

Report to the Overview and Scrutiny Committee

Date of meeting: 6 October 2005

Portfolio: Environment

Subject: County waste procurement

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Committee Secretary: Z Folley



Recommendations/Decisions Required:

- (1) To note the position regarding the procurement process, and in particular the requirements of ODPM in respect of PFI funding for a fully integrated waste management solution;**
- (2) To continue to work in partnership with the County and District/Boroughs through the auspices of the Waste Management Advisory Board and the West Essex Joint Waste Committee; and**
- (3) That the Council remains open to all procurement options including joint collection arrangements within the West Essex Grouping of collection authorities and aligning collection arrangements with the County Council disposal contract.**

Report:

Background

1. At the meeting of the Environment & Planning Standing Panel on the 13th of September, officers presented a verbal report on the latest position regarding the procurement of the long term waste management contracts for Essex. This report was given due to some complex changes that would be needed in the procurement process, and followed meetings with County officers late the previous week.
2. Having received the report and asked questions, the Standing Panel felt that due to the complexities of the issues raised a detailed report be prepared for the next Overview and Scrutiny Committee and then to Cabinet.
3. Cabinet and Council have previously agreed that as part of the procurement process in Essex, it would work in partnership with the County Council and its colleague districts and boroughs. This joint working is taking place through:
 - (1) the Waste Management Advisory Board; and
 - (2) the West Essex Joint Waste management Committee

Furthermore, Cabinet has approved budgetary provision to fund this District's proportion of the procurement costs.

4. Government has clearly stated the need for Waste Collection Authorities (Districts and Boroughs) and Waste Disposal Authorities (the Counties & Unitaries) to work together in the procurement of large scale waste management contracts. The likely costs, over a 25 year period, have been estimated to be in the order of £4 billion pounds in Essex. With such sums of money involved, the only way economies of scale can be achieved, is through joint working and integrated procurement, and this is reflected in the Essex Authorities developing a countywide waste management strategy.

5. Two or three years ago the County undertook a countywide consultation exercise called "War on Waste". Through this it sought to determine the public's attitude to a range of disposal technologies and also its approach to recycling and diversion. The clear outcome of this consultation was that the public of Essex did not wish to see incineration as a means of final disposal but instead wished to see higher levels of recycling coupled with disposal technologies such as mechanical and biological treatment (MBT) and anaerobic digestion (AD). Since that time the Essex Authorities have been working together to develop a joint strategy based upon these fundamental principles.

Procurement proposals

6. On the basis of the above principles, the following procurement strategy has been developed:

- consideration of a PFI bid of at least £75 million (and possibly more)
- joint working on a three area approach, namely:
 - West Essex (EFDC, Braintree, Brentwood, Harlow & Uttlesford)
 - East Essex (Chelmsford, Colchester, Tendring, Maldon)
 - Thames Gateway (Southend, Caste Point, Rochford & Basildon)
- the contracts would be vertically & horizontally integrated, meaning that there would be one contract for collection and disposal for each of the three areas
- very high levels of recycling / diversion (i.e. 40% plus)
- each district to have local transfer facilities to avoid long journeys to final disposal
- Joint Committees to manage firstly the procurement process and then the subsequent contract management

7. It has been recognised all along that PFI success required very high levels of recycling and diversion performance, and that ultimately the costs of securing that performance may exceed the benefit of the PFI credit received. For that reason the PPP (Private Public Partnership) option has also been considered as an alternative to PFI.

8. In addition it has been necessary to undertake what is known as a "Best Practical Environmental Option" (BPEO) assessment. This is a complex analysis of the lifetime environmental impacts of the options for collection and disposal being considered and includes, for example, the effects of transport and pollution.

9. Although all Essex Authorities are committed to this procurement approach, it has not been without its difficulties, especially regarding the collection service. Collection authorities have been keen to maintain local control over service delivery (both process and quality) and have been concerned about demonstrating value for money throughout the 25 year length of the contract. In addition, those collection authorities using DSOs were concerned to ensure that they were not disadvantaged through the procurement process.

10. The final and most complex element of the procurement process relates to the management and transfer of risk. For costs to be managed and to encourage companies to bid for very complex contracts, the management of risk is key. A clear example of this relates to the quantity and quality of material going to the MBT / AD plant or recycling facility. Disposal companies will demand material of a particular quality and in guaranteed tonnages to ensure that plants operate effectively and targets are met. One way of achieving this is through a contract where the disposal contractor decides how to collect, thereby controlling the supply chain. This is the principle behind the vertically integrated contracts. If however, the material is collected by another party, be it a district council contractor or DSO, then there is a risk to the disposal contractor that his supplies will be compromised in some way, and he will pass that risk, with consequent costs, down the line to the provider, who will of course be a district or borough council.

Recent events

11. Over recent weeks this procurement approach has come under scrutiny. This stems from:

(a) a “soft market testing” event, where industry was invited to express its views about the procurement process and its willingness to bid for contracts. This process is very important, since, if the contract structure is not right, companies will not invest in a bidding process which will cost them considerable sums of money. This soft market testing revealed a reluctance from industry to bid for what were very complex contracts with multiple bidding elements. In many cases they wished to see collection tendered separately from disposal

(b) ODPM/Treasury have become very concerned as to the willingness of all Essex Authorities to sign up to a fully integrated solution, which will be required to attract large scale PFI funding. Problems have arisen elsewhere in the UK where collection authorities have been unwilling to complete the procurement process leading to abortive costs for both tax payers and industry. ODPM are therefore requiring collection authorities to agree to an “Affordability Envelope”. This means that, in the fully integrated scenario, if the tendered sum is between two fixed levels (the “affordability envelope”) then all will commit to enter into the contract no matter what the nature of the collection service. This takes all discretion away from the collection authorities in this regard. It is reasonable to assume that the majority of collection authorities will be uncomfortable with or fully opposed to this requirement, which puts an integrated PFI process in considerable doubt

(c) The BPEO has indicated that the three area integrated approach is not the best environmental option. This is particularly so given that the North Weald Airfield location detailed in the Essex Local Waste Plan is not available for that purpose. The BPEO, from a disposal perspective favours either a single area or two area approach, although collection could remain on a three area basis. The financial modelling supports this position. The cost differences between single area and two area are small, but given the size of Essex a two area approach seems the most practical solution.

Current situation

12. The issues above have given all authorities cause for reflection. It will be impossible to proceed on a fully integrated PFI based solution without acceptance of the “Affordability Envelope”, and it is most unlikely that this will happen. The BPEO comes out against a three area solution for disposal, but retains a three area approach to collection.

13. Government however still expects collection and disposal authorities to work closely together in order to achieve efficiencies and drive down overall waste management costs. Costs of waste disposal have doubled in recent years as the number of big industry players declines and the market increases thereby reducing competition. It is a “sellers market” and this is being reflected in tender sums. The retention of the present joint working arrangements is therefore still critical, with the continuation of the Waste Management Advisory Board and the three Joint Area Committees.

14. It is now likely that the countywide solution will be a two area disposal contract with a decoupled three area collection contract. The decoupling means that there will no direct contractual link between collection and disposal, although in practical terms it will be essential to ensure that there is at the very least a close linkage between the design of collection and disposal processes, in order to manage the risks identified earlier in the report. The County Council is willing to act as the broker for the collection authorities in terms of managing, through the Area Committees, the collection tendering and contractual processes. From Epping’s perspective we would be part of a west Essex collection contract.

15. This change of approach is unfortunate at this time since a lot of effort has gone into pursuing the integrated PFI approach, and much of the documentation will now have to be amended. The County has yet to decide whether it will continue to pursue PFI for disposal or

whether a PPP approach is now more practical. It may even consider commissioning some infrastructure directly, using its prudential borrowing powers.

16. Before the Partnership and Joint Committees can move on, they need to be assured that their constituent councils remain committed to the fundamental principles of joint working and the Joint Committees. Irrespective of the final outcome this will remain critical to the success of waste management for the future, but these changes in approach do afford Members the opportunity to review and reconsider the position.

17. This is very much a strategic decision at this stage, since the Joint Committees are some way off of putting together a formal specification and tender documents. The Joint Committees will have much work to do at that stage, in respect of all of the detailed operation issues which Members' constituents will be interested in, and there will be opportunities at those stages to have an input into those issues.

18. It is the view of the Portfolio Holder and the professional officers that Joint Committees and partnership working remain critical to the success of this procurement, irrespective of what the final outcome might be.

Reason for decision:

19. To maintain existing partnering and Joint Committee arrangements in order to achieve the most efficient and cost effective waste contract procurement

Options considered and rejected:

20. The alternative is to withdraw at this stage from all joint working and stand alone in terms of waste collection in the future. At this stage this is considered to be a retrograde step, given the pressures to and the benefits of continuing to work with County and District/Borough colleagues. There is no requirement at this time to review the Council's current collection contract therefore giving time to determine whether an integrated collection contract could ultimately be of benefit.

Consultation undertaken:

21. Verbal report to the Environment and Planning Standing Scrutiny Panel

Resource implications:

Budget provision:	Provision made in CSB for joint working and procurement
Personnel:	Existing
Land:	Nil at this stage

Community Plan/BVPP reference: References to waste management, meeting recycling targets and top quartile performance for BVPI82(a) and 82(b)

Relevant statutory powers: Environmental Protection Act 1990 etc

Background papers: Cabinet reports agreeing to the Joint Committees and associated changes to the Council's constitution.

Environmental/Human Rights Act/Crime and Disorder Act Implications:

Countywide and local improvements in waste management (collection & disposal), increased recycling and diversion from landfill

Key Decision reference: (if required)