

**CHANGE TO WASTE PRIVATE FINANCE INITIATIVE (PFI) CONTRACT
MECHANICAL BIOLOGICAL TREATMENT (MBT) FULL SERVICE ACCEPTANCE
TESTING**

To: **Cabinet**

Date: **Tuesday 17th April 2012**

From: **Executive Director Economy Transport & Environment**

Electoral division(s): **ALL**

Forward Plan ref: **Not applicable** *Key decision:* **No**

Purpose: **The report seeks Cabinet approval of the Waste PFI Delivery Board decision (19th March 2012) to change the biodegradability testing from BM100 to BMc as a result of updated guidance requirements received from the Environment Agency since the contract was signed. The Terms of Reference (TOR) of the PFI Delivery Board state that contract changes should be recommended to Cabinet for approval.**

Recommendation: **Cabinet is asked to approve the Waste PFI Delivery Board decision to accept the change of biodegradability testing from BM100 to BMc.**

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1. BACKGROUND

- 1.1 AmeyCespa requested a Contractor Change to the PFI Contract on 10th September 2010. The proposed change focuses on one main issue:
 - Changing the respiration test referenced within the contract from BM100 to BMc.
- 1.2 As soon as reasonably practicable Cambridgeshire County Council (CCC) sought the technical advice of Jacobs Engineering UK Ltd to enable relevant parties to make a decision as to whether the proposed change had any adverse impact on CCC. The following information is based on Jacobs's technical advice and information gathered at operational meetings concerning the MBT (Mechanical Biological Treatment) the key finding of their advice was that:
 - CCC accept the change from the BM100 test to the BMc test. The tests are comparable in their results and methodologies. The majority of laboratories are likely to have switched to the BMc test and trying to find a contractor who will undertake the BM100 test may in itself introduce a risk.
- 1.3 A decision on the change is now required since AmeyCespa are about to start Full Service Acceptance (FSA) testing which must be completed by 9th November 2012. This is the longstop date, after which AmeyCespa are in breach of the PFI contract and CCC have the option to terminate.
- 1.4 A detailed paper was taken to the PFI Delivery Board on 19th March 2012. In reviewing this Contractor Change the PFI delivery board considered the risks to CCC and the board recommended that CCC proceed to BMc testing.
- 1.5 The Terms of Reference (TOR) of the PFI Delivery Board state that contract changes require to be recommended to Cabinet for approval. Hence this paper being submitted.

2. MAIN ISSUES

2.1 Proposed Change

The 28-year PFI contract was signed on 11th March 2008. The contract included reference to the Environment Agency publication 'Guidance on Monitoring MBT and other pre-treatment processes for the landfill allowance schemes (England and Wales)' which was published in 2005. An updated version of this Guidance was published in 2009.

The 2009 revised Guidance contains greater clarity on several key aspects including:

- The appropriate sampling and testing regime
- Determination of the reduction factors
- Revised anaerobic biodegradability test BMc.

2.2 Respiration Testing

The purpose of the testing is to establish the reduction in biodegradability of the waste as it is treated in the MBT facility. Samples are taken at the start and end of treatment in order to calculate the relative reduction in biodegradable content of the waste.

One change between the 2009 and 2005 Guidance is the updating of the test from BM100 to BMc. The 2005 Guidance stated that the BM100 test would last up to 100 days, or more, until gas production ceased. The revised BMc test also lasts until production of gas ceases, but the main beneficial differences include:

- Changes to the nutrient solutions
- Increases in microbial seed content
- Use of nitrogen in the test vessel headspace
- Use of salt saturated acidified water in the bath

The BMc regime is likely to lead to higher, more accurate results

2.3 Purpose of Acceptance test

The purpose of the acceptance test is for AmeyCespa to demonstrate to CCC that the MBT facility will operate as predicted and achieve the required reduction in biodegradability over 7 weeks.

2.4 Process of Change

The change in testing regime has been reflected in a deed of variation between CCC and AmeyCespa showing changes to Schedule 19 and Schedule 25 of the PFI contract.

Internal legal advice has been sought in the production of the Deed.

It should be noted that the Deed of Variation process has been used to tidy up some minor changes to the contract in addition to agreeing the changes specified in detail above. The minor changes include the new names of AmeyCespa Directors.

3. ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING

3.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

3.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

3.4 Ways of Working

The following bullet point sets out implications identified by officers for:

- *Making sure the right services are provided in the right way* – By working with AmeyCespa the Waste PFI contractor, value for money waste services will be able to be provided in a sustainable way.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource and Performance Implications

There are no significant implications for any of the prompt questions within this category”

4.2 Statutory, Risk and Legal Implications

There are no significant implications for any of the prompt questions within this category”

4.3 Equality and Diversity Implications

There are no significant implications for any of the prompt questions within this category”

4.4 Engagement and Consultation

There are no significant implications for any of the prompt questions within this category”

Source Documents	Location
Environment Agency (EA) Guidance 2009	http://publications.environment-agency.gov.uk/PDF/SCO1009BREB-E-E.pdf