

Item 5ii: Governance – Intermediate agreement

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1. It was reported to the Hertfordshire Waste Partnership in July that a legally binding agreement would in due course be required to support the process of procurement of residual waste treatment facilities. The amended Memorandum of Understanding (item 5i on this agenda) provides adequate assurance to the Department of Environment, Food + Rural Affairs and HM Treasury for their assessment of the Outline Business Case for waste PFI credits. A more robust agreement between HWP partners will have to underpin the stages which follow.
2. It is proposed that an intermediate *inter-authority agreement* is put in place for the period between approval of the Outline Business Case (March 2009) and preferred bidder selected (September 2010). Such agreements have been established between councils in other areas, help to give confidence to prospective suppliers and clarity to local authorities over roles and responsibilities.
3. The intermediate agreement would build upon the principles and joint-working approach contained in the MoU and set out, amongst other things, how recycling credits (the alternative financial model) and trade waste would be dealt with. The agreement would be enforceable between the parties and would contain a dispute resolution procedure. It would be executed as a deed under seal.
4. From the award of contract (March 2011) a longer term agreement would be sought to cover the period of the contract (c.25 years). This agreement would, in turn, build upon the intermediate agreements and ideally would be included in the Final Business Case to be submitted to Defra in November 2010.
5. The HWP Directors' Group discussed this at their recent meeting and agreed that they would attend a workshop where external advisors, including those from other local authority areas, would describe the likely contents of an inter-authority agreement in more detail. Legal officers from each council would be asked to join the event with the intention of starting work on a Hertfordshire version. It is envisaged that a draft agreement will be presented to the Members' Group at the meeting on 26th January 2009.

FOR DISCUSSION / DECISION

1. The Members' Group will note the timetable for the introduction of an intermediate inter-authority agreement, proposed to be in place by March 2009.
2. The Members' Group will also note the Directors' Group agreement to begin detailed discussions on an agreement at a workshop which will involve legal officers from all councils.