

Decision Maker: Executive- 30 November 2016

For Pre-Decision Scrutiny by the Environment PDS Committee on:

Date: 8th November 2016

Decision Type: Non-Urgent Executive Non-Key

Title: **FORMAL CONSULTATION ON OUTLINE SERVICE PROPOSALS AND PROCUREMENT STRATEGY - CONEY HILL, OXTED, SURREY CLOSED LANDFILL MONITORING & LEACHATE REMOVAL CONTRACT**

Contact Officer: John Woodruff, Strategic Commissioner - Waste
Tel: 020 8313 4910 E-mail: john.woodruff@bromley.gov.uk

Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: N/A

1. REASON FOR REPORT

- 1.1 Coney Hill, Oxted, Surrey is a closed landfill site, the maintenance, monitoring and aftercare of which was assigned to LB Bromley in 1986 by the London Residuary Body, following the abolition of the Greater London Council.
- 1.2 As LB Bromley does not have the in-house expertise necessary to carry out these specialist functions (including a requirement to appropriately dispose of the liquid leachate), this activity has been let to external contractors since the site was assigned to LB Bromley. The current contractor, Initial Projects Ltd (trading as Enitial), was awarded the contract for a seven year term commencing on 28 July 2010 and expiring on 27 July 2017.
- 1.3 In line with the Council's revised Corporate Procedure Rules, this report outlines the procurement strategy involved in tendering these specialist functions to an external provider.
- 1.4 It is proposed to let the contract for another seven year period, with the option of a three year extension and then an option to extend for a further 2 years (following a best value review).

2. RECOMMENDATION

- 2.1 The Executive agrees to the procurement strategy set out in this report.
- 2.2 The Executive agrees to delegate the decision to the Executive Director of ECS in consultation with the Portfolio Holder the authority to extend the contract if necessary.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Quality Environment.
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Financial

1. Cost of proposal: Estimated total contract value of £1.643m
 2. Ongoing costs: Recurring cost. £136,880 per annum
 3. Budget head/performance centre: Waste Services
 4. Total current budget for this head: £136,880
 5. Source of funding: Existing revenue budget for 2016/17
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Staff

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Effectively, LB Bromley is the sole customer
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 Coney Hill is a closed landfill site, the maintenance, monitoring and aftercare of which was assigned to LB Bromley in 1986 by the London Residuary Body following the abolition of the GLC. The site accepts no waste and has been capped, but generates landfill gas and leachate gas the waste gradually biodegrades. The site is equipped with a network of pipes to draw-off the landfill gas, which is currently flared. There is also a network of pipes to draw-off the liquid leachate to a central lagoon, from where it is tankered to an appropriate disposal facility.
- 3.2 There is also a network of gas and water monitoring boreholes outside the site boundary, to demonstrate that there is no leakage of the site's contents into the surrounding environment.
- 3.3 There is an on-going requirement to monitor the pipeline networks and monitoring equipment to ensure they operate appropriately, to maintain the equipment, and repair it as necessary. There is also a requirement to tanker the leachate to an appropriate disposal facility. The results of the monitoring are analysed to ensure they conform with the appropriate legislation and appropriate action taken if this is not the case.
- 3.4 LB Bromley does not have the in-house expertise to carry out these specialist functions. The activity has therefore been let to external contractors since the site was assigned to LB Bromley. The current contractor is Enitial, which has carried out this function since 1999.
- 3.5 The tankering and disposal of the liquid leachate at appropriate disposal facilities is the responsibility of the contractor.
- 3.6 The site is located at Coney Hill landfill site, Barrow Green Road, Oxted, Surrey. LB Bromley used this site for the disposal of waste, through the GLC, in its role as Waste Authority. When the GLC was abolished, the London Residuary Body dispersed the responsibility for waste management sites (incinerators, Civic Amenity sites, waste transfer stations, depots, etc) to the boroughs. As a major user of the Coney Hill landfill site, responsibility for the aftercare of the site was passed to LB Bromley. This was confirmed through "the Parsons Agreement", an agreement dated 26 November 1980 originally made between the GLC and Messrs Parsons (the site owners), as amended by an agreement dated 22 July 1986 made between LB Bromley and Messrs Parsons. There is also a Licence Agreement (dated 8 September 1992) and a Deed of Rectification (dated 18 June 1993) made between these parties.
- 3.7 The site is also covered by "the ESWC Agreement" (dated 30 January 1981) between the Greater London Council and East Surrey Water Company (again, the rights and obligations of the Greater London Council have since been assigned to the Council).
- 3.8 The Environment Agency monitors the site to ensure it complies with appropriate environmental legislation, and that the material within the site remains contained and is not having an adverse effect on the surrounding environment. Environmental legislation may change over time, which could lead to a requirement for additional facilities to be added.
- 3.9 Current estimates, based on analysis by the current contractor, suggest that gas and leachate management and extraction will be required for a further 25 year period; volumes will reduce during this period, eventually falling to a minimal level. Once the site is confirmed as effectively inert, then LB Bromley's responsibility will be fully discharged.

4. SERVICE PROFILE / DATA ANALYSIS

- 4.1 The current contract specifications are based on a robust, auditable schedule of works submitted by the contractor. This schedule identifies all the procedures and working practices to be adopted in fulfilling the various monitoring, maintenance and leachate & gas removal requirements required by legislation and Environment Agency guidance. It also includes a

proposed emergency action plan, including how it will be activated if and when recorded data falls outside prescribed maximum gas or leachate concentration values, or when gas or leachate management control measures are observed to have failed.

- 4.2 Expected servicing schedules for all equipment used in meeting the required environmental controls for the site are also be specified. The Contractor is responsible for ensuring the proper function of both the Council's and its own equipment at the Coney Hill Site.
- 4.3 The condition of the pipework and equipment will be reviewed prior to the tendering exercise to establish whether any additional equipment replacement costs need to be included in the specification (over the seven / ten / twelve years of the contract).
- 4.4 A monthly report is provided to the Council detailing all monitoring results, exception reports for variance from normal results, and actions and timescales for remedial works. A six-monthly summary of all monitoring results is also provided to the Council, which is shared with the Environment Agency.

5. CUSTOMER PROFILE

- 5.1 The site is situated in Barrow Green Road, Oxted, Surrey. For the purposes of this service, LB Bromley is effectively the sole customer.

6. MARKET CONSIDERATIONS

- 6.1 Closed landfill management is a specialised, heavily regulated function. Service providers are identifiable through contacts with other authorities utilising similar services. Other contacts are available through National Association of Waste Disposal Officers (NAWDO) and the Chartered Institute of Waste Management (CIWEM). The term of the contract will be 7 years, with options to extend by 3 years, and then a further 2 year extension. The initial length is to ensure that reductions in the volumes of leachate and landfill gas generated by the site can be analysed over time, with the assumption these costs will fall over time. The two extension options are to allow for the option of this contract to be made co-terminous with the wider bundle of Environment contracts being let in 2019.
- 6.2 Due to the specialist nature of the services required, and the remote location of the site (in relation to Bromley), local procurement options will be considered (including encouraging SME and allowable Local Contracting considerations and social enterprise procurement) but are unlikely to be an option.

7. STAKEHOLDER CONSULTATION

- 7.1 Due to the nature of the service, no consultation is proposed.

8. SUSTAINABILITY / IMPACT ASSESSMENTS

- 8.1 The general management of the site focuses on minimising and controlling the environmental impact of the on-going biological degradation of the waste and the associated emissions generated. Without appropriate controls and processes, these emissions, primarily liquid leachate and landfill gas (methane), could contaminate groundwater, aquifers or the ground surrounding the site.
- 8.2 Any potential sustainability impact would involve options to develop a waste-to-energy plant, able to generate electricity from the landfill gas generated by the site. Since this is currently burnt off, this would represent a major improvement in the site's carbon footprint. However, analysis of current gas levels suggest this would be unlikely to be a cost-effective option.
- 8.3 The major environmental risk is failure by the Contractor to monitor the site appropriately, leading to potential contamination of the surrounding environment. A crucial element of the selection criteria will be the provision of a robust, auditable schedule of works by the contractor (to mitigate the risk). This schedule should not only identify all the procedures and working

practices to be adopted in fulfilling the various monitoring, maintenance and leachate & gas removal requirements, but should also include a proposed emergency action plan, including how it will be activated if and when recorded data falls outside prescribed maximum gas or leachate concentration values, or when gas or leachate management control measures are observed to have failed. Expected servicing schedules for all equipment to be used in meeting the required environmental controls for the site should be specified. The Contractor is responsible for ensuring the proper functioning of both the Council's and its own equipment.

- 8.4 Since the primary evaluation criteria will be the tenderer's experience and competence in controlling site emissions, this decision has been judged to have no or a very small impact on local people and communities.

9. OUTLINE PROCUREMENT STRATEGY & CONTRACTING PROPOSALS

9.1 Estimated Total Contract Value

Total potential total contract value is £1,642,560, including both extensions.

9.2 Other Associated Costs

None (unless the proposed infrastructure audit identifies any significant equipment or pipework which may have to be replaced during the life of the contract)

9.3 Contract Period

7 years, with the option of a 3 year extension (following a best value review), followed by the option of a further 2 year extension – that is 28 July 2017 to 27 July 2024 (or 2026, or 2028). The option of an extension provides the potential opportunity for this contract to be aligned with the wider package of environmental contracts in the future.

9.4 Advertisement

Following approval by the Executive, an advertisement summarising the specification will be placed in the OJEU inviting expressions of interest.

9.5 Procurement Route

The contract will be tendered through a two-part restricted process.

9.6 Contract Documentation

The specifications and conditions of contract will reflect those currently applying. The Instructions to Tender, evaluation criteria, and contract document production responsibilities will be agreed with Finance, L&DS and Procurement.

Evaluation

- 9.7 The evaluation criteria used to select a supplier will be based on a 60/40 price/quality split.

- 9.8 The evaluation criteria that will be used to award the contract will be:

1. Understanding of and compliance with all specifications
2. Commitment of sufficient resources to ensure compliance
3. Whole-life contract cost
4. Other quality criteria

- 9.9 Compliance with 1 & 2 are an absolute (pass/fail) requirement. Price will, therefore, be the primary evaluation metric with whole-life contract cost being assessed including a cost-benefit analysis of any proposals for such innovations, including assessment of the potential long-term return on investment, and any potential financial risk to the council .

9.10 The quality criteria include the following issues:

- a. Experience of the management of similar sites
- b. Experience of the type of gas and leachate networks installed at the site
- c. Clean record with regard to compliance notices from Environment Agency and HSE
- d. Access to appropriate liquid leachate disposal sites
- e. Sufficiency of skilled monitoring staff
- f. Understanding of current and potential legislation and its impact on the site
- g. Imaginative options which may reduce either the environmental or financial impact of the site's ongoing maintenance.

10. POLICY CONSIDERATIONS

10.1 The proposed Contract supports a number of ambitions expressed in Building a Better Bromley. "A quality environment - we aim to maintain and enhance the local environment in which people live and work, and provide a high quality of life for all." Building a Better Bromley also contains specific commitments to "further improve our recycling facilities" and to work with the public to minimise the rate of increase in waste generated. The Environment Portfolio Plan also contains specific commitments to improve and enhance recycling facilities, including expanding the range of services currently provided.

10.2 The management of landfill gas at permitted landfills is covered by three pieces of European legislation:

- Waste Framework Directive (75/442/EEC as amended)
- Landfill Directive (1999/31/EC)
- Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC).

For permitted landfills in England and Wales, these Directives are implemented by the Landfill (England and Wales) Regulations 2002 and the Pollution Prevention and Control (England and Wales) Regulations 2000, both of which were made under the Pollution Prevention and Control (PPC) Act 1999. Officers are not aware of any proposals for change or enhancement to these regulations.

11. FINANCIAL CONSIDERATIONS

11.1 Analysis of the current contract specifications indicates that there should not be any major changes in the monitoring element of the Contract. The current budget for this element is £64k per annum.

11.2 The leachate removal element has been affected by the European Landfill Directive, which led to the introduction of the Landfill Tax. However, the removal of the Landfill Tax escalator (replaced by an annual inflation-based increase) has led to stable pricing for the disposal cost of this liquid hazardous waste. The current budget for this element is £73k per annum.

11.3 The proposed contract period is for 7 years, with the option of two extension periods, the first for 3 years, and then an option to extend for a further 2 years. The options of the extensions

provides the potential opportunity for this contract to be aligned with the wider package of environmental contracts in the future.

11.4 The estimated total cost of the contract over the proposed contract period of 12 years, (including the two extension periods) is £1.643m.

11.5 An infrastructure survey will be undertaken to identify whether any capital costs are likely to be incurred over the term of the contract.

12. PERSONNEL CONSIDERATIONS

12.1 There are no internal staffing implications. The current contractor has indicated that all staff involved with the current contract would be transferred to other duties, so no TUPE considerations are expected, although full confirmation of this will be sought before the evaluation process commences.

13. LEGAL CONSIDERATIONS

13.1 The monitoring and control of the environmental impact of closed landfill sites is closely controlled by the Environment Agency. The contract specifications will incorporate all control elements, monitoring schedules and reporting requirements required by the EA under current legislation.

13.2 Legal & Democratic Services will assist in the preparation of the Invitation To Tender, the Specifications and the Conditions of Contract.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	