

Agenda Item No:	7	
Committee:	Cabinet	
Date:	16 March 2023	
Report Title:	Recap Partnership Joint Materials Recycling Tender and Contract	

Cover sheet:

1 Purpose / Summary

- 1.1 This report seeks the agreement of Cabinet to undertake a joint procurement and award of Materials Recycling Facility (MRF) services for bulking, sorting, onward processing and sale of recyclable materials with other Recycling in Cambridgeshire and Peterborough (RECAP) partners.

2 Key Issues

- 2.1. The RECAP Waste Partnership is a longstanding and effective partnership made up of all 7 authorities across Cambridgeshire and Peterborough.
- 2.2. Fenland is currently party to a jointly procured contract, expiring August 2024, for the bulking, transportation, sorting and onward sale of the blue bin recycling materials collected from domestic and commercial premises in Fenland.
- 2.3. Working collaboratively and procuring jointly with other local authorities in this way has increased the financial benefits of the previous waste recycling contract due to the increased combined quantity of recyclable material presented to the market and therefore its potential value.
- 2.4. This best value approach can only be achieved by partners committing to a collective tender process at this stage and to award any subsequent contract on the basis of collective agreement.
- 2.5. It is proposed by the RECAP partners that Cambridgeshire County Council's Procurement Team will be used for the procurement process, acting on behalf of the partner authorities.
- 2.6. It is anticipated that any final contract would be awarded by March 2024.

3 Recommendations

- 3.1. Agree that the Council is committed to the procurement and appointment of one or more Contractors, to deliver Joint Materials Recycling Facilities (MRF) services for bulking, sorting, onward processing and sale of recyclable materials for all RECAP participating partners.
- 3.2. Agree delegation to the Corporate Director and Section 151 Officer for the authorisation of the final Invitation to Tender (ITT), to award the contract, in consultation with the Portfolio Holder.
- 3.3. Agree that Cambridgeshire County Council will nominate one or more preferred suppliers, in collaboration with the partners, for the provision of the services of bulking, sorting and onward processing and sale of recyclable materials contract, on behalf of the RECAP partners.
- 3.4. Members should note that whilst providing procurement expertise, Cambridgeshire County Council are not party to any resulting contract.
- 3.5. Members should note that the resulting contract will likely require an updated TEEP assessment of the recycling service provision provided by Fenland which will be presented to a future Cabinet meeting.

Wards Affected	All
Forward Plan Reference	KEY/10FEB23/01
Portfolio Holder(s)	Cllr Peter Murphy, Portfolio Holder for Open Spaces, Street Scene & Waste Management
Report Originator(s)	Mark Mathews, Head of Environmental Services
Contact Officer(s)	Carol Pilson, Corporate Director
Background Papers	Initial Fenland TEEP Assessment TEEP Review of 2016

Report:

1 BACKGROUND AND INTENDED OUTCOMES

- 1.1 The Recycling in Cambridgeshire and Peterborough (RECAP) Waste Partnership is made up of Fenland District Council, Cambridge City Council, Cambridgeshire County Council, East Cambridgeshire District Council, Huntingdonshire District Council, Peterborough City Council, South Cambridgeshire District Council.
- 1.2 Cambridgeshire County Council is a member of the Partnership and involved in this process, however it will not be party to this joint Materials Recycling Facility (MRF) procurement, as recycle materials received by the County Council via its Household Waste Recycling centres are already dealt with through the existing PFI contract.
- 1.3 Critical to realising the potential benefits to the public purse that are expected from this joint procurement and collective offer of Partners' materials, is the need for all Partners to agree, in advance of the actual tender process itself, to present their respective recycle materials to the market jointly and collaboratively, thereby securing greatest influence over best value in processing cost and potential income.
- 1.4 It is recommended that the Council makes a commitment to this Joint Procurement of services for bulking, sorting and onward processing and sale of recyclable materials with relevant RECAP partners. This will commit the offering of all the recycle materials from Fenland, and each Partner Council, into common contracts across Cambridgeshire and Peterborough.
- 1.5 Given the limited timescale for final approval of detailed procurement documentation, including the Invitation To Tender (ITT), that there is a requirement for this authority to be delegated to an appropriate officer in consultation with the Portfolio Holder. It is therefore recommended that Corporate Director be provided with delegated authority in consultation with the Portfolio Holder, to approve of detailed procurement documentation, including ITT, noting that approval and commitment to ITT constitutes a commitment to the resultant contract.
- 1.6 A commitment to this Joint Procurement process administered on behalf of the Partners by Cambridgeshire County Council will result in the nomination of a preferred bidder by the authority, with contract(s) to be awarded to the Most Economically Advantageous Tender(ers).
- 1.7 Current legislation requires that waste collection authorities not separately collecting prescribed recycling materials (paper, metal, plastic and glass) perform a TEEP Assessment (see 2.8) to determine compliance with regulations. This process has been approved by Cabinet previously in 2014 and 2016. The anticipated changes in legislation and the provision of the contract will make this process necessary prior to September 2024.
- 1.8 TEEP Assessment - The Waste (England and Wales) (Amendment) Regulations 2012 impose a duty on waste collection authorities like Fenland when making arrangements for the collection of domestic and commercial

waste to ensure that those arrangements are by way of separate collection, unless it is technically, environmentally and economically practicable (TEEP) to perform them otherwise. Background papers above link to Fenland's current assessment.

2 REASONS FOR RECOMMENDATIONS

- 2.1 With anticipated changes in legislation and the increased value of recyclable materials as a resource, local authorities were previously incurring costs for services to bulk, sort and process such materials have been receiving an income - although it should be noted that the market for recyclable materials fluctuates and income is consequently volatile. Joint working in this area has been shown to increase financial benefits to local authorities, for example, by increasing the quantity of recyclable material presented to the marketplace and therefore its potential value. It can also remove duplication of effort depending on the partnership approach and benefits can be derived from combining learning and expertise.
- 2.2 The MRF procurement is intended to maximise existing volumes/materials with more materials moving into existing bins, where technically, economically, environmentally, and financially practicable.

3 CONSULTATION

- 3.1 The RECAP Board of elected Members monitors annual work streams, of which Joint MRF Procurement is one.
- 3.2 Consultation was undertaken in December 2022 with a wide spectrum of the companies currently operating in the business of recycling, sorting, bulking and transportation of recyclable materials via a Soft Market Test process. This feedback will help inform the nature of the contract, the mix of materials within the recycle basket (including likely impacts on values), the pricing mechanism and also quality requirements.
- 3.3 The Waste and Resources Action Programme (WRAP), a government funded advisory body, has also been consulted and involved in developing this approach to the marketplace, including provision of industry intelligence.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Contracting independently of neighbouring authorities was deemed to be expensive and would not offer the economies of scale of a joint procurement.
- 4.2 There was investigation in relation to the legality of a continued extension to the current contract, but this was not deemed legal and the current contractor has made clear that their plant needs extensive investment thus prohibiting any short-term extension.

5 IMPLICATIONS

5.1 Legal Implications

- 5.2 The Council, at approving the ITT, will be agreeing to enter into the resulting contract with the most economically advantageous bidder from 01 September 2024 for a minimum period of 5 or 7 years, with the option to extend to a maximum of 10 years, albeit if other options are presented through the procurement process these will be considered.
- 5.3 Government has yet to clarify the details of Extended Producer Responsibility implications for local authorities from April 2024 which could place an increased burden on sampling at Material Recovery Facilities within the life of this contract.
- 5.4 The Government's Deposit Return Scheme, expected in England and Wales from October 2025, could have an impact upon the materials collected within this contract, however the market is aware of this and will be able to learn from Scotland which is expected to go live in August 2023.
- 5.5 Coming to the market whilst there is still some uncertainty around the Government's plans does create risk for potential bidders. Unfortunately, the contract has been extended to the maximum of 10 years and all options have been explored. In light of this, the partnership authorities will use expert legal opinion to determine the most effective means of procuring the contract to ensure that bidders can have confidence in the contract they are bidding for.
- 5.6 In line with our procurement policy, where a competitive process is a collaboration, and the procurement approach of another authority is accepted, our Corporate Director and Chief Finance Officers authority is required. This authority has already been provided subject to Cabinet approve this paper.
- 5.7 It should also be noted that where a contract is to be entered into through collaboration with other Local Authorities or other public bodies and where a competitive process has been followed that complies with the Contract Regulations/Code of Procurement of the leading organisation but does not necessarily comply with Fenland's Code of Procurement, checks will be carried out by the Procurement Team to ensure this Council's interests are safeguarded.

5.8 Financial Implications

- 5.9 The existing contract, which was an initial five years, with a five-year extension, has provided security to Fenland and the Recap partners during some periods of real instability in the recycling materials markets and as a result somewhat protected the authorities from the increased costs seen elsewhere.
- 5.10 The Fenland contract since November 2014 has cost an average of less than £10 a tonne for the bulking, transporting, sorting and onward sale of all the recycling materials collected. Fenland has delivered more than 80,000 tonnes of dry mixed recycling sorted through this contract.

- 5.11 With the currently low levels of material values, the anticipated changes in legislation and increasing costs for contractors, we do not expect to see these levels in future contracts.
- 5.12 The results of the soft market testing demonstrated that contractors are no longer willing to take the same level of risk related to market volatility and we should expect a different approach to gate fees and profit share from those in 2013/14.
- 5.13 Defra has made a commitment through the Enhanced Producer Responsibilities (EPR) that from April 2024 producers will pay local authorities for collecting and treating packaging materials recycled. Packaging materials make up in the region of 70% of the materials currently collected in Fenland blue bins.

5.14 Equality Implications

- 5.15 N/A

5.16 Future Changes to Waste Collections

- 5.17 Defra has yet to provide clarity to Councils around the suite of waste service changes first proposed in 2018 and consulted upon over recent years. These include the EPR and DRS discussed previously, along with Consistency of Collection.
- 5.18 The lack of information or guidance from Defra around the nature of future domestic collections is lamentable and makes it very difficult for potential bidders and authorities alike and is likely to raise the costs for all as a result.