

For General Release

REPORT TO:	Cabinet Member for Clean Green Croydon
AGENDA ITEM:	Background document to item 14 - 22.6.15
SUBJECT:	South London Waste Partnership, Household Reuse and Recycling Centres Procurement – Preferred Bidder Recommendation Report
LEAD OFFICER:	Jo Negrini – Executive Director, Places
CABINET MEMBER:	Councillor Collins - Cabinet Member for Green and Clean and Cllr Simon Hall, Cabinet Member for Finance & Treasury
WARDS:	ALL

CORPORATE PRIORITY/POLICY CONTEXT

The Administration has a commitment to make Croydon the cleanest and greenest borough in London.

As part of the commitment to becoming the cleanest and greenest borough in London it is recognised that the consistent delivery of high-quality of Environmental Services is an integral element of achieving this aim.

AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS:

Cleaner & Greener – through competitive dialogue to procure a contract capable of ensuring that environmental improvements will be achieved during the life of the contract to enhance and improve the environment, and increase recycling and promote reuse.

FINANCIAL IMPACT:

As part of this procurement the overall sum paid by Croydon for the management and operation of its three Household Reuse & Recycling Centres is expected to decrease in a full financial year by £553k

KEY DECISION REFERENCE NO.: 21/15/CG

This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Strategic Overview Committee by the requisite number of Councillors

The Leader of the Council has delegated to the Cabinet Member for Clean and Green the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet Member for Clean and Green in consultation with the Cabinet Member for Finance and Treasury is recommended to;

- 1.1 Approve the appointment of the Preferred Bidder as detailed within the associated Part B report in relation to the procurement exercise that has been undertaken by the South London Waste Partnership ('SLWP') for the management of Household Reuse and Recycling Centres.
- 1.2 That Cabinet Member further approves the appointment of the Reserved Bidder as detailed within the associated Part B report.
- 1.3 That, subject to financial close and 'fine tuning' discussions, with the Preferred Bidder being resolved to the satisfaction of the South London Waste Partnership Management Group, and there being no material changes to the proposed solution beyond the scope of the proposed solution set out in this report, authorise the Chair of the Management Group (acting in consultation with the Chair of the Joint Waste Committee, the Management Group and the Partnership's Legal Lead), to award the final contract and agree all necessary documentation without further recourse to this Cabinet.
- 1.4 Agree to the term of the contract being 7 years which may be extended annually for a further period of up to seven (7) years by agreement giving a total of 14 years.

2. EXECUTIVE SUMMARY

- 2.1 The SLWP conducted the initial procurement of Household Reuse Recycling Centre ('HRRC') services as part of the Phase A suite of disposal contracts in 2007-8, and Environment Waste Controls Limited ('EWC') were awarded the contract to manage the Partnership's HRRC sites in November 2007 for a period of 14 years.
- 2.2 An operational, legal and commercial review of all Phase A contracts commenced in 2013. During a review period from April – June 2013, EWC's performance was assessed as poor on a number of grounds and at the end of June 2013, EWC informed the Partnership of their financial difficulties which resulted in them issuing a Notice of Intention to Appoint Administrators on 2nd July 2013 and again a further notice on the 15th July 2013. During this time, EWC hoped to make a Company Voluntary Arrangement with their creditors.

2.3 The Partnership’s priority was the continued stable management of the sites and it was agreed the safest course was a swift exit, which could be mutually agreed and beneficial to both parties. A three stage strategy for the continued management of the HRRC’s was put in place, and agreed by the Joint Waste Committee on 12 September 2013, as follows:

- a) **Exit Agreement** EWC removed from the HRRC contract on the 24 July 2013, thus ensuring the councils have control of a statutory service.
- b) **Transition Phase:** Royal Borough of Kingston took on the management of the service and its staff, and conducted a review of the service which included a staffing restructure and review of supplier arrangements, the latter of which was led by the Partnership’s Contract Manager.
- c) **Re-Procurement of Service:** undertake a Competitive Dialogue (CD) procedure for the procurement for HRRC services under new contracting principles, to allow detailed considerations of recycle revenue and sharing bring greater efficiencies to the service and embed robust and transparent reporting requirements.

2.4 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
15.5.2015	CCB1005/14-15

3. DETAIL

THE PROCUREMENT PROCESS

- 3.1 A soft market testing exercise was carried out in December 2013 which identified companies that would be interested in providing services, and illustrated a broad support for the new contracting principles and their emphasis on transparency and recycle revenue sharing.
- 3.2 The Partnership refined its requirements in relation to these services, which included drafting a new Specification requiring the contractor to meet a recycling target of at least 70% at each site. The Partnership enlisted support from its advisers in the procurement process; Price Waterhouse Coopers (PwC) provided financial advice, Wragge Lawrence Graham & Co provided legal advice and Eunomia provided technical advice.
- 3.3 Following approval by the four boroughs, an OJEU notice was submitted on 7 March 2014 and those companies expressing an interest were sent a Pre-Qualification Questionnaire (PQQ).

Pre-Qualification Questionnaire Assessment

- 3.4 Pre-Qualification Questionnaires were received from Biffa Municipal Limited, Countrystyle Recycling Limited, Sita UK Limited, Veolia ES (UK) Limited and Viridor Waste Management Limited by the 7 April 2014 deadline and were reviewed by officers and advisers.
- 3.5 All five applicants were assessed as suitable to take through to the competitive dialogue process. The Chair of Management Group in consultation with the Chair of Joint Waste Committee agreed, as per the authority delegated to them by the Joint Waste Committee, to invite the five applicants to participate in dialogue.
- 3.6 The Invitation to Participate in Dialogue and the suite of contract documents including the Project Agreement, Payment Mechanism, Specification and Evaluation Criteria, were issued to bidders on 23 April 2014. The Evaluation Criteria were applied to assess solutions received from each of the bidders at each stage of the procurement according to the following weightings as set out below:

Criteria (level 1)	ISOS Weighting	ISDS Weighting	ISFT Weighting
Technical	50%	40%	35%
Financial	35%	30%	35%
Legal	15%	30%	30%
Total	100%	100%	100%

- 3.7 Price was not evaluated at Invitation to Submit Outline Solutions (ISOS) stage, bidders were asked to submit priced solutions at Invitation to Submit Detailed Solutions (ISDS) and Invitation to Submit Final Tender Solutions (ISFT) stages where a price adjustment evaluation criteria was also applied. Full details of the evaluation are set out in the Evaluation Report contained at Appendix 1 to the Part B .

Invitation to Submit Outline Solutions (ISOS)

- 3.8 Four bidders, Countrystyle, Sita, Veolia and Viridor, confirmed their intention to participate in dialogue and submit an outline solution. The fifth bidder, Biffa, dropped out of the process after the first round of meetings citing their competing commitments elsewhere.

3.9 The dialogue meetings focused on bidders' technical solution and their proposals for sharing recycle income with the Partnership. Bidders were given opportunities to visit all sites and to attend a technical question and answer session which was aimed to rapidly bring them up to speed with the current operations. Bidders were invited to three separate dialogue meetings and submitted a total of 69 separate clarification questions in this round.

3.10 Outline solutions were submitted by all four bidders by the 6 June 2014 deadline. Two bidders chose to submit a main and variant submission. The six submissions were reviewed and assessed by officers and the Partnership's advisers, according to the completeness and compliance of submissions, and by application of the Evaluation Criteria. The overall scores are summarised below:

Overall ISOS Scores	Bidder 1	Bidder 2	Bidder 2 Variant	Bidder 3	Bidder 4	Bidder 4 Vairant
Overall Quality score	72.91%	68.01%	68.91%	66.01%	72.65%	72.65%
Final Ranking	1	3	4	5	2	2

3.11 All six submissions were assessed to be of good quality and accordingly all four bidders were invited to the next stage of dialogue, detailed solutions, on 25 June 2014.

Invitation to Submit Detailed Solutions (ISDS)

3.12 Four bidders, Countrystyle, Sita, Veolia and Viridor received revised contract documents and instructions at the outset of detailed solutions and all four confirmed their intention to participate. The dialogue meetings focused on bidders' approach to running the sites including changes to site layouts, their proposals for sharing recycle income with the Partnership, and any efficiencies which could be derived leading to a reduced management fee. The Partnership issued bidders with staffing information to aid their development of priced solutions, and bidders submitted a total of 50 clarification questions during detailed solutions dialogue.

3.13 A significant amount of work was carried out at this stage, both by bidders and the Partnership, on bidder financial models. The financial model was a requirement of submission both to evidence each bidder's costed model and basis for their assumptions, and also to provide the Partnership with the required transparency over material/recyclate offtake arrangements. An extension of time of 2 weeks to the deadline for bidders to submit their detailed solutions proposals was agreed and granted, to allow further time for bidders to refine their financial models. Given that price would be assessed at this stage

of dialogue, and that prices cannot vary from detailed solutions to final tender solution unless as a result of changes to information issued by the Partnership, it was critical to the procurement that competitive prices were submitted at this stage which bidders are comfortable they can deliver. It was judged that should some additional time not be allowed, there was a risk that bidders may introduce risk pricing which would result in higher management fees. This extension was workable within the overall timetable as it did not impact on the contract start date.

3.14 Detailed solutions were submitted by all four bidders by the 19 September 2014 deadline. Two bidders again elected to submit a main and variant submission. The six submissions were reviewed and assessed by officers and the Partnership's advisers, according to the completeness and compliance of submissions, the application of the Evaluation Criteria, and Price Adjustment Evaluation method; these are set out in full in Appendix 1. The results of this evaluation were moderated by the project team and work stream leads. The outcome of this process was to establish a quality score for each bid, and a price per quality point score which is summarised below.

Overall ISDS Scores	Bidder 1	Bidder 2	Bidder 2 Variant	Bidder 3	Bidder 4	Bidder 4 Variant
Overall Quality score	66.82%	77.46%	78.07%	81.67%	71.10%	71.10%
Net Present Value over 7 years	£18,990,000	£16,780,000	£18,190,000	£18,630,000	£23,120,000	£22,630,000
Price per quality point	£284,206.98	£216,620.95	£232,996.03	£228,113.14	£325,187.24	£318,295.30
Final Ranking after Price and Quality Assessment	4	1	2	3	6	5

3.15 The project team recommended to deselect the two lowest scoring bidders on the basis of the evaluation, and the Chair of Management Group in consultation with the Chair of Joint Waste Committee gave approval to deselect two bidders and to invite the remaining bidders to final tender stage dialogue.

Invitation to Submit Final Tender Solutions (ISFT)

3.16 Revised contract documents were issued along with the Invitation to Submit Final Tender Solutions on 23 October 2014, and dialogue meetings commenced on 4 November 2014. The focus of the final round of meetings was to further negotiate price to attempt to derive further savings, and to

discuss any areas of bidders' proposals requiring improvement or amendment to ensure each borough's requirements for managing their site(s) are met. During the final stage of dialogue, bidders were provided with an updated version of the Project Agreement to reflect the legal positions agreed in dialogue, an updated set of staffing information to reflect the staffing restructure carried out by the Royal Borough of Kingston, and a draft lease, heads of terms and title information relevant to the six sites.

- 3.17 A two week period followed the completion of dialogue meetings, to allow bidders time to finalise their solutions and to put forward any final clarifications. There were 56 clarification questions raised by bidders in the final stage of dialogue.
- 3.18 Call for final tenders were issued on 22 January 2015 marking the closure of dialogue, and final tenders were submitted on the deadline date of 23 January 2015. The two submissions were reviewed and assessed by officers and the Partnership's advisers, according to the same criteria applied throughout the procurement. The results of this evaluation were moderated by the project team and work stream leads and are outlined in detail within the associated Part B report at Appendix 1.
- 3.19 The result of the final tender evaluation is summarised below:

Overall ISFT Scores	Bidder 1	Bidder 2
Overall Quality score	83.48%	84.66%
Net Present Value over 7 years	£16,494,593	£15,878,491
Final Ranking	2	1

It should be noted that the NPV above is for all 6 sites within the Partnership. Croydon's liabilities are detailed within the Table at Part B, Section 3.

BENEFITS OF THE NEW CONTRACT

- 3.20 The new contract has a sharing mechanism for income derived from the sale of recycle materials embedded within the Payment Mechanism. The Preferred Bidder has proposed a sharing split of 50/50 with the Partnership.
- 3.21 The Preferred Bidder has proposed to guarantee a reduction by 17% of rubble and hardcore (DIY) material tonnages arriving at all sites, through greater security and enforcement of trade waste policies at sites. This has a benefit in reducing disposal costs associated with these materials.

3.22 The term of the contract is 14 years, as agreed by all members of the SLWP, and is similar to the previous waste contract awarded in 2008. There is an option to break at 7 years subject to mutual agreement by both parties.

CONTRACT MANAGEMENT

3.22 Croydon as the Lead Authority for this contract will be responsible for the strategic contract management of this contract.

3.23 In addition day to day contract management will be undertaken by the Partnership’s Contract Manager, with support from all four boroughs, in accordance with the reporting requirements developed through dialogue with bidders and agreed with the Preferred Bidder during fine tuning.

3.24 Any proposals for change, such as varying the Council’s existing waste centres, routes or frequencies, would be subject to a Variation Order being agreed and issued. Contract particulars associated with any variation would be subject to discussions with the provider to determine the financial implications or other considerations arising.

TIMESCALES & MOBILISATION

3.25 Subject to each partner borough executive’s approval of the recommendations within this report, the contract will commence on 1 October 2015. A mobilisation plan has been submitted by the Preferred Bidder in accordance with the submission requirements and will be subject to further discussion and agreement with Partnership officers during contract fine tuning, particularly with reference to London Living Wage and any capital works planned on the sites.

3.26 The indicative timetable leading to contract commencement is as follows:

Borough Executive Approvals for Preferred Bidder	March – June 2015
Preferred Bidder Fine Tuning	June - July 2015
Contract Signing (includes 10 working day standstill period following notification of contract award)	July 2015
Mobilisation period (including TUPE transfer of relevant staff)	July – September 2015
Contract Commencement	1 October 2015

FINANCE

3.27 A breakdown of the financial impact of both tender prices compared with existing costs of service is shown within the Part B report at Appendix 2. In order to provide a full year comparison against the current forecast outturn costs for the current service, the amounts in the table show the annualised Annual Contract Payment (ACP) from the start of the concession, 1 October 2015, through to the first indexation point of 1 April multiplied by 2.

- 3.28 As detailed in 8.1, the figures in Part B, Appendix 2 are the ACP from the start of the concession, 1 October 2015, however, it should be noted that some of the figures in the bidders' models are profiled over the life of the contract and may fluctuate. For example, the year one guaranteed share of re-use and recycle income illustrated in Appendix 2 for Bidder 1 will equate to approximately £75k per annum.
- 3.29 The year one savings from the procurement will be a 6 month part year saving and will be estimated for 2015/2016 to be around £150k (£553k full year effect). In addition the Council will receive a share of the recycle income.

SOCIAL VALUE

- 3.30 To meet the requirements of the Public Service (Social Value) Act 2012, the Partnership is obliged to measure the social impact of services commissioned by the constituent councils. Bidders were therefore required in their submissions to demonstrate how their proposals would contribute to social value within the partner boroughs. Contribution to social value in the context of this procurement was defined as, but not limited to, apprenticeship schemes, local employment opportunities and third sector engagement.

4. CONSULTATION

- 4.1 There was no specific consultation with residents regarding the proposed service delivery models from the final two bidders.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 The sharing mechanism for income from the sale of recyclable materials enables future opportunities for additional income to be generated through both this mechanism and from additional Re-use material.

1 Revenue and Capital consequences of report recommendations

See Table in Part B

2 The effect of the decision

Approval of the recommendation would allow the SLWP to continue the Competitive Dialogue process with the preferred bidder and develop a full, detailed solution.

3 Risks

A risk register detailing possible risks associated with this procurement was developed and maintained throughout the procurement process.

4 Options

The existing services are managed on behalf of the SLWP by the Royal Borough of Kingston as part of emergency arrangements when EWC exited

the contract in July 2013. At the point of exit the SLWP agreed that as no viable alternative options were available, that the services would be advertised through an OJEU Notice.

5 Future savings/efficiencies

The sharing mechanism is intended to provide savings throughout the contract term.

Approved by: Dianne Ellender, Head of Finance & Deputy S151 Officer

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Council Solicitor comments that the procurement exercise leading to the recommendation of a preferred bidder has been conducted using the Competitive Dialogue procedure as provided for under the Public Contract Regulations 2006 (as amended). Legal advice in relation to the procurement rules and the drafting of contract documentation and other relevant legal matters has been given throughout the whole of this procurement process. There are no governance or legal concerns at this time in relation to the proposed recommendation. Legal advice will continue to be provided up to financial close and as necessary.

Approved by: Gabriel Macgregor, Head of Corporate Law on behalf of the Council Solicitor & Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 There are no Human resources implications arising from this report

Approved by: Adrian Prescod, HR Business Partner, on behalf of the Director of Human Resources)

8. EQUALITIES IMPACT

- 8.1 There are no equalities implications arising directly from the recommendation set out in this report, however it should be noted that the Royal Borough of Kingston carried out an Equality Impact Assessment (EQIA) as part of the separate staffing restructure, which in turn provided the Partnership with a better understanding of the training and development needs of staff, and of their responsibility as a future manager of the contract to continue effective monitoring of staff performance and wellbeing, and to embed these within the reporting requirements of the contract.

- 8.2 The tender opportunity and procurement process was conducted with due regard for equalities legislation and bidders selected for Competitive Dialogue were required to have a current Equalities Policy which met legislative requirements.

9. ENVIRONMENTAL IMPACT

9.1 The new services will deliver environmental benefits by sustaining a high level of diversion from landfill through enforcement of the 70% target for recycling at all HRRC sites, potential minimisation of rubble and hardcore (DIY) waste materials arriving at sites through an enhanced meet and greet function, and enhanced reuse initiatives which should result in materials suitable for repair and potential sale as reuse items being diverted from landfill disposal.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no anticipated impacts on crime and disorder reduction resulting from the approval of the recommendations within this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The outcome of the procurement process has been that two bidders have submitted acceptable bids in respect of the provision and management of the six Household Recycling & Reuse Centres across the Partnership, and that a preferred bidder and reserve bidder are being recommended.

12. OPTIONS CONSIDERED AND REJECTED

12.1 A range of delivery models were discussed through the competitive dialogue process, and feedback was given by the partnership's negotiating team, and all bidders considered the feedback from the partnership and either retained their original proposals or amended. An example of this relates to the commercial approach taken in respect of Re-use where different approaches were taken by contractors

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