

NORTH LANARKSHIRE COUNCIL

REPORT

AGENDA ITEM No. 5

To: PLANNING & ENVIRONMENT COMMITTEE		Subject: Scottish Executive's Consultation on Guidance for Applications to Strategic Waste Fund for Long Term Waste Management Projects to meet EC Landfill Directive 1999-31-EC
From: DIRECTOR OF PLANNING AND ENVIRONMENT		
Date: 17 August 2005	Ref: RD	

1. Purpose of Report

- 1.1 To advise Committee of North Lanarkshire Council's response to the Scottish Executive's recent consultation on the Guidance Document for Applications to Strategic Waste Fund for Long Term Waste Management Projects to meet EC Landfill Directive 1999-31-EC.

2. Background

- 2.1 This purpose of the Guidance Document is to describe the process whereby bids are invited to the Strategic Waste Fund (SWF) from Scottish local authorities to assist with delivery of medium to long-term waste treatment infrastructure to meet the targets outlined in the National Waste Plan and Landfill Directive. All Scottish local authorities are eligible to bid for support but funding for every project cannot be guaranteed. Funding decisions will be taken on a Scotland wide priority basis and will depend on the outcome to the spending review process in 2006. Given pressures on public spending it is inevitable that SWF awards will be constrained. Consequently, local authorities should bear this in mind when compiling Strategic Outline Cases for funding and make every effort to identify value for money solutions.
- 2.2 It should be noted that the guidance states that; "The Scottish Executive has identified that there is a potential gap in 2010 between the amount of BMW that needs to be diverted to meet the Landfill Directive target in that year and what will be delivered by the projects funded thus far. In light of this Scottish Ministers have agreed to deal with three procurements in the central belt in advance of decisions on the remainder of local authorities that follow. The three projects concerned are: Edinburgh, Lothians and Borders; North/South Lanarkshire; and the Glasgow/East Renfrewshire. This approach will depend on emerging proposals from these clusters of local authorities meeting the success criteria detailed at paragraph 9 above; the resources made available to the SWF; and Ministerial approval being secured. All other projects will be considered equally and concurrently."
- 2.3 This report details North Lanarkshire Council's response to said Guidance Document.
- 2.4 A copy of the Draft Guidance Document has been placed within the Members library.

3 Sustainability Implications

- 3.1 Waste must increasingly be managed as part of an integrated process that entails a shift from the current culture of waste disposal to one of resource management that will make a significant contribution towards promoting a more sustainable infrastructure and economy in Scotland.
- 3.2 The National Waste Plan, incorporating the completed Area Waste Plans, was launched by the Scottish Executive on 24 February 2003. It provides a framework within which Scotland can reduce the amount of waste produced and approaches waste management in a more sustainable manner. It laid down a strategy by which Scotland could meet its obligations under the terms of the EU Landfill Directive.
- 3.3 The Scottish Executive has established a specific grant scheme known as the Strategic Waste Fund, used for allocating money to Local Authorities to invest in plans to help implement the National Waste Strategy.

4 Proposals/Considerations

- 4.1 The Guidance Document provides a framework for LAs that wish to apply for financial support from the Strategic Waste Fund (SWF) towards procurement of waste management infrastructure designed to treat residual municipal waste and divert biodegradable municipal waste from landfill (phase 2 infrastructure).
- 4.2 SWF support for Phase 2 infrastructure can be provided for projects procured through capital grants as well as lease/loan charge or PPP support. However, due to the need to transfer risk to parties best equipped to manage risks it is envisaged that PPP will feature prominently in procurement of phase 2 infrastructure.
- 4.3 North Lanarkshire Council's response to the Draft Guidance Document is included in this report (Appendix 1).

5 Corporate Considerations

- 5.1 The actions reported to the Committee are consistent with Policy and there are no Personnel, Finance or Property implications in the Report.

Recommendations

- 6.1 That the Committee notes the terms of the Report and approves the submission of the proposed response to the Scottish Executive.
- 6.2 That this report is remitted to Community Services Committee for information.

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Local Government Access to Information Act: for further information about this report, please contact Robert Docherty, Waste Strategy Project Team, on 01236 812353.

Appendix 1 - GUIDANCE FOR APPLICATIONS TO STRATEGIC WASTE FUND FOR LONG TERM WASTE MANAGEMENT PROJECTS TO MEET EC LANDFILL DIRECTIVE 1999-31-EC

North Lanarkshire Council Comments

7. Grant Awards

- 7.1** *SOCs will be used by the Scottish Executive to give an indicative award once the outcome of SR2006 is known. Final grant awards will be determined before the selection of the preferred bidder (PPP projects) or the selection of the winning tender (non PPP projects). No adjustments in the award will be made after this stage. In all cases, grant will be based on the Department's assessment of the net cost of providing the relevant infrastructure (further guidance on this will be issued in due course). This means that SWF support for projects will not be provided at 100% of the contract cost and it will be a pre-requisite of eligibility for funding that local authority contributions to costs will be made.*

It would seem to North Lanarkshire Council unusual to determine the level of grant support prior to the selection of the preferred bidder. This would leave the Councils exposed to any increases in cost which might result from the negotiation with the preferred bidder. At that stage, the Scottish Executive will have representatives on the project board and therefore one might think that they would be prepared to underwrite the cost of any changes that resulted from negotiations in which they had themselves been involved.

- 7.4** *The Scottish Executive reserves the right to rescind SWF support where a project fails to proceed as originally planned, and/or reduce payments if subsequent changes in a contract call into doubt the continuing validity of the original assumptions made in the calculation.*

Once again it would seem to North Lanarkshire Council unusual to determine the level of grant support prior to the selection of the preferred bidder, as the original assumptions on which payments would be calculated would be those applied at preferred bidder stage. These assumptions may change due to time delays in the negotiation period – e.g. waste data updated (actual waste growth applied) – or through the actual contract negotiations. At that stage, the Scottish Executive will have representatives on the project board and therefore one might think that any assumptions and SWF support should be applied at a later stage than that proposed or the Scottish Executive should be prepared to accept any changes in assumptions and underwrite the cost of any changes.

In addition, it is of extreme concern that modelling has been carried out for a twenty five year period, when there has been no confirmation as to the exact landfill allowance that has been allocated to the Council for the majority of that period. This may result in the Council receiving a lower Landfill Allowance than modelled. This would have the effect of the Council having to treat more waste than projected (the SWF will only fund the minimum amount of treatment required to meet targets – this amount being based on the Councils technical model) and thus increasing the Councils affordability gap. As the level of SWF will be set at preferred bidder stage there would appear to be no mechanism to request additional funding, even though said funding would be required to cover the shortfall brought about by targets being tightened by the Scottish Executive

10. **Projects proceeding in advance of this process**

- 11.1 ***The Scottish Executive has identified that there is a potential gap in 2010 between the amount of BMW that needs to be diverted to meet the Landfill Directive target in that year and what will be delivered by the projects funded thus far. In light of this Scottish Ministers have agreed to deal with three procurements in the central belt in advance of decisions on the remainder of local authorities that follow. The three projects concerned are: Edinburgh, Lothians and Borders; North/South Lanarkshire; and the Glasgow/East Renfrewshire. This approach will depend on emerging proposals from these clusters of local authorities meeting the success criteria detailed at paragraph 9 above; the resources made available to the SWF; and Ministerial approval being secured. All other projects will be considered equally and concurrently.***

Paragraph 10.1 which indicates that the Scottish Executive are prepared to deal with the three procurements mentioned in the paragraph in advance of the process for the rest of Scotland is encouraging. However, taking cognisance of the timescales involved in the procurement process, planning process and the construction of treatment facilities, it is believed that the potential gap between the amount of BMW that needs to be diverted to meet the Landfill Directive target may extend beyond 2010. What consideration has been given by the Scottish Executive with regards to this issue? It is believed that without treatment infrastructure it is highly improbable that the landfill allowances will be met.