

Appendices 1, 2, 3, 4, & 6 to this report are considered exempt under paragraph 3 of schedule 12A of the Local Government Act 1972 in that it concerns the financial or business affairs of the Council. The public interest has been assessed and it is considered that, the public interest is better served by non-disclosure to the press and public.

Report to: **Council**
Date: **26th July 2018**
Title: **Frontline Services (Waste & Cleansing Procurement)**
Portfolio Area: **Commercial Services**
Wards Affected: **All**
Relevant Scrutiny Committee: **Overview and Scrutiny Panel**
Urgent Decision: **N** Approval and clearance obtained:
Date next steps can be taken: Council

Author: **Helen Dobby & Jane Savage on behalf of the Waste Board** Role: **Group Leader (Commercial Services) & Commissioning Manager (Waste)**
Contact: **helen.dobby@swdevon.gov.uk**
jane.savage@swdevon.gov.uk

Recommendations:

It is RECOMMENDED that Council:-

- 1. note the progress of the project and endorses the recommendation of the Frontline Services (Waste Procurement) Project Board to continue to the next stage of the competitive dialogue process for waste collection, recycling and cleansing services; and**
- 2. approve that any changes necessary to harmonise the recycling collection services with the 'aligned waste service', as detailed in the Waste and Resource Strategy for Devon, are introduced on 28th September 2020.**

1. **Executive summary**

- 1.1. Members requested that key decisions during the procurement process be brought before Executive and Council. The procurement process goes through a number of stages – Outline Solutions, Detailed Solutions and Final Solutions. Bids are submitted and evaluated at each of these stages. After each evaluation, bidders are given feedback on the quality and prices submitted and further dialogue takes place to refine the contract documents. This report has come to Council as evaluation is now complete for the Detailed Solutions Stage and Members requested a recommendation from the Board on the way forward.
- 1.2. Bids have been received and evaluated for the Detailed Solution Stage and proposals have been assessed as offering added value to the Council both in terms of resilience and cost against current service provision.
- 1.3. The appendices contain further information including a summary of any potential savings, and service improvements/benefits contained within the bids.
- 1.4. It should be noted that if the Council approve Recommendation 1, the procurement process will continue to the Final Solutions Stage and a further report will be brought before Council in December 2018.

2 **Background**

- 2.1 Members requested that key decisions during the procurement process for recycling and waste collection, street cleansing and public toilet cleaning services be brought before Council.
- 2.2 Recommendation 1 has come from the Frontline Services (Waste Procurement) Project Board who have been involved in the procurement process.
- 2.3 This report details the Detailed Solutions Stage of the process. The Board have based their recommendations on whether the detailed solutions offer added value to the Council both in terms of future resilience and future costs. Recommendations have been prepared following full scrutiny of the evaluation process at this procurement stage.
- 2.4 If Recommendation 1 is approved, the procurement process will continue to the Final Solutions Stage and a further Award Report will be brought before Council in December 2018.
- 2.5 It is important to recognise from this report that we have reached a key milestone in the project that allows us to conduct a detailed assessment of:

- The full scope of our current service for waste and cleansing services
 - The need for change and the Devon aligned service
 - The quality of our current services
 - The added value through proposed procurement
 - Partnership arrangements and service flexibility
 - Financial summary
- 2.6 The process itself has enabled us to gain comprehensive information on the current performance and costings of the full range of services in-scope.

3 The need for change and the Devon aligned service

- 3.1 South Hams has enjoyed a high recycling rate for some years, however the position is now rapidly changing as other councils have adapted to meet budget constraints and legislative changes. Costs for providing waste and cleansing services have risen steeply in recent years, due to legislative changes such as the introduction of the National Living Wage, the reduction in the price of recyclate sales on global markets and a national shortage of HGV drivers.
- 3.2 Previously there was funding available from DEFRA (Department for the Environment, Fishing & Rural Affairs) to support councils in adapting services to meet these changes. South Hams benefitted from around £1,000,000 in grants for this purpose in the past. This was significant funding which at the time supported the capital and revenue costs of the service change to the twin wheeled bin system. This funding drove recycling performance at a specific point in time and is no longer available. Councils are expected to self-fund service changes to reduce waste collected, increase recycling and charge for discretionary service elements.
- 3.3 The Special Council report presented in October 2017 set out the key objectives for the services as well as defining red lines for service delivery in the South Hams. This included recognition of the need to work towards the 'Devon aligned service'. This is in line with the Waste and Resource Management Strategy for Devon to which we committed in January 2005, and which is one of the formal partnerships of the Council.
- 3.4 The Devon aligned service was agreed as a result of research from the Executive Waste Board which considered waste services across Devon as a whole. This work recognised that a uniform Devon wide collection system was not suitable and did not provide large economies of scale. It agreed however that a service design which delivered the optimum cost efficiencies, environmental benefits and improvements for residents whilst responding to changing legislation and retaining individual councils' identities could be achieved through an aligned service.

3.5 The aligned service will bring the following benefits:

Improvements for residents

- Increased number of materials collected from the kerbside, notably glass, textiles and plastic pots, tubs and trays
- Greater harmonisation of waste collection services across Devon – evidence shows that residents are confused by the different services offered by councils

Recycling rate and income

- Increasing the number of materials that can be collected on the kerbside, along with the associated publicity, will increase our recycling rate and thus increase the income gained
- By splitting garden from food waste collection there is potential for future charged garden waste collections if required

Opportunities for partnership working and economies of scale

- Other Devon Authorities already benefit from joint glass and paper contracts which deliver high income and resilience against fluctuating markets
- Potential for further joint procurements such as containers and when purchasing/maintaining collection vehicles

3.6 It should be noted that changes to collection services should be viewed in terms of whole service costs. Whilst collection costs for the aligned service may be higher, disposal costs are lower. The savings from disposal costs are then shared with the Council via the Shared Savings Scheme. (As these costs are not firm until point of delivery this saving is NOT included in the future savings predicted at this stage.)

3.7 Table 1. Progress of Devon Districts towards the Devon Aligned Service

Progress toward the Devon Aligned Service



Weekly Food Waste	Charged Garden Waste	Weekly Dry Recycling	Fortnightly Residual Waste
East Devon	East Devon	East Devon	East Devon (3w)
Exeter	Exeter	Exeter	Exeter
Mid Devon	Mid Devon	Mid Devon	Mid Devon
North Devon	North Devon	North Devon	North Devon
South Hams (m)	South Hams	South Hams	South Hams
Teignbridge	Teignbridge	Teignbridge	Teignbridge
Torridge	Torridge	Torridge	Torridge
West Devon	West Devon	West Devon	West Devon

GREEN = ALIGNED OPTION
 m = mixed garden & food mixed
 3w = 3 weekly



3.8 All Devon districts have committed to move towards the Devon aligned service and Table 1 shows that South Hams is now out of line with the other Devon districts.

3.9 It has been identified that the optimum time for moving to the aligned service would be 28th September 2020. Should the procurement continue, this date allows sufficient time for any contract to bed-in. In addition, whether the procurement continues or not, this timeframe will allow a detailed mobilisation and communication plan to be drawn up. **The contract documents therefore specify a move to the aligned service within the contract term. The bids were prepared based on the optimum date for change.**

3.10 Any delay in changing the service may incur additional costs and the Council would miss out on opportunities that the aligned service could provide. Attached at Appendix 1 is a recent letter from Devon County Council regarding future plans for collection of organic wastes.

4 The quality of our current services

4.1 Members will be aware that as cost pressures have impacted on our front line services, it has been difficult to maintain quality consistently in all areas.

- 4.2 A particular challenge for an in-house service is how it ensures performance is competitive with the private sector. The South Hams has a workforce with a high average age which has been protected from austerity measures for a considerable period. Whilst cultural change can be made, it does require investment and the cost of this is indicated at Appendix 2. This is a substantial investment which should not be undervalued otherwise capacity will be strained in other areas to support the programme of change (similar to the T18 transitional programme).
- 4.3 For example, currently over 120 refuse bins are missed per 100,000 potential collections in the South Hams. This compares with a national average of 61. Performance issues such as this, within contracted services, can be remedied through a binding rectification process which assures targets are met. This means that if services are not conducted to the standards specified, the contractor has to put the problem right within strict time frames and with a financial consequence.
- 4.4 South Hams has enjoyed a relatively high recycling rate for some years, however the position is now changing as other councils have adapted to meet legislative changes and budgetary pressures. The Council is currently second in the Devon ratings but this position will change dramatically this year as other Devon Authorities such as East and North Devon have moved over to the aligned service.
- 4.5 Recycling markets have become very volatile since China imposed restrictions on imports of waste earlier this year. The result has meant a flooding of European markets which are now insisting on higher quality materials. Due to the market downturn, which is unlikely to change in the near future, the collection of recyclables in sacks has become unsustainable. Collection in sacks poses additional costs for re-processors as well as allowing contamination of the contents. Both these issues reduce the number of re-processors available to accept the materials, making it more difficult to find outlets and significantly lowering any income or even generating a gate-fee for re-processing.

5 Added value through proposed procurement

- 5.1 It is worth noting that bidders are encouraged through the process to add value to the basic service scope. Appendix 3 details the areas of added value which have been included in the bids. These provide the Council greater resilience and increased capacity in other areas of the organisation going forwards and include Human Resources, Fleet, Health & Safety, Engineering, Procurement and Materials Marketing. This release of capacity should allow for service performance improvements beyond those services in scope.

6 Partnership arrangements and service flexibility

- 6.1 The contract documents have been written to specifically protect the services to the customer and to reflect a flexible partnership arrangement between the Council and the contractor. This has been carefully considered to ensure that risks and rewards are shared on a 50/50 basis and that the Council is not disadvantaged during a contract term if there is a requirement to alter the service. Business continuity, quality, innovation and legislative change all form part of this consideration.

7 Financial summary

- 7.1 At the Council meeting of September 2017, Members resolved NOT to prepare a shadow bid by our in-house team. This was recognised as crucial in encouraging the market to compete for the work following soft market testing during the summer of 2017. This testing informed the Council that private companies were unlikely to compete against in-house bids as they felt their significant investment in the bidding process was potentially wasted.
- 7.2 There have been recent challenges from the private sector against in-house awards where they have felt them to be anti-competitive. The guidance from our legal advisor is that there is no obligation on the Council to enter into a contract. However when making a decision, the Council must take into account the reputational and financial risk of any challenge and the risk to future procurement activity in this area.
- 7.3 Appendix 4 is a statement on our current service costs prepared to ensure a robust service test as requested at the Council meeting of the 29th March 2018. It has been provided by Chris West, an independent advisor, and offers an objective financial view on our process and looks at our own costs outside of the procurement process.
- 7.4 Appendix 5 shows the current service costs benchmarked against other Local Authorities.
- 7.5 Appendix 6 shows the financial summary and key benefits to the Council which support Recommendation 1. To ensure commercial confidentiality of the bids and to maintain, for legal purposes, the integrity of the procurement process, actual costings cannot be disclosed in this report however the Project Board have been presented with background information to support their decisions.

8 Evaluation of Outline Solutions

- 8.1 In compiling its recommendation, the Evaluation Team have considered both the cost, and the quality, of service offered by the bidders. The evaluation at this stage is based on 60% cost and 40% quality. Quality is an important factor as it includes the provision for health and safety, service guarantees, and monitoring and management of the contract.
- 8.2 The evaluation team is made up of a range of specialists from waste and cleansing, finance, human resources, assets, and health and safety. Specialists evaluating the quality of the bids, were not privy to any of the financial information until after the quality evaluation was complete to ensure objectivity. The Internal Audit Manager from the Devon Audit Partnership was present and recorded the moderation sessions.
- 8.3 As set out the evaluation criteria, the responses were sufficiently detailed to meet the Councils' requirements and offer elements of added value. All areas of both bids were scored as relevant and provide confidence that the bidders could provide the services.
- 8.4 To ensure a like for like comparison, proposals have been evaluated against current service costs taking into account considerations, such as depot usage, income from recyclables and customer support. There is a further dialogue stage which will refine exact specification of services and therefore whilst the comparison of pricing against existing costings cannot be absolutely finalised at this stage, an indication of current delivery costs against the solutions proposed are provided.
- 8.5 The next stage of the procurement involves a final round of dialogue with bidders to discuss optimum solutions for each Council after which invitations to submit Final Tenders will be issued.

9 Options available and consideration of risk

- 9.1 There is no material risk to the Council of continuing to the next stage of the procurement process. A further report will come before Council in December.
- 9.2 All Devon districts have committed to move towards the Devon aligned service. Any delay may incur additional costs and the Council would miss out on opportunities that the aligned service could provide such as improvements to the customer, increase in recycling rate and income, increased opportunities for partnership working and cost reductions, and positive environmental impacts.
- 9.3 The Council has made it clear in the procurement documents that its intention is to award a Contract for these Services provided a more economical solution which offers better quality, arises from the procurement. A decision not to award on reasons other than the above, is likely to place the council at risk of a procurement challenge.

10 Proposed Way Forward

- 10.1 It is proposed that Council endorses the recommendation of the Board to continue to the next stage of the competitive dialogue process for waste collection, recycling and cleansing services.
- 10.2 It is also proposed that Council approve that any changes necessary to harmonise the recycling collection services with the 'aligned waste service', as detailed in the Waste and Resource Strategy for Devon, are introduced on 28th September 2020.
- 10.3 Should Recommendation 1 be approved, a further report will be submitted by the Board to Executive and Council on 22nd November 2018 and 6th December 2018 respectively which will recommend whether the Council proceeds to award a contract. It is important to note that at the final stage, if the Council receives a commercially competitive tender (based on both price and quality) and chooses not to award without valid reason, then it is at risk of challenge as detailed in 9.3.
- 10.4 This recommendation fits with the corporate themes of Environment, Council and Communities.

11 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council has a duty to arrange for collection and disposal of household waste. The legislative framework is to be found in the Environmental Protection Act 1990, Waste Framework Directive 2008, and Controlled Waste Regulations 2012. The procurement process is compliant with the Public Contract Regulations 2015. Any change in policy will need to be communicated to bidders so that they can consider the impact on their pricing strategy.
Financial	Y	Financial implications are set out in Appendix 6.
Risk	Y	The risks are set out at section 9 of this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	Not applicable
Safeguarding	N	Not applicable

Community Safety, Crime and Disorder	N	Not applicable
Health, Safety and Wellbeing	N	Not applicable
Other implications	N	None

Supporting Information

Appendices:

Appendix 1: Devon County Council Organics Letter - **Exempt**

Appendix 2: WYG note - **Exempt**

Appendix 3: Added Value - **Exempt**

Appendix 4: Chris West Statement - **Exempt**

Appendix 5: Benchmarking on current costs

Appendix 6: Financial Summary - **Exempt**

Background Papers:

Council Reports of 28 September 2017, 31 October 2017 and 29 March 2018.