

Environment Committee	
Meeting Date	19 December 2022
Report Title	Procurement of Waste and Street Cleansing Services
EMT Lead	Emma Wiggins, Head of Regeneration and Neighbourhoods
Head of Service	Martyn Cassell, Head of Environment and Leisure
Lead Officer	Alister Andrews, Environmental Services Manager
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That the Committee approves the appointment of Company A as Waste and Street Cleansing Services provider from 24 March 2024 for a period of 8 years. 2. The committee recommend to Policy and Resources committee and Full Council that they approve the fleet funding as outlined in the exempt appendices and include in the capital programme within the Medium Term Financial Strategy (MTFS). Delegated authority is given to the Section 151 Officer to source the funding in the most economically advantageous method to the Council. 3. Delegate authority to the Head of Environment and Leisure, Head of Legal and Director of Resources to let the contract to Bidder A and finalise the Inter-Agency Agreement (IAA) and Joint Working Agreement (JWA) between the Partners. 4. Recommend that officers continue to develop plans for future depot provision and bring back plans to the relevant service committee.

1 Purpose of Report and Executive Summary

- 1.1 The current Waste and Street Cleansing contract expires on 23 March 2024. The Mid Kent Waste partners (Swale, Ashford and Maidstone Borough Councils) carried out a four stage tender process based on the most economically advantageous tender (MEAT), which was evaluated on 40% price and 60% quality.
- 1.2 This report summarises the procurement process, its results and seeks Committee approval of the recommended contractor.

2 Background

- 2.1 The current Mid Kent Waste Contract is a ten year contract which was due to end in October 2023. The Mid Kent partner authorities have worked with an external waste consultant to consider the current contract and future options for the delivery of Waste and Street Cleansing services.
- 2.2 Cabinet agreed the following recommendations in June 2021;
1. To remain within the Mid Kent Waste Partnership (MKWP).
 2. To retain an Alternate Weekly Collection (AWC) for co-mingled kerbside recycling and residual waste. To collect food waste weekly and to provide separate chargeable garden waste and bulk waste collection services. This is based upon current assumed costings and the assumption that a material recycling facility (MRF) continues to operate within an affordable distance. It is also dependent upon potential national legislative changes.
 3. To agree to keep the collection services contracted out as the preferred service delivery model and develop a waste collection specification to meet coalition priorities on climate emergency and recycling rates.
 4. To keep street cleansing contracted out but to adapt the future contract specification to improve flexibility of resource and improve service.
- 2.3 Cabinet also agreed the following objectives for the service;

Objective
Delivering a reliable waste collection service that meets all aspects of the recycling objectives in partnership with KCC
Reducing the carbon footprint of service
Sufficient flexibility and control that should allow for responses to legislative changes
Reliable street cleaning regimes with improved traffic management arrangements/ schedules
Minimising future service costs (or maximising income generation opportunities from disposal arrangements with KCC or legislation changes e.g., Deposit Recycling Schemes/ plastic tax income).

- 2.4 These objectives aligned with the priorities identified by Ashford and Maidstone councils. Officers from the MKWP have refined the specification and produced tender documents to achieve these priorities. The specification was created using the highest performing parts of the current contract, the objectives for each partner council including Swale, feedback from Area committees, and feedback from the 2021 residents' waste survey.

- 2.5 The specification kept the waste collection methodology broadly the same. The vast majority of properties in the Borough will remain on a wheeled bin service with alternative weekly collections of refuse and recycling and weekly collection of food waste.
- 2.6 Street cleansing is provided on a “zoned basis” for the Borough and will continue to do so. This dictates that areas of higher footfall see a more frequent cleansing regime and a more frequent street litter bin emptying regime, based on need. However, zones were revisited by officers based on current experiences and the national litter code of practice.
- 2.7 The MKWP has made a number of improvements to the new contract based on experience from the existing contract and feedback from residents and Members. They are summarised in section 3 of this report in more detail. The performance mechanism (the way in which we hold the contractor to account for service failures) has been updated to current industry standards and has been strengthened in key areas to ensure the Council can obtain improvements in service delivery when required but has been balanced with not being so punitive that additional risk pricing was built in by bidders.
- 2.8 The MKWP shared the tasks involved in the commissioning process. Ashford Borough Council took the lead on the procurement and Mid Kent Legal, on behalf of Swale and Maidstone Councils (and, ultimately, Ashford Council), provided legal advice. The tender was conducted using Ashford’s contract standing orders, but with full involvement of Swale and Maidstone officers.
- 2.9 The tender went live on 30 November 2021 with the publication of a ‘Find a Tender Service’ notice on the UK procurement portal. The process was published to include ‘Competitive dialogue’, a process which has several stages of submission from bidders and allows for formal sessions of negotiation/clarification.
- 2.10 The Extraordinary Environment Committee on 12 August 2022 approved a contract extension until March 2024. This followed concerns raised by bidders during the dialogue sessions that vehicle lead in times had increased significantly in recent months and that they could not guarantee the new fleet by October 2023. The new contract will therefore start on 24 March 2024.
- 2.11 The tender process has now completed all four stages;
- 1) ‘Selection Questionnaire’ where bidders show their interest in being part of the tender process and are selected if they meet minimum criteria,
 - 2) ‘Invitation to Submit Detailed Solutions’ where bidders set out initial proposals and prices. This was followed by set of dialogue meetings with officers from each Council and our consultant advisors,

- 3) 'Invitation to Submit Refined Solutions' where bidders submitted more detailed plans and then further dialogue sessions were held,
 - 4) 'Invitation to Submit Final Solutions' where bidders made their final tender submission confirming their price and how they would run the services. This closed the tender process.
- 2.12 Officers have conducted a range of evaluations, scoring bidders by Borough and then coming together to moderate scores across MKWP.
- 2.13 Several companies showed an early interest in the process but due to competing tender opportunities in larger authorities, uncertainty from the legislative changes and lack of capacity in their bid teams, did not start the process. Two companies took part in all stages of competitive dialogue and helped to form the final tender specification for the services.
- 2.14 Both companies presented a very challenging set of industry impacts during the dialogue sessions. Bidders cited global factors such as Brexit, the Pandemic, the war in Ukraine and the resultant economic climate causing concerns in terms of staffing availability (particularly driver shortages) and the increasing costs of meeting staff wage demands. Fuel and other utility cost increases will adversely impact the waste and street cleansing industry in future years also. There is also a need to retain flexibility in the delivery of the service with the yet to be fully released changes to waste legislation. Finally, changes by KCC to the places where our collection vehicles can tip the waste have led to further operational difficulties (we will now be required to tip refuse/recycling in one place and food waste at a different site).
- 2.15 The result was a cautious approach from bidders and a reluctance to carry as much risk as contractors previously had. This fragile nature of the market at the current time meant that one bidder did not submit a final submission, leaving one final bid for the services.

The scores were as follows:

Company	Price Score (40%)	Quality Score (60%)	Total (100%)
A	40.00	41.80	81.80

3 Proposals

- 3.1 The Environment Committee is requested to approve the proposal to enter into a contract with Company A for an 8 year contract. No options for extension have been included in the tender notice or legal documentation as it is expected that the industry will be in a different place for a number of reasons at that time.

3.2 Although there was only one bid, the bidder scored highly in the quality evaluation due to the evidence they supplied, demonstrating their track record of delivery, policies and procedures and approach to social value. Bidder A therefore met all the required criteria and submitted the most economically advantageous tender. Having had full involvement of another bidder for most of the process, officers are able to demonstrate value in the financial submission and have fully evaluated the quality of service delivery.

3.3 There were a large number of positive initiatives included in the bid submitted. Particular areas of note that show their ability to meet the objectives listed above include;

- The most adaptable collection methodology to accommodate the unknown changes in waste stream composition that may arise as a consequence of the implementation of legislative changes developed from Extended Producer Responsibility, the Deposit Return Scheme and/or Collections Consistency consultations.
- All waste collection services, the methodologies, resources and vehicles selected have been designed with recycling performance improvement and carbon footprint and environmental impact reduction in mind.
- The vehicles selected will contain a smaller food pod and a bigger single compartment rather than the current 70/30 split back. This will result in less waste of space and vehicles being able to stay out collecting longer rather than returning to the waste transfer station.
- Re-routing rounds in order to take account of housing growth in the last 10 years, making them more efficient with carbon footprint reductions.
- Improved communication with residents through the use of 'collection advice notices'. These will be used if there is an issue with the collection e.g. bin broken, contamination, side waste.
- Use of new technology and in-cab systems to report back to the Council (and Partners) in real time, giving us the ability to provide residents with timely and more accessible information.
- Works to reduce contamination, e.g crews lifting wheelie bin lids to make more checks, targeting bulk/communal properties, better use of bin hangers to tell residents why we haven't collected their bin due to contamination.
- Recycling bags for flats to encourage higher take up.
- Wheeled Bin repairs as well as replacements saving residents money and reducing the number of new bins required, thus improving our carbon footprint further.
- Improved street cleansing, for a longer period each day over seven days a week, through rapid response teams, target crews, area specific mobile crews, beat sweepers and greater use of mechanical sweeping.
- Better use of technology to inform residents on cleaning frequencies, when roads were last cleansed or when they are planned to be cleansed or reinspected next.

- Higher level of inspection of street cleansing through mobile devices, cameras and supervisor monitoring.
- Graffiti removal, faster response time for fly-tip collection and, importantly for the Council, seasonal resources that increase during summer months, leafing season and better use of shift patterns to have cleaners out when they are needed.
- No use of glyphosate, with an alternative heated foam method proposed for the removal of weeds.
- There are several environmental gains. The new fleet will contain lower polluting vehicles with EURO VI diesel engines when compared to the previous fleet. Replacing diesel powered bin lifting gear on the back of refuse vehicles with electric lifts also means reduced diesel use. A selection of electric street cleansing vehicles, electric tools and supervisor vans. From their wider company operations, the proposed bidder is a net producer of renewable energy and so all usage of electricity at the depot for the contract operations will be from this provision. They will also have LED lighting installed at depots.
- Social value initiatives including a proposed partnership with Demelza House charity for reusing bulky waste items, staff volunteering days, internships, apprenticeships, curriculum days in local schools, litter picking kits for volunteers, local supply chains, job fairs and skills training programmes.

3.4 One outcome of the dialogue process is the cessation of the collection of small electrical equipment, textiles or batteries at kerbside. These items were previously left by residents next to their wheeled bins. However, the current contract has not provided a reliable service. The materials collected have contributed minimal tonnages to our recycling figures and have caused confusion amongst residents with a negative impact on contamination in recycling bins, which has led to whole loads being rejected. There are easy to use alternative disposal options in place such as the three household waste recycling centres in the Borough, charity textile bag collections and stores and supermarkets recycling batteries and electrical items. However, to add to these, the contract will still allow these items to be collected alongside any booked bulky waste collection and at separate roadshow events offered by the bidder around the Borough.

3.5 During the tender process, bidders raised concerns in relation to the length of time between tender submission and mobilisation of the contract. This period would include a year where indexation (a mechanism to ensure that contracts are increased to take into account rising inflation/costs) would occur and especially at the current time, labour wage increases. Bidders could only use the existing pay rates and terms and conditions of staff (known as TUPE data) as a basis for their tender bid prices. To avoid bidders building in 'risk pricing' that may be well in excess of actual increases, MKWP has included contract mechanisms to cover indexation from April 2023 and the final TUPE rates, once pay rates had been agreed for the year 2023/24. This results in the medium term financial strategy including estimates of the impacts of these conditions, rather than simply using

the tender submission amounts. Full details of this are explained in Appendix I (exempt appendix).

- 3.6 The contract will provide completely new vehicles across the whole range of services. It became clear during the dialogue process that private sector rates of borrowing to fund the new fleet requirements were more expensive than the option of Councils borrowing. Appendix II shows the estimated capital required for the new fleet. It is an estimate (albeit based on real quotes from manufacturers in October 2022) due to the fact that in the current financial climate, manufacturers of the vehicles are regularly increasing prices and will not hold prices until the point of order, which can only be done when the contracts are approved. A recommendation is therefore made to propose to Policy and Resources committee/Full Council that the capital programme is amended to include provision for purchasing the new fleet and allow the section 151 officer to source the funding of the fleet in the most economically advantageous way.
- 3.7 Whilst there is a financial saving from the Council providing the funding, we will still be able to benefit from the contractor's purchasing power. It is estimated that Councils would be charged at least a 5% premium on top of what contractors can get from manufacturers and lead in times will likely be better as they book build slots in advance.
- 3.8 Depot provision was identified as a challenge during the tender process. Lack of suitable sites or high costs of those that were suitable for leasing, raised a concern with MKWP. Maidstone Borough Council already own an existing depot provision which has reduced their costs considerably. Ashford and Swale Councils started to look at suitable sites. Officers have identified potentially suitable sites in the Borough that the Council already owns. However, early estimates suggest a cost in the region of £3.8m for the development of the site and there is a significant challenge to deliver a depot site in time for the start of the contract. The proposed contractor has a depot solution for the Council that is cost effective when compared to our own costs. It is recommended that the Council therefore accepts the depot offered by Bidder A. However, it is recommended that officers continue to look at options, to enable a depot for the waste and street cleansing service in the future and also any future grounds maintenance service. Officers will bring forward business plans for consideration by the relevant committee in the future.
- 3.9 As well as the main contract documents, MKWP is governed by an Inter-Agency Agreement between the 3 Borough Councils and Kent County Council (as waste disposal authority). A new Inter-Agency agreement is required to run alongside the 8 year Mid Kent Waste Partnership contract. This governs how MKWP works and any financial benefits that will be passed on by Kent County Council based on income from the waste disposal. There is also a Joint working Agreement that is signed by all Partners. Due to the continued delay in waste legislation changes, these are not completed at the time of this decision. This remains under negotiation between the Partners, and it is therefore recommended officers are given the delegated ability to agree.

- 3.10 The Environment Committee are required to make the decision whether to award the contract as per the recommendation. This will be provisional until Policy and Resources Committee and Full Council decide whether to approve the fleet funding in the Medium Term Financial Strategy and capital programme.
- 3.11 Following these two committees, officers will complete the contract letting process. A "mobilisation" phase will begin with regular specific working groups planned for the partners and the successful contractor e.g. building of IT systems, resident communications on the changes, HR arrangements, depot provision, purchasing the fleet. The intention is to hold further 'All Member briefings' throughout the mobilisation phase.

4 Alternative Options Considered and Rejected

- 4.1 At the Cabinet meeting in June 2021, Members considered alternative delivery options. These included bringing the services completely in-house or setting up a Local Authority Controlled Company (LACC). They also considered whether to remain part of the Mid Kent Waste Partnership and whether they wished to change the waste collection methodology.
- 4.2 The decision by Cabinet in June 2021 to stay in the Mid Kent Partnership enabled the joint procurement to go ahead. The removal of one or more partners at this late stage would void the tender process and could leave the remaining partners needing to tender again. Whilst each Council must make their own decisions, the impact of Swale leaving the Partnership at this time cannot be underestimated
- 4.3 The pros and cons of each option remain the same as in the June 2021 Cabinet report. A completely in-house service would not be financially comparable to commissioned out or LACC models. This is due to the high rates of local government pay and pensions plus the need to increase HR and finance departments.
- 4.4 Given the lower number of bidders in the process and the global challenges mentioned above, a more recent study of the financial implications of the LACC option has been undertaken with the consultants. The table at Appendix II details this but shows that the costs of a LACC are higher than the outsourced service. Although possible, delivery of a LACC in the remaining timeframe is challenging and the level of risk to the Council is higher. The waste industry is facing a period of significant change and fresh legislative requirements. These changes and challenges are not fully understood at present, but will require support from a proven, engaged and flexible partner who has the knowledge and experience to navigate and ensure success. The mobilisation period would take longer and disruption when the new service starts will inevitably be more profound as has been shown in other authorities across the country. Major companies can use expertise from across the company and other contracts, a benefit that a LACC does not immediately have. The other Partners are not recommending this option either which would mean Swale undertaking it on its own. These factors outweigh

the benefits of potentially greater control in service delivery and therefore it is not recommended to pursue this option at the current time.

- 4.5 The 'do nothing' option is also not advised. Failure to award the contract would leave insufficient time to undertake an alternative commissioning process and therefore leave us at risk of not having a waste and street cleansing service.

5 Consultation Undertaken or Proposed

- 5.1 Significant consultation has been undertaken with residents, councillors and staff. Residents were asked to respond to a waste survey in 2021, and we received an excellent return with themes that fed into the specification for all three Partners (highlighted in more detail in the June 2021 Cabinet report). Residents wanted to retain the comingled collection of recyclables and this method delivers some of the highest recycling in the county. Future County Council contracts and Government legislation may change the requirements of collections in the future, but the Association of Public Service Excellence identifies that 82% of authorities currently collect recyclables in the comingled method.
- 5.2 All Councillors were asked for their opinions on the objectives at Area Committee meetings along with what matters they felt needed adjustment in the new contract.
- 5.3 Members had the opportunity to speak at the Cabinet meeting in June 2021 and also call in the June 2021 Cabinet decision for further scrutiny and discussion. In addition, full member briefings were held on 5 January, 7 November and 14 November 2022.
- 5.4 A Member Waste working group has been held throughout the process with representatives from the administration and since the change of governance, the opposition spokesperson for waste was invited to attend these meetings.

6 Implications

Issue	Implications
Corporate Plan	A new waste collection and cleansing service offers the opportunity to consider the priority 'Investing in our environment and responding positively to global challenges', with particular reference to 2.5 'Work towards a cleaner borough where recycling remains a focus and ensure that the council acts as an exemplar environmental steward, making space for nature wherever possible.'
Financial, Resource and Property	Anticipated annual spend on the Contract minus vehicles is £6,327,158. The total contract award value for the 8 years is therefore, estimated as £50,617,264.

	<p>The Medium Term Financial Strategy for 2023/2024 onwards is currently being formulated and the increase in budget for the service was included in the draft Budget report considered by Policy and Resources Committee on 30 November 2022. However Members already approved amendments to cover the contract extension costs which mean there is enough budget to cover this award of contract.</p> <p>As this report states, a number of estimates have been made in allocating the correct sum in the MTFS due to the fact that indexation and TUPE reconciliation will need to be added to the tender price ahead of the March 2024 start date. Full details of this can be found in the exempt appendices.</p> <p>The cost of the fleet for Swale is estimated in the exempt appendices. The proposal is to fund as much of the capital as possible from existing capital receipts that the Council holds (estimated at £2m). This will reduce the amount we need to borrow. Current interest rates at the time of writing are 4.16% for borrowing over the 8 years of the contract. The report recommends adding the fleet costs into the capital programme within the MTFS.</p> <p>Mid Kent Legal Services have provided legal advice during the tender process and this included a vehicle schedule which details exactly how the contractor will manage and maintain the Council fleet to remain fit for purpose for delivery of the service throughout the contract.</p>
<p>Legal, Statutory and Procurement</p>	<p>Delivering this service is a requirement under the Environmental Protection Act 1990. Failure to accept the recommendations without agreeing suitable alternatives may place the Council in breach of the Environmental Protection Act 1990.</p> <p>Mid Kent Legal Services have provided legal advice during the tender process and will complete the final contract documents. They used the existing waste and street cleansing contract as a basis with lots of improvements and bringing the contract up to date with current working practices. There was a requirement to provide additional clauses to cater for the as yet unknown waste legislation changes. This gave protection to the contractors in the event of fundamental changes to delivery model being required. The Council would be covered by 'New Burdens' funding from Government where we are forced to change from existing practices as a result of policy changes but to what extent is currently unknown.</p>

	<p>The contract extension (between October 2023 and March 2024) was managed under the Public Contracts Regulations 2015 and in compliance with our own Commissioning and Procurement Strategy and Contract Standing orders.</p> <p>Ashford’s procurement team have conducted the tender on behalf of the Partners and the process has complied with their contract standing orders and national procurement regulations.</p> <p>Public Services (Social Value) Act 2012 – the main report details some of the ‘social value’ leveraged as part of the procurement process. This has ensured local benefit from the contract through employment and training, use of local supply chains and community engagement including schemes to help boost local charities. They will also provide dementia friendly training for staff and ensure 5% of staff are trained in mental health first aid. A report in 2021 showed the company achieved £2.26 of social value for every £1 spent and they will measure their impact through this contract with an annual report that will include social value achievements/assessments.</p>
<p>Crime and Disorder</p>	<p>Providing a clean environment which is free from litter and graffiti is known to contribute to how ‘safe’ an area feels to residents.</p>
<p>Environment and Climate/Ecological Emergency</p>	<p>The waste and street cleansing contract is currently the most significant contributor to the Council’s carbon footprint and therefore any reductions in this contract are critical to helping us achieve the Climate and Ecological Emergency Action Plan targets.</p> <p>A wide variety of environmental benefits have been reviewed and scored, with significant particulate and carbon savings being made in the following areas</p> <ul style="list-style-type: none"> • re-routing rounds (5 – 15% reduction in miles), • more efficient vehicles (reducing levels of harmful exhaust emissions including nitrogen oxide (NOx), carbon monoxide (CO), hydrocarbons (THC and NMHC) and particulate matter (PM). • Use of electric bin lifts on vehicles • Environmental improvements are delivered from less pollutants and lower CO2 emissions. Electric streets and supervisor vans, additional driver training and monitoring of vehicles for idling etc <p>Initially it was considered that an electric or hybrid fleet may have been achievable. However, bidders have suggested that the availability, cost and suitability of this option presented limited opportunity at the current time. It was confirmed that Refuse</p>

	<p>Collection Vehicles (RCV) in electric versions are significantly more expensive than the current EU standard. Standard RCV is approximately £200,000 and electric currently £420,000 and provide only small reductions in operating costs. Current cost for hydrogen vehicles is approximately £720,000. Bidders consider that a change to hydrogen vehicles is likely to be achieved in coming years, with vehicles being converted at a cheaper rate than new build.</p> <p>Collection methods and materials, along with innovation to boost recycling figures will all have a positive impact on the environment ensuring the Council contributes to the Circular Economy process.</p>
Health and Wellbeing	<p>Providing a high-quality refuse, recycling and street cleansing service will support public health objectives through regular waste collections and the delivery of an attractive environment.</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>The contract provides services for vulnerable adults and children through clinical waste collections and assisted bin collections.</p> <p>The winning contractor's policies match the needs of our safeguarding policies.</p>
Risk Management and Health and Safety	<p>The preferred course to minimise risk is to continue with contracted services as a collective as the Mid-Kent Joint Waste Partnership. This gives stability in pricing and contractual clauses to maintain service standards.</p> <p>We have a procurement risk register and will adapt that for general operational risk assessments as we move into the mobilisation and contract period.</p> <p>There is financial risk by the potential for fleet prices to fluctuate from current estimates by the time we place orders.</p> <p>As explained in the main report, there is also potential future financial/operational risk from legislation changes. Whilst key changes in legislation will be considered under the New Burdens principles, it remains uncertain how changes will affect us. The contract dialogue process has considered the most flexible options that will reduce this risk.</p> <p>Health and Safety is a key consideration as part of the tender process and forms part of the evaluation process of bid, requiring bidders to meet all of the relevant health and safety legislation.</p> <p>Part of the procurement process ensures that contractors are fully competent, particularly in the area of health and safety. The quality evaluation scored their competence in this area. Company A's competence is evidenced through their memberships of the</p>

	<p>relevant industry bodies. They contribute nationally to the development of safe systems of work for their operatives and to protect local residents.</p> <p>Camera systems on every vehicle along with risk assessments for all areas of the service help provide the assurances of a health and safety compliant operation.</p>
Equality and Diversity	The existing standards to ensure services are accessible to all residents will remain in place, regardless of the actual service provider. These include assisted collections for residents that require that support. As such and with little change, a full Equalities Impact Assessment is not required.
Privacy and Data Protection	There are no further privacy or data protection implications resulting from decisions in this report that were not considered in the Cabinet report June 2021. The review process has considered how we use data from the contractor to update residents on the service, but SBC maintain the complaints reporting and monitoring function through our customer services and back office teams.

7 Appendices

7.1 The following documents are to be published in support of this report but are exempt;

Appendix I: Financial Implications

Appendix II: Breakdown of pricing in comparison to alternative models including fleet funding costs

8 Background Documents

8.1 Cabinet report 9 June 2021 can be found [here](#).