



NWRWTP

North Wales Residual Waste Treatment Project

AGENDA ITEM NO: 6b

REPORT TO: NWRWTP JOINT COMMITTEE

DATE: 21st JUNE 2018

REPORT BY: CONTRACT MANAGER

SUBJECT: UNION RELATIONS REPORT

1. PURPOSE OF REPORT

- 1.1. To update the Joint Committee on developments on discussions with the Unite and GMB Unions on the construction of the Parc Adfer facility.

2. BACKGROUND

- 2.1. Financial Close on the NWRWTP procurement was reached in mid-December 2016 and the contract formally awarded to Wheelabrator Technologies Inc (WTI), and construction began in January 2017.
- 2.2. It has previously been reported to the Joint Committee that a number of protests have been staged by Unite and GMB Union members at the Parc Adfer site from August 2017. The protestors have been seeking the build of Parc Adfer to be carried out under a specific agreement called the National Agreement for the Engineering Construction Industry (NAECI).
- 2.3. This agreement is a collective bargaining agreement used in the Engineering Construction Industry backed by the Unite and GMB Unions and is essentially a set of terms of employment negotiated between employer representatives and Trades Unions.
- 2.4. NAECI typically applies to “Major Projects” such as significant energy projects whose planning determinations are not carried out locally (over 50MW), but there is no requirement for it to apply below this level. There are currently 4 projects in the whole of the UK that are working under NAECI.
- 2.5. Since early August 2017 there have been 13 protests in total. 11 at the Parc Adfer site and 2 at County Hall, Mold, the most recent being on the 30th May 2018. See 3.3 below for further detail.
- 2.6. The Partnership has facilitated discussions with the Unions including 2 meetings in 2018 with both Unions, WTI, CNIM and the partnership present. Further detail is provided in 3.5 below.



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3. CONSIDERATIONS

NAECI Agreement

- 3.1. As has previously been reported, the NWRWTP contract was awarded to WTI in December 2016, therefore the Partnership is not in a contractual position to impose NAECI on either WTI or its sub-contractors. It is also worth noting that signing up to NAECI is not an obligation and no requirement was placed on the Partnership from any party (including Welsh Government) to specify NAECI during the NWRWTP procurement process.
- 3.2. CNIM, as the engineering, procurement and construction (EPC) contractor have stated that they cannot sign up to NAECI after the fact as they entered into a contract with WTI on a particular commercial and legal basis, and as NAECI was not part of that it could not be added in subsequently.

Union protests, disruption and media statements

- 3.3. As noted in 2.5 above, there have been 13 protests in total since early August 2017 by both Unions, with 11 being outside the Parc Adfer site and 2 at Flintshire County Council's offices at County Hall, Mold. The protests have proved to be disruptive and have taken considerable time and effort by both Flintshire County Council (Highways, Chief Officer level and Chief Executive) and North Wales Police to manage and ensure public safety, whilst maintaining the Unions' legitimate right to protest.
- 3.4. The Unions have made a number of allegations in the media related to contracting practices on the Parc Adfer site, CNIM's press statements in response to those Union allegations are attached in Appendix 1 below.

Dialogue with the Unions

- 3.5. The Partnership, through the lead authority Flintshire County Council, have facilitated direct discussions with CNIM, WTI and Unions seeking to address union concerns relating to contracting and employment practices on site. The Partnership have been clear and firm in seeking assurances that good employment and contracting practices are in place for all sub-contractors on site. CNIM have also held discussions with the unions independently.
- 3.6. Two meetings have been in 2018 held with representatives of the Partnership (Lead Chief Executive and Contract Manager), WTI, CNIM and the Unions to discuss Union concerns. A summary of the actions from both meetings are attached in Appendices 2 and 3 below. The majority of the actions are associated with providing information to the Unions the use of contractors, worker welfare, Health and Safety provisions and processes on site and employment and contracting practices as part of the assurances sought referred to above.
- 3.7. CNIM have a "good practice guide" which they impose on all their sub-contractors which, amongst other things, formally forbids "umbrella contracts", zero hours contracts and "False Self Employment". It also states



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that any sub-contractors will provide accommodation for employees on a one per room basis. Also, CNIM accepted an offer for Flintshire County Council's Audit team to review the method of calculating the percentage of local labour and the rigour of the figures. This will be reported on in full when the report from Flintshire's internal audit team is complete.

- 3.8. Another key action has been for the Unions to be allowed to visit the site and opportunity for workers to meet directly with Union representatives. An initial site visit with the Unions was held earlier in 2018, and following further requests from the Unions a second Union visit was held on the 1st of June. The Contract Manager attended this second site visit as an observer. On both occasions no workers on site took the opportunity to meet with the Unions directly.
- 3.9. At the Partnership's invitation, WTI representatives attended the last Joint Committee in March 2018, where the Joint Committee reviewed the challenges and actions raised in the January meeting (see Appendix 2). Following the discussion, the Committee was assured by the answers given, for example on the audit of contractor compliance with CNIM policies.
- 3.10. Separate to the above, the Unions have also been in direct contact with Flintshire County Council with a series of queries related to the procurement process itself. The most recent of these queries and the responses provided are attached in Appendix 4 below.
- 3.11. Since the start of the protests, the NWRWTP Partnership, WTI and CNIM have extended an open invitation to the Unions to bring to their attention any contracting practices which is contrary to CNIM's own good practice guide or illegal. Two very minor issues were raised and dealt with swiftly.

Cost of protests

- 3.12. The costs of managing the protests for North Wales Police and Flintshire County Council's Highways is calculated to be just under £82,000 to date. This cost does not count the considerable Flintshire County Council Chief Officer and Chief Executive involvement in not only managing the protests, but also the extensive work involved in direct contact and facilitating wider discussions with the Unions, WTI and CNIM. Those discussions continue, including the invitation of the Unions to this meeting to discuss their concerns.

4. RECOMMENDATIONS

The Project Board is asked to:-

- 4.1. Note the content of this report.

5. RESOURCE IMPLICATIONS

- 5.1. The financial implications of the protests are noted in the report.



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6. ANTI-POVERTY IMPACT

6.1. Not applicable.

7. ENVIRONMENTAL IMPACT

7.1. Not Applicable.

8. EQUALITIES IMPACT

8.1. Not applicable.

9. PERSONNEL IMPLICATIONS

9.1. Not applicable.

10. CONSULTATION REQUIRED

10.1. As set out within the report.

11. CONSULTATION UNDERTAKEN

11.1. Not applicable.

LOCAL GOVERNMENT ACCESS TO INFORMATION ACT 1985

Background Documents:

None

Contact Officer: Steffan Owen - NWRWTP Contract Manager