

## **CONTRACT MANAGEMENT RESOURCE REVIEW** **WDA/14/13**

### **Recommendation**

That:

1. Members endorse the phased approach to the deployment of resources to meet the Authority's Contract Management needs;
2. Members endorse Phase One of the Contract Management Resource Plan;  
and
3. the Chief Executive presents further reports to Members about the remaining phases of the Contract Management Resource Plan at the appropriate time.

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**CONTRACT MANAGEMENT RESOURCE REVIEW****WDA/14/13****Report of the Chief Executive****1 Purpose of the Report**

- 1.1 This report discusses the remaining phases of the Resource Recovery Contract in the context of the overall suite of contracts to be managed by the Authority, and the resource deployment necessary. A phased approach to the development of a Contract Management Resource Plan is proposed.
- 1.2 Members are invited to endorse the phased approach and the first phase of the Contract Management Resource Plan to ensure that sufficient and appropriate resources are committed to the delivery of the next stage of the Resource Recovery Contract, namely the period from Preferred Bidder to Financial Close and Contract Signing.
- 1.3 Further reports will be presented on the remaining phases at the appropriate time.

**2 Background**

- 2.1 The Authority has embarked on an ambitious procurement programme to deliver a number of contracts in order to fulfil its statutory duty to provide a sustainable and value for money waste management service for Merseyside.

**3 Suite of Contracts**

- 3.1 The suite of contracts to be managed by the Authority is as follows:

**Residual Landfill**

- 3.2 Two contracts to provide sufficient capacity, on a reducing basis, for the landfill of residual waste which has not been recycled, or which it is not economically sustainable to recycle.

**Merseyside Waste Disposal Authority****19<sup>th</sup> April 2013**

### Waste Management and Recycling Contract

- 3.3 This is a 20 year contract with Veolia, which is now in its fourth year. The contract is to manage the Waste Transfer Stations, Materials Recycling Facilities (MRFs), Education Facilities and Household Recycling Centres, together with haulage to other treatment facilities and haulage to residual landfill.

### Interim Contract

- 3.4 A Framework Contract with three organisations to divert waste from landfill until such time as the Resource Recovery Contract becomes operational. The first 40,000 tonnes/year contract with FCC has been let.

### Other Interim Arrangement

- 3.5 An Inter Authority Arrangement with Greater Manchester Waste Disposal Authority (GMWDA) to divert up to 80,000 tonnes/year for two years, and with a possible 12 month extension, from 2013.

### Resource Recovery Contract

- 3.6 A 30-year contract now in the final stages of procurement, with the Energy from Waste facility due to be operational in 2016.

## **4 Implications for the Authority**

- 4.1 The Contract Management function of the Authority serves to ensure the smooth and effective day-to-day running of each of the waste management contracts. In practical terms, this means dealing with the contractor's performance, any change in circumstances, communications, Public and Community Relations, joint working, emergencies or abnormal situations, together with innovations and performance improvement programmes.
- 4.2 Vitally, the function serves to control contractual costs and ensure the continued long-term delivery of value for money throughout the contract period. To put this into context, it should be noted that contractual payments will account for over 82% of the Authority's annual expenditure (£54M in 2013/14, out of a total Authority budget of £65M) and hence amounts to the vast proportion of the costs passed through to the Constituent Districts via the Levy.

- 4.3 Any failure to control costs can see significant Value for Money 'drift' in contracts over their life. Given that the RRC contract is for 30 years, the risk of drift or 'upward creep' in costs is significant.
- 4.4 Contractors may try to drive prices upward in order to boost their profit margins. There is a particular temptation for a contractor to secure price increases early on in the life of a contract, as these increases will be compounded every year over the remaining life of the contract.

## **5 Remaining Phases of work – RRC**

- 5.1 The Resource Recovery Contract procurement has several remaining phases of work necessary to effect the transition from procurement to contract management. These can be summarised as:
1. Phase One - Preferred Bidder to Financial Close and Contract Signing
  2. Phase Two - Construction and Commissioning
  3. Phase Three – 'Steady-State' Contract Management
  4. Phase Four – Contract end

### **Phase One – Preferred Bidder to Financial Close**

- 5.2 Achieving Financial Close with the Preferred Bidder on the Resource Recovery Contract is a critical phase for the Authority. Until the contract is signed there can be no certainty that any value to the Authority that has been negotiated throughout the procurement can actually be realised.
- 5.3 The current UK Banking sector is very difficult, with banks adopting quite risk-averse positions and being more discriminating in terms of which projects they are prepared to lend money to, and on what terms.
- 5.4 Part of the process of moving from Preferred Bidder to Financial Close will entail the funders undertaking their own due diligence exercise to satisfy themselves that they wish to lend their money to the project. Significant pressure can be anticipated from the Bidder's advisors as, despite their assurances, further due diligence may reveal issues for the Preferred Bidder. These must be robustly dealt with, and, at the same time, the Authority must not try to seek a better Authority position.
- 5.5 The longer the process of moving from Preferred Bidder to Financial Close takes, the greater the risk of price creep occurring as the contractor will often be unable to hold prices with their sub-contractors, for example contractors

involved in construction and commissioning. The Authority also remains at risk in relation to foreign exchange rate fluctuations occurring in this period.

- 5.6 Accordingly, the Preferred Bidder stage needs to be a more directive and narrow focus stage leading to close.
- 5.7 This is necessary to ensure that the project details do not unnecessarily 'creep' as a result of pressure from more detailed due diligence from the bidders advisors and the Preferred Bidder seeking to unwind or amend risk positions accepted by the Authority.
- 5.8 Equally the Authority's approach to this stage will need to ensure that further analysis of options and risk positions, which has characterised the pre tender stage, is strictly limited to the clarification of existing agreed positions, and does not explore other options. That is not to ignore that closure, of itself, will be complex and there may well be new issues to deal with.
- 5.9 Further reports will be presented on the remaining phases at the appropriate time.

## **Training**

- 5.10 Support will be provided by Local Partnerships/DEFRA/Infrastructure UK in the form of a Contract Management Review and Training Programme.
- 5.11 Authorities are expected to have conducted a Contract Management Review before training is arranged.
- 5.12 The training is designed to help local authorities to maximise the value from their contracts and to improve their contract management capabilities for these complex and high value contracts.
- 5.13 The Training programme will cover:
  - a. Contract Managers' understanding
  - b. Dealing with the transition phase (from Procurement to contract management)
  - c. Building and managing a team
  - d. Managing service performance

- e. Developing the Authority's contract management manual
- f. Knowledge management
- g. Managing termination and expiry issues

## **6 Current Resources**

- 6.1 For Phase One, the current capacity within the Authority staff, when taken together with the external support available to the Authority is considered sufficient to manage this phase of work. No further new resources will be utilised.

### **External Support**

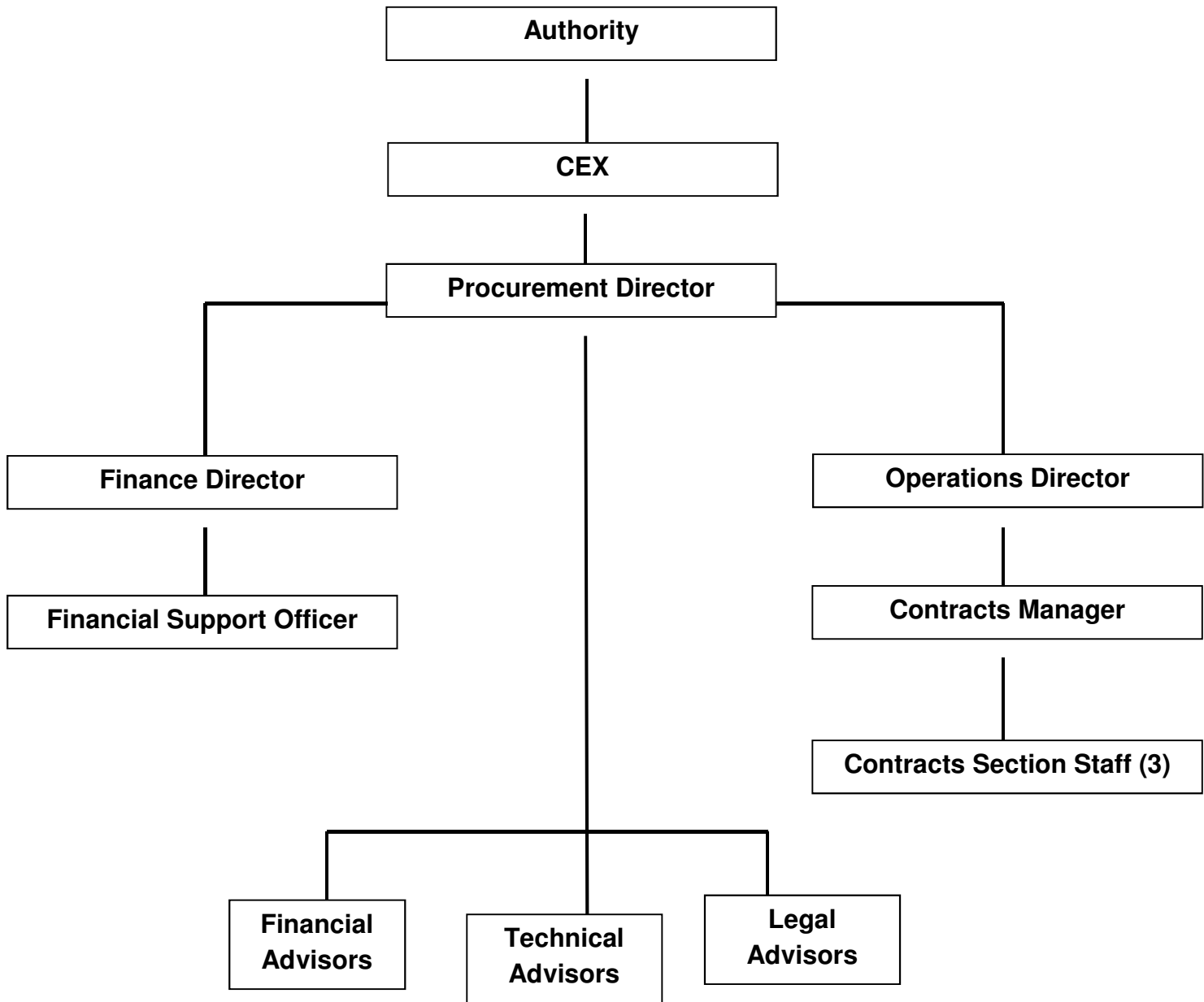
- 6.2 As with other parts of the RRC procurement process, if the Authority is to ensure that it expedites matters effectively and does not cause further delay to the project, there is a need for experienced personnel who have been through this stage before.
- 6.3 Some limited support is available through Local Partnerships and this continues to be available free of charge to the Authority.
- 6.4 Phase One needs to be driven by a project leader with a small team of advisors and appropriate MWDA officers focusing clearly on the timetable. The project leader should have considerable project management experience and ensure that all advisors focus on delivery of the agreed contract in a timely manner.
- 6.5 The team, whilst limited in numbers, will need to be wide in experience and expect to prioritise their commitments in order to foreshorten the process as far as possible.
- 6.6 Therefore, in order to ensure that sufficient pro-active management capacity of the Preferred Bidder to Financial Close stage is available to the Authority, the services of the existing Procurement Director will be retained to lead this phase of work. This workload will be determined by need, however, at the upper limit is estimated at no more 3 days a week.
- 6.7 The engagement of the Treasurer and the Operations Director are particularly important at this stage.

- 6.8 Technical, legal and financial advisors will also be retained by the Authority throughout this phase. The Financial advisors, in particular, will be heavily involved, working with the Treasurer to the Authority.
- 6.9 The brief to the Phase One Project Team will be issued by the Chief Executive. In essence this is to implement a challenging timetable which requires both parties to deliver the closure promptly and limits itself to dealing with issues that arise to deliver the agreed tender.
- 6.10 Common to all phases of the contract management approach will be the need to manage the transfer of knowledge, especially from the externally appointed Procurement Director and expert advisors, to Authority Contracts Management Staff at all levels who will be dealing with the contract and the contractor for 30 years.
- 6.11 The structure of the Phase One team is shown below. This makes clear the lines of reporting to the Chief Executive and MWDA Members.



Figure 1

**Contract Management Phase One Structure:**



## 7 Risk Implications

### 7.1

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Negative changes in Authority risk position and reduced financial benefits arising from failure to understand and manage Phase One from Preferred Bidder to Financial Close	3	4	12	Implement Phase One Resource Plan, including expert financial, legal and technical advisor input  Contract Management Training and Review
Failure to manage knowledge transfer	2	4	8	Team exercises and dry runs  Contract administration procedures and systems  Contract financial procedures and systems
Delay in achieving Financial Close	2	3	6	Phase One Resource Plan

## 8 HR Implications

8.1 There are no HR implications associated with this report.

## 9 Environmental Implications

9.1 There are no environmental implications associated with this report.

## 10 Financial Implications

10.1 The Contract Management support from Local Partnerships/DEFRA/InfrastructureUK is provided to local authorities free of

charge, save for the costs of rooms, refreshments and printing costs, etc. These costs are estimated to be no more than £2000 and can be met from existing budgets.

10.2 The cost of continuing to employ the existing Procurement Director throughout Phase One (to Financial Close) can be met from within current budget.

## **11 Conclusion**

11.1 There is a need to expedite the next phase of the RRC procurement from Preferred Bidder to Financial Close. The utilisation of the Procurement Director, together with a team of existing Authority Offices, Financial and Legal Advisors and the close involvement of the Operations Director, the Treasurer and the Contracts section staff is sufficient to complete this stage. Members are recommended to endorse Phase One of the Contract Management Resource Plan.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.