business in relation to and provide oversight of the existing joint contract; and
 - 2) Hastings Borough Council, Rother District Council and Wealden District Council are signatories to the Inter-Authority Agreement and a new Joint Waste and Recycling Committee has been constituted to advance the procurement of a new joint contract for the three councils.
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1. At the last Joint Waste Committee (JWC) meeting (16 June 2017) it was resolved that each Council formally sign the Inter Authority Agreement (IAA) no later than 18 July 2017 in order to proceed with the joint procurement of Waste, Recycling and/or Street Cleansing Services. It was also resolved that the JWC comply with EU Public Procurement rules to procure a Joint Waste, Recycling and Street Cleansing Contract but that the procurement method to be used would be determined at a future meeting.
2. This report considers each Councils commitment to the joint procurement and consequently the IAA, describes the procurement risks and way forward for the Joint Waste Partnership (JWP).

Commitments to Joint Procurement

3. The IAA describes the relationship between the councils and seeks to deal with any liabilities or procurement risks that might arise. Minute JWC17/08 recorded that Eastbourne Borough Council (EBC), Hastings Borough Council (HBC), Lewes District Council (LDC), Rother District Council (RDC) and Wealden District Council (WDC) formally sign the IAA no later than 18 July 2017 and proceed with the joint procurement of Waste, Recycling and/or Street Cleansing Services. Each Council subsequently considered its position with regard to the IAA with the following outcomes.
4. WDC resolved to jointly procure a contract to deliver collection and street cleansing services (and expresses minimal desire to fundamentally change the specification). Approval was given to sign the IAA.
5. RDC resolved to jointly procure a contract to deliver collection and street cleansing services (and expresses minimal desire to fundamentally change the specification). Approval was given to sign the IAA.

6. HBC resolved to jointly procure a contract to deliver collection services (and expresses a desire to change some aspects of the collections specification with regard to on-street communal and daily/weekly bag collections). HBC also wishes to obtain tender prices for street cleansing services and compare those prices against DSO cost forecasts before taking a final decision on whether to proceed with a joint contract or deliver street cleansing in-house. Approval was given to sign the IAA.
7. EBC resolved that the council withdraw from the East Sussex JWP. Officers were subsequently advised that EBC wish to be named on the OJEU notice for potential future access to the contract by variation (although it noted that this was not a resolution by EBC's Cabinet).
8. LDC resolved that subject to EBC making the decision to bring services in-house, they would work together to develop joint services across EBC and LDC. Officers have been subsequently advised that LDC wish to be named on the OJEU (Official Journal of the European Union) notice for potential future access to the contract by variation (although it is noted that this was not a resolution by the LDC's Cabinet).

Consideration of Procurement Risks Arising

9. The JWP's appointed legal and technical waste consultants together with EBC/LDC's specialist lawyer have considered each councils' position and how the requirements of each council could be met. A range of potential scenarios were considered to assess whether the stated wishes of one council might incur significant risk and costs for another council.
10. The procurement lawyers for the JWP and EBC/LDC's specialist lawyer reviewed options to enable this, however, consensus could not be reached over method and the relative risk levels for the parties involved. These risks are considered significant and so EBC and LDC will not be named on the OJEU notice.
11. Therefore, having considered each councils resolutions and stated positions the committed Councils of HBC, RDC and WDC have signed the IAA together with sufficient budget approvals to proceed with the procurement project. The content of the IAA remains unchanged (as reported to JWC in June and subsequently considered by each Cabinet) except that the agreement now omits EBC and LDC, and amends references to the JWC.
12. The primary function of the JWC is now to consider performance and development of the Joint Waste Contract with Kier Services Limited until 28 June 2019 and thereafter the JWC will cease to exist and its constitution will then be terminated. The procurement considerations for the new joint contract starting 29 June 2019 are to be handled by the new Joint Waste and Recycling Committee (JWRC). The amendments to the JWC constitution and new constitution to establish the JWRC have also been approved by each Council's Cabinet.
13. The focus for the future JWRC will not only therefore be the operational delivery of collection and cleansing services, but also the chosen mix and disposal of dry recycling materials which is the major interest and potential consideration for EBC and LDC in future. As previously reported, the Waste Resource Action Programme (WRAP) analysis will be used to inform the

contract specification for HBC, RDC and WDC requirements for residual, dry recycling, garden, bulky and clinical waste services. However, the disposal arrangements for each of these materials have yet to be concluded so the opportunity remains to work with EBC and LDC requirements for disposal. This is an important consideration with Waste Disposal Authority implications which will be reported in due course.

Conclusion

14. Now that each Councils' level of commitment to the joint procurement project is known, the procurement procedure, associated timetable and cost plan have been finalised. These form the key elements of the IAA which has been circulated for signature by HBC, RDC, WDC and East Sussex County Council. The content of the IAA remains as reported to the JWC in June (and subsequently considered by each Cabinet), except that the agreement now omits EBC and LDC, and amends references to the JWC.

Dr Anthony Leonard
Lead Director

Risk Assessment Statement

The waste collection partnership has been established since 2011 so the withdrawal of a Partner to the joint contract could be seen as detrimental to the success of the Partnership. However, Eastbourne Borough Council's decision to more directly control operational delivery of their services from 2019 is unlikely to significantly affect the cost of services for East Sussex tax-payers. Regardless of various collection arrangements, all five Waste Collection Authorities and the Waste Disposal Authority continue to work together to meet the objectives of the East Sussex Municipal Waste Strategy.