



defra

Department for Environment
Food and Rural Affairs

Telephone 08459 335577
Website www.defra.gov.uk

Mr Bill Jennison
Head of Countryside and Environment
West Berkshire Council
Council Offices
Faraday Road
Newbury
Berkshire
RG14 2AF

Date: 3 June 2003

Dear Bill

West Berkshire Waste PFI scheme

I am writing to inform you of the outcome of your application to this Department for PFI credits for the West Berkshire waste PFI project. You originally submitted an outline business case (OBC) in June 2002. Following recommendation by the Department, the project was assessed at the meeting of the inter-departmental Project Review Group (PRG) on 6 May 2003. The PRG has, after consideration, agreed that your project should receive central Government support. It will appear in the next revised list of endorsed local authority PFI projects, available at <http://www.local.odpm.gov.uk/pfi/indexnew.htm>. This letter confirms that revenue support - determined by the value of the PFI notional credit approval (NCA) - will be made available. PRG endorsement has been granted subject to the following condition(s):

1. Confirmation of the appointment of a suitable project manager.

In relation to planning, the authority should consider all implications and mitigate planning risk. In addition the authority should take account of the advice offered in the waste procurement toolkit.

Once you are clear about the value of the eligible expenditure under the contract you may require a promissory note confirming the level of support you can expect to receive from the Department. Please let us know if that is the case.

We will formally issue an NCA following contract signature. However before this is done we will need to approve the final business case (FBC) for the project. This should be sent to the Department once you are confident that its contents will not change further. It should take the form of a short document stating where the business case remains as set out in the OBC and where it has changed, with a fuller explanation for any changes.

Support for this project depends on the project meeting the criteria set out in the attached note "Criteria to be met by all projects seeking PFI credits". This note also sets out the additional documents that should be provided along with the FBC and contract when these



INVESTOR IN PEOPLE



are submitted to the department. Please keep in touch with us about your project so that we can assess progress. As a minimum you should send the Department an annual progress report briefly reports on progress to any documentation and highlights any material changes. You should let us know as soon as possible if you consider that any of the following conditions seem likely to change:

1. On the basis of your OBC, we expect the NCA to be £23.74m. Whilst we will consider requests for increases to that amount, you should not assume that such requests will be agreed and should consequently plan the further stages of the project's procurement on the assumption that no more will be forthcoming.
2. Support is conditional on the project reaching contractual close no later than your revised date of September 2005. Failure to achieve contractual close by this date could mean withdrawal of support for the project and you must therefore notify DEFRA with an explanation of the reasons if you should need an extension to the deadline.
3. You have confirmed that you will use standardised contract documentation in relation to the project as far as possible. We expect this to include the use of current OGC guidance on 'Standardisation of PFI Contracts' which includes guidelines on each aspect of the PFI contract development. Where that is not possible, your authority should advise the Department of any departures from standard terms.

This letter is without prejudice to any other consent that may be required, for example, in connection with planning legislation.

Yours sincerely,



Steven Daniels

Direct Line: 020 7944 6405

Fax: 020 7944 6409

Email: steven.daniels@defra.gsi.gov.uk

(A) CRITERIA TO BE MET BY ALL PROJECTS SEEKING PFI CREDITS

Revenue support for this project depends on the project continuing to meet the relevant published criteria available on the ODPM website at <http://www.local.odpm.gov.uk/pfi/indexnew.htm>

In particular, you are reminded of the requirements to:

- (a) Use standardised contract documentation, namely 'Standardisation of PFI Contracts' and 'Standardisation of Local Authority PFI Contracts' in relation to the project as far as possible keeping in mind the specific requirements of Waste PFI. Where that is not the case, your authority should advise the Department of any departures from standard terms.
- (b) To provide the Department with all information/documentation about the project at no cost and with advice on commercially sensitive material that should be protected. Agree to share non-commercial documentation with other local authorities procuring similar projects, at no cost to those authorities; and to give access to the final contract documents, at no cost, with the exception of any areas of genuine commercial sensitivity.

When the FBC and contract documentation is submitted to the Department this should therefore be accompanied by:

- A brief note that highlights any changes that have occurred from OBC stage to FBC and any accompanying explanation for these.
- A document that covers any deviance from SoPC guidelines and the reasons for these deviations. This is necessary to ensure swift assessment of the contract documentation by our legal team.
- A short note that highlights how the authority will ensure delivery of the provided outputs including details of any financial incentives and penalties in the contract and at what stage these will come into force.

DEFRA must be informed immediately if the scope, timetable or any other aspect of the project is changed in any material way from the case agreed. If that happens you would need to provide information about any changes that have affected either the nature of the scheme or the potential amount of the PFI credit. You would not be able to rely on existing letters as entitling your authority to a PFI credit and the Department would need further confirmation that, notwithstanding the changes, the transaction still met the criteria mentioned above.

Revenue support will be paid as Special Grant and calculated according to the formula set out in the Special Grant Report which will be published for the relevant financial year. Revenue support will start in the first year in which your authority's payments under the contract are made. Your authority will need to ensure that funds are available to cover that part of the payments to the contractor which will not be met by central Government.

Revenue support is not intended to match or correlate directly to the payments that arise under a PFI contract. However, the Government is committed to supporting good PFI projects and to assisting the development of PFI in the local authority sector. Its policy is therefore to maintain revenue for PFI projects in the long term, consistent with the long-term nature of PFI contracts, even though formally such support cannot be guaranteed as it forms part of the annual Local Government Finance Settlement.

Termination of a PFI contract would not of itself lead the Government to reassess the level of revenue support due to a local authority other than in exceptional circumstances, such as, for example, where continuation of support would unduly enrich the local authority or reward it for a deliberate abuse of the PFI contract. In such exceptional circumstances, however, the Government would expect to take steps with the local authority to ensure that the local authority was not thereby prevented from meeting in full its liabilities to the PFI contractor and its funders arising as a result of the early termination of the PFI Contract.