

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **ENVIRONMENT OVERVIEW & SCRUTINY
COMMITTEE**

DATE: **TUESDAY, 23 JULY 2013**

REPORT BY: **DIRECTOR OF ENVIRONMENT**

SUBJECT: **UPDATE ON NORTH WALES RESIDUAL WASTE
TREATMENT PROJECT AND THE SUB-REGIONAL
FOOD WASTE PROJECT**

1.00 **PURPOSE OF REPORT**

1.01 To update Members on progress of the North Wales Residual Waste Treatment Project's (NWRWTP) procurement process.

1.02 Also, to update Members on progress of the Sub-Regional Food Waste Project.

2.00 **BACKGROUND**

2.01 The North Wales Residual Waste Treatment Partnership was formed in 2008 (made up of the Isle of Anglesey County Council, Gwynedd County Council, Conwy County Borough Council, Denbighshire County Council with Flintshire County Council as Lead Authority) to seek a solution to managing residual waste on behalf of the five Partner Authorities over a 25 year period. A North Wales Residual Waste Treatment Joint Committee has been set up to oversee and govern the procurement process. At the Joint Committee meetings, all five Partner Authorities have equal voting rights. However, as Lead Authority, the Council is responsible for project planning and management, giving Leadership to the Project Team and undertaking governance issues like producing management accounts and ensuring financial probity.

2.02 The three Councils forming the Sub-Regional Food Waste Partnership are Conwy County Borough Council, Denbighshire County Council and Flintshire County Council, with Denbighshire acting as the Lead Authority on the Project.

2.03 One of the key issues for the Projects is the range of waste related targets that now challenge Welsh Authorities; these are set out below:-

Table – Authority Municipal Waste Targets

TARGET	YEAR				
	09/10	12/13	15/16	19/20	24/25
Levels of recycling / composting (or Anaerobic Digestion (AD))	40%	52%	58%	64%	70%
Levels of composting (or AD) of source separated food waste (included in the above)		12%	14%	16%	16%
Maximum level of energy from waste			42%	36%	30%
Maximum level of landfill				10%	5%

Welsh Government (WG) has made it clear via its strategy document – ‘Towards Zero Waste’ – that the future strategic direction and resources will be directed towards Local Authority policies which are based on very high levels of recycling and composting (i.e. 70% recycling/composting by 2024/25) and very low levels of landfilling (i.e. a maximum of 5% to landfill by 2024/25). Nevertheless, and even with these challenging targets achieved, there will remain significant levels of residual waste which must be disposed of through sustainable technologies offering the best balance of environment and economic benefits.

2.04

If the Council fails to meet these targets, the Authority will face two sets of fines, which will be cumulatively levied:-

- (i) Failure to meet recycling targets (£200/t)
- (ii) Exceeding Landfill Allowances (£200/t)

Both the NWRWTP and the Food Waste Project will play a key role in helping Flintshire County Council (FCC) to meet the Municipal Waste targets show and hence help the Council to avoid the substantial fines outlined above.

3.00 CONSIDERATIONS

3.01 North Wales Residual Waste Treatment Project

Since the last report considered by the Committee on 10th April 2013, the Project Team have continued dialogue with Wheelabrator Technologies Inc (WTI), following Sita’s withdrawal from the procurement process. Members will recall that in late January 2013, the Partnership was notified by Sita UK Ltd that the company intended

to withdraw from the procurement process for commercial reasons. Following notification by Sita UK Ltd of its decision, the Project Team and the Lead Chief Executive for the Project agreed a risk assessment and management approach to managing the implications of the withdrawal. The first consideration was a thorough assessment of the procurement process itself. Secondly, the Lead Chief Executive for the Project contacted Sita UK at a high level to review the decision to withdraw and to ensure consistency in any public announcements made. This team approach ensured that the process was managed sensitively, swiftly and that a thorough and co-ordinated response was provided.

3.02 Guidance was sought from the Partnership's external legal advisors, Pinsent Masons, to identify any relevant procurement guidance that would apply in these circumstances.

3.03 In summary, UK guidance states that any procuring Authority needs to consider whether it should invite bids at all in a situation where a single bidder remains. The guidance advises that other steps should be taken to secure value for money, but that a procurement process should not automatically be stopped as a result. Some general principles that procuring Authorities in the Partnership's position should consider are:

- reviewing the strength and quality of the remaining single bidder, and
- ensuring that there is transparent competition in the remaining bidder's supply chain

3.04 The Project Board's (which comprises the Lead Chief Executive and Directors from each of the Partner Authorities, supported by the Project Team and advisors) view was that the Partnership is still in a good position to secure the value for money. This was based on the following grounds:-

1. Both bidders that progressed past the Detailed Solutions stage of the procurement were proposing the same waste treatment technology on the same site, indicating that Wheelabrator's bid represents what the waste market have identified as best suiting the needs of North Wales.
2. The procurement process had reached an advanced stage with both remaining bidders prior to Sita's decision to withdraw. This included having the benefit of an extremely competitive process throughout each procurement stage.
3. This competitive process has meant that the Partnership also had the benefit of receiving detailed prices at the Invitation to Submit Detailed Solutions (ISDS) stage. The Partnership

therefore has a very clear indication of what a competitive and value for money tender should be.

4. Wheelabrator Technologies Incorporated (WTI) has already proposed that a significant proportion of sub contracted services would be subject to market testing to ensure value for money obtained for the Partnership.
- 3.05** The position the NWRWTP is in with one remaining bidder is not unique, and indeed there are a number of examples in the UK where contracts have been secured with a single bidder at a late stage in the procurement process that demonstrated value for money. Continuation of the procurement process in no way commits the Partnership to an automatic Preferred Bidder award (as would also have been the case if two bidders had remained to submit final tenders). The Partnership would consider a final tender submission from WTI on its own merits and decide at that point if it wished to recommend award of Preferred Bidder status or to recommend termination of the procurement at that stage.
- 3.06** The Partnership has received written confirmation from WTI that it remains committed to the procurement process. The Lead Chief Executive has also met with senior representatives from WTI for both parties to reaffirm their commitment to the procurement process.
- 3.07** The Lead Chief Executive received a letter from Jasper Roberts at WG. The letter confirms that WG are content for the NWRWTP procurement to continue with a single bidder.
- 3.08** The Council's Section 151 Officer (Chief Financial Officer) and the Monitoring Officer were asked to give an opinion in their statutory roles about proceeding with only one bidder. Both confirmed that they did not think that the best interests of the Partnership would be served by running a fresh process because bidders that have already dropped out or been rejected would be unlikely to submit more competitive bids, knowing that this initial process had failed.
- 3.09** They specifically advised that "before proceeding the Board should receive evidence to show the savings and value that had already been generated by the competitive process to date. The Board should also examine the extent to which it would be possible to require elements of the contract to be subcontracted through a competitive process. This would involve assessing the feasibility of competitively procuring every element of the contract that is not currently going to be treated in that way. Needless to say, any element that can be competitively procured without harming the Project should be subject to competition in order to increase levels of transparency around value for money".
- 3.10** Based on the advice and assurances given by all advisors and by Welsh Government that the procurement process could and should be

continued, the Joint Committee at the meeting of 20th February 2013 agreed to continue with the procurement process and issued the following statement :-

- "The Joint Committee, which is made up of the five Councils of Conwy, Denbighshire, Flintshire, Gwynedd and Ynys Mon has agreed to proceed with the final stages of 'competitive dialogue' with the remaining bidder, Wheelabrator Technologies Incorporated, before making a final decision whether to select Wheelabrator as the preferred bidder to construct and operate a residual waste facility for the region. This final selection decision will be made later in 2013.
- The Joint Committee was satisfied with the advice of its advisors and the advice of Welsh Government officials to proceed. The Joint Committee is satisfied that the project will fully meet Welsh Government policy on waste, that there are no legal risks to completing the procurement process and that it is fully meeting H M Treasury guidance for major procurement projects. The Committee is satisfied that the remaining bidder is developing a competitive bid which is already well within the cost limit it had set for all seven bidders at the outset. The project team will continue to negotiate the most competitive bid possible to assure the consortium councils, the Welsh Government and the public that value for money is secured.
- The Joint Committee noted that the bids of Wheelabrator and SITA UK were almost identical in technology, proposed location and inward waste transportation and that competitiveness of price had been the only issue to be closed before making a final decision between the two. Given the advanced stage the procurement process has reached and the on-going negotiations with Wheelabrator the Joint Committee was in complete agreement to proceed."

3.11 In accordance with the advice provided by the Council's s.151 Officer and Monitoring Officer, the Project Board would not seek approval from the Joint Committee to close dialogue or call for final tender until it had full opportunity to consider the information as described. In particular, WTI have been asked to review value for money in three areas :-

- Seeking to reduce the capital costs of the solution by driving out any risk pricing by their construction contractor. This includes the utilisation of further ground condition surveys at the Deeside site to provide greater certainty to their design assumptions.
- Seeking to reduce revenue related costs and/or increase third party income to reduce the gate fees payable by the Partnership.

- Reviewing the amount of gate fee that would be subject to indexation on an annual basis and to seek to increase the amount that is fixed.

The Project Team is still in the process of seeking to finalise all commercial aspects of the solution and it is anticipated that the outcome of this (including a potential recommendation to close dialogue and call for the final tender) will be considered by the Joint Committee at a meeting in the early Autumn of 2013.

Sub-Regional Food Waste Project

3.12 Since the last report considered by Committee on 10th April 2013, the following progress has been made:-

3.13 The 'Interim Service' has been operating since November 2012. To date, 6,000 tonnes of food waste collected by Conwy, Denbighshire and Flintshire has been processed at the Harper Adams University AD plant and Biogen's Twinwoods site in Bedfordshire. The Interim Service has been running smoothly with no problems reported by the Council's Operations teams, or Biogen regarding contamination.

3.14 Planning consent for the treatment facility was granted on 21st November 2012. Denbighshire County Council, as the local planning authority, has given Biogen authorisation to commence construction, following work to discharge the pre-commencement planning conditions. As a result, from 17th June 2013, the site has been classified as a construction site and hence all visits to it need to be logged.

3.15 Members will recall that, to mark the commencement of the construction phase of the Anaerobic Digestion plant, Biogen were organising a Turf Cutting Event for 18th April 2013 which the then Minister, John Griffiths, was to attend. At the last meeting of the Committee this was being reviewed to ascertain the availability of the new Minister for Natural Resources and Food, Alun Davies, for an alternative date.

It was difficult to find another suitable date in the Minister's diary, as his office like to combine multiple visits to North Wales on one day. It has therefore been concluded that the Turf Cutting Event is not now pursued, but that instead, a Plant Opening Event is held next year with the Minister and Members.

3.16 The Welsh Government are interested in purchasing the western portion of the site for development as a strategic contingency salt store. A planning application for the site was submitted by WG and was approved on 19th June 2013. The land will now be conveyed to WG at a price agreed by the District Valuer as representing Best Value.

4.00 RECOMMENDATIONS

4.01 That Members note the content of the report.

5.00 FINANCIAL IMPLICATIONS

5.01 The proposals for the NWRWTP are anticipated to be well within the Affordability Envelope approved by full Council in March 2010.

5.02 The agreed bid for the Food Waste Project is within the approved Affordability Envelope.

6.00 ANTI POVERTY IMPACT

6.01 None.

7.00 ENVIRONMENTAL IMPACT

7.01 None.

8.00 EQUALITIES IMPACT

8.01 None.

9.00 PERSONNEL IMPLICATIONS

9.01 None.

10.00 CONSULTATION REQUIRED

10.01 Consultation of relevant communities and bodies will be very important to the future successful delivery of the Project.

11.00 CONSULTATION UNDERTAKEN

11.01 Various consultation processes have been undertaken throughout the Project to date. The results of the consultations have been used to inform the Project's progress.

12.00 APPENDICES

12.01 None.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

Contact Officer: Carl Longland
Telephone: 01352 704500
Email: carl.longland@flintshire.gov.uk