

## **Report to the Cabinet**

**Report reference:** C-061-2009/10  
**Date of meeting:** 21 December 2009



**Portfolio:** Environment  
**Subject:** Waiver of Contract Standing Orders  
**Responsible Officer:** John Gilbert (01992 564062)  
**Democratic Services Officer:** Gary Woodhall (01992 564470)

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### **Recommendations/Decisions Required:**

**To retrospectively waive contract standing orders C1(10), C4(2) and C5 in respect of work awarded to Green Forest Environmental Services Ltd**

### **Executive Summary:**

This report sets out breaches of contract standing orders arising from the issuing of separate but multiple orders to Green Forest Environmental Services Limited over the period June 2007 to September 2009. The total expenditure involved is in the order of £100,000 over that 2 year period.

It can be seen from the accompanying schedule that all but 1 of the orders are less than £10,000 with just 3 others exceeding £5,000. The remainder are of a low value but the serial nature of the ordering has led to a significant breach of a number of contract standing orders.

Although officers satisfied themselves that the rates being employed were reasonable and indeed less than other available contractors, a formal tendering exercise was not undertaken to clearly establish this position. This oversight was almost entirely due to the significant work pressures within the waste service during this two year period which has included dealing with the aftermath of South Herts Waste Management and the Cory novation, developing and letting a new contract, seeing that new contract into place and most recently the introduction of the revised waste management service.

### **Reasons for Proposed Decision:**

To enable the formal setting aside of relevant contract standing orders

### **Other Options for Action:**

There are no alternative actions available.

### **Report:**

1. Green Forest Environmental Services Ltd (GFES) has provided services to the Council over a number of years. They are a local company based in Abridge. Their main activity, prior to the appointment of Sita UK as the Councils waste management contractor in November 2007, was to undertake street cleansing activities in the Ninefields area of

Waltham Abbey. This was to avoid the deterioration in level of cleanliness following the demise of the previous waste service provider, South Herts Waste Management (SHWM). . The value of these works in 2007 was just over £15,000. In addition to this they were also employed to undertake some land use categorisation surveys in preparation for the BVPI 199 Indicator at a cost of £3,600.

2. Since the original introduction of the wheeled bin in early 2006, there has been an ongoing requirement to arrange for:

- (a) the delivery of new bins;
- (b) the exchange of bins for ones of differing size;
- (c) the transfer of bins to/from the depot to/from storage at North Weald Airfield, following the sale of the T 11 site located next to the waste depot at Langston Road; and
- (d) the cleaning of bins prior to their re-issue.

3. This type of activity was not included within the original contract with South Herts Waste Management since this preceded the introduction of the wheeled bin. This was therefore also the situation following the demise of this contract when Cory Environmental took it over from the Administrator. It was the intention that all the wheelie bins for the residual waste collection service would be stored at Langston Road, either at the depot itself or on the adjoining T11 site. However, due to the sale of the T11 site and the risk of disruption of the normal waste management operations at the Depot it became necessary to move the bins elsewhere. Given the urgent need to put arrangements into place officers sought a price from GFES and others for this work and obtained what they considered to be a competitive price for the activities identified above. It was not recognised at this time however, the extent to which these services would be required over the future months and therefore no formal tendering exercise was undertaken. Up until the commencement of the contract with Sita, GFES was paid £14,414 for the activities outlined in paragraph 2 above, clearly in excess of the sums which require a formal tendering exercise to be undertaken.

4. The new contract with Sita did not include this activity insofar as it related to existing residual wheeled bins as a defined area of work, but it was covered within the generality of "day works". The handling of bins was however expressly covered as regards the most recent service changes involving the issue of a second wheeled bin to residents.

5. The requirement to undertake the activities did not however cease with the commencement of the new contract and officers sought estimates for this work from Sita, as day works, and other contractors currently employed by the Council, who might be able to undertake the works. In all cases, the costs were greater than those available from GFES. However, as previously, no assessment was undertaken to gauge the likely total level of continuing expenditure, and therefore no formal tender exercise was undertaken to determine whether there were other contractors in a position to undertake these activities. The total amount expended to date since November 2007 is around £55,000.

6. This situation has arisen through the following:

- (a) the early period encompassed the negotiation period with Cory and the development and letting of the new waste contract. Such activities are extremely resource intensive;
- (b) once Sita was appointed to operate the new contract, officers were heavily engaged in the introduction of that new contract which, as Members will recall, had its difficulties culminating in requests for additional resources arising from fuel cost escalation and alleged

changes to the nature of the contracted work; and

(c) the past 6 to 9 months have required officers to deal with the changes to the waste management service and then ensure the successful introduction in September of this year of the new food and garden waste recycling service.

7. The pressure of managing this range of complex and challenging contractual issues and the introduction of a new service has resulted in this non-compliance with the following contract standing orders:

- C1(10) - aggregate sums exceeding standing order limits;
- C4(2) - procurement of good/services of a repetitive nature; and
- C5 - arrangements for contracts in excess of £50,000.

#### **Resource Implications:**

All expenditure is contained within the CSB waste management budgets and the breaches of contract standing orders have not resulted in any additional or unbudgeted expenditure.

#### **Legal and Governance Implications:**

Breaches of contract standing orders:

- C1(10) - aggregate sums exceeding standing order limits;
- C4(2) - procurement of good/services of a repetitive nature; and
- C5 - arrangements for contracts in excess of £50,000;

which are required to be retrospectively set aside by Cabinet for the services provided by Green Forest Environmental Services Ltd for the period set out in the main body of the report.

Relevant officers are fully aware of the implications of these breaches and will be required to attend additional training in respect of contract standing orders, in using Marketplace to better monitor ongoing expenditure and will also be required to undergo refresher training on the Council's financial control systems. Furthermore, action is now underway to put this work out to competitive tender in accordance with contract standing orders. It is important to state that the Director of Environment & Street Scene is satisfied that these breaches in contract standing orders were occasioned solely by a wish on the part of officers to ensure that the necessary works were delivered, residents received the services they sought, and the associated heavy workloads.

#### **Safer, Cleaner and Greener Implications:**

The nature of the works and services provided were key to the waste management component of the Council's Safer, Cleaner, Greener strategy in dealing with:

- (a) local fly-tipping;
- (b) the exchanging and delivery of wheeled bins; and
- (c) cleansing of stored wheeled bins prior to delivery.

#### **Consultation Undertaken:**

Corporate Governance Group considered this matter at their meeting on 25 November 2009.

**Background Papers:**

None.

**Impact Assessments:**

Risk Management

The risks of non compliance with standing orders revolve around the Council be able to ensure that it obtains best value from its contracted services. Although in this instance it is unlikely that any significant financial risk existed, it is important that value for money and performance against a set specification can be demonstrated at all times when significant sums of expenditure are involved over extended periods of time.

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* No

*What equality implications were identified through the Equality Impact Assessment process?*  
Not relevant

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
Not relevant