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Award

Collection of Waste, Street Cleansing and Ancillary Services

Westminster City Council

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-023122

Procurement identifier (OCID): ocids-h6vhtk-03ee03

Published 8 August 2023, 4:09pm

Section I: Contracting authority/entity

I.1) Name and addresses

Westminster City Council

64 Victoria Street

London

SW1E 6QP

Email

rsharma1@westminster.gov.uk

Country

United Kingdom

Region code

UKI32 - Westminster

Internet address(es)

Main address

<https://www.westminster.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

Collection of Waste, Street Cleansing and Ancillary Services

II.1.2) Main CPV code

- 90000000 - Sewage, refuse, cleaning and environmental services

II.1.3) Type of contract

Services

II.1.4) Short description

Collection of Waste, Street Cleansing and Ancillary Services in Westminster City Council's administrative area. This VEAT notice is in respect of a proposed extension to the contract awarded in 2010. It is not the award of a new contract. See additional information at Sections II.2.4, IV.1.1 and Annex D.

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: £795,662,526

II.2) Description

II.2.3) Place of performance

NUTS codes

- UKI32 - Westminster

II.2.4) Description of the procurement

The Council is not awarding a new contract, it is modifying an existing contract awarded to Veolia ES (UK) Limited ("Veolia") on 16th September 2010 to extend the term of the contract by a further three years. See further information at IV.1.1 and Annex D.

II.2.11) Information about options

Options: No

II.2.13) Information about European Union Funds

The procurement is related to a project and/or programme financed by European Union funds: 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:

This notice does not relate to the award of a new contract, but rather the modification of an existing contract described at Section II.2.4 above (the “2010 Contract”). The Council considers that the proposed modification to the 2010 Contract must necessarily be carried out by the current contractor pursuant to Regulation 72(1)(b) Public Contracts Regulations 2015 (‘PCR’) and is not ‘substantial’ pursuant to Regulation 72(1)(e) PCR. Accordingly the modification may lawfully be agreed between the parties and implemented without the need to conduct a fresh procurement procedure.

Regulation 72(1)(b) PCR has been satisfied for the following reasons:

- The Council considers that the current contractor must continue to provide the services for the extension period for economic and technical reasons as Veolia provides the depot sites for the services and there is no other suitable land currently available in the region. The Council has conducted a land availability exercise and is in the process of finding land to develop its own depot solution in order to offer these facilities to all potential bidders and thereby run a meaningful procurement exercise in the near future.
- Soft market testing of the relevant waste industry, conducted by the Council, has shown that were the Council to advertise a relet of the services at this time, only the current contractor would be able to meet its tendered requirements, and this would likely be at a significantly higher price than the current contract for the same level of service, due to the lack of available land other than that held by the current contractor. Therefore a change of contractor would cause substantial duplication of costs for the Council.

The Council’s forecasting exercise shows that the extension period is commensurate with the period required to procure and develop its depot solution. Further, the value of the extension will not exceed 50% of the original contract value in accordance with Regulation 72(1)(b) PCR. The original contract value was £518,000,000, the anticipated spend to 15 September 2024 is £594,576,840 and the value of the proposed 3-year extension is £201,085,686.

Further, the proposed modification is not 'substantial' within the meaning set out in Regulations 72(1)(e) and 72(8) PCR for the following reasons:

- The character of the 2010 Contract and the services to be delivered by the Contractor will remain substantially the same and is not rendered materially different in character from the one originally concluded.
- The extended contract term would have made no difference to the outcome of the procurement had it been part of the initial procurement procedure.
- The proposed extension does not considerably extend the scope of the 2010 Contract.
- The proposed extension does not change the economic balance of the 2010 Contract in favour of the Contractor in a manner not provided for in the 2010 Contract.
- There is to be no replacement of the contractor to whom the Council had initially awarded the 2010 Contract.

Notwithstanding the above and without prejudice to the Council's reasons for considering the proposed modification to be permitted under Regulation 72 PCR, in the event that the proposed modification is deemed to be an award of contract under the PCR, it would in any case be permitted under Regulation 32(2)(b)(ii) PCR because competition is absent for technical reasons and no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement. As described above, market testing has demonstrated that the services can only be provided by the current contractor due to the lack of available land meaning that no other provider would currently be able to provide the contract.

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

The procurement is covered by the Government Procurement Agreement: Yes

Section V. Award of contract/concession

Title

Collection of Waste, Street Cleansing and Ancillary Services

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

8 August 2023

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

Veolia ES (UK) Limited

210 Pentonville Road

London

N1 9JY

Country

United Kingdom

NUTS code

- UKI - London

The contractor/concessionaire is an SME

No

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

Total value of the contract/lot/concession: £795,662,526

V.2.5) Information about subcontracting

The contract/lot/concession is likely to be subcontracted

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

High Court

London

Country

United Kingdom