

**NORTH LONDON WASTE AUTHORITY**

**REPORT TITLE:**  
**PROCUREMENT PROGRAMME – UPDATE REPORT**

**REPORT OF:**  
**FINANCIAL ADVISER**

<b>FOR SUBMISSION TO:</b> <b>AUTHORITY MEETING</b>	<b>DATE:</b> <b>27<sup>th</sup> June 2007</b>
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**SUMMARY OF REPORT:**

This report provides an update on the Procurement Programme and sets out the process and timescales involved in producing an Outline Business Case for application to DEFRA for PFI Credits. It also recommends that the Authority submits an Outline Business Case (OBC) to DEFRA for PFI.

**RECOMMENDATIONS**

The Authority is recommended to:

- 1) approve a submission of an application to DEFRA for PFI Credits;
- 2) note the progress made with regard to the Brent Cross Cricklewood developers' proposals for the Authority's relocated Hendon waste transfer station;
- 3) note the actions to be taken for the provision of MRF capacity in the short term.

**Signed by Financial Adviser**

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Date:.....

## **1.0 PURPOSE OF THE REPORT**

- 1.1 This report provides an update on the Procurement Programme and sets out the process and timescales involved in producing an Outline Business Case for application to DEFRA for PFI (Private Finance Initiative) Credits. It recommends that the Authority submits an Outline Business Case (OBC) to DEFRA for PFI Credits.
- 1.2 This report also provides an update of the progress made on the development of a Materials Recovery Facility (MRF) service and the relocation of the Hendon Rail Waste Transfer Station.

## **2.0 BACKGROUND**

- 2.1 At the December 2006 meeting of this Authority Members approved the Authority's Procurement Strategy, which sets out the strategy for procuring the next waste management contract(s). As part of that Strategy it was recognised that the Authority would need to do more preparation work on a number of key initial projects that provide the foundations for the actual procurement process and the ability for the Authority to encourage competition.
- 2.2 These key projects include the following:
- an application for PFI credits;
  - identification of sites on which to build facilities;
  - formulation of binding Inter-Authority Agreements with the constituent to give waste companies the confidence to incur significant bid costs as they can see a real contract and secure partnership ahead;
  - discussions with SITA regarding the future of the Joint Venture Agreement;
  - finalisation of the optimum contract packaging solution for providing the facilities and services required.
- 2.3 This report updates Members of progress being made on these key projects and provides an updated timetable for completion and for placing the OJEU notice.

## **3.0 FUNDING OPPORTUNITIES**

### **Private Finance Initiative (PFI)**

- 3.1 A key objective set out in the Procurement Strategy is for the Authority to determine funding options for the capital cost of securing the land and facilities required, so as to minimise the costs that will fall to the levy on our constituent Borough Councils. A recommendation was approved to actively engage with DEFRA and the 4Ps to explore opportunities for Government funding for this project.
- 3.2 The total capital investment including land, required for the Authority to meet its strategic objectives over the long term has been estimated to be in the order of £638m (at 2006 prices). £80m of this relates to facilities required in the short term (before 2014) and £558m relates to facilities required for the long term (after 2014 - but for the most part they need to be operational in 2015).
- 3.3 One of the options for funding open to the Authority is the Private Finance Initiative (PFI) scheme. The Government supports PFI as it is seen as a way of obtaining long-term benefits from private sector expertise and investment in the delivery of public facilities and services. The overriding intention is to create a structure in which value for money is optimised:
- through private sector innovation and management skills,
  - through the synergies of linking design, build, finance and operation,
  - through the efficient allocation of risk, and,
  - through the whole life and whole service approach to service delivery.
- 3.4 This scheme provides a way of funding major capital investments without immediate recourse to the public purse. Private consortia, usually involving large waste and/or construction firms are contracted to design, build and, in some cases, manage new projects. Contracts typically last for 25 to 30 years. PFI schemes for waste management projects are run through DEFRA's Waste Infrastructure Development Programme (WIDP).

- 3.5 A project that is accepted for PFI funding will secure PFI credits. This is a commitment on the part of the Government to provide a certain level of revenue support to the local authority. The Government reimburses a contribution to the local authority (which contracts with the private sector to provide facilities) for that element of the contract price that relates to the repayment and servicing of funds borrowed by the contractor to provide the facilities. As an example, last year our consultants indicated that £100m of PFI credits could equate to £211m of revenue support over a project life of 25/30 years.
- 3.6 The Authority has established formal relations with DEFRA in pursuit of funding through an allocation of PFI Credits. The WIDP team have allocated a 'Transactor' to NLWA who will provide assistance and guidance to the Authority throughout its procurement process and application for PFI Credits.

#### **PFI Credit Availability**

- 3.7 The WIDP Team at DEFRA have stated that there is a national baseline of PFI Credits available at the current time of £280m per year in 2008/9, 2009/10 and 2010/11, amounting to a total of £840m. In addition to this the Authority's Transactor has indicated that DEFRA would like to make more money available to waste disposal authorities, to the value of at least 50% of the total capital value of individual schemes. This is subject to the outcomes of the Government's Comprehensive Spending Review which will determine the level of financial support that will be available nationally over this period. This is due to be determined later this year.
- 3.8 New criteria and application processes from DEFRA on PFI Credit allocations now make only residual waste treatment projects eligible for funding, rather than projects that also include facilities for recycling and composting. The estimated capital costs of NLWA's residual waste treatment needs over the project period amount to £513m including land and facilities. Discounting the residual waste facilities that will not be required until c. 2029, the capital investment in new residual waste facilities that will be required by 2015, and therefore the basis for the proposed OBC, is currently estimated to be in the region of £439m. At 50% Credit approval, this would provide the Authority with PFI Credits of £219.5m, if successful. These figures are indicative only at this time and will be re-assessed during the OBC process.

## **PFI Application Process and Timescales**

- 3.9 Under DEFRA's new PFI application process a two step process has been set up, whereby authorities are required to submit an Expression of Interest (Eol) in the first instance. This is then evaluated by the WIDP team and following approval of the Eol, authorities are required to submit an Outline Business Case (OBC). A brief explanation of the preliminary scope of the work required to produce an OBC is to be found at Appendix 1 to this report.
- 3.10 The application process has been split into 'Rounds' starting every six months and the timetable for these is set out below:

<b>Round No.</b>	<b>Eol Submission</b>	<b>OBC Submission</b>	<b>Decision Date</b>
1	Already underway	Already underway	Already underway
2	End of March 2007	End of October 2007	February 2008
3	End of September 2007	End of April 2008	August 2008
4	End of March 2008	End of October 2008	February 2009

*Nb. These dates are derived from indicative timings set out in Defra's letter to Chief Executives 6<sup>th</sup> February 2007*

- 3.11 Further award rounds may be arranged for Authorities that do not fall into the first four rounds to the extent that further PFI funding is available. In addition, the NLWA's Transactor has indicated that the timing of Rounds may be flexed to fit in with authorities' own timetables for procurement, so as not to delay procurement timetables.

## **NLWA Application and Procurement Timescales**

- 3.12 In order to endeavour to secure Government funding for the Authority's residual waste treatment facilities within a timeframe that fits with our procurement process, the Authority's Procurement Team submitted an Eol at the end of March 2007, to Round 2 of the scheme. The OBC is therefore due to be submitted by the end of October 2007.
- 3.13 The Authority's Procurement Strategy put forward an indicative timetable for the procurement process which allowed time for obtaining planning and other necessary consents, construction and commissioning, including a contingency for delays. That indicative timetable is set out below:-

Phase	Duration	Commencement Date	Notes
Pre-OJEU Procurement Period / OJEU: Commences	2 years	1 January 2007	Depends upon PFI approval timings (if Credits sought)
Site Identification & Preliminary Planning Approval	2 years	1 January 2007	Need to maximise market interest and confidence
Obtaining Planning & other necessary Consents	2 years + 1 year contingency	1 January 2009	Depends upon appeals/step-in
Construction & Commissioning	3 years (capital expenditure)	1 January 2011/12	Depends upon site issues & Olympics.
Facility in Operation	15th Dec 2014	15 <sup>th</sup> December 2014	

3.14 That timetable and previous reports to this Authority have indicated that the OJEU notice period would commence during 2007. However, in view of the preparation work still to be completed (section 3.16 below), the application timetable for PFI Credits which could facilitate a significant sum of capital funding, and compliance with the requirements of the Greater London Authority Act 1999 (as amended by the GLA Bill presently going through Parliament) which require advance notice to be given to the Mayor of any proposed procurement, it is unlikely that the Authority will be in a position to place an OJEU notice before February 2008. Whilst, the revised timetable will reduce the contingency available for any adverse experiences during the procurement and development phases the following revised timetable indicates that the project remains on track for the facilities to become operational by 15<sup>th</sup> December 2014:-

Phase	[Duration	Commencement Date	Notes
Pre-OJEU Procurement Period	1 year	1 January 2007	Depends upon PFI approval timings (if Credits sought)
Advance notice to the Mayor OJEU Notice Advertised	..... 2 years	..... 1 February 2008	..... Delay due to PFI approval timings
Site Identification & Preliminary Planning Approval	2 years	1 January 2007	Need to maximise market interest and confidence
Planning & permitting	2 years	1 January 2010	Depends upon appeals/step-in
Construction & Commissioning	3 years (capital expenditure)	1 January 2012	Depends upon site issues & Olympics.
Facility Operations	15th Dec 2014	15 <sup>th</sup> December 2014	

- 3.15 Given the wide-ranging issues that need to be resolved over the coming months an OBC submission by the end of October will prove to be a challenge and therefore it may be necessary to take advantage of the flexed submission arrangements offered by WIDP. The aim will be to minimise any further impact on the timetable as additional delays will make it increasingly difficult to have new facilities ready on time.

### **Preparation Work to be Concluded**

- 3.16 As mentioned in Section 2.2 above, the Authority still has the following key projects to be resolved if it is seeking a successful outcome in EU procurement:-

- an application for PFI credits;
- identification of sites on which to build facilities;
- formulation of Inter-Authority Agreements with the constituent Boroughs;
- discussions with SITA regarding the future of the Joint Venture Agreement;
- finalisation of the optimum contract packaging solution for providing the facilities and services required.

- 3.17 The Authority also needs to demonstrate that it has successfully resolved these issues as a prerequisite for submitting an OBC for PFI Credits. The Authority's officers are currently working on concluding these projects by September in order to meet the OBC timetable and will be engaging consultants from the Framework Agreements to assist with this. With regard to Inter-Authority Agreements, the formulation and agreement of these is heavily dependant on the co-operation of the constituent Boroughs to engage with the Authority in their development.

- 3.18 This timetable is very challenging indeed, but all efforts will be made to keep within it.

## **4.0 RESOURCING THE OBC**

- 4.1 Experience from other waste disposal authorities shows that the production of an OBC involves an intense period of work, during which internal staff are designated to the project full-time. The Authority's Transactor has indicated that approximately 4-5 internal staff are required in addition to the external support provided by the Authority's legal, financial and technical consultants. This is in addition to the decision to appoint a Procurement Director. The recruitment process is underway for the appointment of this post and also the recruitment of the additional finance and legal support approved at the April meeting.
- 4.2 In line with the recommendations contained within the 'NLWA Procurement Capacity and Officer Support' report presented at the last Authority meeting, and the identified capacity issues in relation to communications and public relations, a job description and person specification has been drafted for a 'Media and Marketing Officer'. The post holder will be appointed by, and work at, the London Borough of Camden, in the Communications Department, as Camden will take the lead for the Authority on such issues. The post holder will be working four days per week for the Authority, one day per week on other duties for Camden. An advertisement will be issued shortly with interviews taking place thereafter.
- 4.3 The existing Procurement Team has three positions within it, one of which is currently vacant. Due to the timescales involved in making new appointments, approaches have been made to external organisations and specialist recruitment agencies to provide temporary staff in the interim period, whilst the internal vacancy is being filled. A more comprehensive review of the existing internal team is needed to provide a structure that can deliver the volume of work required to take the procurement strategy forward.

## **5.0 STAKEHOLDER ENGAGEMENT**

- 5.1 An essential part of the Authority's procurement implementation process is continuing engagement with key stakeholders. Meetings are continuing to be held with constituent Borough Officers and Members to provide comprehensive information with regard to potential cost implications and to answer key strategic queries that may affect Boroughs. A series of meetings (roadshows) is currently being undertaken at the request of the Boroughs and the Authority's Officers are continuing engagement with Borough waste officers through the Technical Officers Group on matters such as future waste flows and planned changes to kerbside collections of recyclables. A Borough Officer 'challenge panel' is being convened as part of the procurement governance structure, to provide scrutiny to the procurement process, with an inaugural meeting planned for the summer.
- 5.2 In order to engage with the waste industry, Authority Officers exhibited at the Chartered Institution of Wastes Management's annual exhibition earlier in June this year, to promote the Authority's impending procurement and to gain an essential insight into the industry's own strategic plans for the future. Coupled with this, a series of industry days is being planned to tie in with the timetable for submitting the OBC for PFI credits and the planned date for the advertisement of the OJEU notice(s).

## **6.0 HENDON WASTE TRANSFER STATION RELOCATION**

- 6.1 Following a recommendation approved at the February meeting of this Authority Officers wrote to the Brent Cross Cricklewood (BXC) developers who will, if the planning application is made as anticipated, be responsible for the proposed relocation of this existing waste transfer station, to formally request a firm outline proposal and commercial terms. Draft Heads of Terms were received from the developers on 18<sup>th</sup> April 2007.
- 6.2 Officers subsequently attended a meeting with the developers on 14<sup>th</sup> May 2007 to begin discussions around the Draft Heads of Terms. The developers' proposals for waste management on the BXC site include plans for a separate mechanical biological treatment (MBT) plant (that prepares fuel from waste) to be situated on the Authority's site and a combined heat and power (CHP) plant (that turns the refuse-derived fuel into power and heat for the development) on a separate site. The developers' intention is that this combination will create a landmark sustainable development for London.

- 6.3 The developers' current proposals for the Authority's replacement site are that it will incorporate the MBT plant and a Materials Recovery Facility (MRF), but not the CHP element. Initial concerns of Officers regarding these proposals are that they may inhibit solutions that plan for fuel, heat and power production on the same site, which may offer better value for money than a two-stage process on two separate sites.
- 6.4 It should be noted that if the facility is built for use by the Authority then the Authority is bound by EU procurement rules in the same way, whether it carries out the tendering itself or the developers do it. Therefore the Authority must be closely involved in the procurement process to ensure satisfactory facilities. In addition it should be noted that it will be the Authority's responsibility to fund the future operation of any new facility(ies) through the levy. Therefore the Authority needs to ensure that the facilities constructed on its new site offer value for money and are consistent with the wider strategic needs of treating waste collected by the constituent Boroughs.
- 6.5 The developers are aiming to submit an outline planning application to the London Borough of Barnet this autumn. Further update reports will be presented to Members as this situation develops.

## **7.0 MATERIALS RECOVERY FACILITY**

- 7.1 At the meeting of this Authority in April 2007, it was reported that negotiations with LondonWaste Limited for the provision of a MRF had ceased and that the Authority will continue to procure these services independently. Options for short and long term provision are now being considered using Technical Consultants recently appointed to the Authority's Framework Agreement, with a view to them making recommendations on the way forward during July 2007.
- 7.2 Constituent Boroughs have been requested to provide the Authority with an up-to-date assessment of the mixed dry recyclables that will come into the Authority's control when the Boroughs' current contracts come to an end. This information will inform the consultants recommendation for the nature and timing of the procurement of this service.
- 7.3 A further report on the preferred approach to providing MRF capacity will be presented to this Authority in September 2007.

## **8.0 COMMENTS OF THE LEGAL ADVISER**

8.1 The Legal Adviser has reviewed the recommendations of this report in the light of Procurement Law and the Authority's Contract Standing Orders and has no further comment to make.

## **9.0 COMMENTS OF THE FINANCIAL ADVISER**

9.1 The Financial Adviser has been consulted in the preparation of this report and all comments are incorporated into the report.

## **10.0 RECOMMENDATIONS**

10.0 The Authority is recommended to:

- 1) approve a submission of an application to DEFRA for PFI Credits;
- 2) note the progress made with regard to the Brent Cross Cricklewood developers' proposals for the Authority's relocated Hendon waste transfer station;
- 3) note the actions to be taken for the provision of MRF capacity in the short term.

## **11.0 Local Government Act 1972 Access to information**

### **11.1 References**

None.

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## **Appendix 1: Preliminary Scope of Work to Produce an Outline Business Case**

- Analysis of the potential PFI credits available to the Authority and the impacts of differing levels of funding to affordability models
- Draft, prepare and negotiate enhanced levels of agreements between NLWA and Constituent Boroughs – Inter-Authority Agreements
- Receive existing waste generation and treatment modelling work and incorporate into new and on-going modelling to inform the procurement process and subsequent updates of the timeline of facilities
- Update financial models of costs and affordability in line with waste flow models
- Develop an output specification appropriate for a competitive dialogue process, if necessary, including all necessary assumptions
- Develop initial evaluation criteria for assessing contract structures, technical solutions, funding solutions and risk allocation
- Actively assist and advise on the future of the SITA Joint Venture arrangements and associated discussions with SITA
- Actively assist and advise on negotiations, contract terms and project plan incorporation on the relocation of the Hendon Rail Waste Transfer Station
- Determine the Authority's final approach prior to placing the OJEU notice
- Incorporate the results of site survey work being carried out
- Advise on and procure (options) on identified sites if required
- Advise on the potential to obtain planning permission for similar facilities at identified sites (as risk mitigation for tenderers)

DEFRA PFI criteria for inclusion in consultant's work specification:-

- Investigation of the opportunities for joint working with neighbouring waste disposal authorities (PFI Criteria 1)
- Demonstration of how 2-tier Authorities will work together to deliver targets through the provision of legally binding agreements such as Inter-Authority Agreements (PFI Criteria 1)
- Demonstration of how the residual PFI scheme contributes to longer term national targets for recycling and composting as well as the diversion of Biodegradable Municipal Waste (PFI Criteria 2)
- Modelling to show how the scheme additionally contributes to national landfill diversion during the contract period (PFI Criteria 3)

- Analysis of technical, environmental, economic options of the preferred solution through the formulation of a Reference Project (PFI Criteria 5)
- Consultation with Stakeholders (PFI Criteria 6)
- Formulation of affordability models providing the best and worst case scenario and a value for money calculation of the preferred solution (PFI Criteria 7)
- Compliance with PFI guidance on procurement (PFI Criteria 8)
- Soft market testing exercise(s) to identify outlets for any Refuse Derived Fuel proposed (PFI Criteria 9)
- Demonstration of a bankable and deliverable project (PFI Criteria 9)
- Assessment of community sector involvement in service delivery and the formulation of a value for money case to support a decision for exclusion or displacement (PFI Criteria 11)
- Assessment of the potential to include commercial and industrial waste on a value for money basis (PFI Criteria 12)
- Assessment of the potential sites to be under consideration (PFI Criteria 13)

**Report Ends**