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Award

Essex Waste Management Partnership Residual Waste Treatment Contract

ESSEX COUNTY COUNCIL

F15: Voluntary ex ante transparency notice

Notice identifier: 2022/S 000-007143

Procurement identifier (OCID): ocids-h6vhtk-032281

Published 16 March 2022, 12:01pm

Section I: Contracting authority/entity

I.1) Name and addresses

ESSEX COUNTY COUNCIL

CHELMSFORD

CM1 1QH

Contact

Katie Bray

Email

katie.bray@essex.gov.uk

Telephone

+44 3330132305

Country

United Kingdom

NUTS code

UKH3 - Essex

Internet address(es)

Main address

www.essex.gov.uk

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

General public services

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Essex Waste Management Partnership Residual Waste Treatment Contract

Reference number

1410

II.1.2) Main CPV code

- 45111000 - Demolition, site preparation and clearance work

II.1.3) Type of contract

Works

II.1.4) Short description

The purpose of this Voluntary Ex-ante Transparency Notice is to inform the market of the additional works / services to be performed by UBB Waste (Essex) Limited following the amendment of its contract with the Authority for the design, construction, commissioning operation and handback of a mechanical biological treatment (MBT) facility at the Tovi Eco-park (Basildon, Essex). The facility in question did not pass the acceptance tests specified in the contract which led to the Authority seeking to terminate the contract as well as commencing litigation against the contractor. The Authority has given notice that it is proposing to take a decision to enter into an Amendment and Settlement Agreement to settle that litigation and to amend the handback requirements of the contract on the basis that the site will be cleared and returned to ECC in a condition that will allow for its future redevelopment. It is expected that the modified contract will have a term expiring in 2040.

These additional works / services are essential to restore the pre-contractual position and, to the extent that they are not or may not be encompassed by the terms of the original contract, they form an integrated part of a planned settlement agreement between the Authority and the contractor to draw to a conclusion the litigation between the parties.

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Value excluding VAT: £9,900,000

II.2) Description

II.2.2) Additional CPV code(s)

- 45111000 - Demolition, site preparation and clearance work
- 45200000 - Works for complete or part construction and civil engineering work
- 90000000 - Sewage, refuse, cleaning and environmental services

II.2.3) Place of performance

NUTS codes

- UKH3 - Essex

Main site or place of performance

Courtauld Close, off Courtauld Road, Basildon, Essex, SS13 1FL

II.2.4) Description of the procurement

11.2.4) Description of the procurement:

The Contract was awarded on 31 May 2012 to UBB Waste (Essex) Limited, following the completion of a full tender process.

The contracted works and services were for the design, construction, commissioning, handback and operation of a mechanical biological treatment (MBT) facility in the Tovi Eco-Park (Basildon, Essex). Following the initial construction of the facility, the contract provided for a commissioning period followed by Acceptance Tests to confirm that the facility could meet the performance requirements in the contract. If not ultimately passed by an Acceptance Longstop Date of 12 January 2017, the Authority was entitled to terminate the Contract.

The facility did not pass the Acceptance Test by the Acceptance Longstop Date, which resulted in the Authority commencing litigation against the contractor. The Authority has given notice that it is proposing to take a decision to enter into an Amendment and Settlement Agreement to settle that litigation and to amend the handback requirements of the contract on the basis that the site will be cleared and returned to ECC in a condition that will allow for its future redevelopment. It is expected that the modified contract will have a term expiring in 2040.

More specifically, the contractor shall:

- Demolish the MBT facility to ground slab level.
- Surrender the Environmental Permit which relates to the operation of the MBT facility and is held by Urbaser Environmental Limited.
- Remove certain hazardous substances from the site and hand back the site in accordance with the conditions in the Amendment and Settlement Agreement, to the satisfaction of an independent environmental consultant.
- Remove certain plant and equipment from the MBT facility prior to its demolition.
- Design and build a new surface water management system for the site. This includes re-grading part of the site and installing new surface water retention structures.
- Install new sections of security fencing for the site.
- Arrange for the de-energisation of the UKPN electrical sub-station and install a new power supply to the site to serve the surface water management system.
- Fill below-ground voids following the demolition process with granular materials.
- Obtain all necessary consents to enable the works.
- Surrender to the Authority its sub-lease interest in the site.
- Procure that its ultimate parent companies indemnifies the Authority (until expiry of a period of three years following handback) against any failure by the contractor to perform its obligations as set out above and further detailed in the Amendment and Settlement Agreement.

II.2.11) Information about options

Options: No

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

The purpose of this Notice is to inform the market of the modifications to the Contract awarded on 31 May 2012 to UBB Waste (Essex) Limited for the design, construction, commissioning operation and handback of the MBT facility at Tovi Eco-Park (Basildon, Essex). Following the initial construction of the facility, the Contract provided for a commissioning period followed by Acceptance Tests to confirm that the facility could meet the performance requirements in the Contract. Under the Contract, the tests should have been completed by the Planned Services Commencement Date of 12 July 2015. If not ultimately passed by an Acceptance Longstop Date of 12 January 2017, the Authority was entitled to terminate the Contract.

The facility did not pass the Acceptance Test by the Acceptance Longstop Date, which resulted in the Authority commencing litigation against the contractor. The Authority has given notice that it is proposing to take a decision to enter into an Amendment and Settlement Agreement to settle that litigation and to amend the contract on the basis that the site will be cleared and returned to ECC in a condition that will allow for its future redevelopment. It is expected that the modified contract will have a term expiring in 2040.

The works / services are therefore ancillary to the amendment and settlement agreement with the contractor and the contract amendments take into account and address the contractor's current rights and obligations in relation to the site. For transparency purposes, a notice pursuant to Regulation 72(1)(b) has also been published to explain why the modifications (clarificatory in nature) preclude the change of contractor for technical or economic reasons.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: Yes

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure

Notice number: [2009/S 225-323258](#)

Section V. Award of contract/concession

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

16 March 2022

V.2.2) Information about tenders

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

UBB Waste (Essex) Limited

Westmoreland House, 80 - 86 Bathroad

Cheltenham

GL53 7JT

Email

toviecopark@urbaser.co.uk

Telephone

+44 8000725634

Country

United Kingdom

NUTS code

- UKK1 - Gloucestershire, Wiltshire and Bristol/Bath area

Internet address

<https://www.ubbessex.co.uk/>

The contractor/concessionaire is an SME

No

V.2.4) Information on value of contract/lot/concession (excluding VAT)

Initial estimated total value of the contract/lot/concession: £9,900,000

Total value of the contract/lot/concession: £9,900,000

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

The High Court

London

Country

United Kingdom