

Report to the Cabinet

Report reference: C-018-2022/23

Date of meeting: 10 October 2022



**Epping Forest
District Council**

Portfolio: Contracts and Commissioning – Cllr. N Avey

Subject: Waste and Recycling Collection / Street Cleansing Contract

Responsible Officer: James Warwick (01992 564350).

Democratic Services: Adrian Hendry (01992 564246).

Recommendations/Decisions Required:

- (1) To agree to go to market and run a full procurement process for the Waste / Street Cleansing Contract which expires in November 2024.**
- (2) To allocate £120,000 for specialist Environmental Consultants to lead on the procurement and legal costs.**

Executive Summary:

The Council is currently in contract with Biffa Municipal Ltd. for the delivery of waste, street cleansing and processing of dry recycling services at an annual cost of £6.6m, with income received from the sale of the dry recycling currently in the region of £450,000, however this varies year on year with fluctuations in the market. The Contract is due to expire in November 2024 after an initial period of ten (10) years and has the option to extend by (up to) a further ten (10) years, by mutual agreement.

Ricardo Energy & Environment (Ricardo) were commissioned by the Council to conduct a high-level review of their current waste contract in August 2020, based on this review it was recommended that members agree in principle to extend the waste contract with Biffa. Since this recommendation Biffa's performance and service delivery has deteriorated leading to ongoing missed collections and service delivery issues. This has led to district wide disruption to the collection of residents waste and recycling.

Contract extension discussions with Biffa have been protracted and Biffa are still yet to present finalised extension options with full detailed costings. Biffa have indicated that any extension is likely to cost Epping Forest District Council significantly more than the current contract price and reluctant to specify a specific figure that they can guarantee will be accurate in November 2024. The agreement to extend the Contract in principle does not legally bind the Council and this report considering Biffa's current performance and costs of extending the contract recommends that approval is given to enable a full procurement exercise to take place to demonstrate value for money.

Reasons for Proposed Decision:

This decision is based upon Biffa's assessment of the additional costs they require to extend the contract which have increased considerably since discussion of the waste contract extension began. There have been issues with Biffa's current performance which has led to ongoing missed collections for over six months. This has caused widespread disruption and complaints throughout the district. A procurement exercise is the only way to demonstrate value for money.

Other Options for Action:

Extend the contract with Biffa and pay the additional costs they are requesting. However, this will not demonstrate value for money and Epping Forest will have little control over the contract.

Bring the service in-house, although without a depot this would not be feasible. Epping Forest District Council would also have to fully fund, or contract hire an entire new fleet of vehicles and pay for ongoing maintenance costs. Epping Forest District Council would also be liable for TUPE costs, recruitment, health and safety, legal, annual leave, and sickness absence. Costs to bring in house would be considerably more than the current contract price.

Report:

1. The Council is currently in contract with Biffa Municipal Ltd. for the delivery of waste services, comprising:
 - a. Kerbside collection of household waste and recyclables;
 - b. Street cleansing services; and
 - c. Processing of household dry recycling through a Material Recovery Facility (MRF).
2. The contract is due to expire in November 2024 after an initial period of ten (10) years and has the option to extend by (up to) a further ten (10) years, by mutual agreement. Any extension to the Contract needs to be agreed and formalised at least 18 months in advance of the expiry of the initial period, which is by May 2023. The alternative would be to carry out a full procurement exercise, expected to take approximately 18 months (including a six-month mobilisation period).
3. In August 2020, Ricardo Energy & Environment (Ricardo) were commissioned by the Council to conduct a high-level review of their current waste contract. The review comprised an assessment of the Council's current service, with Ricardo modelling a 'ghost' bid to benchmark the service against market conditions, determining what resources should be deployed on the contract compared to the actual resources used. An overall assessment of the waste market and emerging policy and legislation was also undertaken, along with high-level commentary on procurement implications and the risk posed by the Council's lack of operational depot. At the time it was reported that the Council's current service contract was working very well with the core service costing £42,000 less per annum than Ricardo's initial modelling.
4. Ricardo's high-level review led to a recommendation that members agree in principle to a waste contract extension with Biffa, which was approved by Cabinet. Since then, Biffa's performance and service delivery has fallen well below what is specified in the Contract. Ongoing missed collections due to staff shortages and ageing vehicles has caused widespread disruptions and complaints throughout the district. Contract extension negotiations have also been protracted and we are still awaiting written proposals with full costings from Biffa. Verbally Biffa have indicated that they would expect an annual uplift to the waste contract more than what we feel is reasonable and justified.
5. Such a significant increase would benefit from testing the market through a procurement process to truly assess Best Value for the services. A PIN (Prior Information Notice) was issued on 24th August as a soft market testing exercise to enable dialogue with waste contractors to see if they would be interested in bidding should the waste contract come to market. Five waste contractors expressed their interest in the contract.
6. Market engagement meetings with waste contractors took place in September. The market engagement meetings did highlight that not having an Epping Forest District Council Depot is still a potential issue. Waste contractors have indicated there is interest in bidding should the contract go to market for procurement and the lack of depot does mean that it is not a level playing field for bidders and could lead to a higher price from contractors. Work is underway to identify a suitable location for a depot.

7. The estimated timeframe to deliver an EFDC depot would be a six-month procurement, design, and planning permission process, followed by six months construction. The example design is relatively simple, and the 12-month timeframe includes contingency should the planning process not be straightforward. If the Council wishes to be able to provide a depot to the market for a new contract, then this process would likely need to begin as soon as possible.
8. Work has begun on a feasibility study for a waste depot, it is recommended that this work is considered a priority and the findings presented to Cabinet as soon as the feasibility study is concluded.
9. Epping Forest District Council would require the services of environment consultants to lead on the procurement, this would require specialist expertise. In addition, there would be the requirement of specialist legal advice and support to produce the contract documentation. Estimated costs at this stage are £120,000. Officers will do everything they can to ensure value for money and try to minimise costs wherever possible.

Resource Implications:

£120,000 for procurement and legal costs

This would include:

- Selection Questionnaire
- Drafting Tender Documentation including Contract Service Specification
- Invitation to Submit Tenders
- Invitation to Submit Final Tenders
- Evaluation
- Contract Award
- Legal costs for the contract documentation

Annual Contract Costs are likely to be higher than current contract costs, these costs will not be known until the procurement exercise is completed.

Legal and Governance Implications:

EFDC Procurement Rules will be followed and adhered to.

Safer, Cleaner and Greener Implications:

Potential Collection route efficiencies to reduce overall fuel consumption will be considered. This will reduce emissions prior to choosing future low emissions vehicles e.g. Hydrogen/EV.

The current Biffa depot in Waltham Cross gives long distances to the north and the east of the district so siting of any new depot or co-located depot would need to be considered carefully to reduce mileage and emissions. Obviously, consideration will also be needed to assess the impact on air quality of any new depot for the Epping Forest Special Area of Conservation if a large vehicle hub is added to the District.

The next stage of work will include focusing on sustainability aims of the Council. This will include aspirations in the emerging Local Plan in respect of volumes of waste and focusing on the established Waste Hierarchy of: prevention, minimisation, reuse, recycling, energy recovery and finally the last resort of disposal.

Consultation Undertaken:

Ricardo have conducted consultation with Epping Forest District Council and Biffa. PIN (Prior Information Notice) and Market Engagement Meetings with Waste Contractors – Sept 22

DS/AH (November 2020)

Background Papers:

Original Cabinet decision of award of contract to Biffa in 2014 and supporting reports leading up to that decision.

Task and Finish Panel reports which was set up to review the Government's 'Our waste our resources, a strategy for England'.

Strategic options for waste management contract Cabinet Report December 2020

Waste and recycling/street cleansing contract Cabinet Report 25th January 2022

Risk Management:

Lack of EFDC owned depot is likely to increase the costs of the waste contract, as is the high energy costs and uncertainty in the economy and waste market at present. A procurement exercise is the best way to demonstrate value for money and test the market for alternative options to the current contract.

Equality Impact Assessment

1. Under s.149 of the Equality Act 2010, when making decisions, Epping District Council must have regard to the Public Sector Equality Duty, ie have due regard to:
 - eliminating unlawful discrimination, harassment and victimisation, and other conduct prohibited by the Act,
 - advancing equality of opportunity between people who share a protected characteristic and those who do not,
 - fostering good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
2. The characteristics protected by the Equality Act are:
 - age
 - disability
 - gender
 - gender reassignment
 - marriage/civil partnership
 - pregnancy/maternity
 - race
 - religion/belief
 - sexual orientation.
3. In addition to the above protected characteristics you should consider the cross-cutting elements of the proposed policy, namely the social, economic and environmental impact (including rurality) as part of this assessment. These cross-cutting elements are not a characteristic protected by law but are regarded as good practice to include.
4. The Equality Impact Assessment (EqIA) document should be used as a tool to test and analyse the nature and impact of either what we do or are planning to do in the future. It can be used flexibly for reviewing existing arrangements but in particular should enable identification where further consultation, engagement and data is required.
5. Use the questions in this document to record your findings. This should include the nature and extent of the impact on those likely to be affected by the proposed policy or change.

6. Where this EqIA relates to a continuing project, it must be reviewed and updated at each stage of the decision.
7. All **Cabinet, Council, and Portfolio Holder reports must be accompanied by an EqIA**. An EqIA should also be completed/reviewed at key stages of projects.
8. To assist you in completing this report, please ensure you read the guidance notes in the Equality Analysis Toolkit and refer to the following Factsheets:
 - Factsheet 1: Equality Profile of the Epping Forest District
 - Factsheet 2: Sources of information about equality protected characteristics
 - Factsheet 3: Glossary of equality related terms
 - Factsheet 4: Common misunderstandings about the Equality Duty
 - Factsheet 5: Frequently asked questions
 - Factsheet 6: Reporting equality analysis to a committee or other decision making body

Section 1: Identifying details
Your function, service area and team: Contracts (Waste Management)
If you are submitting this EqIA on behalf of another function, service area or team, specify the originating function, service area or team: N/A
Title of policy or decision:
Officer completing the EqIA: James Warwick Tel: 01992 564350 Email: jwarwick@eppingforestdc.gov.uk
Date of completing the assessment: 01/09/22

Section 2: Policy to be analysed	
2.1	Is this a new policy (or decision) or a change to an existing policy, practice or project? New decision on the current waste Management Contract.
2.2	Describe the main aims, objectives and purpose of the policy (or decision): To agree to go to market and run full procurement exercise for a waste contractor.
2.3	Does or will the policy or decision affect: <ul style="list-style-type: none"> ● service users ● employees ● the wider community or groups of people, particularly where there are areas of known inequalities? Residents will receive the same services as they currently do from the Waste Contract.

	<p>Will the policy or decision influence how organisations operate? Yes, the procurement will allow for service innovation and joint working to identify and implement efficiencies, savings and an improvement in services.</p>
2.4	<p>Will the policy or decision involve substantial changes in resources? An increase in the contract costs paid to waste contractor are likely.</p>
2.5	<p>Is this policy or decision associated with any of the Council's other policies and how, if applicable, does the proposed policy support corporate outcomes? Climate Change Action Plan and Policy</p>

Section 3: Evidence/data about the user population and consultation¹

As a minimum you must consider what is known about the population likely to be affected which will support your understanding of the impact of the policy, eg service uptake/usage, customer satisfaction surveys, staffing data, performance data, research information (national, regional and local data sources).

3.1	What does the information tell you about those groups identified? The current contract serves all residents of the District and all residents can access EFDC's waste collection service
3.2	Have you consulted or involved those groups that are likely to be affected by the policy or decision you want to implement? If so, what were their views and how have their views influenced your decision? N/A
3.3	If you have not consulted or engaged with communities that are likely to be affected by the policy or decision, give details about when you intend to carry out consultation or provide reasons for why you feel this is not necessary: N/A

Section 4: Impact of policy or decision

Use this section to assess any potential impact on equality groups based on what you now know.

Description of impact	Nature of impact Positive, neutral, adverse (explain why)	Extent of impact Low, medium, high (use L, M or H)
Age	Neutral This service is for all residents regardless of age.	L
Disability	Neutral The service is for all residents and assisted collections can be arranged	L
Gender	Neutral The service is available to all residents.	L
Gender reassignment	Neutral The service is available to all residents.	L
Marriage/civil partnership	Neutral The service is available to all residents.	L
Pregnancy/maternity	Neutral The service is available to all residents.	L
Race	Neutral The service is available to all residents.	L
Religion/belief	Neutral The service is available to all residents.	L
Sexual orientation	Neutral The service is available to all residents.	L

Section 5: Conclusion

		Tick Yes/No as appropriate	
5.1	Does the EqIA in Section 4 indicate that the policy or decision would have a medium or high adverse impact on one or more equality groups?	No	
		L	If 'YES', use the action plan at Section 6 to describe the adverse impacts and what mitigating actions you could put in place.

Section 6: Action plan to address and monitor adverse impacts

What are the potential adverse impacts?	What are the mitigating actions?	Date they will be achieved.

Section 7: Sign off

**I confirm that this initial analysis has been completed appropriately.
(A typed signature is sufficient.)**

Signature of Head of Service: 	Date: 01/09/22
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Signature of person completing the EqIA: 	Date: 01/09/22
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Advice

Keep your director informed of all equality & diversity issues. We recommend that you forward a copy of every EqIA you undertake to the director responsible for the service area. Retain a copy of this EqIA for your records. If this EqIA relates to a continuing project, ensure this document is kept under review and updated, eg after a consultation has been undertaken.