

Meeting:	Director for economy, communities and corporate
Decision date:	Thursday, 1 February 2018
Title of report:	Assessment of waste disposal contract extension options
Report by:	Waste disposal team leader

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose and summary

To approve procurement of external legal, technical and financial support in assessing the benefit to the council of extending its waste management services contract (WMSC) with Mercia Waste Management Ltd (Mercia).

The WMSC is a jointly provided service with our partners Worcestershire County Council which delivers waste treatment and disposal services to the two councils; it is due to expire on 11 January 2024. Mercia has been asked to present proposals for an extension to the contract with a view to making savings to the councils as early as practicable.

Support is required to aid the council in assessing options and the financial benefit of extending the WMSC by a further 5 years, compared with the alternative of commissioning a new service.

Recommendation(s)

That:

- (a) Funding made available to our partners Worcestershire County Council in respect of our joint arrangements with them for external legal, technical and financial advice be**

approved up to a total value of £50,000 to assess options and inform joint decision making;

- (b) further independent advice required by Herefordshire Council in assessing its own options in relation to future waste collection and management arrangements be procured at a cost of not more than £25k; and**
- (c) the Director Economy, Communities and Corporate be authorised to take all operational decisions necessary to implement the above recommendations.**

Alternative options

1. The councils could choose not to source any external legal, technical and financial support and rely on internal assessment of options and likely savings only.
2. Although this option would reduce the council's costs of assessing options it is not recommended. The council does not have the necessary internal resources and experience to assess the full range of consequences of exercising a contract extension option of this nature.
3. In order to minimise costs they will be shared with our partners, Worcestershire County Council, except where Herefordshire requires independent advice.
4. Alternatively each council could decide to obtain its own independent advice and not share advisors. This is not recommended as duplicating work would not represent value for money for either council.

Key considerations

5. The waste management services contract (WMSC) is a 25 year Waste PFI (private finance initiative) contract jointly procured and provided to Herefordshire Council and Worcestershire County Council (WCC). The service is currently provided by a private contractor, Mercia Waste Management Ltd, a consortium between FCC Environment Ltd and Urbaser UK Ltd. The contract commenced on 12 January 1999 and is scheduled to expire on 11 January 2024.
6. WCC act as the lead authority in managing the service on Herefordshire Council's behalf.
7. The terms of the contract allow the contract to be extended by up to a maximum of 5 years. Discussions between the councils and the contractor regarding extension are required to commence at least 5 years prior to the expiry date.
8. The councils wish to establish the merits of extending the contract by a further 5 years and any opportunity to bring forward any benefit to deliver annual savings in the current contract period, as weighed against a range of alternative options including but not limited to: not extending but re-procuring jointly; not extending but re-procuring separately; exercising the option to extend but for a period of less than five years.
9. The councils formally wrote to Mercia in October 2017 requesting their proposal to a maximum 5 year extension of the contract. Mercia have responded with proposals that are currently being assessed by the councils.

10. Any proposal by Mercia will be assessed against the alternative option of commissioning a new service by the expiry date (11 January 2024).
11. It is proposed that legal, technical and financial consultants will be used only where necessary in order to advise the councils on its approach, review contractor's proposals and assist in modelling commissioning options and the financial consequences of different options. Worcestershire county council will undertake this procurement and award of contracts, with Herefordshire officers being part of the selection process.
12. The advice will help the councils to produce an options appraisal and business case to support the most favourable approach at this time.
13. It is proposed that the option to extend the contract will be brought before the council's cabinet for determination once the contractor has provided its best offer to the councils on a contract extension.

Community impact

14. The WMSC provides the majority of services to fulfil the council's statutory obligations as a waste disposal authority. The key obligations being to dispose and treat waste collected by the councils waste and recycling collection service and to provide places where residents can dispose of their household waste.
15. This decision will procure advice to inform the councils approach to a contract extension and ensure the council's decision helps secure better services and value for money in line with the council's corporate priorities.
16. The partnership Joint Review Board will agree the scope of any work, oversee the appointment and management of external advisors.

Equality duty

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

19. This decision has the following resource implications
 - i. The funding for this proposal is not expected to exceed current budgets and is within funding approved in the Medium Term Financial Strategy (MTFS).
 - ii. The combined cost of joint and independent support will not exceed £75,000 and be spread across the 2017/18 and 2018/19 financial years.
 - iii. The funding will be from revenue budgets. Costs are to be shared with our partners Worcestershire County Council except where a need for independent advice is identified by Herefordshire Council.
 - iv. It is anticipated that funding of £50,000 will be required as Herefordshire Council's share (approx. 24% of the total) of funding joint external advice
 - v. A further £25,000 will be required to fund any independent advice require by Herefordshire council to assess its own options.
20. For joint advice WCC acting as lead authority are required, in consultation with Herefordshire Council, to assess the need, specify and procure any external advice. Written consent must be obtained from Herefordshire Council for any decision or instruction to carry out work on behalf of the councils.
21. Any costs are incorporated into WCC management costs which are then shared with Herefordshire council in the agreed proportions as calculated in the Joint Working Agreement between the two councils.
22. Any changes to expected costs are reported to both council via the Joint Review Board and through monthly budget monitoring undertaken jointly by officers from both councils.

Legal implications

23. In accordance with the joint working agreement agreed between Herefordshire Council and Worcestershire County Council procurement of external advisers will be carried out by our partners Worcestershire County Council upon written consent from Director Economy, Communities and Corporate, Herefordshire Council.
24. Where a need for independent advice to Herefordshire Council is identified, this will be procure in accordance with Herefordshire Councils procurement policy and authorised in accordance with the council's constitution.
25. The work of any external advisors will contribute towards developing an options appraisal and business case which will inform decision making to in turn secure better services and value for money
26. Any proposal(s) to extend the current contract or re-procure new service(s) will be brought forward in future reports.

Risk management

27. The risks associated with this decision are outlined below:

Risk / opportunity	Mitigation
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If advice is not obtained the council risks failing to consider all options available to it. This could result in any later decision not delivering better services or value for money for residents.

Necessary support is identified and secured in order to help identify and assess suitable options.

28. External advisors will be managed by competent council officers with responsibility for waste management in both Herefordshire and Worcestershire. The work will be overseen by the Joint Review Board consisting of Directors and Heads of Service with responsibility for waste management from each council.

Consultees

29. None

Appendices

None

Background papers

None identified