

# Overview & Scrutiny Committee



## Pre-decision scrutiny: Procurement (Market-Testing) of Environment Services Inquisitive Inquiry

December 2010



NORTHAMPTON  
BOROUGH COUNCIL



**Report of Overview and Scrutiny Committee**  
**Pre-Scrutiny of Environmental Services Procurement**  
**Cabinet - 19<sup>th</sup> January 2011**

**1. Purpose of report**

- 1.1 To report to Cabinet on the outcome of the work undertaken by the pre-decision scrutiny group established in response to the decision by Cabinet to market test the council's waste, grounds and street care services in partnership with Daventry District Council.

**2. Recommendations**

That Cabinet:

- 2.1 Carefully considers the findings of Overview and Scrutiny Committee, attached at appendix 1.
- 2.2 Notes that Overview and Scrutiny Committee is satisfied that a sound business case has been established to market test the council's environmental services in partnership with Daventry District Council.
- 2.3 Notes that Overview and Scrutiny Committee is satisfied a thorough process has been undertaken to determine the preferred bidder for the award of the proposed joint contract.

- 2.4 Notes that Overview and Scrutiny Committee is satisfied that, once the contract is let, robust mechanisms have been developed to ensure that costs and benefits will be appropriately shared between the two partner councils and neither council will in any way subsidise (or be subsidised by) the other.
- 2.5 Considers a request from Overview and Scrutiny Committee that regular reports continue to be provided to it throughout the transition and mobilisation phases of the project

### **3. Background**

- 3.1 In July 2009 Cabinet agreed that the council's waste, grounds and street care services should be market tested.
- 3.2 It was decided that the procurement would be undertaken in partnership with Daventry District Council.
- 3.2 This project, from conception, was recognised as being a major procurement initiative for the council. In addition to its large scale and ambitious scope, it presented the added challenge of being undertaken in partnership with another local authority.
- 3.3 Its outcomes had the potential to have a major impact on key factors such as customer experience, finance and organisational reputation.
- 3.4 Risk and legal implications were also both noted as potential areas for concern.
- 3.5 For these reasons, the process was selected for pre-decision scrutiny by the Overview and Scrutiny Committee.

#### **4. Approach**

4.1 The pre-decision scrutiny exercise was undertaken in partnership with Daventry District Council.

4.2 Membership of the Pre-decision Scrutiny Group was as follows:

Councillor Jamie Lane (chair)

Councillor Tony Clarke

Councillor Keith Davies

Councillor David Garlick

Councillor Brendan Glynane

Councillor Jane Hollis

Councillor Ann Carter (Daventry District Council)

4.3 A series of meetings were held at key stages in the process.

4.4 The purpose of the meetings was to:

- Help elected members understand the complex procurement process that was being followed
- Enable elected members to meaningfully challenge the rigour and robustness of the process
- Allow elected members to form a view as to whether the procurement process was likely to secure a contract that would deliver performance improvement, efficiency savings and best value for the people of Northampton and Daventry
- Allow elected members to form a view as to whether the procurement process was likely to secure a contract that would be fair and just in terms of the way costs and benefits would be shared between the two partner councils.

## **5. Findings**

- 5.1 Findings are attached at appendix 1.
- 5.2 Findings are presented in the form of a comprehensive set of questions and answers focused around key aspects or stages of the project.

### **Background papers**

Cabinet report 8<sup>th</sup> July 2009 - Market testing

Procurement of environmental services (PES) business case

Question	Answer
<b>Business case</b>	
<p>Why have we decided to outsource the council's environmental services?</p>	<p>The council's environmental services face major challenges in relation to the financial sustainability of current and future service levels and our ability to respond to requirements from regional, national and European level.</p> <p>In recent years, the issuing of European directives and developments in Government policy have brought about a sea change in the waste industry through the introduction of measures such as increased landfill tax, the implementation of the Landfill Allowances Trading Scheme (LATS), the establishment of demanding statutory targets for composting and recycling and emerging legislation in response to climate change.</p> <p>In January 2008, with our NWP partners, we prepared and agreed the Northamptonshire Joint Municipal Waste Management Strategy (NJMWMS). The strategy recognised that in many instances, ambitious targets were being met or exceeded. A major challenge was identified however in the need to respond to the significant housing growth planned for Northampton over the next 14 years. Furthermore, there was recognition that the bar for waste management was continually being raised in response to environmental, community and financial imperatives. The NJMWMS gave us a wake up call to the need for radical change. Much had been achieved already, but far more needs to be done in order to respond to the huge challenges that lie ahead.</p> <p>The focus of this projects is 'how' rather than 'what'. The environmental priorities we deliver to our customers and local communities are clearly set out in the NJMWMS, to which our corporate plans and relevant service plans are fully aligned. This project is not about changing these priorities but rather it is about developing the infrastructure to deliver the best possible outcomes against them.</p> <p>Overall the purpose of the project is to put in place the most efficient and effective delivery model possible that suits our operating environment, best enables the achievement of our environmental and waste management objectives and meets the needs and requirements of all of our diverse communities.</p>

<p>What services are within the project scope?</p>	<p>The following services are within the scope of the project:</p> <ul style="list-style-type: none"> <li>• Waste Management (including commercial waste at Daventry District Council)</li> <li>• Environmental Cleansing</li> <li>• Grounds Maintenance</li> <li>• Relevant fleet and machinery</li> </ul> <p>The following services are out of scope</p> <ul style="list-style-type: none"> <li>• Environmental Protection</li> <li>• Parks and Open Space Strategy</li> <li>• Food waste</li> </ul>
<p>Why are we undertaking this project in partnership with Daventry D C?</p>	<p>There are a number of key reasons why we have decided to undertake this project in partnership with Daventry D C:</p> <ul style="list-style-type: none"> <li>• Reduced costs of procurement</li> <li>• Improved access to external funding for procurement process</li> <li>• Opportunity to share resources and pool expertise</li> <li>• Access to greater efficiencies (e.g. economies of scale, ability to drop boundaries to reduce costs)</li> <li>• A more attractive package to the market</li> <li>• Has opened up opportunities for further joint working</li> </ul>
<p>How do we know that outsourcing these services is the right thing to do?</p>	<p>Both Authorities have conducted a high level review of the possible options in relation to alternative delivery options:</p> <p>Option 1 – Do Nothing (remain as is)</p> <p>Option 2 – Partial outsourcing of services</p> <p>Option 3 – Each Authority outsources independently</p> <p>Option 4 – Both Authorities outsource jointly</p> <p>Each option has been fully explored in relation to their pros and cons, as detailed in Section</p>

	4, and from this high level analysis this business case recommends the selection of Option 4 to progress to a jointly sourced service.
What are the anticipated project outcomes?	<p>Anticipated project outcomes have been agreed as follows:</p> <ul style="list-style-type: none"><li>• Generate cashable savings to the authority</li><li>• Address the financial pressures faced by the authority, whilst improving service delivery</li><li>• Ensure the service is fit for purpose and conforms to legal requirements.</li><li>• Address the concerns raised by the audit commission in the Inspection of Environmental Services in both councils.</li><li>• Increase recycling in line with or above the targets set out in the Northamptonshire Joint Municipal Waste Strategy (NJMWS).</li><li>• Reduce waste taken to landfill in line with or below the NJMWS targets</li><li>• Clean streets in line with targets set against the National Indicator 195</li><li>• Minimise the carbon footprint from both Authorities Environmental Service's Operations.</li><li>• High levels of public satisfaction with parks and open spaces</li></ul>



<b>Project management</b>	
Who has managed the project?	The project has been managed by an external consultant, Chris Rushworth. Chris has extensive experience of project management and strategic procurement . Chris has an excellent reputation in this arena, underpinned by strong track record of success.
How has internal service expertise been used to manage the project?	The heads of service from both councils have complemented the expertise of the external project manager by bringing along their extensive understanding and experience of the service areas within the scope of the project, as well as their wider knowledge of their respective councils and local government in general.
How has legal advice been provided to the project?	Expert legal advice has been provided to all aspects of the project by Sharpe Pritchard. Sharpe Pritchard is a nationally renowned legal firm with particular expertise in relation to major waste procurements.
What project management methodology has been used to manage the project?	The project has utilised Daventry D C's bespoke project management methodology, which is based on PRINCE 2. This methodology has been designed to ensure effective and robust project management within a local government environment.
What governance arrangements have been put in place to manage the project?	The project organisation has been set up to ensure appropriate stakeholder representation. Relevant portfolio holders, directors, section 151 officers, monitoring officers and the head of NAPS sit on the project board. Key personnel, including heads of service sit on the project team.
How has the quality of the project been assured?	Quality assurance has been facilitated through the gateway reviews that have taken place. The project throughout has also , in accordance with best practice, maintained risk and issues logs and Northamptonshire C C and the Northamptonshire Waste Partnership have provided critical friends to the project. Furthermore the respective monitoring officers and section 151 officers have been required to undertake due diligence in terms of the legal and financial implications of the project.

<b>Procurement</b>	
<p>What expert advice has been used to support the procurement process?</p>	<p>Procurement advice has been provided throughout the project by Northamptonshire Procurement Services (NAPS). The head of NAPS has sat on the project board.</p>
<p>What procurement process has been followed and what are the key stages in the process?</p>	<p>The procurement has followed the Competitive Dialogue procedure under the Public Contracts Regulations 2006 as amended ('the 2006 Regulations').</p> <p>The key stages are:</p> <ol style="list-style-type: none"> <li>1. Pre-qualifying Bidders</li> <li>2. Invitation to Participate in Dialogue (ITPD)</li> <li>3. Bidders propose and develop solutions in Dialogue</li> <li>4. Reduce bidding field</li> <li>5. Detailed Dialogue with remaining Bidders</li> <li>6. Close Dialogue</li> <li>7. Invitation to Submit Final tenders (ISFT)</li> <li>8. Evaluate Final Tenders and select Preferred Bidder</li> </ol>

<p>What is competitive dialogue and why have we decided to use it?</p>	<p>Competitive Dialogue is a process where the Commissioning Authority sets out it's requirements in a services specification and Bidders are required to build up their delivery plans and make financial and performance commitments through a process of dialogue prior to the appointment of a preferred bidder</p> <p>Dialogue enables pre-selected Bidders to identify and define solutions to meet the needs and requirements of the contracting authority</p> <p>The Contract Award is made on the basis of the most economically advantageous tender</p> <p>The process has been adopted due to the value of the services in the Specification, the potential complexity of the solutions and the need to utilise market innovation to bring efficiencies</p>
<p>How many bidders responded to the PQQ?</p>	<p>20 Bidders responded to the PQQ who were then evaluated to produce a shortlist of the 5 strongest submissions</p>
<p>Which bidders were short listed?</p>	<p>Five Bidders were shortlisted to enter Dialogue, in alphabetical order as follows:</p> <p>Enterprise Managed Services ltd  Focsa Services (UK) ltd  Serco Integrated Services  Urbaser SA  Veolia Environmental Services (UK) plc</p>
<p>Which bidders were invited to take part in the second stage of dialogue?</p>	<p>Enterprise Managed Services and Serco</p>

<b>Communication</b>	
How have stakeholders been kept informed about the project?	A communication strategy has been developed to ensure that all stakeholders are kept adequately and appropriately informed throughout the process.
How specifically have staff been kept informed about the project?	<p>Particular attention has been paid to ensuring a robust approach to staff communication, the objectives of which are which are as follows:</p> <ul style="list-style-type: none"> <li>• That staff of both Authorities hear about the project through their Council's internal communications channels and are kept informed and updated on the project.</li> <li>• That staff of both Authorities understand the reason for carrying out the project and the expected outcomes.</li> <li>• That staff in both Authorities hear news of key developments at the same time.</li> <li>• That the Trades Unions are provided with sufficient information so that they can provide their members with accurate, factual advice. n.b. Unison is recognised in both Authorities, N.B.C also recognise GMB.</li> <li>• That Members of both Authorities are provided with appropriate information on the project and regularly updated,</li> <li>• That the portfolio holders of both Authorities are informed of key developments either before, or at the same time as staff.</li> <li>• That the media is sufficiently well informed to present news on the project in a balanced and accurate way.</li> <li>• That members of the public are provided with timely and accurate information via the Councils' own external communications channels</li> </ul>
How specifically have elected members been kept informed about the project?	Particular attention has also been paid to keeping elected members fully informed about the process. This has included all member briefings, group leaders briefings, encouraging group leaders to keep their groups informed, portfolio holder briefings, cabinet member briefings, open door policy to all elected members.

<b>Staff</b>	
What will happen to the staff if the service is outsourced?	If it is agreed to outsource there will be major changes for staff currently employed by the services concerned. These changes will need to be very carefully managed. Staff who work for the service will generally transfer to the new service provider on their existing terms and conditions. There may be a few exceptions, for example employees whose responsibilities remain with the council or who secure jobs with the client. Staff in other service areas could also be affected, for example if much of their current role involves providing support to environmental services they may also transfer to the new provider.
<b>Managing the contract</b>	
Will there be a single contract or two separate contracts? Why?	Bidders were invited to propose solutions either on a single joint Contract or on separate Contracts. The universal response from Bidders was that a single joint Contract offers the Council's better management and control and greater efficiencies through reduced reporting and monitoring
How will the contract be managed?	<p>The contract will be managed by a small single client team which will act on behalf of both councils. The client team will be responsible for ensuring the service is delivered in accordance with the contract.</p> <p>The client team will report to a partnership board which will include the portfolio holders and directors from both councils.</p>
What is the inter authority agreement?	The inter authority agreement governs the relation between the two councils in relation to their joint contract. It sets out how the two councils will both work together and behave towards each other. It covers matters such as obligations, rights, consultation, invoicing, payments, variations and termination.
What is the performance and pay mechanism?	Bidders have been required to submit their proposed performance targets against the Councils' requirements. These targets are agreed as part of their bid and captured in a mechanism which specifies a range of financial deductions if these targets are not achieved, to incentivise performance.
How will contract variations be dealt with?	The partnership board mentioned above will agree annual business plans with the Contractor and deal with adjustments to any service requirements during the year. The Contract itself has mechanisms for applying major variations above and beyond this requirement.

Will the contract be able to respond to future housing growth?	Yes. Bidders are required to submit, as part of their bid, a range of service and costs adjustments based on growth projections to ensure the costs impacts of housing growth can be forecast
Will being in a contract stifle future innovation?	No. There is a requirement for the Contractor to observe ' Best Value' duty to the Councils, and for the Contractor or the Councils to propose innovations as they arise to the partnership board for review
How will the contract deal with major and minor contract failures?	Service performance failures are dealt with by the performance/pay mechanism mentioned above. Should performance failure continue to an unacceptable level there are Service Remedies under the Contract followed by termination provisions
How long will the contract last and what will happen at the end of the contract?	The initial term is 7 years with the potential for extensions at the Councils' discretion for a maximum of a further 7 years
How will the contract change the role of elected members?	Outsourcing a major service obviously represents a big change for the council but it will not alter the role of elected members in any way. The fact the service is being delivered externally will not in any way water down the role of elected members. Front line councillors will still be able to effectively represent local communities in exactly the same way that they do now. Likewise overview and scrutiny committee will still have an important role to play in scrutinising the performance of the service and the relevant portfolio holder will remain responsible for the strategic and policy aspects of the service, just as they are now.
How will the new contractor involve the community in the service?	The new contractor will be expressly required to involve the community in the delivery of the service, in exactly the same way that the in-house service does now. This will include working with volunteers and attending public/community meetings.