

PROSIECT GWYRDD JOINT SCRUTINY PANEL

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON FRIDAY, 7TH OCTOBER 2011 AT 10.00 A.M.

Present:

Councillor C. J. Williams - Chairman (Vale of Glamorgan Council)

Councillors:

Councillors M. G. Parker and D.V. Poole (Caerphilly County Borough Council)

Councillor R. McKerlich (Cardiff County Council)

Councillor Ms. V. Smith (Monmouthshire County Council)

Councillors B. Bright and S. Jones (Newport City Council)

Councillor Mrs. M. Kelly-Owen (Vale of Glamorgan Council)

Together with:

J. Rogers, J. Jones and C. Forbes-Thompson (Caerphilly County Borough Council),

P. Keeping (Cardiff County Council), H. Ilett (Monmouthshire County Council), D. Collins

(Newport City Council), J. Wyatt (Vale of Glamorgan Council)

Prosiect Gwyrdd Officers:

M. Williams (Project Director), I. Lloyd-Davies (Communications Officer) and M. Falconer (Finance Manager).

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from D. Perkins (Caerphilly County Borough Council), M. Williams (Caerphilly County Borough Council), R. Quick (Vale of Glamorgan), Councillors S. Wakefield (Cardiff County Council) and S. Howarth (Monmouthshire County Council)

2. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

3. MINUTES - 22nd JULY 2011

It was agreed that the minutes of the meeting held on 22nd July 2011 be approved as a correct record.

4. EXEMPT MATTER

Members considered the public interest test certificate from the Proper Officer and concluded that on balance the public interest in maintaining the exemption outweighed the public interest in disclosing the information and it was

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the remainder of the meeting because of the likely disclosure to them of exempt information as identified in paragraph 14 of Part 4 of Schedule 12A of the Local Government Act 1972.

PRESENTATION SHORTLISTING PROCESS

Mr M Williams (Prosiect Gwyrdd) gave a presentation to explain the shortlisting process. At the previous meeting there was debate on the procurement process and how it arose that all three final bids are all energy from waste (EfW) proposals.

Pre-Qualification Questionnaire

Mr Williams explained the procurement process started with the initial invitations to potential interested parties. The Pre-Qualification Questionnaire (PQQ) followed this and ensured that only those financially and technically able to provide the service would go forward to the next stage. In order to evaluate the PQQ's an evaluation matrix was devised and consisted of 12 criteria that included, general company information, eligibility (legally entitled to participate), technical capacity and ability, environmental and quality management and financial and economic standing. In total 47 interested parties expressed initial interest and 36 downloaded the PQQ. There were 14 PQQ's returned and of these 2 were immediately rejected because they did not meet the criteria and a further 2 were rejected when they failed to complete the eligibility and certification form. This left ten potential bidders with the top 8 were taken through to the next stage.

Competitive Dialogue

The commencement of competitive dialogue started in May 2010 with the aim to find the most economically advantageous tender that best meets the Partnership requirements and is in line with EU procurement rules. The Invitation to Submit and Outline Solution (ISOS) asked the top 8 to submit outline solutions. The Project Board and the Joint Committee approved the methodology for the ISOS, which gave each bidder the opportunity to submit 2 solutions, which were not limited in terms of the type of solution. The aim was to select the four highest scoring solutions. This resulted in four bidders submitting five solutions; all five were EfW, with one bidder submitting two EfW at two different sites. The lowest scoring solution was de-selected.

Four companies were invited to the 'Invitation to Submit a Detailed Solution' (ISDS) stage and in March 2011 one company withdrew its submission. The remaining companies are at different stages of the planning process.

Energy From Waste

Mr Williams outlined the background to the final bidders all submitting EfW solutions. He stated that in England the majority of solutions have been EfW. There have been 42 residual waste projects in England and 29 are EfW. There were 8 Mechanical Biological Treatment (MBT) to fuel solutions, however the fuel output has either gone into EfW, Gasification or been exported to Europe. A further 4 are also MBT but with a landfill output, the result is compost like output that has a limited use that cannot be used on land for food production or animal grazing. There was 1 autoclave solution, which involves the steam cleaning under pressure of the residual waste, the process can vary but there is no sustainable market for the output. The result is a product that cannot go to landfill because it is still organic, and will most likely go to a Gasifier or EfW.

Evidence of Bias

Mr Williams looked at the procurement process to see if there was any evidence of bias towards an EfW solution. He stated that there was a Stakeholder (Member) Evaluation workshop in September 2009, and a Scrutiny Workshop on the evaluation methodology in December 2009. The technology neutrality was tested with the Joint Committee in January 2010 when they were asked if they saw any bias towards EfW. In February 2010 the technical advisors were also asked if they saw any bias towards EfW and they confirmed there was none.

Mr Williams stated that he could see no real bias in the procurement process however there may have been some influence towards EfW from the following:

Reference Project

Mr Williams stated that the outline business case (OBC) required a reference project to be developed. This allows a financial assessment to be carried out. The reference project chosen was EfW and it is possible that the market may have interpreted that this was what was required. Councillors asked why EfW was chosen and it was explained that various technologies were assessed against a number of criteria and it was not intended to be a signal to the market. The Project Board and individual local authorities approved the reference project and Welsh Government (WG) approved the Business Case. It was widely communicated that the reference project was only a model for the business case and the project was open to any technology that met the Partnership's published requirements.

Landfill Diversion Authority Requirement

Mr Williams stated that because of this existing requirement upon local authorities any solution from bidders that offered a landfill option would not do well. This would impact negatively upon any MBT solutions that have a landfill output.

Extra Recycling Authority Requirement

This requirement would normally favour alternative technologies, however WG have allowed bottom ash as 'recycling', which may neutralise this benefit or in some cases favour EfW technologies.

Most Economically Advantageous Tender

This is defined by the evaluation criteria and has a cost element. EfW is often less expensive.

Alternative Technologies

Alternative technology solutions have been prominent in local authority waste projects when local authorities have communicated anti-incinerator policies to the market. But in situations where there is no such policy EFW will often be successful.

Members suggested that technological solutions that have moved on since the procurement process commenced and health considerations should have a higher weighting. It was proposed that in view of the withdrawal of one of the final 4 bidders that consideration is given to allowing an alternative newer technology to take the place on a 'wildcard' basis. Mr Williams stated that all technologies have some element of burn of the end product.

Mr Williams discussed reasons why alternative technologies could not be sought and introduced at this stage of the procurement process. He stated that fundamental principles of procurement require equal treatment, transparency and non-discrimination. If the Partners wanted to seek alternative technologies at this stage the procurement process would have to stop and start again from the beginning.

5. GATE FEE MODEL AND GAIN SHARE

Mr M Falconer (Prosiect Gwyrdd) gave a presentation to outline a generic financial model for the successful contractor over the facility operating period. The model covers Cost, Income and Contractors Profits. The typical costs include repayment of debt incurred in building the facility at 45% and operational costs at 55%. Income includes the Prosiect Gwyrdd (PG) gate fee that covers a guaranteed minimum payment. It would also include third party waste, from other local authority gate fees and commercial and industrial gate fees, as well as electricity /energy income from treating both sources of waste.

Members asked if there is a restriction preventing the successful bidder from offering lower gate fees to other customers. Mr Falconer stated that this issue in relation to Other Local Authority Gate fees had been discussed in dialogue with a favourable response although the exact details had not yet been agreed. Restrictions on other Third Party gate fees may inhibit

the bidders commercial flexibility and may not be a valid comparison when factors such as different contract lengths, Welsh Government grant, etc are considered.

The bidders are all proposing plants with capacity in excess of PG requirements, with capacity varying from 256,000 to 750,000 tonnes per annum. In these cases Third Party Income and Electricity Income are much more significant than if the facility was sized for Prosiect Gwyrdd needs.

The gate fee is set on the basis of the contractor's model, which assumes the plant will operate to capacity. They will also make an assessment of the availability of third party tonnage, the market rate for commercial and industrial waste (C & I) and other municipal solid waste (MSW). The electricity income is another factor in their modelling and PG waste fills the gap to achieve the contractors target rate of return.

Risks

The risks to the project were outlined in that the Contractor will bear the risk of any shortfall in third party income both from reduced tonnage and from reductions in expected gate fee. PG would take the risk of not meeting its guaranteed minimum tonnage (GMT). Members discussed the risks should a contractor fail and go bankrupt. Mr Williams stated that termination provisions are set out in the contract and in some cases PG can step in to run the plant.

Pro-rata

The pro-rata concept was explained in that PG would only pay for its share of the facility for any 'oversized' facility. Members asked how the figures are calculated and it was explained that the normal approach is to apportion based on PG tonnage relative to the total capacity of the facility.

6. FORWARD WORK PROGRAMME

Mr J Jones stated that he had liaised with Mr Mike Williams (PG) to develop a draft forward work programme that is linked to the key deliverables of the PG project. It is proposed that meetings are arranged as follows:

- November 2011 - The joint working agreement
- December 2011 – Shortlisting of final 2 bidders.
- January 2012 – call for evidence invitation to key stakeholders.
- (Date to be determined) – to consider final joint working agreement.

It was agreed that there should be careful consideration of the key stakeholders to be invited to the meeting in January 2012. Suggestions included an Expert Witness who has received peer validation of their work, Friends of the Earth, Welsh Chief Medical Officer, the Environment Agency and an Industry Representative (to give a balanced view). It was agreed to discuss this at the next meeting.

Action: Agenda for next meeting to include stakeholders to be invited for January 2012 meeting.

Mr Jones asked Members to consider changing the day of future meetings, as Fridays are difficult for the PG Legal Officer. It was agreed to change the day to Monday afternoons, Mr Jones to change the dates suggested in the forward work programme accordingly.

Action: Dates for future meeting to be amended.

7. MEMBER ENGAGEMENT

Mr Mike Williams (PG) stated that PG Project Team are keen to obtain feedback from Members and asked for suggestions on how future awareness raising could take place. Members suggested attending Council meetings at local authorities and writing to group leaders and including information in induction pack for Members after the May 2012 elections. Given the importance of this issue, it was suggested that a further session on member engagement be held at a future meeting.

8. TO RECEIVE AND NOTE THE INFORMATION ITEMS

The minutes of the Project Gwyrdd Joint Committee held on 21 March 2011 and 18 July 2011 were noted.

9. ANY OTHER BUSINESS

Mr Mike Williams stated that at the last meeting of the Joint Committee the issue of site visits by the Joint Scrutiny Panel was discussed. The Joint Committee did not feel it was their role to say yes or no and the joint scrutiny panel should decide.

Meeting Closed at 12:48 p.m.