

Operational Decision Record

Publication Date 31 March 2023	Decision Reference Number 4905
Decision Title	
Annual supply of Commercial Size Trade Containers for 2023/24	
Decision Value	
£180,000	
Revenue or Capital Spend?	
Revenue	
Department	
Commercial & Domestic Waste Services	
Contact Officer (Name, job title, and contact details)	
Alvin Henry, Head of Waste & Street Cleansing alvin.henry@nottinghamcity.gov.uk 07961480590	
Decision Taken	
<ol style="list-style-type: none"> 1. To seek approval to procure and award contracts in line with the annual value of £0.150m from the Commercial Waste budget for Commercial/Trade waste containers of any size in the 2023/24 financial year. 2. To seek approval to procure and award contracts in line with the annual value of £0.030m for Commercial/Trade waste containers from the Domestic Waste budget for Domestic new builds and rental agreements in the 2023/24 financial year. 3. To delegate authority to award contracts to the preferred supplier of refuse containers to the Head of Waste & Street Cleansing for Residents Services to call off over a period of 2023/24 to a maximum of £0.180m 4. To seek approval to spend 0.030m from within the Domestic Waste budget for 2023/24 – all resale cost will replenish this budget. 5. To seek approval to spend 0.150m in total from within the Commercial Waste budgets for 2023/24. 	
Reasons for Decision and Background Information	
<p>The purpose of this report is to seek approval for the provision procurement arrangements during the 2023/24 financial year to support Nottingham City delivery of Commercial Waste and Domestic Waste provision.</p> <p>Nottingham City Council provides and operates a successful Commercial Waste service for businesses to dispose of their commercial waste as our statutory role as a waste collection and disposal authority. This was one of the first services within the Council to focus explicitly on commercial growth as a means for contributing to the MTFP (<i>Medium Term Financial Plan</i>) All businesses have a Duty of Care under The Environmental Protection Act 1990 to ensure that they take all reasonable steps manage their waste safely. Waste must be stored safely and securely and must not cause pollution to people or the environment. The waste must</p>	

be packaged in suitable containers so it cannot fall out, blow away or escape from the receptacle.

As such Nottingham City Council has a duty to ensure that the equipment and tools used by employees is safe and is in appropriate condition and by this case in point containers are classed as tools.

Total expenditure will be dedicated to replace damaged commercial containers, where collection contracts or domestic rental agreements are in place with Nottingham City Council. All new contracts being awarded will require additional containers not in supply therefore procurement of bins is required to deliver commercial contracts.

Procurement through contract frameworks, Eastern Shires Purchasing Organisation (ESPO) or Yorkshire Purchasing Organisation (YPO) provides best value for money, is compliant with financial regulations and offers the quality assurance of contract performance monitoring through a large purchasing consortium.

It is recommended that £0.030m within the Domestic waste budget will be ring-fenced for the resale of Commercial bins sold to Domestic properties / new developers for a surplus.

Other Options Considered and why these were rejected

Do nothing - This is not considered a viable option as it does not represent best value for the Authority and would not be compliant with financial regulations and provide little guidance to officers. Operatives require containers to be in a condition with allows compatibility with vehicle lifting equipment to ensure safe working practices; manual throwing of bags into the rear of an RVC (waste collection vehicle) is a known health and safety risk in the industrial.

Explore if other Councils would like to unite and hold procurement competitions within the framework – this is an ongoing opportunity to explore and officers are in discussion with other Councils but they can only influence others and cannot provide any assurance others will want to unite.

Reasons why this decision is classified as operational

Under £250,000 and within agreed policies and budgets

Additional Information

- EIA not required: This decision does not relate to any new or changing policies, services or provision. The financial implications of the decision will have no direct impact on the services provided by the City Council.
- The procurement of wheeled bins is not considered to have significant social value implications other than the environmental impact of the production and delivery of the products. Its anticipated that within procurement of this contract being awarded through a tender/framework that suppliers will aim to help public bodies across the UK realise the benefits social value can bring to their communities and to make the process of incorporating and measuring social value more accessible within the public sector.
- Commercial waste covers collections from all forms of commercial premises and non-private dwellings such as prisons, hospitals and royal palaces, but not from industrial premises as defined in the Environmental Protection Act 1990.

As with domestic waste there is a duty for the collection authority to have arrangements in place for the collection of commercial waste. However, there is no obligation to provide a

routine service, but it must respond to any request from a business whose premises are in its area. Collection services are required to be charged for but charges can be waived in some circumstances.

Commercial waste collection by local authorities is in these circumstances governed by the Environmental Protection Act 1990. As this is part of a special legal regime, this is a non-business supply under section 41A of the VAT Act.

- 'Carbon Impact assessment – Not required

Procurement Comments

Procurement will assist in finding the most commercially viable and compliant solution for the council ensuring contract procedure rules remain adhered to. This route does not pose any risk to the Council.

Advice provided by Holly Fisher (Lead Procurement Officer (Products))

Finance Comments

Budgets exist within both Domestic Waste and Commercial Waste to fund the above expenditure. Domestic Waste is budgeted (2023/24) to make a surplus of £1.542m, whilst a budget of £0.105m exists within Domestic Waste for the purchase of bins.

Any surplus stock at the end of the financial year will be taken to the stock account on the balance sheet.

Finance Comments provided by:

Paul Hector

Senior Commercial Business Partner

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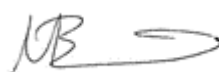
Legal Comments

The proposal to procure and award contracts should offer no significant legal risks as long as the procurement and award are compliant with the Public Contract Regulations 2015 and the Council's own Constitution. If the Council does use the ESPO framework, it needs to assure itself that the ESPO contracts meet the Council's needs and the Council can comply with any obligations imposed on it by the agreement or Framework conditions. Further, the Council must operate as prescribed in the relevant legislation.

Anthony Heath, Senior Solicitor, 28th March 2023

Decision Maker (Name and Job Title)

Mary Lester, Director for Residents Services



Scheme of Delegation Reference Number

7
Date Decision Taken
30 March 2023