



Havering
LONDON BOROUGH

This Report is part exempt and Appendices A,B,C,D are not available for public inspection as they contain or relate to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. They are exempt because they refer to information relating to the financial or business affairs of any particular person (including authority holding that information) and information in respect of which claim to legal professional privilege could be maintained in legal proceedings, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

CABINET

Subject Heading:

Public Realm Transformation

Cabinet Member:

Cllr Mugglestone

SLT Lead:

Barry Francis

Report Author and contact details:

Imran Kazalbash, Assistant Director of Public Realm,

Imran.kazalbash@havering.gov.uk

Policy context:

This report supports the Corporate Plan especially "A Great Place to Live as outlined in the Places theme

Financial summary:

The cost of the contract is anticipated to be £90m over 8 years and will be funded from revenue budgets

The cost of capital for the new fleet is anticipated to be £10.14m and will be funded from the council's capital programme

Is this a Key Decision?

This is a key decision as it concerns expenditure of £500,000

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When should this matter be reviewed?

This report has been considered at Pre-Decision Overview & Scrutiny on 08/12/22

Reviewing OSC:

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

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

SUMMARY

This report is seeking approval from Cabinet for the Integrated Recycling, Waste Collection and Street Cleansing Contract to be awarded to the preferred bidder following a competitive tendering exercise.

The report outlines the procurement procedure and presents details of the stages conducted during the process to identify the preferred bidder for the new Integrated Recycling, Waste Collection and Street Cleansing Contract due to commence in July 2023.

The contract is due to commence on 30 July 2023 for a term of 8 years with the option to extend for a further 8 years. The estimated value over the initial period of 8 years is £90m and over the full 16-year term is £180m.

RECOMMENDATIONS

For the reasons stated in this report and its appendices Cabinet is recommended to award the Integrated Recycling, Waste Collection and Street Cleansing Contract (the Contract) to the preferred bidder, subject to the statutory standstill period, for an initial term of eight years with the option to extend for up to a further eight years, by mutual agreement.

REPORT DETAIL

Background

In September 2019 the London Borough of Havering (“Authority”) considered the business case and procurement strategy to deliver the Public Realm Transformation Programme. The Cabinet subsequently approved, on 18 September 2019, the commencement of the procurement for services under the Integrated Recycling, Waste Collection and Street Cleansing contract.

As a result of the Covid 19 outbreak suppliers indicated they were unable to enter into a procurement process and a further report was received by Cabinet halting the procurement and seeking an extension of the current contract. This was approved in September 2020 and the current contract with Serco was extended for a period of 24 months from 1st August 2021 to 29th July 2023.

In July 2021 the market had recovered to the extent that the procurement could be restarted, and the Cabinet authorised this decision in the meeting of 7 July 2021.

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In September 2021, the Authority issued a Contract Notice to be published in the Find a Tender Service (“FTS Contract Notice”) advising its intention to procure a contract for an Integrated Recycling, Waste Collection and Street Cleansing Contract (“the Contract”). The Authority conducted this procurement under the Competitive Dialogue procedure pursuant to Regulation 30 of the Public Contracts Regulations 2015 (“the 2015 Regulations”).

The services within the scope of this contract are:

- Recycling and Waste Collection
- Street Cleansing
- Weed Control

The scope of the services is set out below

Service Delivery for Waste Collection

	Current Service	New Service From July 2023
Collection Frequency	Weekly	Weekly
	Black Sacks	Black Sacks

Target Materials for Dry Recycling

	Current Service	New Service From July 2023
Collection Frequency	Weekly	Weekly
<u>Paper</u> Newspapers/ magazines Office and writing paper Brochures Junk mail Envelopes Leaflets Telephone directories Thin card	YES	YES
<u>Card</u> Cardboard	YES	YES
<u>Metal/packaging tins and cans</u> Steel drink and food cans Aluminium drinks cans Kitchen foil and foil food trays Metal aerosol cans	YES	YES

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<u>Plastics</u> PET natural and jazz– Coloured and clear fizzy drinks, clear and blue tinted mineral water bottles, cordial and cooking oil bottles, pots, tubs, trays	PART (bottles only)	YES
<u>Glass</u> Glass bottles Glass jars	NO	YES
<u>Small WEEE</u> Collected separately from Street Level Properties. Households use own containment	YES	YES
<u>Household Batteries</u> Collected separately from Street Level Properties. Households use own containment	YES	YES

Target Materials for Garden Waste

	Current Service	New Service From July 2023
Collection Frequency	Fortnightly	Fortnightly
Grass cuttings Garden clippings and pruning's Dead flowers, plants, and weeds Bark Leaves Small twigs and branches	YES	YES

Service Delivery for Street Cleansing

	Current Service	New Service From July 2023
Methodology	Scheduled Input of Frequencies	Output based specification according to demand and land use

The Procurement process

The Authority conducted this procurement under the Competitive Dialogue procedure comprising the following stages:

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- Selection Questionnaire (“SQ”) stage;
- Invitation to Submit Detailed Solutions (“ISDS”) stage; and
- Invitation to Submit Final Tender (“ISFT”) stage.

The Authority received expressions of interest in the form of completed SQ from five Suppliers. Following the evaluation of the SQs, the Authority invited four of the five Suppliers to submit a detailed solution, by issuing an Invitation to Participate in Dialogue (“ITPD”).

At the commencement of the ISDS stage one bidder notified the Authority of its intention not to continue in the process, due to limited resources available and other commitments. The procedure continued with the remaining three Bidders who all submitted a Detailed Solution in February 2022.

Following the completion of the ISDS evaluation, the Authority determined that it would be beneficial to enter dialogue with all the Bidders. The Authority subsequently held seven dialogue sessions with each Bidder. These sessions included the following topics:

- Legal and Contract questions and comments;
- Payment & Performance Mechanisms including labour indices, bidding assumption prices, risk pricing, affordability and Key Performance Indicators;
- Vehicle & resource schedules;
- Depot discussions and updates including leases and licences;
- Management Information System demonstrations and discussions;
- Waste & Recycling collection service delivery and operational matters; and
- Street Cleansing operational matters.

The three Bidders submitted their ISFT submissions by the deadline in August 2022.

Overview of the ISFT stage

The evaluation of the ISFT submissions followed the methodology set out in the Evaluation Framework to ensure the conformity and the compliance of the ISFT submissions with the needs and the requirements of the Authority.

The review of the ISFT submissions, therefore, followed the following stages:

- Stage 1: Conformity and Completeness
- Stage 2A: Method Statements
- Stage 2B: Legal/Risk
- Stage 2C: Payment and Performance Mechanism
- Stage 2D: Robustness of the Bidder Financial model
- Stage 2E: Evaluation Price

The Evaluation Panel was formally appointed to review, evaluate, and score the ISFT submissions. Members of the Evaluation Panel were appointed based on their expertise, experience, and competence and comprised of members from LB Havering, Eunomia and Sharpe Pritchard. Members of the evaluation panel

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completed Conflict of Interest forms prior to the process which were submitted to procurement.

Panel members individually scored the bidders submissions and submitted their completed scoring prior to the start of the moderation. At the moderation meetings the evaluation panel discussed the feedback and reached consensus on each of the criteria for each bidder.

Evaluation Criteria

The evaluation criteria were set out on a 50:50% split between price and quality. The 50% price criteria were then sub divided in the following way;

- Evaluation Price - 470
- Commercial - 30
 - Legal/Risk - 5
 - Payment & Performance - 5
 - Robustness of bidder financial model - 20

The Method Statements were evaluated and scored in accordance with the Evaluation Framework. The total weighted scores were derived from adding up all weighted scores for all Method Statements, the highest score indicating the best quality.

In terms of the evaluation of the price element this was determined on the basis of the deviation from lowest sum methodology. The tender sums were ranked lowest first with the lowest tender sum achieving the maximum number of points available and the other submissions receiving points based on the deviation from the lowest tender sum.

The commercial element of the price evaluation was based on the same methodology as the quality evaluation, using a scoring scale to evaluate each sub-criterion.

The table below sets out the evaluation criteria in respect of the quality submission.

Tier 1	Tier 2	Max Points Available at ISFT
Quality Criterion	Management and Culture	50
	Social Value	20
	Operations	130
	Deliverability	50

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	Service Delivery Method	230
	Service Delivery Method for Health and Safety	20
Total		500

The financial criteria were split further to represent the evaluation price and commercial aspects of the submission.

The table below sets out the evaluation criteria in respect of the price submission

Tier 1	Tier 2	Max Points Available at ISFT
Financial Criterion	Evaluation Price	470
	Commercial	30
Total		500

The commercial aspect of the financial criterion was then sub divided into Legal/Risk, Payment and Performance and Robustness of the Bidder Financial Model as set out in the table below.

Tier 2	Tier 3	Max Points Available at ISFT
Commercial	Legal/Risk	5
	Payment and Performance	5
	Robustness of the Bidder Financial Model	20
Total		30

Contract Award & Mobilisation

Following the end of the mandatory standstill period, the Authority will work with the preferred bidder to complete the contract ready for countersigning. On completion, the signed contract will be sealed by the Council and a copy returned to the Preferred Bidder prior to service commencement date.

A full mobilisation plan was submitted by bidders as part of the ISFT submission outlining how the services will be delivered ready for the service commencement date including:

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- Contract documentation finalisation and legal;
- Depots and premises;
- Procurement of vehicles and equipment;
- Management Information Systems;
- Staffing and HR;
- Communications; and
- Health & Safety.

The mobilisation team will continue to report into the Waste Project Board throughout the mobilisation period. The first mobilisation meeting will take place within the first week after the contract has been signed to review the plan and begin the process.

Contract Management

The contract will be managed by the Waste Client Team through weekly Operational, monthly Contract and quarterly Strategic meetings (one of which will act as the Annual General Meeting). The content of these meetings has been specified within the contract. The meetings will be supported by a suite of reports addressing issues such as performance against Key Performance Indicators (“KPI’s”), trends, Health & Safety, Social Value, Environment Management Plan and innovation.

A detailed suite of KPI’s covering all aspects of the service is included which will ensure the delivery of the services to the highest standard. The service specific KPI’s comprise of, general, recycling and waste collections and street cleansing.

Default deductions will apply in respect of service failures where the failure has not been rectified within the appropriate timescale e.g., missed collection, waste not separated, failure to cleanse to required standard, failure to remove fly-tip. A reduction to the service payment will be made to reflect the loss to the Authority, expressed as an amount known as the Administrative Labour Cost. Where repeat service failures occur an increased deduction shall be made.

Anticipated Changes

Provision has been made in the contract to address changes in legislation e.g., the Environment Act 2021 enabling changes to be implemented during the life of the contract. This has been achieved by the Authority identifying services as anticipated changes which the Authority may require the contractor to provide either in part or in full but it does not commit to doing so

REASONS AND OPTIONS

Reasons for the decision:

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- That in light of the process followed and the consensus reached during evaluation, the preferred bidder's Final Tender submission represents the Most Economically Advantageous Tender;
- The preferred bidder's Final Tender submission is capable of meeting the Authority's needs and requirements from a qualitative perspective;
- That the preferred bidder's Final Tender submission is capable of meeting the Authority's needs and requirements from a financial perspective; and
- That the preferred bidder's Final Tender submission is capable of meeting the Authority's needs and requirements from a legal and commercial perspective.

Service delivery

Social Value

Several key offers were made by the preferred bidder to deliver positive social outcomes across the borough's communities which include:

- A clear apprenticeship programme;
- Commitment to recruit within the borough promoting recruitment from hard-to-reach groups;
- Actively seeking to support the local economy by committing to spend within the borough;
- Community engagement projects with voluntary and community groups and specifically educational projects with primary schools; and
- Commitment to workforce volunteering and the inclusion of an annual Community Engagement Fund.

Environment & Climate

Several key offers were made by the preferred bidder to contribute to the borough's Climate Change Action Plan which includes:

- Smaller vehicles shall be electric from the service commencement date, vehicles specified by bidder but purchased by the Authority;
- A carbon offsetting commitment through a recognised carbon offset programme from the service commencement date;
- Annual quality and Environment Management Plan to include reporting on carbon reduction;
- Supporting and contributing to the Authority's Green recovery programme;
- Route optimisation designing efficient well-balanced services with vehicle tracking and fuel monitoring;
- Increase in recycling and re-use, particularly from bulky waste working in partnership with re-use agencies; and
- Annual Environment Fund to support ecology and biodiversity in the borough.

Performance & Contract Management

Several key offers were made by the preferred bidder to ensure robust contract

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management and high levels of performance which include:

- A Management Information System solution comprising of a suite of industry leading systems delivering a modern integrated solution including real time information, which will be integrated with the Council's system enabling real time information exchange with customers/residents;
- A robust performance monitoring and reporting regime including a suite of operational, contract and strategic reports and meetings;
- An Annual Service Improvement Plan will provide an overview of the partnership, service delivery, performance and innovation;
- A clear suite of KPI's that cover all aspects of service including performance and default deductions; and
- Greater awareness of the customer journey in complaints management, carrying out root cause analysis in addition to rectification.

Waste and Cleansing Services

Several key offers were made by the preferred bidder to deliver an innovative efficient waste and cleansing service which include:

- Uniform approach across services including shared processes and procedures leading to more efficient service delivery;
- Modern, safe and sustainable collection vehicles equipped with latest fleet technologies and safety measures;
- Proactive approach across the services to support the authority's enforcement of fly – tips and graffiti;
- Cleansing services to ensure compliance with Environment Protection Act 1990 tailored to different land types;
- Resources deployed in accordance with geographic profiling taking an Intelligence led approach; and
- Commitment to resident and customer care encouraging behavioural change to develop participation in recycling services.

Other options considered:

Three options were considered and set out in the Cabinet report of 18 September 2019 and were reiterated in the Cabinet report of 7 July 2021 which included:

- Option 1 - Contracting services out (outsourcing);
- Option 2 - Combination of keeping and bringing the services in-house; and
- Option 3 – setting up a Local Authority Company.

The options were appraised against the following criteria:

- Cost modelling and financial assessment; and
- Assessment of qualitative factors and risks.

Following assessment of the options which concluded that there was a strong preference for outsourcing the services as part of an integrated contract the decision was made to proceed with the procurement.

IMPLICATIONS AND RISKS

Financial implications and risks:

Full details with regard the costs can be found in the exempt part of the report.

The existing budget provision includes additional sums included for the current service extension and operational levels. The budget position reflects the integrated format of the new contractual arrangements but does not include the effect of the pay awards which are currently held corporately.

This represents an increase to the current revenue budget provision and this is included in the MTFS and budget setting process for 2023/24 and future financial years. There are also true up and indexation elements within the contract, for example on labour and fuel cost increases, that will be drawn down over the life of the contract and these are also considered in the ongoing MTFS budgeting process. It should be noted that given the current volatility of markets and inflation levels it is difficult to predict the effect on the price at the start of the contract. The procurement process has sought to ensure that the service will be based on a robust operating model, viable and sustainable over the life of the contract to minimise risk.

The council will be procuring the fleet to undertake the contract and a capital budget of £10.14m is included in the capital programme approved by cabinet in February 2022, based on an estimated costs of the fleet in October 2021. The fleet requirements included in the successful bid will now be procured and the capital provision reviewed accordingly to reflect the actual cost. Current indications are that the capital provision may need to increase, which will have an impact on the revenue position of the council. This impact will be finalised as the procurement progresses.

Legal implications and risks:

The Council is under a number of statutory duties to provide the waste and street cleansing services detailed in this report. Among these are: s.41 Highways Act 1980 which provides that a Highways Authority must maintain a public highway, including keeping it clean and free from obstructions; Environmental Protection Act 1990, under which the Council is a principal litter authority; s.1 Localism Act 2011 which provides that the Council has a general power of competence to act as that of an individual, subject to other statutory provisions limiting or restricting its use.

This report asks Cabinet to approve the award of the waste and street cleansing contract to the preferred bidder for a period of 8 years with an option to extend for a

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further period of up to 8 years. The total value of the contract exceeds the threshold for services under the Public Contract Regulations 2015 ("2015 Regulations"), which is currently £214,477. Therefore the 2015 Regulations apply in full.

The procurement was run under a Competitive Dialogue Procedure in accordance with Reg.30 2015 Regulations, the detail of which is set out in this report. The Cabinet must be satisfied that the recommended award of the contract is to the bidder that submitted the most economically advantageous tender based on the award criteria set out in the Council's tender documents. This will secure compliance with the 2015 Regulations.

A contract award notice must be published on the UK Find a Tender Service within 30 days of award of the contract and Contracts Finder 24 hours thereafter.

The Council's external lawyers will assist with preparing a formal contract. The ISFT was issued with a draft contract and the contract will be entered into on those terms, subject to confirmation and finalisation of the contract with the preferred bidder in accordance with the 2015 Regulations and ISFT.

Further details and implications are contained within the exempt appendices to this report.

Human Resources implications and risks:

The Street Cleansing Services that have been included in the tender and procurement process as part of the new Integrated Public Realm contract are currently provided by Havering Council employees. It is clear that TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) will apply, and the employees would be required to transfer to the employment of the new service provider. Employees in scope of the TUPE transfer have been regularly updated throughout the tender process and once the award is made to the successful bidder, the statutory TUPE Information and Consultation process will commence and be followed by a period of mobilisation for which a plan is being produced.

The Waste and Recycling Services and Weeds Service that are included in the tender process are currently provided by employees of the existing suppliers so there is no direct impact on Council employees. Should a new supplier be appointed following the tender and procurement process, there may be TUPE rights in some cases for the employees of the current suppliers.

The following risks have been identified; however, these have been mitigated through a detailed mobilisation plan and contractual obligations. The Council will work closely with the preferred bidder to mitigate any risks

- Staff have sufficient training and competencies to deliver the services in accordance with the proposal;
- Sufficient planning required for any TUPE and staff questions to be resolved;
- Staff leave and do not transfer; and
- Sufficient information for staff with regular communications.

Equalities implications and risks:

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

“Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged.

Officers have ensured an Equalities Health and Impact Assessment (EqHIA) was completed and updated as the project progressed and note that there are no equalities risks with these recommendations. The EqHIA is attached to this report at Appendix E.

Health and Wellbeing implications and Risks

Havering council is committed to improving the health and wellbeing of its residents. The contract is likely to have a positive impact on health and wellbeing through several positive benefits which include:

- Air quality will benefit from the introduction of electric vehicles and low emission vehicles that will be used from service commencement date. This will benefit the health and wellbeing both residents and visitors to the borough;
- The preferred bidder has committed to provide employment opportunities and apprenticeship programme to residents of the borough by working closely with agencies and community organisations to promote growth and stability within the borough;
- The preferred bidder has committed to follow the requirements of the Good Work Standard which sets the benchmark for the highest employment standards;
- The preferred bidder has signed up to the Mindful Employer Charter for Employers Positive about Mental Health;
- Commitment of a minimum of 2 work placements for young people Not in Education, Employment or Training (NEET) per annum;
- Delivery of educational programmes to schools that aim to influence pupils and their families to promote the principles of the waste hierarchy; and
- Community engagement activities working extensively with at least 1 community or voluntary group each quarter undertaking projects to benefit the community.

There are no negative impacts attributable to this contract. The following risks have been identified; however, these will be mitigated through a detailed mobilisation plan

and contractual obligations. The Council will work closely with the preferred bidder to mitigate any further risks that may arise.

- Waste and recycling do not get collected and causes a health and safety issue
- Litter bins are not emptied, and streets are not cleansed which causes a health and safety issue

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The environmental benefits have been set out in the Environmental and Quality performance and Social Value Method Statements and include some key aspects that have been set out above in Environment & Climate and Social Value. Full details can be found in Exempt Appendix C and D.

These aspects will be measured and monitored throughout the contract through detailed reporting and robust contract management meetings and both quarterly and annual strategic meetings.

BACKGROUND PAPERS

Cabinet Report – Public Realm Transformation 18 September 2019

Cabinet Report – Public Realm Transformation – New Operating Model 7 July 2021