

Appendix B - NLWA PROCUREMENT STRATEGY

1. INTRODUCTION

- 1.1 This background note identifies some of the key elements within the NLWA's procurement strategy. Fuller information is provided in the NLWA papers that are circulated to chief Borough officers and in a draft Outline Business Case that has also been circulated to Boroughs.
- 1.2 This note contains the following sections
 2. Current position
 3. Role of Edmonton and LondonWaste Ltd (LWL)
 4. Project scope
 5. Technical options and reference project
 6. Fuel Use solution
 7. PFI v Non PFI approaches
 8. Timetable
 9. Interim arrangements

2. CURRENT POSITION

- 2.1 At a meeting on 5 August the NLWA agreed to NLWA officers pursuing various negotiations and discussions with a view to completing an Outline Business Case (OBC) for submission to DEFRA by the end of October. In doing so, and subject to further review in a final version of the OBC, the Authority agreed to:
 - a. Adopt a reference project including a residual waste solution which involves the Mechanical Biological Treatment (MBT) of waste with the biological element provided by Anaerobic Digestion (AD) and producing a Solid Recovered Fuel (SRF);
 - b. Officers preparing a procurement for interim diversion capacity from December 2014 with provision for the Authority to novate any contract to its future waste services contractor;
 - c. Officers to pursue commercial negotiations with SITA with a view to bringing back to the Authority a draft agreement for the sale of the LWL equity to SITA on a conditional basis;
 - d. Including the provision of HWRC services and the end market solution for recyclates within the project scope and seeking further advice on the site transfer arrangements for existing HWRC sites;
 - e. Officers pursuing commercial negotiations in accordance with the sites strategy described in the draft OBC;
 - f. Pursuing a separated procurement approach on fuel use;

- g. The Inter Authority Agreement statement of principle with amendment;
- h. Pursue a PFI credit application and the submission of an OBC to Government with that in mind, including progressing discussions with DEFRA with a view to securing PFI credit support for HWRC, MRF and AD infrastructure.

3. ROLE OF EDMONTON AND LONDON WASTE LTD (LWL)

- 3.1 The current contracts with LWL, including those which relate to the use of Edmonton, expire in December 2014 and there is no legal provision to extend existing contracts beyond that date.
- 3.2 The NLWA could not access the Edmonton facility unless it was bid back to the Authority in a competitive procurement environment. Nonetheless in examining the case for procuring new facilities the NLWA reviewed the possible role that the plant might have. It concluded that primarily relying upon the Edmonton facility for its future needs is not a good approach in financial or environmental terms – essentially because the plant is old, it will become less efficient and more expensive, and because at some point in the near future the plant will cease to operate.
- 3.3 An independent technical assessment of the Edmonton plant suggests that with additional capital expenditure by the company and an annual real terms increase in the maintenance bill, the plant is likely to be good until 2020 and possibly for 1-3 years after that. The plant's viability would be dependent on a gatefee that is more than double the current gatefee and could be three times as much. At some point between 2015 and 2020 it is likely that Edmonton will be an expensive option in comparison with the cost of a new facility.
- 3.4 LWL is a dead-locked joint venture company. The NLWA has reviewed all procurement options in relation to the Company and its 50% equity stake. It has concluded that it should pursue a commercial negotiation with a view to the sale of its equity in London Waste Ltd (LWL) if suitable terms can be agreed.

4. PROJECT SCOPE

- 4.1 The Authority considered options for an integrated collection and disposal contract with Borough views and concluded that this would limit competition too much and would create a highly complex procurement process.
- 4.2 The Authority has reviewed options for disaggregating the contract into separate parts such as relating to separate procurements for recycling and residual waste infrastructure. It has concluded that with the exception of fuel use (see below) there are attractions in a largely 'whole' disposal contract. In forming that view the Authority was

attracted to the prospects of a more efficient waste disposal solution, the optimum use of sites and the need to attract a competitive market response. It was also conscious of the time taken to manage several different competitive dialogue processes.

- 4.3 The NLWA has considered a number of possible joint procurement approaches with neighbouring authorities, whether in respect of part of the waste disposal solution (e.g. fuel use) or the whole. No joint procurement arrangements have proved to be beneficial.
- 4.4 With Boroughs the NLWA has examined the case for including HWRC services and the marketing of recyclates within the scope of the contract. It has agreed that there would be benefits in these approaches.

5. TECHNICAL OPTIONS AND REFERENCE PROJECT

- 5.1 The Authority has adopted a four part approach to determining the reference project relating to residual waste treatment:
 - A highly inclusive long listing of technology options that were assessed by technical advisers with a view to ruling out approaches that do not offer good prospects – in terms of operating on the required scale or being bankable – and identifying the main contenders;
 - Technical and financial advisers completing an in-depth analysis in respect of 14 scenarios with 2 variations, including ‘do minimum’, approaches that encompassed traditional energy from waste, a wide variety of Mechanical Biological Treatment processes producing a variety of outputs, a mixed approach involving partial EfW and partial MBT, and approaches that assessed the impact of maximising recycling, and minimising waste growth. The Authority short-listed certain scenarios for further work especially around deliverability and commented on other desirable outcomes including the delivery of CHP and maximising Anaerobic Digestion;
 - A further round of analysis by technical advisers relating to the high scoring options with different configurations involving, for example, partial or whole CHP. In parallel the Authority completed a market analysis relating to fuel use.
 - Further work was commissioned to review the cost and performance of different MBT/ AD technologies with a view to refining the broad range of numbers and to further refine the reference project.
- 5.2 The conclusion is a reference project including investment in the following facilities:
 - Materials Recycling Facilities (MRFs), Anaerobic Digestion (AD) and Green Waste composting facilities to help deliver recycling and composting targets.

- Mechanical Biological Treatment (MBT)/ AD of residual waste, designed to produce approximately 250,000 tpa of Solid Recovered Fuel (SRF).
- Enhanced Household Waste and Recycling Centre (HWRC) infrastructure to provide better local services for recycling, biomass composting and residual waste.
- A fuel use solution involving good quality Combined Heat and Power (CHP), most likely providing renewable energy for homes or an existing industrial process.

6. FUEL USE SOLUTION

6.1 The NLWA's procurement strategy includes:

- Securing a fuel use solution involving good quality combined heat and power (CHP) most likely providing renewable energy for homes or an existing industrial process.
- The NLWA securing the fuel use solution by a procurement that is separate from the waste services contract.

6.2 The Authority has put considerable effort into understanding the potential for fuel use, in stimulating market interest, and in ensuring that potential bidders are considering issues that will be of concern to the Authority in the context of a competitive procurement.

6.3 Its concern has primarily been to identify industrial energy users who may be able to derive value from Solid Recoverable Fuel in displacing fossil fuel use for the creation of electricity and heat needs associated with their industrial process and in identifying local urban regeneration projects that may use the fuel to meet the required level of renewable energy content to satisfy London planning guidance on renewable energy content whilst delivering CHP solutions.

6.4 That is not to say that a traditional waste management company with energy production skills will not be the appropriate contractor – whether as a bidder or as part of a consortium that bids – it is simply to recognise that market development beyond the boundaries of the traditional waste management industry is likely to be helpful to securing the optimum solution.

7. PFI V NON-PFI APPROACHES

7.1 The NLWA has examined the value for money case for using PFI using the Treasury's methodology to assess the benefit of a PFI approach to the public purse. It has supplemented this with a finance adviser comparison of PFI and prudential borrowing approaches. In both instances a PFI approach appears to offer the best prospects.

7.2 The Authority has also considered the broader procurement perspective. The following matters were considered:

- A non-standard procurement approach is likely to take longer than a standard one;
- A number of PPP projects in this sector have disappointed in terms of delivering quicker procurements and affordable results.
- It has taken a long time and a lot of experience (not all good) to get to a satisfactory Standard Contract solution that works for both the public and private sector on waste projects. 15 PFI deals have now become operational and 8 are in an advanced state of procurement. A whole new way forward looks beyond any local authority's capability and may simply be seen to be an opportunity for bidders to secure a more favourable risk transfer position.
- The key risks in waste projects are around the outcomes we are seeking to achieve (diversion from landfill etc) with construction and operational risks being a part of that. That is a more complicated position than say a schools building programme that does not address risk transfer on overall educational achievement. Other procurement approaches will either mirror risk transfer within the Standard Contract or potentially leave the Authority with contract interface or other residual risks that it is poorly placed to manage.
- Market sounding work has identified that potential bidders see this procurement as potentially an expensive bidding challenge. Whatever their comments at this stage, all bidders will think long and hard before tackling our procurement. They know the PFI approach and tend to see standardisation as a helpful approach to reducing bid costs. They are equally concerned with the bid cost implications of a competitive dialogue process (see section 4.10.1 in draft OBC). A non-standard approach may undermine the efforts we have made to date to attract bidder interest, with a poorer market response arising from that.
- If the market response to an NLWA PFI procurement does not deliver the value for money that we anticipate, there is scope for us to exert pressure to try and ensure improvements. Section 4.10.2 of the draft OBC highlights mechanisms that we may want to consider if pressure needs to be exerted on the efficiency of the funding solution.

8. TIMETABLE

8.1 The NLWA's procurement timetable is as follows:

Task	Date
Submission of EOI	March 2008
Approval of EOI	May 2008
Present Advance Draft of OBC to Authority	August 2008
OBC Approved by Authority	September 2008
Submission of OBC	September 2008
Notification to Mayor of intention to let contract	October 2008
Defra Approval of OBC	January 2009
PRG Approval of OBC	February 2009
OJEU Published and Descriptive Document and PQQ made available	March 2009
Bidders Conference	April 2009
Completed PQQ Returned	April 2009
PQQ Assessment and Pre-Qualified List of Bidders	May 2009
Invitation to Submit Outline Solutions (ISOS) Issued	June 2009
Initial Dialogue with Bidders (ISOS Returned, reviewed and need for clarification identified)	July 2009
Evaluation Clarification and Dialogue on Outline Solutions	July 2009
Evaluation Report and Approval of Shortlist of Bidders for Dialogue on Detailed Solutions	August 2009
Refinement of Project Documents to Reflect Issues raised during Initial Dialogue	September 2009
Invitation to Submit Detailed Solutions (ISDS) Issued	September 2009
ISDS Returned reviewed and required clarification identified	December 2009
Dialogue on Detailed Solutions	February 2010
Invitation to Submit Final Tenders	June 2010
Final Tenders Submitted, Reviewed and Clarified	July 2010
Fine Tuning of Documents with Bidders and Final Evaluation	July 2010 – August 2010
Selected Bidder recommended by NLWA	August 2010
Final Approvals of Selected Bidder	September 2010
Submission of FBC	October 2010
DEFRA Approval of FBC	January 2011
Contract Awarded	February 2011
Financial Close	March 2011
Planning and Permitting – two years	Oct 2010 – Oct 2012
Construction and Commissioning – three years	Oct 2012 – Oct 2015
Operational Commencement	December 2014
Operational Commencement (new build)	2014 – 2015

9. INTERIM ARRANGEMENTS

- 9.1 The NLWA's procurement timetable is tight and there are always risks to the delivery of a planning and construction timetable on a waste project. The Authority has accepted that there is a good case for seeking interim diversion capacity to offset the risk of a gap between the end of the current contract and the new facilities envisaged in the reference project being fully operational.
- 9.2 There is not a substantial potential market that might respond to a large volume opportunity for an interim period. The NLWA is considering accepting 'lots' in order to stimulate a fuller market response than would otherwise be the case. The legal obligations are the same for an interim procurement as for a long term one, and the NLWA will carry out a tendering exercise for this contract to achieve the most competitive process possible. If LWL are prepared to bid Edmonton capacity and at a cost to the NLWA that reflects a profitable but not

excessive gain, there is a reasonable prospect of that bid being successful and the NLWA securing value for money.