

WIRRAL COUNCIL

CABINET

9 DECEMBER 2014

SUBJECT:	STREETSCENE ENVIRONMENT SERVICES – ENHANCED CONTRACT EXTENSION OFFER FOLLOWING STRATEGIC DIRECTOR NEGOTIATIONS
WARD/S AFFECTED:	ALL
REPORT OF:	KEVIN ADDERLEY, STRATEGIC DIRECTOR REGENERATION & ENVIRONMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR BERNIE MOONEY, ENVIRONMENT & SUSTAINABILITY
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

- 1.1 On 11 September, 2014, Cabinet reviewed a report (Minute 48 refers) that considered the benefits, opportunities and risks associated with extending the current Waste and Environmental Streetscene Services contract. Members noted that the partnership between the current service provider and the Council had demonstrated a successful track record in delivering service improvements and efficiencies, in order to steadily improve Value for Money over the life of the contract. Members further approved that the Strategic Director enter into negotiations with Biffa, in order to ensure that the contractor improved on their current “offer” in return for extending the contract to its full permissible term (2027).
- 1.2 This report details the “best and final offer” secured from Biffa Waste Services. The negotiations have resulted in an improved financial offer, and agreement to a number of contractual terms and clarification that eliminate or reduces some of the risks highlighted during the review of their original offer.
- 1.3 This is a Key Decision in the Council’s Forward Plan.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The report presented to Cabinet on 11 September 2014 (Minute 48 refers) provides a detailed analysis of the performance of the current Environmental Streetscene Services contract, that came into force on 22nd August 2006.
- 2.2 The OJEU notice for the contract makes provision to extend the existing contract to March 2027. This would be a seven year extension on the core contract term, or a ten year extension from the 2017 break clause approved by Cabinet 19 July 2012 (Minute 59 refers) .

2.3 The 14/15 forecasted core contract cost is £11.546m, consisting of £7.744m for waste collection and £3.802m for street cleansing). The contract price has already been discounted by a total of £2.2m through a number of initiatives, as well as drawing in significant new income streams.

3.0 ENHANCED CONTRACT EXTENSION OFFER FOLLOWING STRATEGIC DIRECTOR NEGOTIATIONS

3.1 **Appendix 1** details the value and terms of the revised and final offer from Biffa in return for the Council extending the contract to 2027. In total Biffa are offering a contract discount of £13,383K over an extended contract term to 2027. This is an increase of £3,758K from their original offer in January 2014; £450K increase on the current term and £3,308K increase in the extended term. In terms of the Council's annual revenue budget savings from these proposals, there will be an initial stepped increase of the savings between 2014-17 before an ongoing annual revenue saving of £1,065K is achieved from 2017-18 onwards.

3.2 The following terms made in Biffa's original offer still stand:

- A commitment to reduce the burden of inflation by agreeing to the annual application of consumer price index (CPI) as opposed to the retail price index (RPI) from April 2017.
- The inclusion of a "pain-gain" clause in the contract so both parties are incentivised to seek continued efficiencies.
- A commitment to move towards neighbourhood working in order to optimise local solutions, in line with the Council's Corporate Plan.

3.3 In addition, Biffa have improved their offer as follows:

- A continued willingness to assist the council to achieve high recycling targets, committing to enhanced funding of £65Kpa from 2017 for fleet that will enable the collection of a wider range of recyclable materials or an equivalent cash discount if the fleet specification does not change. The Council is legally required to assess its waste collection system by 1st January 2015, in order to ensure it is Technically, Economically and Environmentally Practicable (TEEP). The flexibility secured around fleet replacement will ensure that the Council is better placed to design any new service requirements that are "TEEP".
- Clarification that their offer is not linked to any "collection round" efficiencies, meaning that further savings or efficiencies may be investigated, in order to optimise the efficiency of the current alternate weekly collection rounds.
- The opportunity for Biffa to absorb "property uplift" costs over the remaining contract life.

- Agreement to match fund a new joint contract monitoring post, to reflect the need to continue to drive cleansing and waste collection reliability standards against a challenging backdrop of austerity.
- The fitting of 360 degree cameras to all garden waste collection vehicles in order to improve collection reliability, safety and efficiency in this important commercial service.
- The funding of additional seasonal cleansing at New Brighton to reflect the increased visitor numbers and opening hours.
- The collection of waste from bulk bins the Parks and Countryside Service is to be absorbed into current resources, saving the department around £20Kpa in additional collection fees.
- Upgrading in-cab technology to facilitate further improvements to service reliability and availability of information that will in turn reduce front/back office intervention.
- Biffa have agreed to allow a break clause at March 2023. They have clarified a number of conditions associated to enabling the Council to execute the break clause, but enables Wirral to consider exploring options for the joint tendering of waste collection services in future with other districts within the City Region, should such a time come where services in this geographical area are suitably aligned.

4.0 UPDATED RISK POSITION

- 4.1 The revised offer has further reduced the residual risk scores for this review.
- 4.2 **Appendix 2** details key risks arising when considering Biffa's offer. A risk register has been kept since the offer was first proposed by Biffa. Eight key considerations reported to Cabinet on the 11 September detailed no red risks and two amber risks. As a result of final negotiations all risks are now green with the exception of one risk which remains amber, but has a residual overall risk score of 8, compared to 12 based on Biffa's initial proposal. The reduction in risk is due to the agreement from Biffa to jointly fund a contract monitoring officer (Appendix 2 refers).
- 4.3 Officers continue to be satisfied that the residual risks associated with this decision are manageable and proportionate to the benefits of accepting Biffa's proposal.

5.0 UPDATED VALUE FOR MONEY REVIEW

- 5.1 A detailed VFM analysis was reported to Cabinet on the 11 September in Section 4 of the "Review of the Biffa Extension Proposal", which demonstrated Wirral's strong position when compared with other districts in delivering overall value for money in relation to these Environmental Services. The latest data published from the Audit Commission indicates that Wirral were already spending £10 less per head of population on these services than the average English Council.

5.2 By accepting Biffa's offer the Council can guarantee to further reduce the cost of delivering Waste collection and Street Cleansing by £7.27 (£3.33 per person) per household by April 2018 (plus inflation). This is without any impact on frontline service provision.

6.0 OTHER OPTIONS CONSIDERED

6.1 Reject Biffa's Extension Offer

6.1.1 As detailed in the previous report, rejecting Biffa's offer outright would prohibit any further savings to be generated from the contract in 14/15 and is certain to inhibit savings to be achieved up until April 2017 when the current contract comes to an end. It is not possible to predict whether the value of the financial incentive would increase or decrease from the current offer, but the Council would have lost the opportunity to make immediate savings.

6.1.2 It is also important to highlight that rejecting Biffa's offer to extend would result in approximately £150K in procurement costs to re-tender the work, as well as taking up significant officer time to the value of at least £100K.

7.0 CONSULTATION

7.1 No consultation has been carried out due to the commercial sensitivity of the proposal.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 Extending the contract with Biffa would deny any opportunity for the third sector to tender for this work until post 2027. However, Biffa have indicated a willingness to adapt their working methods to accommodate the Council's neighbourhood management approaches that could lead to opportunities within this sector in the extended contract term.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 Accepting Biffa's extension proposal provides a total saving on the contract price of 9.2%. There will be a phased implementation of the saving over a four year period, leading to an annual revenue saving of £1,065,000 from 2017-18 onwards, as shown in the table below. The total cumulative revenue saving to the Council over the full term of the contract will be £13,382,500. This is an increase of £3,757,500 from their original offer in January 2014, representing a £450,000 increase on the current term and a £3,307,500 increase in the extended term.

9.2 The proposal replaces RPI with CPI from April 2017.

9.3 Officers estimate that up to £250k in tendering costs (consultant fees and staffing time) could be avoided if the contract was extended.

9.4 Biffa have offered to match fund a contract monitoring officer post (1 x FTE) with the Council, who would be dedicated to monitoring contractual and crew performance, in order to optimise service reliability and service standards. This will require the

creation of 1 x FTE post (to be evaluated) on the Waste and Environmental Services staffing establishment, requiring £10K of new revenue growth. A further £3K per annum will be required to fund transportation, fuel and other related costs which will be met from within existing waste provisions.

- 9.5 Officers recommend that the £500K in-year saving in 2014/15 be allocated to reserves for use in 15/16 to assist the Biffa/Council partnership to realise further efficiencies from 16/17 onwards. For example, through a budget option agreed March in 2014, the Council has invested an additional £400K over two years to tackle alleyway dumping and ensure alleyways are regularly cleansed. Should the extension proposal be accepted, officers will work with Biffa to ensure the continuation of the programme at the end of the temporary funding period.
- 9.6 In summary, the revenue savings linked to the improved offer are detailed in Table 1 below

Table 1

Revenue Saving – Revised offer				
2014/15	2015/16	2016/17	2017/18	
£500,000	£200,000	£300,000	£65,000	
Total Annual Revenue Saving from 2017/18				£1,065,000
Cumulative saving over current contract term (3 years)				£2,200,000
Cumulative saving over extended contract term (10.5 years)				£11,182,500
TOTAL CUMULATIVE SAVING (REVISED OFFER)				£13,382,500
Revenue Saving – Original offer				
2014/15	2015/16	2016/17	2017/18	
£400,000	£200,000	£150,000	£0	
Total Annual Revenue Saving from 2017/18				£750,000
Cumulative saving over current contract term (3 years)				£1,750,000
Cumulative saving over extended contract term (10.5 years)				£7,875,000
TOTAL CUMULATIVE SAVING (ORIGINAL OFFER)				£9,625,000
Increased saving over full proposed contract term				£3,757,500

10.0 LEGAL IMPLICATIONS

- 10.1 Officers have confirmed that there is provision in the original OJEU notice (CPU010805) to extend the contract for a seven year period from August 2020 to August 2027.
- 10.2 This “best and final” Biffa offer requires the extension of the 2017 break clause agreed in July 2012 to April 2023 and is subject to a number of conditions in order to enable Biffa to offer this level of savings.
- 10.3 Legal colleagues have highlighted that it is necessary to limit the amount of material changes to the contract in order to minimise the risk of the Council being challenged on the legalities of the extension. There are no service changes proposed as a result of this extension proposal. Apart from reducing the price of the contract, there are only two material variations proposed:

(i) To alter the inflation calculation - As the proposal is to apply a mechanism that is most likely to save the Council money, and be less advantageous to the contractor, it is not envisaged that a challenge would arise from previous bidders.

(ii) To introduce a “pain-gain” clause - There are a number of existing clauses relating to need for the contractor to drive continuous improvement and efficiencies. Introducing this clause will not supersede them, but allows greater flexibility to tackle the most challenging of efficiency projects by recognising the costs and risks associated with them to both the contractor and Council. Biffa have agreed to a 70/30 apportionment where the Council is entitled to 70% of the financial saving of any joint initiative instigated under this Clause. This also requires the Council to provide 70% of the upfront costs required to make the changes.

10.4 In the previous report presented to Cabinet on the 11 September, due consideration has been given to establishing whether the Biffa proposal offers VfM as required under the Council’s Contract Procedure Rules. However, it is important to note that the only decisive way to determine whether a more advantageous contract could be secured by the Council would be through retendering the contract.

11.0 EQUALITIES IMPLICATIONS

11.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact review is attached –

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010-0>

12.0 CARBON REDUCTION IMPLICATIONS

12.1 The Waste and Environmental Streetscene Services contract seeks to increase recycling through efficient waste collection operations. In addition, Biffa have committed to assisting the Council to collect food waste in an efficient way should it be required to do so in the future.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 Biffa proposes to install 360 degree cameras on some of its fleet. Amongst a range of benefits, this is anticipated to reduce the incidents of “dangerous driving” we commonly have reported where impatient motorists attempt to mount pavements and force their way passed waste collection operatives.

14.0 SUMMARY

14.1 By entering into further negotiations with Biffa, Officers have secured an improved offer in return for the extending the contract term to 2027. This has improved further the Value for Money position that the Council has already established, to a discount equating to £7.27 per household per annum by April 2018. Due to the limitations of data sets around VfM and fluctuating procurement markets, the only way of knowing

exactly how advantageous Biffa's proposal is to the Council would be to decline the offer and go back out to the market. Members must therefore balance the risks and lost opportunities of accepting the offer with the financial benefits and future opportunities gained by securing a long term deal.

14.2 To summarise the opportunities lost include:

- Ability to re-package services where synergies may result in enhanced neighbourhood working capacity (e.g. A Street Cleansing, highway maintenance and grounds maintenance bundle);
- The ability to go to the market in a re-tender exercise.

The opportunities gained include:

- Immediate revenue savings totalling a minimum of 9.22% over 4 years;
- Avoidance of procurement costs of up to £250K in 16/17;
- Stability of provider with proven track record in performance;
- Immediate identification of significant further savings for implementation by 2016/17.

15.0 RECOMMENDATION/S

15.1 Members are requested to:

- (i) Approve acceptance of the revised offer from Biffa outlined in this report in return for an extension to the existing contract to 2027.
- (ii) Instruct the Strategic Director of Regeneration and Environment to work with Biffa to identify further efficiency savings, in order to contribute to reducing the Council's budget deficit from 2016/17 onwards, and to enable the continuation of the Good Neighbour" initiative, and ensure alleyways continued to be cleansed regularly.
- (iii) Approve the use of the 2014-15 contract saving of £500,000 to establish a reserve in order to facilitate further savings detailed as in (ii) above.

16.0 REASON FOR RECOMMENDATIONS

16.1 The Council has unprecedented financial reductions to make over the next 3 years. The Waste and Environmental Streetscene Contractor has a proven track record of working with the Council to make challenging savings in the statutory functions of waste collection and street cleansing. Extending the contract with the existing provider guarantees revenue savings over the next three years and avoids future procurement costs of up to £250k in external consultants and officer time. In addition, immediate work can begin to identify future joint efficiencies.

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APPENDICES

Appendix 1: Final Biffa "Offer": Contract Extension to 2027

Appendix 2: Updated Risk Register

REFERENCE MATERIAL

Audit Commission Website: <http://profiles.audit-comission.gov.uk>

OJEU notice CPU010805: Streetscene Services to include refuse, recycling and street cleansing.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet:	
Biffa Contract Extension Proposal	11 September 2014
Environmental Streetscene Services Contract Break Clause Review	19 July 2012
Environmental Streetscene Services Contract Break Clause Review	21 June 2012
Environmental Streetscene Services Financial Review	12 April 2012
Sustainable Communities Overview and Scrutiny	
Environmental Streetscene Services 5 th Annual Review	30 January 2012
Environmental Streetscene Services 6 th Annual Review	29 January 2013