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| NAME OF COMMITTEE | Community Services Committee |
| DATE | 25 June 2013 |
| REPORT TITLE | West Devon Borough Council Garden Waste & Leaves Composting Site Contract |
| REPORT OF | Waste Development & Contracts Manager |
| WARDS AFFECTED | All West Devon Wards |

Summary of report:

To give consideration to letting contracts for the composting of West Devon's household garden waste collections with the potential to include the dedicated leaf sweepings from West Devon and South Hams.

Financial implications:

The value of the current agreements for the West Devon works is approximately £115,000.00 per annum, paid from the revenue budget

Given additional permitting and processing costs, charges may increase.

RECOMMENDATIONS:

It is recommended that the Community Services Committee:

1. approves the tendering of a new contract for the composting of garden waste with the potential for including West Devon's and South Ham's dedicated leaf sweepings dependent upon clarification of Environment Agency guidance;
2. authorises a tender process which facilitates maximum flexibility to secure best value in terms of both the contract period and number of composting sites; and,
3. agrees that any changes considered necessary to the terms as highlighted in this report are delegated to the Head of Environmental Services in consultation with the Chairman and Vice Chairman of the Community Services Committee.

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1. BACKGROUND

- 1.1 West Devon Borough Council collects both garden waste from kerbside household collections, and leaf litter which is swept from roads in rural areas. The materials are currently composted by two contractors – Devon Wastes Management and Peter Hocking - at separate on-farm sites within the borough. Agreements for these services have been rolling since October 2004.
- 1.2 South Hams District Council composts leaf sweepings under similar arrangements.
- 1.3 Currently the Councils' are charged a gate fee by the composting organisations based on tonnage.
- 1.4 The waste counts towards the respective Councils' recycling rates and attracts recycling credits from the waste disposal authority.

2. THE NEED FOR CHANGE

- 2.1 Under forthcoming changes to European legislation – End of Waste Criteria for Biowaste - composted material will be required to meet certain standards before it can be classified as 'recycling'. If it is not classified as recycling, it will not count towards the borough's recycling rate and will not attract income from recycling credits. The additional permitting and handling which will be required to meet these standards are likely to incur additional costs from the compost organisations.
- 2.2 The exact timing of the introduction of the changes has been unknown for some time and tendering for these services with this uncertainty would have inevitably incurred greater processing costs than the current arrangements. Exemptions to the contract procedure rules were therefore granted to maintain best value.
- 2.3 The current exemptions expire on 29 November 2013 and cannot be extended further as EU tendering limits have been reached and no exemptions can be granted in these circumstances. An EU tendering process must therefore be commenced.
- 2.4 In addition, recent guidance has been issued by the Environment Agency, which states that dedicated leaf sweepings cannot be classified as 'recyclable' material owing to potential contamination in the final composted product irrespective of treatment. If the guidance is followed, the Council will lose income through recycling credits of around £56,000 and a reduction in the recycling rate of about 6.6%*. Due to this negative impact, the guidance has been challenged and the Environment Agency is conducting trials to ascertain whether contamination levels are as previously assumed. The Council is taking part in these trials and the results are expected in July 2013.

*Based on 2011-12 audited figures

3. THE WAY FORWARD

- 3.1 Garden waste and leaf collections are included in the waste contract which runs until April 2017 and, based on 2011-12 figures, together make up about 24% of the Council's recycling rate and attract income via recycling credits. Although requiring slightly different treatment, letting of a contract to compost both materials may result in economies of scale.
- 3.2 For further potential economies of scale, South Hams leaf sweepings could also be included and treated as a separate lot in the bidding process.
- 3.3 In order to compost the material, significant initial capital outlay is required by prospective bidders which will favour longer-term contract periods. In order to secure best value, it is recommended that more detailed market place analysis is carried out by the procurement officer before a contract term is fixed.
- 3.4 Upon completion of the leaf sweeping trials, if the Environment Agency decides to uphold the guidance, then other arrangements should be considered for dedicated leaf sweepings as the current composting treatment may no longer be a viable option for either council. Flexibility is therefore required to remove leaf sweepings from the contract if appropriate

4. LEGAL IMPLICATIONS

- 4.1 Contract Procedure Rules 2.1.2 requires officers to take a report to the relevant committee for all contracts over £75,000 to consider whether it is appropriate to retender the contract on the same basis. This report is necessary to enable the Committee to determine the way forward and to ensure continuity of service.
- 4.2 This Committee has the power to deal with contracts for waste services.
- 4.3 The anticipated value of the contract is above the threshold for European tendering rules to apply.

5. FINANCIAL IMPLICATIONS

- 5.1 The value of the current agreements for the West Devon works is approximately £115,000.00 per annum, paid from the revenue budget.
- 5.2 Given additional permitting and processing costs, charges may increase.

6. RISK MANAGEMENT

- 6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

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| Corporate priorities engaged: | Community Life; Environment; Economy |
| Statutory powers: | The Environment Protection Act 1990 |
| Considerations of equality and human rights: | Not applicable |
| Biodiversity considerations: | Not applicable |
| Sustainability | The contract will allow the Council to |

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|---|---|
| considerations: | continue to its commitment to maintain and improve recycling services |
| Crime and disorder implications: | Not applicable |
| Background papers: | None |
| Appendices | None |

STRATEGIC RISKS TEMPLATE

| No | Risk Title | Risk/Opportunity Description | Inherent risk status | | | Mitigating & Management actions | Ownership | |
|----|-----------------------|---|----------------------------|----------------------------|------------------------------------|---------------------------------|---|--------------------------------------|
| | | | Impact of negative outcome | Chance of negative outcome | Risk score and direction of travel | | | |
| 1 | Tendering of contract | Breach of EU procurement rules | 3 | 1 | 3 | ↔ | Ensure contract is let within rules or exemption gained due to mitigating circumstances | Waste Development & Contract Manager |
| 2 | Changing legislation | Changing legislation may increase cost of service | 3 | 4 | 12 | ↑ | Ensure we continue to lobby Environment Agency to maintain classification of waste type. Ensure best value tenders are received. | Waste Development & Contract Manager |

Direction of travel symbols ↓ ↑ ↔