



CABINET

24 September 2014

Subject Heading:

**THE FUTURE OF THE COUNCIL'S
COMMERCIAL WASTE COLLECTION
SERVICE**

Cabinet Member:

Councillor Robert Benham

CMT Lead:

Cynthia Griffin

Report Author and contact details:

Bob Wenman – Head of StreetCare
Ex 2898

Policy context:

Provision of a waste collection service to
businesses

Financial summary:

This report proposes that the Council sells
its commercial waste service in
accordance with the offer set out in the
exempt section of this report. The sale
would protect against possible future
losses and generate a one off receipt.

Is this a Key Decision?

Yes

Significant effect on two or more Wards

When should this matter be reviewed?

August 2016

Reviewing OSC:

Environment

The subject matter of this report deals with the following Council Objectives

| | |
|--|-------------------------------------|
| Ensuring a clean, safe and green borough | <input checked="" type="checkbox"/> |
| Championing education and learning for all | <input type="checkbox"/> |
| Providing economic, social and cultural activity in thriving towns and villages | <input type="checkbox"/> |
| Valuing and enhancing the lives of our residents | <input type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax | <input checked="" type="checkbox"/> |

SUMMARY

This report details the commercial waste collection service which the Council currently provides to approximately five hundred and sixty businesses within the Borough and

explores the implications of changes in legislation which may require the Council to introduce a commercial waste recycling collection service.

It also sets out the results of an exercise to establish the market value of the service to the private sector if the Council were to sell it, the service enhancements such a sale would deliver and the financial implications.

The report proposes that the Council sells its commercial waste collection service.

RECOMMENDATIONS

Cabinet:

1. **Approve** the sale of the Council's commercial waste collection service to Supplier A as identified in Appendix A, the confidential section of this report and
2. **Authorises** the Group Director of Resources and the Head of StreetCare to negotiate with Supplier A to conclude the sales process, including the date of the transfer of the business, in the best interests of the Council.

REPORT DETAIL

1. Background

- 1.1. The Council provides a commercial waste collection service to approximately 560 businesses and 39 Council-managed establishments such as the Town Hall and Mercury House. The commercial waste service includes the hire and emptying of various sizes of waste containers at specified frequencies. Customers can also choose to purchase Council branded commercial waste sacks which are collected on a given day. This is a chargeable service with charges covering both collection and disposal.
- 1.2. With the exception of a limited cardboard collection service and recycling from some Council owned buildings no other recycling service is offered to businesses within the Borough. Whilst customers can arrange a collection of recyclables from a number of private waste collection contractors there is an expectation that the Council should also provide this service
- 1.3. A collection service is also provided to 53 schools and 17 charity shops, however in accordance with The Controlled Waste (England and Wales) Regulations 2012, a charge is only made for collection and not disposal of this waste.
- 1.4. Charges for the disposal of this classification of waste are currently met from within the levy payment to the East London Waste Authority (ELWA) and are not recovered

from the organisations themselves. Recycling is collected from schools free of charge as part of the ELWA /Shanks contract.

- 1.5. A disposal charge of £139 per tonne has been set by ELWA for 2014/15 and a reduced rate of £75 per tonne for separately delivered recyclable waste, however the net cost of introducing separate collections of recycling would off set any savings in disposal charges - under the ELWA / Shanks contract the Council does not receive any value from the sale of the recycling.
- 1.6. Disposal charges for commercial waste through the ELWA contract have increased by around 10% each year and coupled with rising collection contractor costs have resulted in the Council increasing its service charges year on year. The historic annual increase of around 10% in ELWA disposal costs is expected to reduce to 4% from 2015/16 following the freeze on increases in landfill tax, however disposal charges will continue to be significantly higher than those incurred by the private sector waste collection companies
- 1.7. These uncontrollable costs have resulted in the Councils charges being considerably higher than those offered by private waste collection companies, and there is risk of losing further customers as disposal costs continue to rise over the coming years.

2. Changes in Legislation

- 2.1. In 2012 the Government amended the Waste (England and Wales) Regulations 2011. This amendment places a duty on any establishment which collects waste paper, metal, plastic or glass to take all such measures to ensure separate collections of that waste, where such separate collection is technically, environmentally, and economically practicable (TEEP). This requirement becomes effective on 1 January 2015.
- 2.2. It may be that a case for not collecting the commercial recycling separately could be made on the grounds of the service not being economically practicable given the increased collection costs would not be recovered from the sale of the materials collected and only part off set by savings in disposal costs.
- 2.3. Clarification of what could constitute an exception to separate collections under the TEEP criteria is still being sought and it is currently felt that the situation will only be clarified if an authority is subjected to a legal challenge.

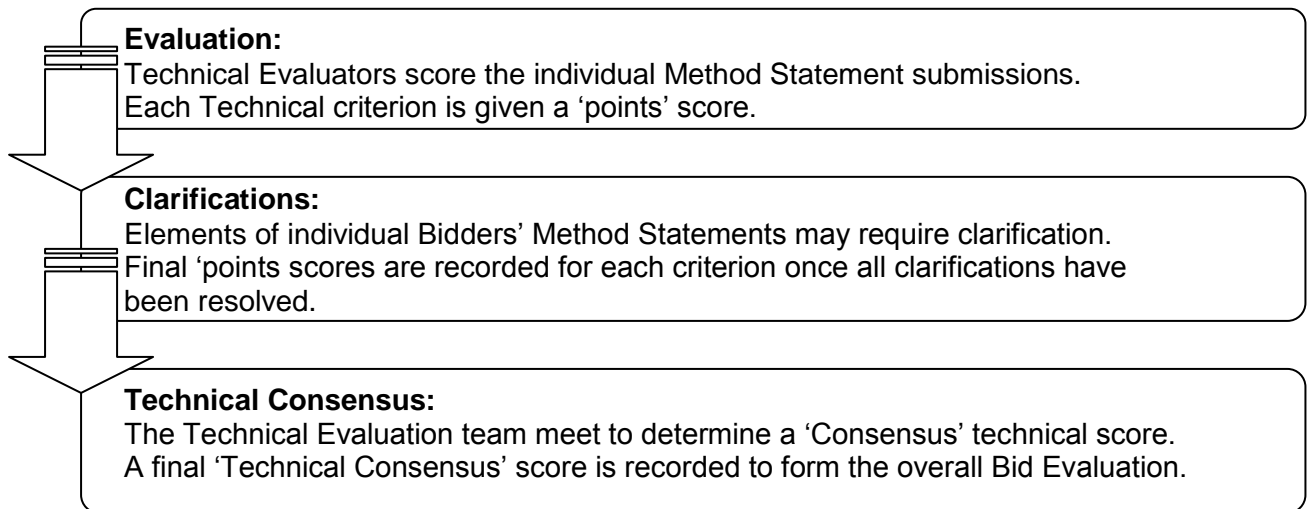
3. The Future of the Commercial Waste Collection Service

- 3.1. The annual increase in ELWA disposal costs, the need to offer competitive charges for the service, and the increased operational costs of introducing a commercial waste recycling collection to meet customer expectations and mitigate against any legal challenge all made it prudent to explore if continuing to operate the commercial waste service was the correct way forward.
- 3.2. In November 2013 (as part of the re-tendering of the waste contract) a market testing exercise was undertaken to establish the value of the service to private sector waste management companies.
- 3.3. Ten companies responded to the advert for sale and two companies submitted a one off price to purchase the service.

3.4. Both bids were evaluated against pre set criteria and the results of this evaluation are set out below. It should be noted that one contractor also offered a profit share arrangement where the Council would share profits above an agreed income level 50/50 with the contractor.

4. Evaluation Process

4.1. Completed bids were received on the agreed tender return date of 29 November 2013 from 2 companies. The table below illustrates the evaluation process undertaken by the Technical and Quality Evaluation Team.



4.2. Suppliers were asked to complete detailed method statements against a stated criteria setting out how they would deliver the services in all the areas. This is illustrated in the table below. All bids were then scored by the Technical Evaluation Team, to determine the best Technical submission.

| | Category | (%) |
|----------------|-----------------------------------|---------------|
| Price | Financial Analysis | 80.00 |
| Quality | Proven Track Record | 5.00 |
| | Compliance with the specification | 5.00 |
| | Innovation and Technical solution | 5.00 |
| | Customer Service | 2.50 |
| | Pricing Options | 2.50 |
| Total | | 100.00 |

- 4.3. The financial bids were weighted at 80% overall, with the Method Statements accounting for 20% in total. This was then converted into points, with the maximum total being 1000 (800 on the Financial score and 200 on the Quality score).
- 4.4. The Evaluation Team followed the scoring and evaluation process set out in the sales document, which has been re-produced in the table below. Scores were awarded relative to the detail of information submitted by each bidder against each criterion. Any concerns were noted by the Team and where clarification was required, this was sought. At no stage were bidders allowed to change their submitted bids.

- 0 No method statement provided or the response is not relevant to the method statement requested, does not address criterion at all.
- 1 The response is substantially deficient, not meeting the required contract standards in a number of key areas or to a high degree.
- 2 The response is deficient, not meeting all the Council's requirements in key areas.
- 3 The response is acceptable, meeting the Council's requirements in all key areas.
- 4 The response is good, meeting the Council's requirements in all material respects.

- 4.5. Following analysis of the scores, Supplier A scored highest.

| | Financial Evaluation | Technical Evaluation | Total Evaluated Scores |
|------------|----------------------|----------------------|------------------------|
| Supplier A | 800 | 157.5 | 957.5 |
| Supplier B | 313 | 137.5 | 450.5 |

- 4.6. Conditions were placed within the sales documents which prevent the contractor increasing the prices currently charged by the Council for two years after the sale thus protecting our current customers from sudden hikes in service charges.
- 4.7. In reality all private sector commercial waste and recycling collection companies that have been researched charge less than the council currently charges so it is hoped that the sale could result in longer term savings for businesses and Council managed facilities. Other benefits to customers would include a broader range of containers, weekend collections and a full recycling collection service, something which the Council does not provide.
- 4.8. This sales exercise twin tracked the tendering process for the Waste and Recycling collection contract which was awarded at the Cabinet meeting on 22 January 2014.
- 4.9. The successful contractors tendered prices to operate a commercial waste collection and recycling service on the Councils behalf have been used to calculate future operational costs.

- 4.10. These operational costs including the costs of introducing a recycling service, the cost of purchasing new containers, the need to offer a competitively priced service, the ever increasing disposal charges including the disposal charges for schools waste currently funded from the levy, internal costs associated with administering the service and a significant one off investment in a suitable IT system to manage and administer the service have also been taken into consideration and used to calculate the cost of providing the service going forward.
- 4.11. These costs have been compared to the income the service could generate if priced competitively with service charges made by private sector commercial waste and recycling companies to determine the profitability of continuing to offer the service beyond 2014/15.
- 4.12. A summary of this information which shows that the service would begin to operate at a loss from 2015/16 is illustrated in Appendix B. It is therefore considered prudent to sell the service to Supplier A whilst it is still a going concern, before the need to invest in introducing a commercial waste recycling service and to deliver the service enhancements as set out in this report.

REASONS AND OPTIONS

Reasons for the decision

The decision to sell the commercial waste service to Supplier A delivers a one off payment as set out in the exempt section of this report and the opportunity to benefit from an ongoing profit share arrangement. The sale of the service will also protect against the prospect of longer term financial losses and deliver service enhancements.

Other options considered

The option to continue to operate the commercial waste service without rationalising charges with those made by the private sector and not introducing a recycling service has been considered but this could be subject to legal challenge and would not meet customer's expectations that the Council should offer a recycling service to its business community.

The option to develop and operate a commercial waste and recycling collection service has also been considered but this has been found to be financially unsustainable, if offered at competitive market rates in the longer term.

Both these options were rejected.

IMPLICATIONS AND RISKS

Financial implications and risks

The proposal in this report is to approve the sale of the Council's Commercial Waste Collection service,

In 2014/15, there is a currently a projected surplus of £156k in respect of this service, a surplus which has been broadly stable since 2011/12. However, disposal costs of c£108k are also incurred, and staff time of c£30k are also incurred, meaning the real surplus is closer to £18k, a negligible sum. (It is not currently clear that savings of £30k will be generated, should the sale take place, but that is a matter for the service).

The following issues will impact on the profitability of the service :-

Waste Disposal Costs

The 2014/15 ELWA charge of £139 per tonne is in excess of actual cost, and is a burden to the business. Moreover, it has historically risen by 10% pa. ELWA have indicated that this increase is likely to be in the region of 4% in 2015/16 as a consequence of the Government's freeze on increases in the landfill tax but disposal costs would still remain significantly higher than those available to the private sector.

Possible need to introduce recycling

It may be possible to argue that the introduction of separate recycling collections of commercial waste is not economically viable. Introducing recycling collections would reduce disposal charges (£139 per tonne to £75 per tonne), but would mean increased operational costs, which would need to be passed onto customers. Moreover, under the ELWA/Shanks contract, the Council does not receive any value from the sale of recycling, which would have enabled the Council to have mitigated increases to customers, and would be an option available to private sector waste collection companies.

These threats mean that Havering's charges become increasingly uncompetitive within the market, and it is for that reason that sale is being considered. A purchaser would be able to operate without paying the inflated ELWA disposal charges, and would be able to receive value from the sale of recycling.

Appendix B shows a forecast position for the service, if retained. It assumes prices are reduced to the competitive levels needed to retain the current level of business, includes the hidden disposal costs and administrative charges, assumes £150k IT investment needed in 2015/16, and shows the service going into significant deficit in 2015/16 as a result of one off pressures then the deficit reducing before continuing to increase year on year, The ICT investment is a one-off sum, but is an exceptionally high figure.

The detail of the proposals submitted by the two suppliers are shown in Appendix A of this report and it can be seen that the offer made by Supplier A would generate significantly more income than that proposed by Supplier B. Supplier A has also included a profit share

opportunity as part of their bid. This supports the recommendation to sell the service to Supplier A.

More details about the offer made by Supplier A and the timing of the transfer of the business should Cabinet agree to the recommendations in this report are included in the exempt section of this report. The sale proceeds would be a capital receipt, and would support the Council's capital budget.

It should be noted that the East London Waste Authority (ELWA) generate a surplus from the income they receive through charging the Boroughs to dispose of their commercial waste. This income is used to reduce the annual levy that the boroughs are charged. The net impact regarding the sale of this service in the levy is estimated to be £17k. This would however be offset by additional reductions of approximately £130k in 17/18 arising from reduced tonnage charges.

It is proposed to net the budgeted income (c£86k in 2014/15) against savings from the recently re-tendered Waste Contract.

Legal implications and risks

The Council as a waste collection authority (WCA) has a duty under section 45(1)(b) of the EPA to arrange for the collection of commercial waste where requested to do so. Section 75(7) of the EPA defines commercial waste as "waste from premises used wholly or mainly for the purposes of trade or business or the purposes of sport, recreation or entertainment".

Any WCA thinking of operating a selective service for commercial waste would need to satisfy itself that it was not breaching its duties under the EPA. If a request is made of the authority to collect commercial waste, the authority must have in place arrangements to meet the request.

As part of the waste collection tender exercise the Council asked bidders to submit charges for them to collect commercial waste should a business within the Borough require the Council to do so. This will enable the Council to set an appropriate price for the collection and would fulfil our legal obligation to collect should the core commercial waste service be sold.

In 2012 the Government amended the Waste (England and Wales) Regulations 2011. This amendment places a duty on any establishment which collects waste paper, metal, plastic or glass to take all such measures to ensure separate collections of that waste, where such separate collection is technically, environmentally, and economically practicable (TEEP). This requirement becomes effective on 1 January 2015.

It may be that a case for not collecting the commercial recycling separately could be made on the grounds of the service not being economically practicable given the increased collection costs would not be recovered from the sale of the materials collected and only part off set by savings in disposal cost.

Clarification of what could constitute an exception to separate collections under the TEEP criteria is still being sought and it is currently felt that the situation will only be clarified if an authority is subjected to a legal challenge. The sale of the service would remove any risk of such a challenge related to the collection of commercial waste.

Human Resources implications and risks

The commercial waste service is currently provided by Serco under contract to the Council.
No Havering employees will be affected by the sale of the service.

Equalities implications and risks

The sale of the commercial waste collection service will not have any equalities implications as the business community will continue to receive a high quality of service but provided by a different provider at the same, if not lower cost to the customer.

BACKGROUND PAPERS

The sale documents for the Commercial Waste Service.

The waste collection contract specification

DEFRA classification and reporting of waste letter