

Report of Director of City Strategy

## **Waste PFI – Update on approach to Procurement and Sites & Planning**

### **Summary**

1. The purpose of this report is to seek approval of the evaluation criteria to be used in the procurement of future long term waste treatment services subject to approval of the business case by DEFRA.
2. To update Members on the proposed approach to sites and planning.

### **Background**

3. The Executive approved submission of an Outline Business Case (OBC) to DEFRA for joint procurement of future waste services with North Yorkshire County Council on 12 September 2006.
4. The Executive have subsequently considered updated financial models and timescales for the proposed treatment contract, and confirmed the revised affordability for the proposed project on 27 March 2007.
5. Traditionally, acquisition of sites and applications for planning consents for major waste management infrastructure were activities carried out by contractors after award of the contract. However, a number of high profile projects across the country have failed at a late stage due to the inability of contractors to secure sites and planning consents. Consequently, sites and planning are now seen as principal risks of waste projects such that there is now a requirement within PFI supported projects for the Local Authority to secure options on sites and work with preferred bidders to progress planning consents before awarding contracts.
6. This approach ensures projects are deliverable and, by working with contractors to secure consent, helps to improve competition and therefore reduce the eventual cost of the service.
7. The proposal for York and North Yorkshire is to secure sites that enable delivery of the reference project detailed in the OBC; namely
  - Two residual waste treatment plants

One Energy from Waste (EFW)  
One Mechanical Biological treatment (MBT)

These are anticipated to be located in the NYCC geographical area. NYCC are also progressing the securing of sites for front-end services. The infrastructure required to support Waste Management and the PFI contract in the City of York is subject to a further report on the Waste Strategy that is scheduled for later in 2007. It should be noted that securing of sites for an EFW and MBT does not mean that this will be the solution agreed with a contractor. The procurement will determine the solution.

## **Sites and Planning**

8. NYCC are progressing work on sites and planning for the project.
9. The strategy being adopted for mitigating the risk associated with planning is to adopt a twin track approach based on work with preferred bidders to secure detailed planning consents for selected sites combined with establishing, in principle, the suitability of a range of other sites through the NYCC Minerals and Waste Development Framework (MWDF). This maximises deliverability of the project within the context of an emerging and robust planning policy base.
10. DEFRA have required the County Council to complete a comprehensive planning health check tool in order to assess the strength of the Council's strategy for mitigating planning risk. Early indications are that the approach detailed in this report goes some way to meet DEFRA's needs, although at the time of writing, discussions are continuing. It is expected that this issue will be clarified further with DEFRA within the next 2-3 weeks.
11. The NYCC Minerals and Waste Development Framework (MWDF) process is running in parallel with the procurement of a long term waste management service, and will help to mitigate some of the risk of planning by objectively testing the suitability of sites against transparent criteria. The final site allocations document (Development Plan Document) to be included in the MWDF will establish the principle of the suitability of specific sites for a range of waste management uses. However, successful allocation of a site in the DPD does not guarantee access to sites or an eventual planning approval.
12. A comprehensive site search and planning risk assessment was carried out in 2006 and discussions have been held with landowners to understand the potential availability of those sites considered most suitable for waste management purposes. Available sites have been subject to further technical, legal and planning risk assessments.
13. Whilst securing sites and planning consents effectively mitigates planning risk, it does not guarantee the development of any site. Bidders will also have the ability to identify alternative sites within their bids, which may provide more attractive and cost effective options ( and may include the use of differing technologies).

14. NYCC has not currently identified sites for proposed residual waste treatment as discussions with landowners are necessarily complex and have yet to be concluded. Details of preferred sites for residual waste treatment and the proposed approach to planning will be brought back to the Executive in due course.

## **Communications**

15. It is important to effectively manage internal and external communications around the future waste service to ensure Members, stakeholders and the public receive balanced and fair information about the proposals, with appropriate opportunity to influence through timely and effective consultation.

Formal consultation is a key element of the planning process.

A communications strategy will be developed that addresses the following key work areas:

- Pre-Application Engagement: preparation and implementation of a proactive programme of stakeholder engagement to support the major planning applications
  - Development of a programme of community and Member engagement and press and media management whilst the planning application is being discussed;
  - A communications programme to maintain a positive relationship with stakeholders and local press and media through construction and commissioning of new facilities.
16. The critical nature of this work requires some external support from specialist consultants experienced in delivery of planning consents for waste treatment facilities. However, exclusive use of consultants for all elements of this work would not provide good value for money. It is proposed to secure specialist dedicated internal resources within NYCC to deliver the communications programme with appropriate support from the CYC and NYCC Marketing and Communications teams and consultants as necessary. Suitable consultants will be used to help develop the communications strategy whilst specialist staff resources are recruited. Further use of consultants will be kept to a minimum necessary to deliver the programme. CYC will contribute to the costs of this part of the programme.

## **Procurement and Tender Evaluation Criteria**

17. Subject to the project receiving Ministerial support from DEFRA, the OBC for residual waste treatment is scheduled to be considered by Treasury Project Review Group (PRG) in July 2007. DEFRA's advisors are currently scrutinising the OBC and assessing it against PFI standard criteria and the planning health check referred to above. At the time of drafting there have been no significant issues raised other than the approach to planning for residual waste treatment plant referred to above.

18. It is intended to start procurement in accordance with EU rules subject to approval from PRG. This will entail publication of a notice in the European Journal providing details of the project and inviting expressions of interest. The notice must include the criteria and methodology to be used to evaluate tenders. Whilst it is not yet necessary to define the detailed criteria or weightings, it is important that the methodology and broad principles by which bids will be evaluated are set out prior to publishing the OJEU notice. This methodology will ensure the most economically advantageous tender (MEAT) is accepted.
19. It is proposed that bids be evaluated in three areas with the following weightings applied;
  - Financial (including cost and commercial issues); 40%
  - Technical (including deliverability, environmental and social): 60%
  - Legal (to include contractual issues): Pass/Fail
20. These are consistent with industry standard weightings and have been agreed with North Yorkshire County Council, and by their Executive on 22 May 2007.

Annex 1 illustrates proposed criteria headings within each area.

21. Subject to Executive approval of the above weightings and criteria headings, it is proposed that a further report be brought to the Executive setting out the evaluation process and resources to be used in delivering the project.

## **Consultation**

22. As this report is an update on the process and financial information relating to the project no consultation has been undertaken on these aspects.

## **Options**

23. The options available to the Executive are:
  - i. to approve the recommendations arising from this report, thus enabling the project to move into the procurement phase.
  - ii. reject the proposed recommendations, this would mean CYC would need to re-negotiate the criteria delaying the issue of the PIN notice at a potential cost in LATS penalties of £940k per month to the partnership.

## **Corporate Priorities**

24. This project is critical in delivering Improvement Statement 1, to decrease the tonnage of biodegradable waste and recyclable products going to landfill, enabling the diversion of waste from landfill to treatment facilities.

25. The costs identified also consider the most efficient way to achieve this diversion, thus significantly contributing to Improvement Statement 13, improving efficiency and reducing waste to free-up more resources.

## Financial Implications

26. The emphasis upon securing sites and planning consents has meant that work has therefore taken place earlier than envisaged and capital funds are required in order to secure sites. This change took place after approval of the 07/08 capital programme. It is proposed to fund the 07/08 costs from the waste procurement budget, and to submit a capital bid for funding by Prudential borrowing for 08/09.

	2007/08 £000	2008/09 £000
<u>Capital Costs</u> - to be funded by Prudential borrowing.		
Revised Waste Treatment – Sites & Planning	498	6,875
LESS: NYCC	(373)	(5,156)
	125	1,719
<u>Revenue Costs – CYC*</u>	14	155

\*Over 27 years

27. Following approval to proceed, the costs of the infrastructure will need to be reflected in the Capital Plan in order that the Prudential Indicators and Treasury Management arrangements reflect the capital expenditure included in this report.
28. It is anticipated that North Yorkshire County Council will make a contribution of 75% towards the costs of any shared infrastructure (i.e. sites and planning costs for residual waste treatment via the PFI project) and that both authorities will register an interest in the sites through the PFI contract.

## Implications

29. There are no additional HR, Equalities, Legal, Crime & Disorder, IT, Property or other implications compared to the report approved in March 2007.

## Risk Management

30. The Waste procurement is identified as a high risk for the Council, largely because of the high level of government penalties should the Councils fail to

divert sufficient waste from landfill and thus potential financial risk to the Council. This report does not change the approach to risk on the procurement project, and as identified in the report to the Executive on 12 September 2006 and 27 March 2007. This report specifically highlights the risks associated with sites and planning and the potential risk of purchasing options on sites that are then not progressed.

## **Conclusion**

31. The Procurement Project for long term Waste Management Services has now moved from the planning stage into delivery. There is therefore a need for the Councils to confirm new intentions and begin to identify sites for potential development, and work towards planning applications that will demonstrate the deliverability of the project. An essential part of this next stage is effective communication with stakeholders and the public.
32. Subject to approval of the business case by Treasury Project Review Group (PRG), the final procurement of the long-term service will start with publication of a notice in the European Journal. This requires the Councils to have identified the broad criteria by which it will assess bids. The criteria proposed in the report reflects industry standards and is in line with financial regulations and will ensure the successful bid is technically sound, environmentally responsible and cost effective.

## **Recommendations**

33. That the Director of City Strategy is authorised to: -
  - Commence formal procurement of residual waste treatment facilities, in line with the Private Finance Initiative (PFI), following successful approval of the Outline Business Case by the Treasury Project Review Group;
  - Utilise the proposed evaluation methodology (most economically advantageous tender) identified in this report
  - Develop and implement evaluation criteria subject to a further report setting out the evaluation process and resource input required.
34. That the Director of City Strategy brings a further update report to the Executive identifying sites suitable for residual waste treatment facilities.

Reason: to progress the Waste PFI project into the procurement phase.

## Contact Details

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### Chief Officer Responsible for the report:

Bill Woolley  
Director of City Strategy

Report  
Approved



Date 14/6/07

### Specialist Implications Officer(s)

There are no specialist implications

### Wards Affected

All

For further information please contact the author of the report

### Background Papers:

None

### Annexes

Annex A – Indicative Evaluation Criteria – Waste PFI





## Indicative Evaluation Criteria - WASTE PFI

<b>Financial</b>	40%
<ul style="list-style-type: none"> <li>Affordability / economic cost</li> <li>Financial robustness of the bid</li> <li>Deliverability of the funding package</li> </ul>	
<b>Technical, sustainability and added value</b>	60%
<ul style="list-style-type: none"> <li>Proposals and targets <ul style="list-style-type: none"> <li>Landfill directive performance</li> <li>Flexibility, performance record and risks of proposed technology and facilities</li> <li>Waste minimisation, recycling and marketing of recyclates</li> </ul> </li> <li>Planning and regulatory issues <ul style="list-style-type: none"> <li>Planning risks and proposals</li> <li>Necessary consents</li> </ul> </li> <li>Environmental Impacts <ul style="list-style-type: none"> <li>Depletion of natural resources</li> <li>Air acidification</li> <li>Green house gas emissions and carbon footprint</li> <li>Health impacts</li> <li>Land take</li> <li>Extent of water pollution</li> <li>Traffic impacts and total road miles</li> <li>Local amenity impacts</li> <li>Ecological footprint</li> </ul> </li> <li>Project and service management <ul style="list-style-type: none"> <li>Overall capacity and resources / bidding arrangements and support</li> <li>Management of the contract and delivery of the proposed facilities and services</li> </ul> </li> <li>Service quality and enhanced performance <ul style="list-style-type: none"> <li>Service quality</li> <li>Enhanced service and added value</li> <li>Flexibility to deal with change</li> <li>Reliance on external factors</li> </ul> </li> <li>Partnership working and community sector integration <ul style="list-style-type: none"> <li>Partnership working with the partnership</li> <li>Community relations and involvement of the community sector</li> </ul> </li> <li>Environmental and Quality Performance <ul style="list-style-type: none"> <li>Environmental policies and management systems</li> <li>Quality Accreditation</li> </ul> </li> <li>Staff development and internal business process <ul style="list-style-type: none"> <li>HR / Personnel Policy and Practice</li> <li>Health and Safety policies</li> <li>Equality policies</li> <li>Investment in staff training, development and welfare</li> <li>TUPE considerations</li> </ul> </li> </ul>	