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Agenda Item No:

NORTH LONDON WASTE AUTHORITY

REPORT TITLE:

TIMETABLE TO OBC SUBMISSION

REPORT OF:

DIRECTOR OF PROCUREMENT

FOR SUBMISSION TO:

AUTHORITY MEETING

DATE:

5th August 2008

SUMMARY OF REPORT:

This report provides Members with an update on progress towards an OBC submission and seeks the Authority's views on any variation it wishes to make on the procurement timetable and/ or further action it wants officers to take to manage risk management issues relating to delivery.

RECOMMENDATION

The Authority is recommended to note this report and comment on the issues as it sees fit.

Signed by: Director of Procurement

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Date:

1. Background

- 1.1 The Authority has previously agreed a procurement timetable that envisages a 30 September 2008 submission of an Outline Business Case (OBC) to DEFRA if a PFI approach is justified. With this in mind the Authority has agreed to hold this special 5 August 2008 meeting to consider emerging OBC conclusions and to consider an OBC text at its meeting on 26 September 2008.
- 1.2 The key reasons for that timetable are:
- a. DEFRA have said that OBCs for waste PFI 'Round 4' – the last round in relation to the last Comprehensive Spending Review 2007 PFI credit allocation – must be received by 31 October 2008 and that the projects must anticipate a financial close in 2010-11;
 - b. There is a substantial pipeline of PFI applications – DEFRA's website identifies that 8 OBCs are being appraised under Round 3 and 10 Expressions of Interest were received in respect of Round 4. We should not wish to be delayed by a queue of other OBCs;
 - c. It is in the Authority's interests to move the procurement forward as promptly as possible – a month gained now may mean a month gained in enhanced diversion capacity - and potentially financial gains from trading surplus landfill allowances;
 - d. Whilst Constituent Boroughs are not formally approving the OBC, they are being asked to agree the:
 - draft waste strategy,
 - commitments on partnership working (a 'Memorandum of Understanding'),
 - 'in principle' agreements on the project scope where there is a transfer of responsibility (HWRCs and recyclates) and
 - a letter related to affordability.
 - e. With those decisions in mind, but also to ensure that the Authority has recognised all local issues, officers are offering detailed briefings to key decision makers in Boroughs in early September. Diary dates are currently being organised.

2. Timetable risks

- 2.1 We can identify 3 main threats to our timetable ambition:
- a. Some procurement issues need to be considered as part of an overall solution. To get to a view on an overall solution assumptions need to be made. If subsequent decisions differ from those that are assumed there is a degree of repeat work which takes time;

- b. To establish a robust starting point for the procurement we are required to make some progress on various commercial negotiations. Such negotiations cannot always be delivered to timetable for reasons outside the Authority's control;
- c. There are 7 decision-making processes and timetables in Constituent Boroughs.

3. Progress with the OBC and related negotiations

- 3.1 The Authority has advice on a draft OBC and various commercial negotiations for consideration in Part 2 business. Members will be able to form their own view on progress in line with our end September ambitions. However, I would say that with a comprehensive draft available two months ahead of our target submission date we are in good shape.
- 3.2 Various commercial negotiations are still on-going and have the potential to disrupt the timetable. However, there is a good motive for progress on both sides of the relevant negotiations and there is no reason to think that these must delay an OBC submission at the end of September.

4. Progress with Borough decisions

- 4.1 I understand good progress is being made on Boroughs agreeing the joint municipal waste management strategy incorporating the amendments that the Authority proposed at its last meeting. We will provide an oral update to the Authority meeting on where things have got to by 5 August.
- 4.2 A Memorandum of Understanding (MoU) addressing partnership working was agreed at the Authority's meeting on 16 April 2008 and signed by the Chair. We have subsequently received signed MoUs from the Boroughs of Waltham Forest and Islington. The other signed Memoranda are awaited. We will chase these up with Borough officers and provide an oral report to the Authority meeting. As far as we are aware, there are no substantive issues in securing signed memoranda.
- 4.3 An 8 authority group has considered whether we can agree a statement of principles related to an Inter Authority Agreement ahead of the OBC submission. I understand that there was a good consensus about a draft. The Authority has further advice on this document in Part 2 business. We will review progress towards securing formal 8 Authority agreement to this IAA statement and provide an oral update to the Authority meeting. I have no reason to think that there will be any great difficulty in securing agreement to this statement.
- 4.4 The 'affordability' letter relating to the total project costs has no budget or legal force, but each Borough must consider the appropriate means for securing agreement to signature. Officers have been in contact with Borough officers to ensure the appropriate decision-making processes are in hand for the agreement of the affordability letter, including providing an advanced copy of the skeleton letter.

4.5 A review of Borough forward plans shows the following as at the date of this paper:

Barnet - Cabinet meeting 1 September

Camden – Executive meeting 10 September

Enfield - Cabinet meeting 8 October

Hackney - nothing on forward plan

Haringey - Cabinet meeting 16 September

Islington - nothing on forward plan

Waltham Forest – Cabinet meeting 30 September

4.6 I will update this position by oral report to the Authority meeting. Even with an incomplete picture, we can see that some Boroughs will not have signed the relevant affordability letter by the time of the Authority's meeting on 26 September which should sign off the OBC submission.

5. Conclusion

5.1 In many respects we are making good progress towards a 30 September OBC submission. However, there is seemingly some considerable risk of delay to securing signed affordability letters.

5.2 It is impossible to be precise about the consequences of a delay. A slip to say the middle of October may require the Authority to consider a conditional approval to the OBC at its 26 September meeting and it may cause a delay in Government approval. However, in the round the consequences are perhaps not that serious.

5.3 A delay beyond the end of October would potentially be much more serious given that there is no guarantee that DEFRA will be in a position to provide any PFI credit support after that date and that any future provision will be a matter for a future Comprehensive Spending Review.

5.4 The Authority is asked to consider if:

(a) it wishes to vary the procurement timetable date in respect of a 30 September OBC submission to mid October;

(b) whether it wishes to vary current plans for the Authority meeting on 26 September to consider a finished OBC; and

(c) there are further steps they want officers to take in respect of managing the timetable risk.

6. Comments of the Finance Advisor

6.1 The Finance Advisor has been consulted on the preparation of this report and has no comments to add.

7. Comments of the Legal Advisor

7.1 The Legal Advisor has been involved in the preparation of this report, and has no comments to add.

Local Government Act 1972 – Access to information

The following documents were used in the preparation of this report:
Draft Affordability Letter

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