



Leicester  
City Council

**WARDS AFFECTED**  
All Wards

**Cabinet**

**16<sup>th</sup> June 2003**

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**PFI – INTEGRATED WASTE MANAGEMENT CONTRACT**  
**AWARD OF CONTRACT**

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**Report of the Corporate Director of Environment, Regeneration and Development**

**1. Purpose of Report**

This report provides Cabinet with information on the key decision to formally award the Private Finance Initiative (PFI) Integrated Waste Management Contract to Biffa and requests confirmation of the City Council representation for the Contract Liaison Committee.

**2. Report**

- 2.1. Cabinet on 29<sup>th</sup> January 2001 approved that “ the Director of Environment and Development, under delegated powers, in consultation with the Cabinet Member with lead responsibility for the Environment, will be responsible for approving all key decisions relating to the PFI procurement”. Therefore this report does not require approval of any decisions relating to the procurement but provides information of a key decision taken.
- 2.2. Following the Best and Final Offer (BAFO) evaluation process Biffa was nominated as the Council’s preferred bidder on the 7<sup>th</sup> November 2002. The PFI Project Team negotiated with Biffa to ensure that the final contract was technically deliverable, financially affordable and was legally robust. A project report was presented to the PFI & Waste Management Project Board on 28<sup>th</sup> April 2003, at which the former Cabinet Member with lead responsibility for the Environment was also present.
- 2.3. The report summarised the technical, financial and legal agreements and included two recommendations for consideration by the PFI & Waste Management Project Board:-
  - (a) “It is recommended that the Project Board agree, subject to the Final Business Case being approved by Defra, that the PFI Waste Management contract should be awarded to Biffa”, and,
  - (b) “Further, that the Corporate Director of Environment, Regeneration and Development, in consultation with the Cabinet Member for Arts, Leisure and the Environment, approves the awarding of the contract, subject to

the Final Business Case being approved by DEFRA, to Biffa. This is a key project decision and, as such, needs to be taken in accordance with Cabinet approval, dated 29<sup>th</sup> January 2001.”

- 2.4. The PFI & Waste Management Project Board unanimously accepted the report and its recommendations and the Director, in consultation with the Cabinet Member, agreed to award the contract to Biffa.
- 2.5. As a consequence of the PFI & Waste Management Project Board's decision on 28<sup>th</sup> April 2003 and the approval of the Final Business Case by Defra, the Corporate Director of Environment, Regeneration & Development signed the delegated powers certificate which authorised the Assistant Head of Legal Services to sign and seal the actual formal contract documentation on 2<sup>nd</sup> May 2003.
- 2.6. Biffa commenced the first operational phase of the new contract on 6<sup>th</sup> May 2003 by becoming responsible for the receipt and processing of the recyclable waste in green bags collected kerbside by SITA and the management of the Bring Sites. Biffa become responsible for the Community Recycling Centres in September 2003, Waste Disposal in January 2004 and Waste Collection in February 2004. The building programmes for the new facilities at Bursom Industrial Estate and Wanlip Sewage Treatment Works were started during week commencing 19<sup>th</sup> May 2003.
- 2.7. As a consequence of contract commencement, a Contract Liaison Committee needs to be established , whose purpose is to:-
  - (a) adopt a scrutiny role in relation to reviewing contract performance
  - (b) provide a forum for joint strategic discussions
  - (c) consider changes in the market and business of the Council
  - (d) consider possible variations of the contract
  - (e) provide a means of resolving disputes or disagreements between the parties amicably

The Liaison Committee will have 3 representatives each from the City Council and Biffa, with one of the Council representatives as the nominated chair. The Project Board recommended that due to the high public profile of this key Council service, the Council representatives should be elected Members with the (then) Cabinet Member for Arts, Leisure and Environment as the Chair.

### **3. Recommendations**

It is recommended that Cabinet:-

- (a) Notes the key decision taken by the Corporate Director of Environment, Regeneration & Development, in consultation with the Cabinet Member for Arts, Leisure and the Environment, to award the PFI contract to Biffa using delegated powers.
- (b) Confirms the City Council representation for the Contract Liaison Committee

#### 4. Financial Implications

- 4.1 The affordability of the waste project is based upon a comparison of available resources (essentially existing and future estimated budgets and Government PFI Grant) compared to the contract costs, including landfill tax liabilities and professional advisors costs.
- 4.2 The level of resources available assume that budgets will increase to meet the costs of waste growth reflected in the project and will also increase to match landfill tax increases upto £15 per tonne. These are both existing budgetary pressures that currently have to be managed by the Council (waste growth departmentally and landfill tax corporately) and so do not reflect an additional affordability issue as a consequence of this project.
- 4.3 With the final Government Notional Credit Approval of £30.841 million and a negotiated contract price of £338.1 million, the waste project is affordable to the City Council and the final credit awarded was higher than originally anticipated which will be to the Council's long term benefit. Cabinet is asked to note that the Council has avoided very considerable cost increases which would have arisen had the deal not been concluded (due to the need for new landfill sites in the County).

#### 5 Legal Implications

- 5.1 The proposed PFI Waste Management Contract is subject to a requirement to comply with Government Guidance in relation to PFI contracts. This is assessed by DEFRA for compliance before release of PFI credits. The proposed contractual structure between Leicester City Council, Biffa Waste Services and its parent company Severn Trent Water Ltd has been assessed as compliant.
- 5.2 The contract is to be entered into with a Special Purpose Vehicle (SPV), which has been established by Biffa solely for the purposes of delivering the project. The name of the SPV is "Biffa Leicester Limited" and it is a company limited by shares and registered in England and Wales. Biffa Leicester will enter the various sub-contractual arrangements to facilitate the provision of the various operational waste services and the construction and commissioning of the new facilities at Bursom and Wanlip.

#### 6 Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph References within Report
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	This report deals with matters which are at the core of the City Council environmental and sustainable development

		policies
Crime and Disorder	No	
Elderly and People on Low Incomes	No	
Human Rights Act	No	

## 7 Details of Consultations

Financial Strategy  
Legal Services

## 8 Background Papers

1. PFI Waste Management Contract – Contract Award report to the PFI & Waste Management Project Board meeting on 28<sup>th</sup> April 2003.
2. Notes of the PFI & Waste Management Project Board meeting on 28<sup>th</sup> April 2003.

## 9 Author

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## DECISION STATUS

<b>Key Decision</b>	<b>Yes</b>
<b>Reason</b>	<b>Capital Expenditure of over £1 Million</b>
<b>Appeared in Forward Plan</b>	<b>Yes</b>
<b>Executive or Council Decision</b>	<b>Executive (Corporate Director of Environment, Regeneration and Development)</b>