



MERSEYSIDE WASTE DISPOSAL AUTHORITY

## Agenda

**Date:** Friday, 14 October 2005

**Time:** 2.00 pm

**Venue:** North House

**Membership:-** Knowsley Borough Council - Councillor B Swann  
Liverpool City Council - Councillors  
R Oglethorpe  
P Keaveney  
N Small  
St Helens Borough Council - Councillor J Fletcher  
Sefton Borough Council - Councillors  
D Tattersall  
K Cluskey  
Wirral Borough Council - Councillors  
J Salter  
S Moseley

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5	Exclusion of the Public  Recommendation that the Public be excluded from the meeting during consideration of the following item for the reason stated	
	Item Reason	
	6 Exempt information relating to Authority Office Holders (Paragraph 1b of Schedule 12A)	
6	Procurement and Authority Resources WDA/31/05	15





**At a meeting of the Authority  
held on Friday 22nd July 2005**

Present: Councillor Fletcher  
Councillor Swann  
Councillor Keaveney  
Councillor Tattersall  
Councillor Small  
Councillor Cluskey  
Councillor Salter  
Councillor Moseley

14. **Apologies for Absence**

Apologies for absence were received from Councillor Oglethorpe and Carole Hudson, Clerk to the Authority.

15. **Declaration of Interest by Members and Officers**

The following declarations of interest were received:

Councillor Swann declared a non-prejudicial interest in item 5, recorded herewith as Resolution 18, in his role as a Non-Executive Director of Mersey Waste Holdings Limited.

Councillor Fletcher declared a non-prejudicial interest in item 5, recorded herewith as Resolution 18, in his role as a board member of Bidston Methane Limited.

Councillor Salter declared a non-prejudicial interest in item 5, recorded herewith as Resolution 18, in his role as a board member of Bidston Methane Limited.

16. **Minutes of Meeting held on 24<sup>th</sup> June 2005**

**Resolved** that the minutes of the meeting held on 24<sup>th</sup> June 2005 be approved and signed as a correct record.

**17. Outturn Report 2004/05**  
**WDA/26/05**

The Authority considered a report advising Members of the final outturn with regard to the Authority's Capital and Revenue expenditure in 2004/05. The report also included the final outturn of the Authority's Prudential Indicators to enable Members to view changes in the Authority's spending on the Capital Programme and consequently its financing.

**Resolved that:**

1. the final outturn position with regard to the Authority's Capital and Revenue Expenditure for 2004/05 be noted; and
2. the final outturn with regard to the Authority's Prudential Indicators as included in Appendix 3 to the report be noted.

Councillors Swann, Fletcher and Salter declared non-prejudicial interests in the following item, recorded herewith as Resolution 18, and in accordance with the Code of Conduct, remained in the meeting.

**18. Statement of Accounts 2004/05**  
**WDA/27/05**

Members were presented with the Authority's Statement of Accounts for 2004/05, prepared in accordance with the Accounts and Audit Regulations 2003.

**Resolved that:**

1. the Authority's Statement of Accounts for 2004/05 be approved; and
2. the Chairman of the Authority sign and date the Statement of Accounts for 2004/05.

19. **Exclusion of the Public**

**Resolved** that the public be excluded from the meeting during consideration of the following items for the reason stated.

<b><u>Minute</u></b>	<b><u>Reason (under the Local Government Act 1972)</u></b>
20	Exempt information relating to the proposed expenditure under a particular contract (Paragraph 8 of Schedule 12A)
21	Exempt information concerning the proposed terms in the course of negotiations for a contract (Paragraph 9 of Schedule 12A)

20. **Joint Municipal Waste Management Strategy**  
**Appointment of Professional Advisors**  
**WDA/29/05**

A report was considered seeking Members' confirmation of the appointment of legal, financial, planning and technical advisors to support the Authority in procuring service contracts, under a long term Public Private Partnership (PPP) scheme, possibly funded by Private Finance Initiative (PFI) credits, to implement the Joint Municipal Waste Management Strategy for Merseyside. Members were advised at the meeting that further negotiation was required with some of the preferred bidders regarding the terms of engagement, most notably the level of indemnity being provided. The Director proposed an additional recommendation to grant delegated powers to complete these negotiations.

**Resolved that:**

1. the decision of the Procurement Group to appoint advisors to provide financial, legal, planning and technical services be approved in principle;
2. delegated powers of the Authority be granted to the Director in consultation with the Lead Member for Procurement to finalise negotiations regarding the terms of engagement and appoint advisors;
3. the Procurement Group be authorised to move to the next project stage of the Waste Management Contracts Procurement Project to secure funding; and

4. the earmarking of resources from reserves to cover the anticipated costs of employing the professional advisors be approved subject to any potential budgetary overspend on the above contracts being approved in accordance with the Authority's Financial Procedural Rules.

21. **Capital Programme 2005/06**  
**WDA/28/05**

A report was submitted seeking Members' approval to set the overall Capital Programme for 2005/06, reflecting present circumstances and needs.

**Resolved** that a programme of capital expenditure in the sum of £13,971,000 for 2005/06 be approved.

**WASTE MANAGEMENT CONTRACTS PROCUREMENT PROJECT**  
**PROGRESS REPORT**  
**WDA/30/05**

**Recommendation**

That members note the contents of the report





**WASTE MANAGEMENT CONTRACTS PROCUREMENT PROJECT**  
**PROGRESS REPORT**  
**WDA/30/05**

**Report of the Director**

**1. Purpose of the Report**

To inform Members of the progress, achievements, issues and risks of the Waste Management Contracts Procurement Project.

**2. Background**

2.1. At the meeting of 16<sup>th</sup> September 2004, Members approved the development of a strategy for the procurement of waste management contracts to support the implementation of a Joint Municipal Waste Management Strategy for Merseyside, together with the project organisational structure and initial project delivery plan (report WDA/44/04).

2.2. This report details the progress of the project to date, and identifies the risks, issues and planned mitigating actions.

**3. Progress achievements**

3.1. The following project stages have been completed:

3.1.1. Project initiation document and project plan;

3.1.2. Appointment of specialist professional advisors.

**4. Progress Status**

4.1. We are now implementing the next project stage which is preparation and approval of the Outline Business Case. A robust Outline Business Case is essential to any good quality procurement exercise. Indeed, it is expected by the market and banks.

4.2. Within this stage there are two main deliverables, namely:

4.2.1. Expression of Interest for PFI funding (EOI) – This is the first formal stage in the process of seeking support from Government in the form of Private Finance Initiative (PFI) credits. The submission of an EOI does not commit the Authority to completing the PFI funding route.

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- 4.2.2. Outline Business Case (OBC) – The Outline Business Case is developed in parallel with the EOI and ensures that the decision to procure waste management services through a PPP / PFI route is based on a robust, strategic and financial analysis of the options available. The OBC developed will be based upon accepted best practice and guidance issued by 4Ps and the evaluation criteria used by the Department of Environment Food and Rural Affairs (DEFRA) to determine the case for financial support through the award of PFI credits.
- 4.2.3. Key components of the OBC include:
- 4.2.3.1. Service objectives, costing the project, project management and delivery arrangements, options appraisal, value for money appraisal, PFI shadow bid model (public sector comparator), and affordability.
  - 4.2.3.2. Reference project. This is a key component of the OBC and includes, definition of the procurement strategy based on the Joint Municipal Waste Management Strategy, provision of sites, options appraisal, technology choices and cost appraisals and funding mechanisms (i.e. PFI).
- 4.3. The anticipated date for submission of the EOI and OBC are December 2005 and March 2006 respectively. This represents a slippage of 1 month to the planned timelines.
- 4.4. The reason for the slippage in the EOI is that the original project plan was based on it being a short, fairly general document, with most of the detailed work being carried out for the OBC. However, the specialist professional advisors, based on their experience in submissions made in the last six months, advise that DEFRA is now expecting a greater degree of work to be carried out prior to the EOI, and that increasing scrutiny is being applied to that document. For example, it is now expected that the EOI would be effectively an executive summary of the OBC. This means that some work which was programmed to be undertaken after submission of the EOI needs to be undertaken before that activity. This does not necessarily mean that the total time for EOI and OBC preparation is increased, but rather that the order of identified activities needs to be changed.
- 4.5. The forecast delay of one month to the planned completion of the OBC is to allow sufficient time to for the preparation of a quality submission to DEFRA. A requirement of DEFRA is the agreement of both the Authority and constituent Districts to the OBC.
- 4.6. The slippage in respect of the OBC completion is due to certain key issues, detailed in paragraph 5 below, which need to be resolved. The

resolution of the issues, together with proactive risk management is essential for the success of the project.

## **5. Key Issues**

### **5.1. Procurement Strategy**

- 5.1.1. The production of a robust procurement strategy is required to determine the optimum procurement route to deliver best value and ensure a process that is fair and complies with European and U.K. Government legislation.
- 5.1.2. At present the procurement strategy has not been sufficiently well defined and work needs to begin immediately on adding detail to the strategy, especially in relation to key issues such as the position of the LAWDC.
- 5.1.3. The appointed financial advisors Ernst & Young will assist in developing a robust procurement strategy / options report. This appointment is the subject of an executive decision.

### **5.2. Governance and Decision Making**

- 5.2.1. The project organisation structure approved by the Authority for the project is based on the Procurement Group, consisting of officers of the Authority and constituent Districts chaired by a lead Member, and a Project Board, chaired by the Director, and consisting of Authority officers, a representative of 4Ps, and a lead advisor selected from the specialist professional advisors.
- 5.2.2. The role of the Procurement Group is to consider and guide the procurement and the Project Board is responsible for the direction and management of operational tasks, as defined within the project mandate.
- 5.2.3. The project requires prompt decision-making to maintain planned timelines. The current arrangements, in which the Procurement Group refers decisions to the full Authority does not facilitate this requirement at present as there are too few Authority meetings scheduled during the next two years to accommodate the necessary decisions.
- 5.2.4. The proposed solution therefore is to provide for greater involvement of the Authority. This will require an increase in the number of Authority meetings at regular intervals over the next two years to consider project issues and risks.

### **5.3. District Collection Decisions**

- 5.3.1. In order to determine the optimum treatment technologies in the reference case, the cost and therefore the overall affordability of the OBC, timely decisions are required to be made by constituent District regarding the provision of recycling collection systems.
- 5.3.2. The timing and extent of decisions by individual District Councils on the provision of recycling collection systems has a direct impact on the numbers and types of treatment facilities required and therefore the affordability of the overall solution.

#### 5.4. Resources

- 5.4.1. The current Authority resources allocated to the project consist of the Director supported by the Contracts Manager, both on a part time basis. Legal, financial and estate management support services are provided by St Helens MBC. Full time resources consist of the Project Manager and three Project Assistants, two of which have been appointed. Specialist professional advisors have been appointed to provide financial, legal, planning, insurance and technical services.
- 5.4.2. The pre-procurement review carried out by 4Ps benchmarked the current allocated resources against other waste PFI procurement projects of a similar scale and concluded that additional resources were required, particularly a Procurement Director, whose role would be, working along the Director, to lead the process. Additionally the 4Ps report identifies the need for more Authority legal financial and asset management staff together with an increased level of communications / PR capacity.
- 5.4.3. A key recommendation arising from the 4Ps report is to appoint a Procurement Director, but until the appointment is made, to consider the appointment of an interim manager to support the procurement.
- 5.4.4. The report also highlights the need for adequate resource availability from constituent Districts to facilitate timely consultation and decision making.
- 5.4.5. Further, report WDA/ 31/05, contained elsewhere on this agenda considers the 4Ps report and recommends a revised organisational structure to address the resource needs of the Procurement Project.
- 5.4.6. It is estimated that to continue with existing resources will result in a nine month delay in Contract Award. This could be further exacerbated by a failure to make timely decisions at both constituent Districts and Authority levels.

## 5.5. Planning

### 5.5.1. Sites provision

5.5.1.1. The lack of availability of strategic sites was identified as a key procurement risk in report WDA/12/05 which was considered by Members at the Authority meeting of 15<sup>th</sup> April 2005. The Director was authorised amongst other things, to enter into discussions with Mersey Waste Holdings Ltd regarding land ownership issues for existing sites and explore the suitability of other sites for possible acquisition by the Authority.

5.5.1.2. An integral part of the process is to develop a land strategy to inform the Authority of the best options available to mitigate the identified key procurement risk.

5.5.2. It is proposed that the land strategy report will be developed by the appointed planning professional advisors. This appointment is the subject of an executive decision.

### 5.5.3. Waste Local Development Document

5.5.3.1. The Joint Municipal Waste Management Strategy for Merseyside recognises the importance of the Waste Local Development Document in providing the planning framework within which implementation of the Strategy must be achieved. The Waste Local Development Document process is therefore a key project constraint of the Procurement Project.

5.5.3.2. Report WDA/31/05 identifies the need for additional resources within the Authority and recommends the appointment of a Planning and Environmental Manager within the Authority structure.

5.5.3.3. Continuing support for the Waste Local Development Document process will be required by all constituent District Councils and the Authority.

## 5.6. Affordability

5.6.1. The assessment of the affordability of the Project is an essential element of the OBC. In particular, the reference project must be affordable to the constituent District Councils of the Authority.

5.6.2. The costs of the proposed solution over the lifecycle of the Project are likely to be substantial and significant to every constituent

District. The affordability of any proposed solution must therefore be fully accepted by the constituent Districts. It is intended to hold a special event or events at the highest political level (and including key offices) to increase understanding of the affordability issue.

## **6. Next Project Stages**

6.1. The key Project milestones/ activities for the remainder of 2005 and 2006 are:

<b>Project activity description</b>	<b>Milestone</b>
PFI Expression of Interest (submission)	December 2005
OBC submission	March 2006
OJEU Contract Notice Client Approval	June 2006
Secure funding (PFI credits)	July 2006
Client Approval for Service Provider Short listing Criteria	August 2006
Issue Invitation to Negotiate	November 2006
Tender analysis criteria Client Approval	November 2006

These milestones are based on resolution of the stated issues and effective risk management.

6.2. The Contract award and Service commencement milestones are:

<b>Project activity description</b>	<b>Milestone</b>
Contract Award	March 2008
Service Commencement	October 2008

## **7. Financial Implications**

7.1. There are no direct financial implications as a result of this report

## **8. Conclusion**

8.1. Satisfactory progress has been made in relation to the initial project stages of the Procurement Project, although some minor slippages have occurred to allow for greater work in the development of the EOI. However, a number of key issues which could result in significant delay to the project remain. In particular, there is a need for the fast turnaround of information, better joint action planning and communication, a clearer procurement strategy, greater clarity and commitment on constituent District plans, a unified approach to waste planning and the provision of additional resources to deliver the project. In particular, the timing and extent of decisions by individual District Councils on the provision of recycling collection systems has a direct impact on the numbers and types of treatment facilities required and therefore the affordability of the overall solution. The resolution of the issues, together with proactive risk management is essential for the success of the project.

8.2. The overall perception of the strength of the Merseyside Partnership will have a fundamental bearing on the attitude of potential funders and bidders and hence the competitiveness of the procurement, as well as the Government, and hence the scale of any PFI credit award towards Merseyside should this funding route be chosen.

8.3. It is essential therefore, that the Partnership continues to demonstrate that it can address the decision-making and joint working arrangements necessary to deliver the project and can evidence that there is a joined up approach to the provision of waste services, resulting in a best value solution for the people of Merseyside.

The contact officers for this report are:

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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.

