

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director for Place
to
Cabinet

on
13 February 2014

Report prepared by: Dipti Patel (Head of Public Protection)

**Essex and Southend Waste Partnership Programme - Residual Waste Treatment
Contract / Refuse Derived Fuel (RDF) Progress Report.
Executive Councillor: Councillor T. Cox**

1. Purpose of Report

- 1.1. To update Cabinet regarding the recommended procurement for the short term disposal of Refuse Derived Fuel ('RDF') anticipated to be produced by the Mechanical & Biological Treatment (MBT) waste facility in Basildon.
- 1.2. To seek Cabinet agreement for Essex County Council to commence the procurement exercise and subsequent award of the contract by Essex County Council.

2. Recommendations

- 2.1. **Cabinet agree for Essex County Council to commence the procurement exercise for the award of the Refuse Derived Fuel Disposal (RDF) Contract.**
- 2.2. **Cabinet agree that final approval of the award and execution of the RDF Disposal Contract is undertaken by the Director for Commissioning, Waste & Environment from Essex County Council, in consultation with the Essex CC & Southend BC Waste Member Board.**

3. Background and proposal

3.1 History

- 3.1.1 The Essex Waste Partnership comprises Essex County Council, Southend Borough Council and the Essex waste collection authorities.
- 3.1.2 A Member Waste Project Board was set up to deliver the 2009 Outline Business case and this Councils representatives on the Board are: the Deputy Leader; the Portfolio holder for Public Protection, Waste & Transport; and the Portfolio holder for Planning. This Board is supported by an Officer Project Delivery Board.

- 3.1.3 Essex County Council (“ECC”) and Southend-on-Sea Borough Council (“SBC”) as waste disposal authorities have a legal obligation under the Environmental Protection Act 1990 to manage the treatment and disposal of waste collected by the waste collection authorities within their boundary. ECC and SBC must manage the disposal of collected waste in order to comply with the European Landfill Directive 1998.
- 3.1.2 The Outline Business Case (OBC) was produced, and agreed by both Authorities in 2009 which was approved and accepted by DEFRA. The Business Case is based upon a single treatment site solution which was subsequently agreed by both Council’s together with the appropriate funding in the respective budgets.
- 3.1.3 DEFRA is also a partner to the 2009 OBC as circa £100 million of PFI Credit funding has been offered for the Residual Waste Treatment Facility [RWTF] project. It should be noted that PFI Credits have recently been renamed Waste Infrastructure Grant. [WIG]
- 3.1.4 The OBC 2009 is an infrastructure delivery programme which includes:
- A mechanical biological treatment facility within Essex, which removes recyclables from the residual waste [black sacks] and the reduced outputs will be burnt as a Refuse Derived Fuel [RDF], although if market conditions for RDF are not favourable, from time to time, then the outputs can be land filled with a much reduced level of bio-degradability.
 - An Anaerobic Digestion [AD] facility within Essex to treat food waste. The facility will produce a compost and methane to generate heat and ‘green’ electricity.
 - A network of waste transfer stations to deliver waste to these treatment facilities. The transfer station for Southends is at the Councils, Central Cleansing Depot, Eastern Avenue.
- 3.1.6 ECC appointed UBB (Essex) Ltd in May 2012 as its contractor for the construction and operation of a Mechanical Biological Treatment (“MBT”) facility for the processing of residual waste collected by the waste collection authorities within the Essex.
- 3.1.7 Southend Borough Council have entered a Joint Working Agreement (JWA) Contract with Essex County Council which is a contractual document between both authorities that details the obligations on both parties.
- 3.1.7 The MBT facility is currently under construction in Basildon and is anticipated to start accepting and processing waste in July 2014.

4. Procurement Contract

- 4.1 The Refuse Derived Fuel disposal Contract is designed to secure a short term disposal arrangement to cover the period of MBT commissioning and the first 18 months of full operation after the MBT services commencement date. The RDF Disposal Contract does not make any change to existing services; it simply introduces an alternate disposal route for the MBT outputs.

- 4.2 The MBT commissioning period is forecast as November 2014 to July 2015 i.e. likely 9 months but subject to a 30 month period if extended to the MBT commissioning longstop date

The timeline to deliver this procurement is set out below.

Activity	Date
Member Project Board approval	13 December 2013
ECC Cabinet Approval	21 January 2014
SBC Cabinet Approval	13 February 2014
Commence procurement	March 2014
Identify preferred bidders	June 2014
Award contracts	July 2014 (No later than) 1 August 2014
Commence RDF supplies and disposal	1 November 2014

- 4.3 This procurement is intended to secure short term disposal for RDF by energy generation routes which improves on the landfilling position proposed in the MBT strategy by pursuing an energy disposal route earlier than originally anticipated which will also secure savings on landfill costs and is a more environmentally sound solution;
- 4.4 A subsequent procurement will take a longer term, more strategic view on how MBT outputs are disposed of.

The rationale for an initial short term procurement is:

- i. To avoid the risk of any gap in supply due to periods of non-production during MBT commissioning, or at any particular rate during commissioning.
- ii. To maintain a certain quality of output during the commissioning period.
- iii. To give the contractor an opportunity to demonstrate a consistent level of performance;
- iv. To build a RDF specification data. This will help to achieve the long term strategy to dispose of the MBT outputs via an energy generation route by providing a period of time to test the energy disposal routes in the market which will influence any decisions on the long term strategy – being able to demonstrate a consistent level of performance by the MBT contractor and a body of RDF composition data will be key to delivery of the long term disposal strategy; and
- v. To allow sufficient time to deliver the procurement of the long term disposal strategy.

In order to ensure that the most financially advantageous disposal route is selected, this procurement will identify the prevailing market rate for RDF disposal in comparison with total landfill costs, where:

- i. The total cost of RDF disposal equals haulage costs to the disposal point plus the RDF contractor's gate fee; and
- ii. The total cost of landfill disposal equals haulage costs to landfill point plus landfill gate fee and any applicable taxes.

5. Other Options

Relying on the current landfill disposal framework contract is an option but is not considered to be the optimum financial and environmental position for ECC and SBC. Should this procurement not achieve the envisaged savings or the RDF contractors' fail to deliver, the landfill disposal framework remains a fall-back position.

6. Reasons for Recommendation

- 6.1 Cabinet is asked to agree to the recommendations set out above for the following reasons:
- 6.2 It will secure a short term disposal arrangement for RDF as an alternative to landfill as defined in the MBT strategy. Thus offering an energy disposal route earlier than originally anticipated that will achieve savings on landfill and is an environmentally sound solution;
- 6.3 It will help to inform and achieve the long term strategy to dispose of the MBT outputs via an energy generation route and enables the partnership to test the energy disposal options in the market which in turn will influence a long term strategy for RDF.

7. Corporate Implication

This proposal is consistent with the Council's aims because it is a partnership arrangement which aims to deliver value for money and protect the environment. The MBT Contract forms part of the delivery of the Joint Municipal Waste Management Strategy (JMWMS) which sets out the approach for the development and delivery of local authority waste management.

SBC has a Joint Working Agreement with ECC which manages SBC's contribution to the contract obligations.

8. Financial Implications

- 8.1 A Final Business Case (FBC) was produced and submitted to Defra in March 2012 outlining the procurement journey, cost and quality outcomes for the Residual Waste Treatment Contract. This document supported the Partnerships application for the expected Waste Infrastructure Grant funding. The FBC was approved by Southend Borough Council at both Cabinet and Council in March 2012.

- 8.2 In accordance with the FBC and Waste Strategy programme, Essex County Council is now seeking to launch a procurement to pursue the option of disposing of the output from the MBT plant as an RDF for use in energy (or similar) plants, rather than send the material to landfill. It is expected that this will be about 18,000 tonnes per annum from SBC. It is proposed that this procurement covers a 27-48 month period encapsulating the commissioning phase of the MBT plant plus the first 18 months of full operation.
- 8.3 Therefore, to provide a more meaningful comparison with the Do Minimum option, a sensitivity analysis was run as part of the FBC to show at what rate would the RDF gate fee and transport cost would have to be for the reference project cost to at least equal the Do Minimum cost. The cost to dispose of RDF would have to be £111 per tonne or less. The results of recent soft market testing suggest that this is more than achievable, which will make the reference project even more attractive.
- 8.5 As there are uncertainties in any commissioning period with regard to quantity and quality of material produced, the reserve model assumes that landfilling is the most likely option for the commissioning period. If a contract can be procured for a fee lower than the prevailing landfill disposal rate then savings will be achieved. As the volume of material going through the MBT plant is unknown and there are no guarantees over the quality of the output during this commissioning phase then the value of this saving cannot be quantified with certainty at this time. If no price advantage is achieved from this procurement then the switch from landfill to RDF would not happen.

9. Legal Implications

Procurement route

- 9.1 Refuse disposal and treatment services are a Part A service under the Public Contracts Regulations 2006. Given the potential value of the services of circa £13-15 million i.e. above the current EU thresholds, the full regime of the Regulations will apply to this procurement. The procurement will be advertised by way of an OJEU notice and the Open Procedure (with a combined pre-qualification questionnaire and tender stage) has been chosen by ECC. The chosen procedure is permitted under the Regulations but it should be noted that there will be no scope to engage with bidders by way of negotiation or dialogue.

Interface with the MBT Contract and Integrated Waste Handling Contract

- 9.2 While this procurement aims to secure a disposal solution for the MBT outputs, there are no inter-dependencies with this procurement in relation to consents. The MBT facility has already been granted planning permission and any permits and consents for the operation of the MBT facility will be or have already been secured by the MBT contractor.
- 9.3 In relation to the MBT outputs, ECC and SBC as the waste disposal authorities are under an obligation under the Environmental Protection Act 1990 to manage the treatment and disposal of waste collected by the waste collection authorities within their boundary. As such, this procurement falls within that obligation. In order to ensure that the RDF contractors do not place ECC in breach of its

obligations, such contractors will be required to comply with all relevant waste treatment legislation and provide evidence of appropriate licences, permits and consents to treat the MBT outputs.

- 9.4 ECC is responsible for the haulage of the MBT outputs to either a landfill site or a delivery point nominated by the RDF contractor. Such haulage will be carried out by the contractor appointed under the Integrated Waste Handling Contract which was signed in March 2013. Again, any required licences, permits and consents to haul such MBT outputs will have to be provided by that contractor.

10. Consultation

- 10.1 Public consultation in relation to the MBT facility took place during the planning application process. The planning permission was awarded on 6 December 2012; reference ESS/22/12/BAS. The content of the application is available here <http://www.ubbessex.co.uk/planning-application>.
- 10.2 The RDF Disposal Contract does not make any change to existing or previously approved services; it simply provides the commercial framework for how MBT outputs are disposed of. The Environmental Statement submitted as part of the planning application provides information on potential impacts and mitigation including traffic, noise, odour, emissions, biodiversity, socio-economic benefits and other construction and operational aspects. It is considered, therefore, that there is no need for further formal consultation for this proposal.
- 10.3 However, there will be full consultation with the Waste Member Board before any contract is awarded and their views will be taken into account in that process.

11. People Implications

- 11.1 The RDF Disposal Contract being procured has no staffing implications, either in relation to ECC staff or at any partner or contractor organisation.
- 11.2 The RDF Disposal Contract being procured has no property implications.

12. Equality and Diversity implications

- 12.1 In making this decision the Council must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act 2010, ie have due regard to the need to: A Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. B Advance equality of opportunity between people who share a protected characteristic and those who do not. C Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 12.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.3 The PSED covers service users, staff and members of public as a whole who are potentially affected by the proposals addressed in the Report.

- 12.4 The PSED is a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered and may be balanced against other relevant factors. It is, however, important to demonstrate that it has been considered.
- 12.5 This decision was screened for Equality and Diversity issues as part of the award of the MBT Contract on 21st March 2012, and it is not considered that the recommendation to procure and award a RDF Disposal Contract will have a disproportionately adverse impact on persons who share any relevant protected characteristic. Therefore a Section 2 Equality Impact Assessment is not considered necessary.

13. Background papers

- 13.1 ECC Joint Municipal Waste Management Strategy – <http://bit.ly/1cNQadM>
- 13.2 Southend-on-Sea Borough Council Municipal Waste Management Strategy – <http://bit.ly/HJ3CBh>
- 13.3 Residual Waste Treatment Contract, May 2012 – The RDF is derived as an output from this contract.
- 13.4 Cabinet Decision for ECC/SBC Waste Partnership – JWA – MBT facility.

14. Appendices

There are no appendices included in the report.