

NORTH LINCOLNSHIRE COUNCIL

CABINET

WASTE CONTRACTS PROCUREMENT PROJECT

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 The object of this report is to update Cabinet on the progress of the waste procurement project.
- 1.2 The key points in this report are:
- Following the evaluation of the detailed bids for Lot 1, two Bidders were selected to progress to submit Final Tenders;
 - The evaluation of the detailed bids for Lot 2 was not completed as it was decided none of them were affordable in the current budgetary climate;
 - The Cabinet Member for Neighbourhood, Environment and Communities approved the recommendation to abandon the Lot 2 process;
 - An alternative strategy for the interim treatment of the Council's municipal organic waste stream has been agreed;
 - A revision to the project timetable for Lot 1 is recommended;
 - The use, in principle, of Prudential Borrowing as a means of reducing the revenue costs of the Lot 1 bids is recommended.

2. BACKGROUND INFORMATION

- 2.1 Current contracts for the delivery of waste management services for the Council will terminate on 31 March 2011. A Contract Notice was issued on 19 March 2009 to the European Union and local media. The contract was advertised in two lots – Lot 1 for residual waste and Lot 2 for organic waste.
- 2.2 The Bids for Lot 1 were fully evaluated and the recommendation to progress two Bidders through the next stage of dialogue was endorsed

by the Project Board and the decision implemented by the Cabinet Member for Neighbourhood, Environment and Communities.

- 2.3 The Project Team have considered the needs of the competitive dialogue process for the Final Tender stage for Lot 1. There is now a need to seek an amendment to the project timetable to take account of recent developments and the proposed strategy to take the two Bidders through the next stage of dialogue. The contract award date remains unchanged.
- 2.4 The cost of new waste treatment contracts is a key risk for the Council. The technologies proposed by the remaining Bidders for Lot 2 were deemed unaffordable in the current budgetary climate. The Cabinet Member for Neighbourhood, Environment and Communities at his meeting on 12 May 2010, gave approval for the abandonment of the Lot 2 procurement and the procurement of an interim solution for treatment of organic waste for a period of 2 – 4 years.
- 2.5 The need to put in place alternative arrangements before the expiry of the current service contract on 31 March 2011 will necessitate the publication of a contract notice in the Official Journal of the European Union (OJEU) as soon as possible. Use of the Restricted Procedure should allow for completion of the process, including contract award, before new service commencement on 1 April 2011.
- 2.6 A contract term for the interim organic waste solution of two years duration with options to extend by two further periods of 12 months each was considered prudent to attract sufficient competition and to provide adequate time for the current uncertainty surrounding public finances and central government waste strategy to be eased.
- 2.7 Each of the Lot 1 solutions includes significant capital expenditure. The ability of the council to make a contribution to these solutions through the use of Prudential Borrowing will help reduce the total revenue cost of each. Financial benefit is derived through lower borrowing costs available to the Council. Bidders have confirmed this reduction through a remodelling of their respective solutions with an assumed contribution of £5 million. A Prudential Borrowing option will be worked up with each Bidder and a final decision based on overall value for money. The Waste Project Board has endorsed this approach.

3. OPTIONS FOR CONSIDERATION

- 3.1 The selection of North Lincolnshire Green Energy (NLGE) and Waste Recycling Group Limited (WRG) as the two Bidders to progress through the next dialogue stage led to a review of the procurement strategy and timetable for Lot 1. The Waste Contracts Project Team and their consultants have considered the needs of the Competitive Dialogue process, the likelihood of refining one or both bids into a position where an Invitation to Submit a Final Tender can be made and

the work required in completing the contract award and financial close with the Preferred Bidder. The options are:

- (a) **Option 1** – approve the revised timetable for Lot 1 at Appendix A.
- (b) **Option 2** – not to approve the revised timetable and retain the current approved timetable at Appendix B.

4. ANALYSIS OF OPTIONS

- 4.1 **Option 1** – the current timetable, approved by Cabinet in March 2009, takes no account of developments that have arisen since. The Council is now considering Prudential Borrowing to help reduce some of the capital cost of the final contract. Each Bidder has also identified new opportunities for income sharing or cost reductions which must be discussed and agreed and incorporated within the Project Agreement. All of these factors have served to lengthen the Competitive Dialogue process. The revised timetable at Appendix A takes account of this slippage and the Project Team's predicted timescale for evaluating the final tenders, finalising the Project Agreement and financial close.
- 4.2 **Option 2** – the current approved timetable is out of date as the deadline for issuing the Invitation to Submit a Final Tender has already passed.
- 4.3 The Waste Contracts Project Board is satisfied that the process is being conducted in accordance with the governance arrangements agreed at Cabinet on 11 March 2009 and is confident that the project will be able to deliver its objectives before the expiry of the current contracts. Option 1 is recommended.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 The financial implications to the Council are the greatest risk. Whether in penalties for exceeding our landfill allowances or being unable to successfully complete the procurement process, the sums involved are substantial. The Competitive Dialogue process provides the most robust approach for the Council to manage the procurement and financial risks.
- 5.2 The estimated contract value of all elements of this procurement assuming a 20-30 year arrangement is in the order of £200 million. Capital costs of both the proposed solutions are significant.
- 5.3 A maximum contribution of £5 million from Prudential Borrowing to the capital costs of the project achieves a reduction in the total costs of both the proposed solutions.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 6.1 Bidders have now submitted their detailed solutions. The Council will use the competitive dialogue process to address the environmental impacts of each Bid and its fit with the Council's municipal waste strategy and objectives for the project.
- 6.2 A risk register is maintained and reports are presented to the Strategic Risk Management Group as necessary.

7. OUTCOMES OF CONSULTATION

- 7.1 The evaluation exercise has involved discussions and consultation between the Project Team, evaluators and external consultants.
- 7.2 The Waste Contracts Project Board has been informed of the progress of the Project and has considered the outcome of the evaluation. The Board approved the Project Director's evaluation report and endorsed it for consideration by the Cabinet Member for Neighbourhood, Environment and Communities.

8. RECOMMENDATIONS

- 8.1 The contents of the report are noted.
- 8.2 The revised timetable for Lot 1 as detailed in Appendix A is approved.
- 8.3 The use of the Restricted Procedure for the procurement of an Interim Municipal Organic Waste treatment solution to commence immediately is acknowledged.
- 8.4 The in-principle use of Prudential Borrowing, up to a maximum of £5 million, as a capital contribution to the proposed Lot 1 solution is agreed.

SERVICE DIRECTOR NEIGHBOURHOOD & ENVIRONMENT

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Background Papers used in the preparation of this report

Previous Cabinet reports on same subject.

**RESIDUAL (LOT 1) WASTE TREATMENT CONTRACT
COMPETITIVE DIALOGUE PROCEDURE TIMETABLE - SUMMARY**

ID	Task Name	Recommended No. of days (* mandatory min. EU timescales)	Indicative Dates	Key Decisions
	Industry Open Day		14-Jan-09	
1	Issue Contract Notice	n/a	19-Mar-09	Cabinet report 11 March
2	Deadline for expressions of interest	37*days from 1	25-Apr-09	
2a	Deadline for return of PQQ		27-Apr-09	
3	PQQ evaluation completed	60 days recommended from 2	25-May-09	
4	Shortlist approved by Project Board	10 days recommended	17-Jun-09	Cabinet report for information only
5	Drafting of descriptive documents (contract, output spec, payment mechanism) and ITPD plus due diligence work plus evaluation framework	Concurrent to stages 1 - 4		
6	Issue Invitation to Submit Outline Solution (ISOS)	n/a	17-Jun-09	
7	ISOS Close Date Clarification and Negotiation on ISOS	30* days from 6 ()	02-Oct-09	
8	ISOS evaluation completed	60 days recommended	28-Oct-09	
9	ISDS approval	30 days recommended		Cabinet report for information only
10	Issue Invitation to Submit Detailed Solution (ISDS)		01-Dec-09	
11	ISDS Close Date	90 days^	01-Mar-10	
12	Close dialogue	90 days	16-Sep-10	
13	Issue Invitation to Submit Final Tender (ISFT)		17-Sep-10	
14	ISFT return close		24-Sep-10	
15	Tender Evaluation		15-Oct-10	
16	Confer Preferred Bidder status	60 days	22-Oct-10	
17	"Alcatel" Standstill Period concludes	15* days from 16	21-Nov-10	
18	Contract Awarded	n/a	08-Dec-10	Cabinet approval
19	Contract award confirmed	n/a	24-Dec-10	
20	Contract Close		31-Jan-11	

**RESIDUAL AND ORGANIC WASTES TREATMENT CONTRACT
COMPETITIVE DIALOGUE PROCEDURE TIMETABLE - SUMMARY**

ID	Task Name	Recommended No. of days (* mandatory min. EU timescales)	Indicative Dates	Key Decisions
	Industry Open Day		14-Jan-09	
1	Issue Contract Notice	n/a	19-Mar-09	Cabinet report 11 March
2	Deadline for expressions of interest	37* days from 1	25-Apr-09	
2a	Deadline for return of PQQ		09-May-09	
3	PQQ evaluation completed	60 days recommended from 2	25-Jun-09	
4	Shortlist approved by Project Board	10 days recommended	09-Jul-09	Cabinet report
5	Drafting of descriptive documents (contract, output spec, payment mechanism) and ITPD plus due diligence work plus evaluation framework	Concurrent to stages 1 - 4		
6	Issue Invitation to Submit Outline Solution (ISOS)	n/a	14-Jul-09	
7	ISOS Close Date Clarification and Negotiation on ISOS	30* days from 6 ()	13-Aug-09	
8	ISOS evaluation completed	60 days recommended	13-Oct-09	
9	ISDS approval	30 days recommended		Cabinet report
10	Issue Invitation to Submit Detailed Solution (ISDS)		13-Nov-09	
11	ISDS Close Date	90 days^	13-Feb-10	
12	Close dialogue	90 days	13-May-10	
13	Issue Invitation to Submit Final Tender (ISFT)		20-May-10	
14	ISFT return close		03-Jun-10	
15	Tender Evaluation		02-Jul-10	
16	Confer Preferred Bidder status	60 days	09-Jul-10	
17	Contract Awarded (subject to standstill period)	n/a	09-Sep-10	Cabinet approval
18	"Alcatel" Standstill Period concludes	15* days from 17	27-Sep-10	
19	Contract award confirmed	n/a	30-Sep-10	
20	Contract Close			