



Delivering best value through competition

The Environmental Services Association (ESA) is the trade body which represents the UK's waste and recycling industry. Our Members collect and recycle waste from homes and businesses around the country, as well as generate power from waste which can't be recycled, and landfill where there is no alternative. Our vision is a world where our resources are recycled and recovered and nothing is wasted.

ESA's Members are increasingly concerned that more councils are moving away from competitive tender procedures for their waste services, either by moving services in-house or by using a "Teckal" exemption from the Public Procurement Directives. This is taking away the opportunity for those authorities to take advantage of the market and competitive forces to drive down costs and to incentivise innovation in service delivery.

ESA and its Members strongly believe that competition and contestability is the surest route for councils to deliver best value for their residents. We are keen to work with our partners across local government to understand their concerns and to find the best solutions to fit their local circumstances.

More councils are examining the case for in-sourcing

It is no surprise that councils across the country are examining all their options during a period of unprecedented financial challenges for the local government sector. Local Authorities are under huge pressure to maintain service levels for their residents, improve recycling performance, and above all to save money. ESA agrees that councils are best placed to decide how they want to manage these trade-offs, but we believe that the market is best placed to deliver value for money.

There are two main reasons that some Local Authorities are looking at in-sourcing their services: savings and flexibility.

Up-front savings are gained by avoiding the need to go through a procurement process with associated advisors' fees, while it seems self-evident that not having to pay a contractor's profits would also generate ongoing savings for a council.

Authorities which choose to follow a Teckal exemption additionally claim that this generates savings relative to the full in-house option through reduced pension costs resulting from not enrolling Teckal company employees in the Local Government Pension Scheme.

The fixed (often up to 10 year) term of a contract combined with the continuously changing nature of waste legislation also makes an in-house option appear seductive as the Authority would retain greater control and oversight of the services, and therefore more flexibility.

Councils taking the decision to in-source claim the above benefits, but without properly benchmarking these options against the market, it is impossible to assess whether such benefits accrue in reality. Indeed, ESA believes that this is often not the case.

Claim	Reality
Financial savings from avoided procurement costs	Efficiency savings made over the life of an outsourced contract will heavily outweigh up-front procurement costs. These costs could in any case be covered by the successful contractor to assist the Authority's cash-flow.
Financial savings from not paying the operator's profits	Margins on collection contracts are low. Profits incentivise the contractor to drive efficiencies throughout the life of the contract leading to overall savings for the Authority.
Financial savings from not enrolling Teckal employees in the Local Government Pension Scheme	There is conflicting advice as to whether these savings can be realised without opening up the Authority to potential legal challenge due to the creation of a two-tier workforce.
Flexibility to respond and address changing legislation	A well commissioned contract will provide appropriate flexibility mechanisms for the Authority and its contractor to work in partnership to find the best solutions to any legislative changes. In-house arrangements are also constrained by investments in vehicles and may be less able to adapt cheaply than experienced contractors. Additionally, outsourcing protects the Authority from the costs of complying with changes in general law. In recent years these have included the National Minimum Wage, Apprenticeships Levy and auto-enrolment pensions.

There are strong reasons for believing that the reality does not reflect the claimed benefits for appointing a service provider without exposing it to competition.

Waste and recycling specialists can help councils with their experience

Private sector contractors can help Authorities through their wealth of specialist experience in delivering waste and recycling services for councils under varying local conditions around the country. By learning from similar arrangements provided for councils elsewhere, contractors are able to drive efficiency in their service provision.

Contractors with portfolios of multiple contracts are able to take advantage of economies of scale to push down costs and have the flexibility to move resources between their contracting Authorities to maintain services if unforeseen circumstances require it.

Provision of a complex waste service across multiple properties at varying times as well as sourcing market outlets and disposal routes for materials collected leads to multiple risks of areas that could go wrong. This is particularly acute under circumstances where significant changes and modernisation of services is being introduced.

The costs of new legislative requirements resulting from general changes in law are also borne by the contractor. The National Minimum Wage, new holiday pay and pension entitlements, and the Apprenticeships Levy have all been introduced in recent years and have pushed up the costs of service delivery.

Experience shows that service costs tend to rise faster than general inflation. By indexing service costs against inflation measures, the use of a contractor protects an Authority against additional cost pressures.

By transferring these risks to the private sector, councils are able to insulate themselves from unforeseen costs and gain greater certainty over their budgets. The risk for delivering a quality service to cost lies with the contractor and is enforced through its legal obligations under the contract. This provides transparency and accountability in the delivery of the services, which improves outcomes for council tax payers.

The use of a Teckal fails to transfer risk

The above benefits of risk transfer to a contractor are not realised when a council instead chooses to establish a Teckal to deliver waste services. Increases in costs over the life of the contract - driven both by changes in general law and also by rising general service costs - will instead be passed through to the Authority.

In cases where joint Teckals have been established, additional costs will be passed on to at least one of the controlling Authorities, placing its residents at risk of picking up the bill for providing services to its client councils.

ESA recognises the extraordinary pressures faced by councils today mean that they are compelled to explore all the options for short-term savings which they can. This means that when an Authority is advised that a Teckal option could be cheaper on day one, it is obviously an option which the council will take seriously. However, such advice is based upon no unforeseen cost increases over the life of the contract. Indeed, it would only take a modest annual cost increase of around 1.5% to wipe out projected savings from Teckal options and make outsourced alternatives cheaper¹. This is obviously a very small margin.

Open tenders deliver value for money

Councils are committed to deliver Best Value for their residents. ESA believes that this is best demonstrated through an open tender process which uses the market to find the best solution for an individual Authority. Experienced private sector contractors will be able to find efficiency savings for councils, bringing down costs while taking on risk so that Authority partners are protected.

1

<http://ealing.cmis.uk.com/ealing/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/5564/Committee/3/Default.aspx>

Projected savings from in-house solutions not exposed to competition are often an illusion. They don't take account of risk transfer under an outsourced solution, and the assumptions used to benchmark against the market comparison are often inaccurate. The only way to genuinely test solutions against the market is through an open tender process.

Good up-front market testing will lead to well commissioned and well procured services. This enables councils to take advantage of competition within the market to attain best value based on their own circumstances. Well commissioned services will include the flexibility that councils need in the contract so that the service can adapt to legislative changes over the life of the contract.

Competition brings benefits

It has been proven time and again that competition drives down costs and incentivises innovation in service delivery.

The only way for Authorities to benchmark their services comprehensively against the market is through an open tender process. The resulting competitive tension will lead to savings for councils over the life of the contract which far outweigh any upfront procurement costs. Well commissioned services will give councils the flexibility they need.

ESA believes that the crucial factor which unlocks best value for councils is competition. Less important is the ownership of the service provider. Today's unprecedented financial challenges make it right for councils to explore every option, including the use of a Teckal company. However, there is conflicting legal advice as to whether Teckals can lead to pension savings in reality. And on the rare occasions when Teckals have been exposed to market competition they have been found wanting. For this reason ESA believes that councils should always test Teckals against the market

Finding the best value solution for local authorities

ESA recognises that many councils are concerned about locking themselves into inflexible arrangements for up to 10 years for their waste services. We are therefore keen to work with the local government sector to explore new contracting solutions which would help to address this.

ESA's Members are committed to finding greater flexibility in outsourced arrangements with new service contracts subject to the same regular tests of performance, cost effectiveness and value for money as Local Authority provided services. We would like to work with our partners across local government to find the best solutions to fit their local circumstances.

ESA and its Members strongly believe that competition and contestability is the surest route for councils to deliver best value for their residents. We look forward to working with our local government colleagues to gain greater understanding of their concerns and to finding solutions which meet their needs. Above all, the public and private sectors should work together in partnership to provide the best services for residents across the country.