

Somerset Waste Board meeting
29 September 2018
Report for decision

Recycle More & Collection Contract Procurement: Update

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Forward Plan Reference:	
Summary:	<p>This report summarises progress in procuring a new collection contractor (and hence delivery of Recycle More) since the Somerset Waste Board agreed to end its kerbside waste and recycling collections contract with Kier in March 2020. A key project milestone was achieved on 20 April 2018 when a contract notice was published in the Official Journal of the European Union.</p>
Recommendations:	<p>It is recommended that the Board notes the progress made in procuring a new collection contract.</p>
Reasons for recommendations:	<p>To ensure that the Somerset Waste Board is kept up to date with this major procurement exercise and has the opportunity to shape the approach taken.</p>
Links to Priorities and Impact on Annual Business Plan:	<p>The procurement delivers Task 5.2 within the SWB Approved Business Plan 2018-23 concerning the implementation of future collection arrangements.</p>
Financial, Legal and HR Implications:	<p>In addition to delivering the environmental benefits of Recycle More a new collection contract aims to deliver significant savings to all partners, through reduced contract costs, lower disposal costs and additional recycling credits for district partners – estimated in total at up to £1.7m. It is evident from soft market testing that all potential suppliers are becoming more risk averse, and the ripple effect of China’s restrictions on low quality recyclate imports is creating uncertainty in the market. A robust procurement process has been developed to realise these benefits, enable potential suppliers to propose innovative solutions to meet our environmental and financial objectives, and ensure that risks are shared appropriately. Staff will TUPE transfer to the new contractor, and SWP aims to proactively engage with staff throughout the procurement process.</p>

Equalities Implications:	None.
Risk Assessment:	The risks related to the procurement of a new collection contractor and Recycle More have been reviewed (see agenda item 10) and are set out in the updated risk register.

1. Background

- 1.1. A progress report on the procurement of a new waste and recycling collection contractor was presented to the Board on 23 February 2018 (Agenda Item 9). This report provides a summary of progress since then.

2. Progress to date

- 2.1. A key project milestone was achieved on 20 April 2018 when a contract notice was published in the Official Journal of the European Union (OJEU). This was the culmination of very busy period to prepare the tender pack that comprised the following documents:

- Contract Notice
- Document A: Instructions to Applicants: Pre-Qualification Questionnaire (PQQ)
- Document B: Pre-Qualification Questionnaire
- Document C: Instructions to applicants: Invitation to Submit Detailed Solutions (ISDS)
- Document D: Descriptive Document
- Document E: Contract Terms and Conditions:
 - Definitions
 - Payment mechanism and performance schedule
 - Assets
 - Authority depots and heads of terms (for leases)
 - First employees list (TUPE)
- Document F: Specification
- Document G: Response document
- Data Room
- Pricing schedule and financial evaluation mechanism

The documents were prepared and reviewed by the project team including our commercial/technical advisors, procurement and legal specialists.

- 2.2. As previously reported the content of the tender documents were informed by the soft market engagement sessions held in December. In response to these sessions the documents allow potential suppliers to submit variant proposals on the following issues:

- Managing risk on recyclate: Our starting position on sharing risk on materials value is that suppliers must submit a compliant bid based on the 50/50 risk share mechanism set out in the tender documents. However, bidders also have the opportunity to make an alternative proposal as a variant bid.

- Service methodology: In addition to a compliant bid based on the specified kerbside sort collection model we have allowed suppliers to vary specific elements of the specification – around containment, frequency and materials collected.

Variant bids will only be allowable at the initial submissions stage of the procurement, and SWP will use these variant bids to inform the development of the final specification and our approach to final tenders. Our control over the final tender specification ensures we retain full control over what service specification is actually implemented – but with the benefit of having seen whether variants (or elements of them) will deliver better environmental or financial benefits. Members will receive a confidential report on the outcome of the ISDS stage at the additional meeting of the Board on 19 October.

2.3. Outline of the submission, evaluation and moderation process

Pre-Qualification

Potential suppliers had until 25 May to submit the pre-qualification questionnaire (PQQ). This comprises a standard template but with the addition of scored questions. These were set by the project team and require bidders to provide case studies demonstrating their experience in key areas of the services:

- Delivering service changes
- Service improvement based on the use of data
- Delivering mid-term cost savings
- Improving productivity
- Marketing of materials
- Health and safety initiatives to mitigate key risks

We received PQQ submissions from five interested parties. At the time of writing this report the PQQs are being evaluated and moderated by the project team. However, we have been advised that the names of the potential suppliers should not be released for the time being in order to protect their commercial positions within the procurement procedure and to maintain competition.

The Board granted the Managing Director delegated authority to select the longlist of potential suppliers that would be invited to engage in dialogue and submit detailed solutions at its meeting on 3 November 2017.

Competitive dialogue and submission of detailed solutions

There will be two phases of dialogue, before and after the submission of detailed solutions. The purpose of the first stage of dialogue sessions is to provide clarification to bidders on the contract requirements and to ensure they fully understand what we are trying to achieve through the procurement process. These sessions will be conducted over two full days with each bidder. In addition, bidders will be invited to join a tour of the existing service depots. The intention at this stage is to reduce uncertainty and enable the suppliers to price confidently and competitively to deliver best value.

Please note that it will not be until we have received ISDS submissions that we

will see suppliers proposed methods of working, resource levels, vehicle selection and depot plans.

The ISDS submissions will comprise a completed pricing schedule, method statements (approximately 40,000 words) and various forms and certificates and must be submitted by 24 September. The project team, assisted by officers from partner authorities and specialists will evaluate the submissions between 24 September and 12 October. Moderation will take place between 15 and 19 October.

There will be no de-selection following moderation of ISDS.

2.4. Appeals process

If an appeal was received from a supplier following deselection at PQQ stage, it would be brought to the project team for a discussion to determine our approach. The grounds for an appeal would have to be considered on the relevant facts but it is difficult to envisage any such grounds in legal terms providing the evaluation criteria are applied as specified and that the deselection was on the basis of the criteria communicated to bidders at the time the PQQ was published.

Where a bidder appeals the decision to deselect where the evaluation criteria have been correctly applied, it would be necessary to determine if discretion should be used to accept the appeal. In these circumstances, acceptance of the appeal would in effect change the evaluation criteria and it would be necessary to publish the decision in OJEU and notify the other bidders. Alternatively, if the appeal is rejected on the basis that there are no legal grounds for the appeal then the procurement process could continue. This would also be the case if the applicant escalated the appeal to the courts.

Having said all this and to put it into context, the SCC procurement team have not had any appeals from deselected suppliers at PQQ stage on any other procurement projects.

3. Next steps

- 3.1 An outline of the remaining stages of the procurement project following moderation of the detailed solutions is provided in the table below:

Phase	Time	Comments
Dialogue on final tenders	Nov – Dec 2018	It is at this stage that we will be able to negotiate on commercial, legal and waste technical matters identified at ISDS to improve outcomes.
Final tenders	Feb 2019	This includes, evaluation, governance (ahead of pre-election period for DC elections in 2019) and standstill period. Contract award at February 2019 SWB meeting.
Mobilisation	May 2019 – end March 2020	This is the period in which the new provider gears up to provide the services including procurement of vehicles, plant and equipment.
Commencement	28 March 2020	The first collections by the new provider will be on Monday 30 March 2020.
Complete roll out of Recycle More	End of March 2022	The specification requires that Recycle More must be rolled out in 5 phases within 2 years of commencement, including a bedding in period of 3 months and allowing for a period of learning and reflection in March and April 2020.

4. Contingency plan: Local Authority Company (LAC)

- 4.1 SWP have commenced work to further explore this option. Research is being carried out on the implications of forming a LAC and a plan is being developed that identifies the actions and resources necessary at key milestones of the procurement project to ensure the contingency plan could be implemented .

5. Depot Options

- 5.1 Potential suppliers will be offered use of the depots that our kerbside collection services are currently primarily delivered through: 3 main depots (Bridgwater, Taunton, Evercreech) and 2 satellite depots (Roughmore in Williton and Lufton in Yeovil – refuse only).

However, feedback from soft market engagement with potential suppliers indicated that the number, size and location of these depots are not ideal and may prevent bidders from realising efficiencies and delivering best value to SWP. To mitigate this risk we have undertaken an extensive search for a new depot site to the west of the M5 motorway and identified a site that has potential to enable the consolidation of services provided from Bridgwater, Taunton and Williton. However the time available to evaluate the site, conclude negotiations with the current owners, gain the necessary consents and prepare for development is extremely tight. As a consequence Members should be aware that it may be necessary to incur some costs in order to carry out a preliminary investigation of suitability for development prior to securing an option on this the site.

We have also been considering options to reconfigure land in the east of the county that will be assigned to us at the expiry of the contract with Kier to make it more suitable for the type of operations we anticipate bidders will propose.

It is important that we obtain as much clarity as possible on these new depot options in the initial dialogue stage, although we will not have certainty whether such a facility is required until we have received final tenders.

6. Communal Collections

- 6.1** The original proposals to introduce Recycle More through negotiation with Kier in 2017 included an expansion of the range of materials that could be recycled at communal properties. At present this is limited to newspaper and magazines, glass and food and drinks cans. Recycle More would add cardboard and plastic bottles, tubs and trays to this mix. However, as it was not possible to conclude the negotiations with Kier, these plans have been delayed. We have therefore been trying to develop an interim solution that would be cost neutral and could be implemented without an impact on the vehicle and plant resources provided by Kier for the communal service.

Provision of waste and recycling collections to communal properties is an essential area of the services that are currently provided to over 600 (and growing) blocks of residences. However, delivering the services to these properties is also complex and problematic. There is considerable variation in the size and type of communal properties varying from blocks of 10 residences to over 60 in some “high rise” blocks and up to 150 in retirement villages. These different types of property have different requirements in terms of storage capacity and frequency of collection and it is difficult to provide a “one size fits all” waste and recycling collection service. The use of large bins on constrained sites and in bin stores does not fit well with the services provided to other households. Many sites are prone to contamination of the recycling containers and side waste. Having said that, other sites perform well and residents are keen to do more.

To address these issues our approach is to:

- Encourage residents of communal properties to use the full range of kerbside services where possible. (That is, where they are able to store recycling and food boxes within a storage area or with reasonable access to the kerbside).
- Continue commercial negotiations with our contractor to increase the range of materials at selected sites to include cardboard and plastic bottles
- Engage with residents to resolve problems of misuse or contamination but, if all reasonable attempts to change behaviours fail, to consider the removal of recycling facilities at sites that have proved to be excessively expensive to service. This will also have to be considered in the context of the on-going contract performance issues.

7. Background papers

7.1. Report to SWB “Recycle More” 16th December 2016.

7.2. Report to SWB “Contractual Negotiations for Recycle More” 30 June 2017.

Confidential Report to SWB “Contractual Negotiations and Procurement Strategy for Recycle More” 3 November 2017.

7.3. SWP Business Plan 2018-23 Approved by SWP on 15th December 2018.

7.4. Report to SWB “Recycle More & Collection Contract Procurement: Update” 23 February 2018