

REPORT TO: Executive Board

DATE: 23 May 2013

REPORTING OFFICER: Strategic Director, Children and Enterprise

PORTFOLIO: Physical Environment

SUBJECT: Waiver of Standing Orders under Emergency Procedures in respect of Daresbury RGF Project.

WARD(S) Borough-wide

1.0 **PURPOSE OF THE REPORT**

1.1 The purpose of the report is to notify members that a waiver of standing orders was granted in respect of the Scottish Power element of the Daresbury Regional Growth Fund Programme.

2.0 **RECOMMENDATION: That Members note that a waiver of standing orders under SO1.8.1, “emergency waiver via the Chief Executive”, was obtained to allow us to contract for the electricity connection for Daresbury Laboratory with SP Power Systems Ltd in the sum of £3.93m. This allowed us to enter into the contract within the timescales necessary for Regional Growth Funding.**

3.0 **SUPPORTING INFORMATION**

3.1 **Regional Growth Fund**

The application for Daresbury Enterprise Zone for £9.77m was approved on 19th October 2012 and includes four key components:

Project Tech Space - the construction of grow-on high quality, office and specialised laboratory space meeting demands for growing lab-based businesses; £10.1m

Power (Phase1) - increasing power supply to 20 MVA to facilitate the Science and Technology Facilities Council future R&D programmes and collaborations with private sector; £6.965m

3.2 **Environmental Improvements** - site acquisitions, site clearance, and landscape improvements to create a critical mass of development land within a high impact environment; £2.12m

Transport Improvements - to provide enhanced public transport provision to and from Sci-Tech Daresbury and improving access to job opportunities for all (especially young people) and maximising business growth through access to the right skills; £350k

We are currently in the due diligence period for RGF, with a final offer letter expected by 19th May.

- 3.3 As part of the process STFC colleagues met with Scottish Power (SP) and at the meeting the criticality of timing became clear and if SP is to complete the works within the timeframe allowed by RGF, the SP offer letter would have to have been accepted by the end of April 2013. STFC advised that this would have significant procurement issues for STFC and to ensure the timetable could be met a proposal was made to the Chief Executive that Halton Borough Council should enter into the contract with Scottish Power.

A further extension for the SP contract to 31st May to coincide with the RGF Offer was secured.

- 3.4 The SP works include contestable and non-contestable works. Advice has been sought from Arups regarding a single tender case, contracting for both contestable and non-contestable works with SP. Given the extent of the works and level of investment by SP being such a significant proportion of the contestable works, Arups consider the best option for Halton Borough Council is to place an order directly with SP. Further details in Section 7 Risk Analysis.

- 3.5 The power element is an integral part of the RGF programme and without it there is a risk to securing the RGF funding for the whole programme.

- 3.6 In view of the above it was imperative that the contract was entered into by mid-May. Following discussions with the Head of Procurement it was agreed that the most appropriate course of action was to obtain a waiver of standing order 4.1 Competition requirements under SO1.8.1, "emergency waiver via the Chief Executive" to allow us to contract with Scottish Power. The waiver was duly requested and obtained.

- 3.7 Value for Money

The contract value is £3.93m, therefore below EU thresholds. Scottish Power also advised that SP Manweb have a licence obligation to determine the cost of any connection in accordance with the Ofgem approved Connection Charging Methodology Statement to ensure a consistent approach in the way your Connection Charge is calculated (for clarity Ofgem is a statutory body). In doing so, they must determine the minimum scheme which is the lowest overall capital cost to provide the required capacity.

- 3.8 Transparency
The contract will be subject to the standard audit process.
- 3.9 Propriety and Security
The usual integrity clauses will be built into the contract document and only staff with a need to know will have information about the contract.
- 3.10 Accountability
Accountability would remain with the Operational Director awarding the contract.

4.0 **POLICY IMPLICATIONS**

- 4.1 The Daresbury strategic site is included in the Council's Corporate Plan, the Halton Partnership and Halton Borough Council Urban Renewal Strategy and Action Plan, and supports the Council's Urban Renewal corporate priority. Grant funding is essential to facilitate the delivery of Daresbury.

5.0 **OTHER/FINANCIAL IMPLICATIONS**

- 5.1 The funding would come directly to Halton Borough Council as the accountable body from the RGF grant, this is subject to a Final Grant Offer which we expect to receive around the 19th May.

There is also a VAT element to the project of approximately £830k which STFC would need to pay. STFC have been made aware of this.

We would not enter into the contract with Scottish Power before the RGF funding is in place and a commitment is given by STFC.

Providing we can secure the RGF and the STFC funding, we would have all the funding in place to procure the Power and no Council funding would be required. A funding code will be set up for the Daresbury programme in order to receive the RGF for the whole programme and to pay partners for the individual elements.

As with any grant there is a risk of clawback in the event the outputs, jobs in this case, are not delivered. As with the 3MG project we would propose to use a back to back contract between the Council and the JV so that all the risks are passed to the JV.

The JV Board on the 26 April were asked to endorse the action and to accept the risk of clawback. The contract with SCP needs to be entered into before the 31st May. However, if the JV Board fail to

agree or if either funding source is not confirmed we will not enter into the contract.

6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

None

6.2 **Employment, Learning & Skills in Halton**

None

6.3 **A Healthy Halton**

None

6.4 **A Safer Halton**

None

6.5 **Halton's Urban Renewal**

The Daresbury strategic site is included in the Council's Corporate Plan, the Halton Partnership and Halton Borough Council Urban Renewal Strategy and Action Plan, and supports the Council's Urban Renewal corporate priority. Grant funding is essential to facilitate the delivery of Daresbury.

7.0 **RISK ANALYSIS**

7.1 There was urgency to contract with Scottish Power before the end of April in order to secure the project and the RGF Funding. Due to the complexity of the specification and evaluation of tenders there would be a risk to award the contract in time in a formal tender process.

Advice has been obtained from Arups regarding a single tender case in support of contracting with Scottish Power for both the contestable and non-contestable works. They advise that there are principally two viable options for procurement of the new connection for Daresbury Laboratories:

1. Placing an order directly with SP for £3.9M; or
2. Placing an order with a suitably qualified contractor to undertake the contestable works and co-ordinate SP's non-contestable works.

In their experience, option 2 could save 10%. However, with option 2, the following points are worthy of note:

- The contract value would be of the order of £7.3M (£7.9M less 10% of £6.5M contestable works).
- There would need to be an agreement negotiated with SP for them to pay their around £4M of investment to the client.
- The cashflow for the client could be significantly greater than

with option 1 where £3.9M is paid to SP.

- As SP will have to approve all the works, there will remain the possibility that the client will have to pay for their contractor constructing work to SP's satisfaction.

Arups are not aware of a contestable works arrangement being undertaken where a DNO pays the client for their investment elements. Arups consider option 2 to have several significant risks for the client.

8.0 **EQUALITY AND DIVERSITY ISSUES**

8.1 There are no equality and diversity issues.

9.0 **LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact Officer
Daresbury RGF Offer Letter	Regeneration, 5 th Floor Municipal Building	Helen Roberts
SP Power Systems Contract	Regeneration, 5 th Floor Municipal Building	Helen Roberts