

 REPORT TO EXECUTIVE			
PORTFOLIO AREA: Environment Infrastructure and Transport			
Date of Meeting:		1st September 2003	
Public			
Key Decision:	Yes	Recorded in Forward Plan:	Yes
Outside Policy Framework			

Title: Waste Management – Offer Proposal from DEFRA

Report of: Head of Environmental Protection Services and
Head of Legal and Democratic Services

Report reference: EPS 64/03

Summary:

The report updates Members on the offer received from Defra to fund a kerbside recycling initiative.

Recommendations:

- i. That the Executive note the report and the offer of grant from Defra, and in particular, the revenue budget consequences that will flow from proceeding with the initiative (i.e. a recurring commitment of c.£340,000 per annum).
- ii. That the offer of grant from Defra be accepted, in principle, subject to:
 - The full Council confirming its agreement to meet any ongoing budgetary and revenue consequences arising from the proposals.
 - Agreement being reached with Eden District Council on the respective obligations and responsibilities of the two authorities arising under the joint initiative.
 - An appropriate procurement methodology being agreed and adopted to secure the proper commissioning of the services in accordance with any necessary

requirements whilst enabling the works and services to be put in place by 31 March 2004.

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2. BACKGROUND INFORMATION AND OPTIONS

1.1. Members of Executive at their meeting on 4th August received a report EPS. 50/03 which identified that the joint funding application made by Carlisle and Eden Councils for kerbside recycling had received an indication of support from Defra. The report also identified that a formal offer letter from Defra was anticipated shortly.

1.2. The formal letter was received on 26th August and details the extent of the offer and conditions which have to be met in order to secure the offer. A copy of the letter is attached as Appendix 1.

1.3. Discussions were held with officers from Eden District Council on the 26th August to consider the implications of the offer and subsequent meetings have taken place with other partners and agencies whose input is required by Defra. The majority of the conditions specified in the letter can be met, however a number of issues require careful consideration at an early stage.

Most significant is the request by Defra for the Members of Eden and Carlisle to give a clear undertaking that both Councils would consider the revenue implications of accepting the grant funding as part of their budget planning process for 2004/2005. In receiving Report EPS 50/03 at their meeting on 4th August Members of Executive did resolve, EX170/03, "That the report be noted and the financial implications be considered as part of the budget process". Which is anticipated to be adequate to meet the commitment condition in the Defra offer letter.

4. The revenue implications as detailed in EPS. 50/03 are substantial at around £340,000 for Carlisle and £160,000 for Eden. This level of expenditure will however be necessary if both Councils are to work towards their statutory recycling targets. The great advantage of accepting the offer from Defra is that the capital costs of a composting site and the acquisition of green boxes and wheeled bins will be externally funded.
5. Due to the extremely tight timetable to ensure that all capital works are completed by 31st March, 2004 careful consideration must also be given as to how the existing pilot schemes can be effectively expanded to cover the majority of households in both Councils. There are a number of options to extend the current schemes by negotiation with the existing contractors or through a consortium or to draft a comprehensive contract and open the service out to tender.

6. Whilst putting a new service out to tender may be regarded as a standard approach the intention of the proposal is to expand the existing pilot schemes rather than introduce a new integrated recycling and refuse collection service. Also, the extremely tight timetable to be achieved makes it virtually impossible to write a contract, advertise and tender a new service and achieve the 31/3/04 target for its commencement. A suggested approach, also being adopted by Eden District Council, is to enter into negotiations with the contractors currently involved in the operation of the pilot schemes, either individually or as a consortium, to secure an agreed 3 year operational term. This would allow both Councils to fully assess the impact of the recycling schemes with a view to producing a contract for a comprehensive integrated refuse collection and recycling service. Should it not be possible to negotiate a three year term, it is suggested that consultants be appointed at the earliest opportunity to develop and tender a contract for the delivery of the Defra agreed scheme by the end of the financial year. Neither Council has adequate in-house expertise to do this work the cost of which has been estimated at £50,000. It is therefore suggested that each authority identify a capital sum of £25,000 to cover this eventuality.

1.7 In accepting the Defra funding prior to finalising the Council's budget however there is the potential for financial risk in respect of any capital commitments which are made in the interim. These are difficult to accurately define at this stage however they will relate directly to the construction of the composting facility and the purchase of recycling containers. Members will need to bear such risks in mind when considering the revenue implications for this proposal as part of the Council's budget process.

1. CONSULTATION

1. Consultation to Date. Extensive consultation has taken place between the scheme partners.
2. Consultation proposed. Consultation with partners is on going.

1. RECOMMENDATIONS

- i. That the Executive note the report and the offer of grant from Defra, and in particular, the revenue budget consequences that will flow from proceeding with the initiative (i.e. a recurring commitment of c.£340,000 per annum).
- ii. That the offer of grant from Defra be accepted, in principle, subject to:
 - The full Council confirming its agreement to meet any ongoing budgetary and revenue consequences arising from the proposals.
 - Agreement being reached with Eden District Council on the respective obligations and responsibilities of the two authorities arising under the joint initiative.
 - An appropriate procurement methodology being agreed and adopted to secure the proper commissioning of the services in accordance with any necessary requirements whilst enabling the works and services to be put in place by 31 March 2004.

1. REASONS FOR RECOMMENDATIONS

To enable the Council to pursue the recycling initiative in accordance with its recognised corporate priorities.

2. IMPLICATIONS

- **Staffing/Resources** – Much of the implementation can be met within existing resources however should it prove necessary to place a tender as detailed in the report external consultancy will be required. This has been estimated in the region of £50,000 to be shared between both Councils.
- **Financial** – Should this initiative be progressed then it should be noted that the resulting financial implications are significant. The capital costs are estimated to be £967k. These will be funded via the grant award only if all the conditions of the offer are met and the risks applying to this area have already been set out. The recurring revenue implications for the City Council are £340k.

This is a significant sum to commit to and members should be aware that such a commitment will require savings or the transfer of resources from other service areas. There is also the opportunity cost of the utilisation of resources in this way rather than any other.

Whilst the opportunity of obtaining such a significant capital contribution should not be wasted, it is generally advisable to provide more detail as to the resourcing side of the equation.

It should be recognised that the decision to allocate such a significant level of the Council's revenue resources in this way will constrain what the Council is later able to prioritise.

The specific source of funding the potential £25k for consultants should it become necessary as per paragraph 1.6 will need to be clarified.

- **Legal** – Members should be aware that there are still a substantial number of points to clarify in respect of both the precise terms and consequences of the Defra offer and the various liabilities as between, for example, Carlisle and Eden (given that the initiative is intended to be a joint enterprise between the two Authorities) before the Council can commit itself fully. It has not been possible to resolve all these points prior to this report being despatched and further work on the detail will need to be undertaken before Officers can recommend the Council to commit itself contractually opposite Defra. Further reference back to the Executive on any major point of principle may also be necessary for final decisions to be made.

Some of the issues which still need to be resolved and which Members should be aware of at this stage are as follows:

- The offer letter from Defra, and the submission previously put forward on behalf of the two Authorities, envisages that Carlisle City Council would be the lead Authority and, consequently, the accountable body to whom Defra will look to ensure compliance with the various grant conditions. It will be necessary, therefore, to agree and formally document with Eden District Council what proportion of capital and revenue liabilities each Council will meet in connection with the initiative. This would be particularly so if, for example, the need arose to repay any capital cost to Defra if the grant conditions were not complied with such as to give rise to a repayment claim.
- Members will see from the attached offer letter from Defra that specific capital sums will be allocated in respect of the purchase of a specified number of "green" boxes and additional wheeled bins, as well as the construction costs of the composting facility. If it transpires that the costs of providing those facilities exceeds the grant then any excess will have to be paid by the Council. Again, the formal arrangements with Eden will have to set out what proportion of these additional costs (if they arise) will be met by Eden and what proportion by the City Council to avoid the potential for all the liability to fall on Carlisle City Council.
- The grant funding covers the cost of constructing a central composting facility in the sum of £410,000. It is envisaged that this facility is to be built on County Council land at Hespin Wood. The offer letter refers to the construction costs potentially increasing by £150,000 over and above the £410,000 which has been allocated. Officers believe that, by making adjustments to the specification, it should be possible to keep the building costs of the composting facility within the £410,000 budget. However, should any shortfall occur then Defra would expect this to be met by the Authorities and, given that Carlisle is to be the lead Authority, they would most likely look to the City Council in the first instance. Whilst it should be that costs can be managed to fall within the construction budget, arrangements would need to be documented with Eden for them to share any potential liability which could arise if those costs were exceeded.
- The offer letter refers to ownership of the site remaining with, on the face of it, Carlisle City Council. The circumstances envisaged in this proposal, however, are that the site will be owned (at least initially) by Cumbria County Council and operated by Cumbria Waste Management Limited. Formal consent from Defra would need to be obtained confirming that they are happy with this revised position rather than that as stated in their offer letter.
- There are relatively high revenue costs, as shown in the attached submission, in respect of paying for the ongoing collection of the "green" waste and the garden waste. Consideration still needs to be given as to how this work is to be procured. There are a number of alternatives, from negotiating an extension of the existing contract with the current service provider, to undertaking the work in-house via the Commercial and Technical Services Unit or, alternatively, tendering the work. It is not clear at this stage whether the nature of the work or its value would necessitate a formal tender because it was caught by the relevant EEC procurement directive in respect of the services and the matter needs to be investigated. If this were to be the case, then there would be a considerable lead-

in period to complete a tender process which would make it very difficult to meet the timetable of having the project up and running by the end of March 2004. Officers are therefore investigating whether different procurement methods are available to meet these particular circumstances. The Executive can, if it chooses, waive the normal tendering requirements in Standing Orders as far as the City Council is concerned if there are sound reasons for doing so but cannot do this in respect of the application of any EU procurement directives if indeed they do apply. This particular matter, therefore, needs bottoming before commissioning arrangements are put firmly in place.

- However the work in respect of collecting the "green" and garden waste is commissioned, any agreement needs documenting with Eden as to what the two Councils respective obligations would be in meeting these liabilities. It may be possible that the matter can be addressed by two separate arrangements/contracts between the two Authorities and their respective suppliers but further investigation and discussions with Eden in this regard need to be undertaken.

In order to meet the timetable of having the initiative operating by 31 March next, the Council will be in the position of having to agree to accept the Defra offer at its meeting on 9 September and consider the budgetary consequences of doing so. The capital will then be drawn down as soon as possible and the work commissioned. In normal circumstances, the revenue consequences of the proposal would fall to be picked up during the budget process in February next when the proposal would be evaluated alongside other bids. However, it would be very difficult (if not impossible) for the Council during the normal budgetary cycle to refuse to pick up the revenue consequences because this could trigger a repayment of any grant which will have already been drawn down and spent in order to complete the project by 31 March next. The practical reality, therefore, is that when the Council considers the grant offer on 9 September next it will, to all intents and purposes, have to agree the ongoing revenue consequences as well, in advance of the normal budget cycle, or accept that if it subsequently decided not to provide revenue funding then it would leave itself open to a claim for repayment of any grant spent.

- As mentioned above, unless Defra will agree to a joint accountable body status by Eden and Carlisle then it is more than likely that Carlisle will be the accountable body opposite Defra and they will look to Carlisle to secure delivery of the initiative. A firm agreement with Eden will therefore need to be reached in respect of the relative revenue contributions to the initiative (unless these can be secured by separate contractual arrangements) and the shares in which any capital liabilities will be picked up in the event of any claw-back resulting from non-performance of the grant conditions. This will include any liability arising as a result of slippage in the programme such that the initiative is not fully operative by 31 March next.
- The Council will, of course, need to consider the impact on other Council services (if corresponding savings have to be made to fund the revenue consequences of

the bid) or on Council Tax if it proceeds to accept the Defra offer.

The proposal does represent an opportunity for the Council to secure substantial capital funding in an area identified as a priority by Members.

The above comments are therefore not intended to be negative but simply to highlight for Members those points which still need to be resolved and the potential risks and liabilities which need to be managed in taking the project further.

- Corporate – The Heads of Environmental Protection, Legal and Democratic and Financial Services have been involved in the preparation of this report.
- Risk Management – These are addressed in the comments of the Head of Legal and Democratic Services set out above.
- Equality Issues – Any arising will be addressed.
- Environmental – The initiative supports the Council's policies in this area.
- Crime and Disorder – Any issues arising will be addressed.

Appendix 1

Mr Richard Speirs

Head Of Environmental Services

Carlisle City Council

Civic Centre

Carlisle

Cumbria

CA3 8QG

Our ref Bid No: 175

***Date 22 August
2003***

Dear Richard

Waste Minimisation and Recycling Fund 2nd Round: Expansion of existing kerbside recycling scheme

Thank you for taking the time to come to London in July to discuss the details of the above project. The meeting gave us an excellent opportunity to clarify various issues, to understand what progress has been made since your bid was placed on the reserve list and to consider any changes to the original bid.

Following careful consideration in order to minimise the risk with delivering the project by the end of the financial year 2003/04 we are prepared to fund the following elements of the bid:

Item	Capital	Revenue
38,000 additional boxes, including delivery	£64,980	
30,000 additional wheeled bins	£417,000	
Construction of central composting facility	£410,000	
Promotional material		£50,000
Project Officer (assume late August start)		£15,625
Total	£891,980	£65,625

This offer is however subject to a number of various confirmations listed below.

Containers

The level of funding set out above represents the maximum that is available. Should the costs of the containers be in excess of the prices used in your original bid we will require commitment from the authorities that they will meet the additional costs.

Composting Site

As far as the site is concerned there are a number of issues to resolve. We will require a letter of comfort from the Environment Agency, addressed to myself, regarding the

site licence and a letter regarding the planning permission. The ownership of the site will need to remain that of your authority and assurances are required that it will not be sold of as an asset with the LAWDC.

I understand that the cost of the site has increased by £150,000. There are no additional funds to meet the increased costs and we would require confirmation on how these increased costs will be meet. As discussed during the meeting we will require a bill of quantities or similar for the site in order to better understand the original costs.

Revenue

Political commitment to fund the on going revenue requirements of the project will be required.

Additional Management Resources

Members need to recognise the management implications of committing to proceed with this project and to complete it by the end of the financial year. Commitment to provide additional management capacity as necessary to deliver will be required.

Procurement Issues

May I take this opportunity to clarify that the authority must be in possession of all equipment, and for it to be in use i.e. collections started by 31st March 2004 and that only services received up to this date can be claimed for. In addition all capital works will need to be included by 31st March 2004. Should you not complete the purchase of the equipment or capital works by the end of the financial year the authorities need to commit to complete the procurement of the equipment and building work to complete the project.

Yours sincerely

Matt Cook

Funding and Scrutiny Team

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