

**WASTE PFI**  
**(Report by Director of Operational Services)**

**1. INTRODUCTION**

- 1.1 The District Council is jointly with Cambridgeshire County Council and other districts seeking £40 millions in PFI credits to support waste collection and disposal costs for a 25-year period. Following the Government's decision on the award of PFI credits the District Council will have to decide whether it wishes to be associated with joint arrangements to procure waste services in order to benefit from the external funding.
- 1.2 This report, which is the first of number of reports to be presented to Cabinet over the next few months addressing this issue, outlines the progress on the PFI bid and identifies issues for future consideration.

**2. BACKGROUND**

- 2.1 Government is committed to improving the environment and as part of that commitment has created a legislative framework for waste management (that includes European Union requirements) with the intention of reducing the volume of household waste and the UK's reliance on land-fill for waste disposal.
- 2.2 Within Cambridgeshire all of the waste collection authorities (WCA – the district and city councils) and the waste disposal authorities (WDA – the County Council and Peterborough City Council) have, through the auspices of the Cambridgeshire Councils' Association's Waste Forum, agreed a joint waste management strategy which:
- identifies the separation of recyclable materials by WCA, through their collection arrangements, as the key vehicle for reducing household waste going for ultimate disposal; and
  - has established a hierarchy of preferred technologies for the treatment of waste, which can replace/reduce the reliance on land-fill.
- 2.3 The cost of waste management during the period covered by the joint strategy will increase significantly as a result of:
- the need for WCA to invest in innovative collection arrangements to achieve recycling rates in excess of 55%;
  - increases above inflation in land-fill tax already announced by Government; and
  - the cost of waste disposal technologies – incineration being the cheapest, but generally unacceptable to the public.
- 2.4 Preliminary estimates suggest that an additional £183 millions will need to be invested collectively by WCA and WDA in Cambridgeshire to achieve the Government's targets to 2032.

- 2.5 The District Council already has invested substantially in its waste and recycling services. Assuming that all the projects currently identified in the MTP are approved and implemented it is likely that a recycling performance in the order of 47% will be achieved. This will deliver a level of performance equivalent to the council's 2010 recycling target.
- 2.6 The challenges facing the council are, firstly, to maintain this level of recycling performance in an affluent area where annual growth in waste is already above the national average, 3% per household, and the number of homes also is planned to increase significantly. Secondly, the need, in the medium term, to invest in additional recycling services to achieve a 55%+ recycling performance.
- 2.7 Currently the District Council's recycling performance is subject only to statutory BVPI targets set for 2005/06 and the voluntary longer-term commitments given in the joint waste strategy. A more prescriptive framework is likely in the future.
- 2.8 The Waste and Emissions Trading Act 2003 provides the legislative framework by which Government will impose targets on WDA restricting the use of land-fill for the final disposal of household waste. It also provides to WDA a power of direction to WCA as to the separation of waste prior to delivery for disposal. The potential exists, therefore, for the County Council to influence both the manner and required performance of the recycling services undertaken by the District Council.

### **3. WHAT DOES PFI OFFER**

- 3.1 At its simplest PFI can be viewed as a process for securing the capital investment required to deliver a large scale project. Because of the budget available to the Government departments in any year there is a limit to the maximum amount any project will attract. Initial indications are that some £40 millions could be secured for waste services in Cambridgeshire, compared to the £124 millions required. The £124 millions is the *net present value*, when discounted at 7%, of the £183 millions referred to in paragraph 2.4 above.
- 3.2 The balance of the capital cost would be funded by the private sector contractor responsible for providing the new infrastructure and the day-to-day delivery of the service. This is translated by the contractor into an annual 'unitary charge' payable by the employing authority/authorities.
- 3.3 The benefits to the employing authority/authorities are as follows:
- a substantial part of the capital requirement is secured through Government credit approval which is supported by increased Revenue Support Grant, i.e. at no cost to the authority/authorities;
  - a long term contract with a contractor committed to making the necessary capital investment and meeting predetermined performance targets i.e. maximum risk transfer; and

- an annual ‘unitary charge’ (revenue) for the service determined at its outset i.e. long-term financial certainty and stability
- 3.4 The County Council are committed to securing waste disposal arrangements through a PFI arrangement to overcome a substantial funding shortfall that would otherwise exist. WCA, including the District Council, who are signatories to the joint waste strategy have all associated themselves with the initial application for PFI credits.
- 3.5 None of the WCA have committed themselves to the eventual procurement process and they, like the District Council, will make their final decision after the Government’s decision on the PFI credit application is known.
- 3.6 In order to manage the decision making process it is imperative that appropriate governance structures are in place and these are discussed in the next two sections. These address;
- the process up to and including a decision to take part in a joint PFI procurement exercise; and
  - arrangements for managing a joint PFI contract.

#### **4. PROCESS LEADING TO A DECISION ON JOINT PROCUREMENT**

- 4.1 All key decisions, up to and including the decision to appoint a contractor to deliver the services of more than one council, will be taken by the individual councils i.e. the Cabinet in the case of the District Council.
- 4.2 It is proposed that the CCA Waste Forum be reconstituted as a ‘Member Board’. Its purpose will be to advise and make recommendations to the individual councils’ cabinets on all key decisions. It will have limited powers to determine issues such as the wording of OJEC notices, contractor selection criteria, recommendations (to individual councils) of contractors to be included on short lists etc. These powers are further detailed at Annex A.
- 4.3 Currently the CCA Waste Forum has one Member from each of the seven councils. The intention is for the County Council and Peterborough City Council, as the WCA, each to have a second seat under its new constitution. The proposed governance structure is indicated by the diagram at Annex B the elements below the Member Board are described in the following paragraph.
- 4.4 An officer ‘Project Steering Group’, substantially the existing Joint Waste Officer Group supplemented by a director from each of the WCA and a finance representative, will steer the project. This group will consider the impact of the project on other local services, provide problem solving capacity, seek to resolve inter-authority conflicts and take responsibility for any matters delegated to it.
- 4.5 A ‘Core Project Team’ comprising a Project Manager, Project Officer and Project Administrator will manage the procurement process, including project planning, communications with stakeholders, risk management and communications with potential bidders.

- 4.6 The Core Project Team will receive input from a joint-council's 'Finance Panel' which will also provide the financial representative to the Project Steering Group. The District Council currently is exploring with other councils the need for similar groups to represent legal and operational interests.
- 4.7 These governance arrangements will be documented in a Procurement Protocol that will record the matters delegated to the various groups. They will be reported to the meeting of the CCA Waste Forum on 6 February 2004 and the outcome will be available to Cabinet at its meeting.
- 4.8 The County Council have so far met the cost of preparing the Outline Business Case (i.e. the application to Government for PFI credits available as a background paper to this report) which they estimate to be £100k. They have identified the costs associated with the next stage (see Section 5 below) of the process as £600k over the two years 04/05 and 05/06 and are seeking a contribution of £20k in each year from the District Council if it decides to join the procurement process.
- 4.9 These costs relate to securing external legal, financial and technical input and to financing the Core Team. It is considered that the District Council, either independently or in association with other WCA, may need to secure its own professional advice separately from the County Council in advance of a decision on procurement. The MTP (Project 02/279/B) currently includes £50k in 04/05 and £70k in 05/06 for waste procurement. Cabinet will be requested to release the full £50k in 04/05 and to commit to releasing £20k in 05/06. This will allow a positive response to be sent to the County Council, conditional upon a decision to join the procurement, and to engage appropriate independent professional advice in 04/05, up to the value of £30k.

## **5. MANAGING A JOINT PFI CONTRACT**

- 5.1 If a decision is taken to jointly procure waste collection and disposal services an appropriate governance arrangement will need to be put in place. A contract can only be entered into with a single legal entity and unless a new body is formed this will be the County Council.
- 5.2 A preliminary consideration of this matter has focused on five possible models:
- A 'Joint Committee' of participating councils with a lead council (the County Council) entering into the contractual arrangement for the service. Management would be delivered by a joint officer team.
  - A 'Lead Authority' (the County Council) responsible for the contract with the service provider and all management responsibilities. The relation between the Lead Authority and the other councils would be governed by a contractual arrangement. This is similar to our highways agency, but in reverse.
  - A 'Local Authority Company' which would be a legal entity in its own right. Participating councils would have a seat(s) on the board of the company.

- A 'Waste Management Authority' to which the participating councils would delegate their waste functions and the management of their existing operations.
  - Two 'Linked Contracts' with a single contractor but enabling Peterborough City to have a separate contract from a second joint County Council/District Council contract.
- 5.3 The Outline Business Case indicates a preference for either the Lead Authority model or a Local Authority Company. In the former this would involve a tri-partite agreement between the County Council, Peterborough City Council and the contractor; with separate subsidiary, legally binding agreements between the County Council and the districts.
- 5.4 Further work is required on these options and it is proposed, as part of the professional advice to be sought (see paragraph 4.9 above), to obtain a legal opinion on the options. The potential, in either arrangement, for the District Council to retain direct delivery of its waste collection services may be a key consideration.
- 6. IMPLICATION FOR DIRECT SERVICE DELIVERY**
- 6.1 The Outline Business Case (OBC) has gone forward to Government on the basis that both waste disposal and waste collection services will be delivered through the PFI arrangement. It is considered by the County Council that this is more likely to be favoured by Government, who are keen to promote partnership between WCA and WDA, and will be more attractive to prospective tenderers.
- 6.2 Although all WCA, including the District Council, have supported this approach at this time none are fully committed to joint procurement and have reserved their position. Each has indicated that they will seek to finalise their position during July 2004 in the light of the outcome of the application for PFI credits and a review of the financial case included in the OBC.
- 6.3 The potential options available to the District Council are:
- a) to enter fully into the PFI procurement with its waste collection service wholly delivered by the contractor;
  - b) to enter into the PFI procurement on the basis that it wishes to retain operational responsibility for its waste services, albeit on a sub-contract basis to the main contractor; or
  - c) not to enter into the PFI procurement for waste collection services
- 6.4 The capacity to secure option (b) may be influenced by the governance arrangement eventually adopted for the PFI procurement, hence the comment in paragraph 5.4 above.
- 6.5 Further work is continuing on the options available to the District Council and the outcome will be reported to a future meeting of Cabinet.

## **7. CONCLUSIONS**

- 7.1 The District Council has the opportunity to be associated with the PFI procurement and this has the potential to provide, through the unitary charge, considerable financial certainty. It would, for example, provide for the capital cost of replacing the refuse collections vehicles (three times) and wheeled bins (once) during the life of the contract.
- 7.3 However, it has yet to be shown that it is more economic than the District Council funding both the revenue and capital costs associated with the service in future years.
- 7.4 In order to keep open all options available to it the District Council must be able to engage fully with the processes leading to a final decision on procurement. It is considered that the governance arrangements detailed in Section 4 of this report provides for that. Considerable further work is required before an informed decision can be taken on the governance of any PFI contract should the District Council decide to be included.
- 7.5 The future of waste and recycling services in the district is a major issue and to ensure that Members are fully informed it is proposed to submit a progress report to the Overview and Scrutiny Panels in April and to hold a seminar for Members in that month. In addition developments will be routinely reported to Cabinet.

## **8. RECOMMENDATIONS**

- 8.1 It is recommended that Cabinet;
- (a) approve the powers proposed for the Member Board (Section 4/Annex A) and the overall governance proposals for the period prior to a final decision on procurement;
  - (b) authorise expenditure from MTP 02/279/B of £50k and £20k in 2004/05 and 2005/06 respectively for the purposes detailed in paragraph 4.9;
  - (c) note the governance options (Section 5) for the management of any joint contract and authorise the Director of Operational Services to investigate them further and report on them to a future meeting;
  - (d) note the service delivery implications for the District Council (Section 6) and authorise the Director of Operational Services to investigate them further and report on them to a future meeting; and
  - (e) approve the communications arrangements proposed in paragraph 7.5 and authorise the Director of Operational Services in consultation with the Executive Councillor for the Environment and/or Deputy Leader to determine the content of the Members' seminar.

### **Background papers**

Outline Business Case: Integrated Waste Management Project – Cambridgeshire and Peterborough Waste Partnership (January 2004)

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## ANNEX A

### POWERS DELEGATED TO MEMBER BOARD

1.	<b>Agree final version of Information Memorandum and Pre-Qualification Questionnaire.</b>	Documentation required to be provided to prospective contractors who respond to the Prior Indicative Notice published in the Official Journal of the European Commission.
2.	<b>Agree Selection Criteria</b>	The issues that will be considered in deciding whether or not a contractor will be included on the final shortlist.
3.	<b>Consult on Shortlist</b>	Engage with all relevant stakeholders on the proposed shortlist.
4.	<b>Consult on Invitation to Negotiate</b>	Engage with all relevant stakeholders on the proposed on the ITN
5.	<b>Selection of preferred and reserved Bidders</b>	Engage with WCA on Bidders to be recommended to individual councils.
6.	<b>Reference back during negotiations (on a confidential basis)</b>	Clarification of issues raised in negotiations of issues between WCA and Bidders.
7.	<b>Final assessment of options</b>	Agree recommendation on final procurement option to be proposed to individual councils for approval.

**ANNEX B: GOVERNANCE STRUCTURE PRIOR TO DECISION ON PROCUREMENT**

