

Leeds Crematoria Improvement Works – Capital Scheme 33269/000 – Approval of the use of Contracts Procedure Rule 9.5 to make a direct award to one contractor without seeking competition

Date: 14/03/2024

Report of: Head of Bereavement Services and Workshop

Report to: Director of Communities Housing and Environment

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report sets out the essential need for the installation of updated cremator equipment and software, mercury abatement filtration equipment and a heat exchange storage unit at Lawnswood Crematorium. In addition, the proposed works will include the installation of NO_x filtration across the Council's managed crematoria.

The report seeks authorisation for the implementation of these improvement works via contracts procedure rule (CPR) 9.5 to award a contract directly to Facultatieve Technologies Ltd without seeking competition. CPR 9.5 allows for a direct award where there is a clear justification and as all cremator equipment in Leeds is supplied and supported by FT, their use is considered a sensible approach to reduce risks with interoperability and warranties.

Recommendations

- a) The Director of Communities Housing and Environment is requested to approve the injection of £737k to capital scheme number 33269/000 and the incurring of expenditure from the capital programme to cover the proposed works.
- b) The Director of Communities Housing and Environment is further recommended to approve the use of contracts procedure rule (CPR) 9.5 to award a contract directly to Facultatieve Technologies in the sum of £737k to allow the delivery of cremator update and mercury abatement filtration at Lawnswood Crematorium as well as ancillary works across the council's managed crematoria. CPR 9.5 allows for a direct award where there is a clear justification and this is set out in this report.

What is this report about?

- 1 This report sets out the need to install at Lawnswood Crematorium updated cremator equipment and software, along with mercury abatement filtration and other ancillary equipment across all three of the council's managed crematoria to help reduce emissions. The report also seeks permission to use Contracts Procedure Rule 9.5 to award a contract directly to Facultatieve Technologies Ltd for these essential works without seeking competition.
- 2 In 2005, legislation was introduced to amend Regulation 37 of the Pollution Prevention (England and Wales) Regulations 2000, SI 1973. Specifically, PG5/2(04) that required at least 50% of mercury emissions from crematoria to be abated before the 31st December 2012.
- 3 At that time, it was not possible to install abatement equipment at Lawnswood, due to the size of the equipment and constraints within the listed building. However, as the cremators at both Rawdon and Cottingley were already coming towards the end of their operational life span, the council made the decision to install equipment at both these crematoria to enable the council to meet its 50% mercury abated target overall.
- 4 The PG5/2(12) regulations were to be reviewed in 2020 with 100% of mercury emissions to be abated being the expected outcome. Whilst this review was delayed due to the Covid-19 pandemic, consultation on the revision of national regulations closed on 3rd December 2023 and it is anticipated that there will soon be a requirement for all crematoria to be fitted with abatement and filtration equipment by 1/1/2027. [Consultation on the review of the Crematoria Guidance PGN\(5/12\) - Defra - Citizen Space](#)
- 5 Leeds is one of the busiest cremation authorities outside of London dealing with around 5,500 cremations per year and is the only cremation authority in West Yorkshire that is not already 100% mercury abated.
- 6 All the council's cremators are independently tested each year as part of the permit/licence to operate. This is a legal requirement regulated by DEFRA, and monitored by the council's local Environmental Health Officer (EHO) in line with the current PG5/2(12) regulations.
- 7 The EHO has recorded that the Lawnswood Crematorium emissions test for fine particulate matter is only just managing to keep within legal limits and if this does not significantly improve, the council runs the risk of losing its approval to operate.
- 8 The supplier of all the council's cremators, (Facultatieve Technologies Ltd, (FT)) have confirmed to the council that as technologies have developed since 2012, it is now possible for them to be able to retro fit a mercury abatement system to their supplied cremators at Lawnswood and to include NO_x filtration and a heat storage exchange unit.
- 9 A full financial breakdown may be found within the confidential appendices attached at Appendix 1.
- 10 Facultatieve Technologies Ltd (FT) are a Leeds based firm and have confirmed to the council that they are receiving a number of orders from authorities across the UK in preparation for the regulation change and have begun to order new stock to help them meet expected demand.

11 In addition, FT have also confirmed that it is possible to retrofit the NO_x filtration equipment to the existing fully mercury abated cremators at both Cottingley and Rawdon Crematoria, which will significantly reduce the council's overall crematoria emissions. Recent improvements to flue designs and software systems now also provide an opportunity to secure increased fuel efficiency from all the installed cremators at a lower capital cost than previously anticipated in 2023.

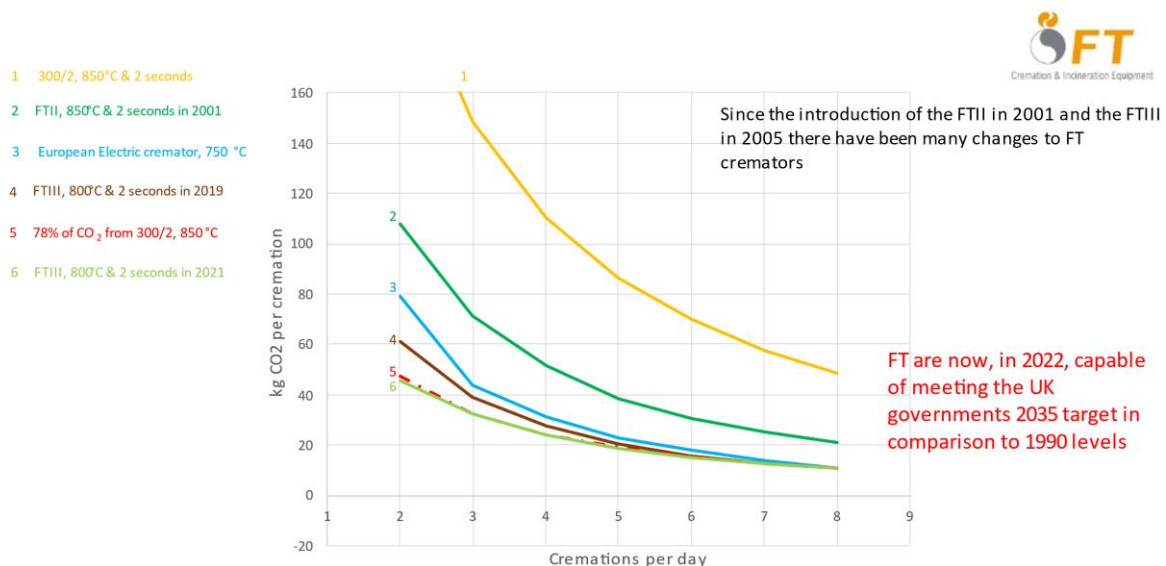
What impact will this proposal have?

12 There is a service need to install a mercury abatement filtration system at Lawnswood Crematorium as without this, there is a high risk of the council losing its approval to operate at the site.

13 It is more cost effective for the council to install the equipment ahead of the expected change in the regulations, as prices are likely to increase, and equipment may be difficult to obtain at a later date.

14 In support of the council's clean air strategy and to meet the expected requirements of the forthcoming national guidance, it is proposed to install NO_x filtration equipment across all three of the council's managed crematoria that will significantly reduce Nitrogen Oxide emissions and produce cleaner air.

15 The table below shared by FT, demonstrates how their cremators have improved over the years to help reduce carbon emissions per cremation and compares this against the current government target to reduce carbon emissions by 78% by 2035 which is shown as a red broken line in the graph below.



16 To put this graph into context for the council's managed crematoria, two of the three cremators at Rawdon are FT11 models and the third is an FT111. In comparison to the graph above, the cremators at Rawdon would be operating along similar lines to that shown above as the green line (No2) and brown line (No 4). The cremators at both Cottingley and Lawnswood are all FT111 models.

- 17 The difference between the FT111 models in line 4 and 6 is the age of the cremator, with the newest cremator, having better insulation materials, improved refractory linings, improved temperature and oxygen controls and as a result, are capable of meeting the UK governments target in comparison to the 1990 levels as shown in the yellow line (No1).
- 18 Lawnswood already has the newest cremators and will be able to achieve these targets only if mercury abatement filtration equipment is installed. It is also proposed to replace the refractory linings for the older model cremators as and when they require an operational reline.
- 19 Due to the specialist nature of this work and the single supplier of existing equipment, it is proposed that FT will deliver the plant and the ancillary works via a single design and build approach. This transfers risk to the contractor/supplier and ensures better management of interfaces between new plant installation and ancillary works. The details of the form of contract have been established via NPS Leeds with the details of the proposed scope and extent of the work set out within the attached confidential appendix.

How does this proposal impact the three pillars of the Best City Ambition?

- Health and Wellbeing Inclusive Growth Zero Carbon

- 20 The proposed works will enable the council’s crematoria provision to support the government’s target to reduce energy usage and carbon emissions, will support the World Health Organisations targets on air quality as well as the council’s Clean Air Strategy.

What consultation and engagement has taken place?

Wards affected: Adel and Wharfedale, Beeston and Holbeck, Horsforth

Have ward members been consulted? Yes No

- 21 The public's interface with this service is through funeral directors who understand the need for the proposed works.
- 22 Finance and procurement officers have been consulted and confirm the provisions in this report.
- 23 The Executive Member for Climate, Energy, Environment and Green Space has been consulted ahead of taking this formal decision to proceed.

What are the resource implications?

- 24 Funding has been identified within the council’s Capital Programme (scheme 33269/000) and a more detailed breakdown of costs are attached to this report as a confidential Appendix 1.
- 25 Since the original costings were undertaken to establish the capital required (with in 2023, an anticipated spend of £848k), significant additional engagement with the provider has been undertaken. This has secured improvements in design and outcomes at a lower overall cost than anticipated. A project value of £737k is now needed inclusive of a 10% contingency sum that if not required upon completion of works will be returned to the council’s capital programme.

Capital funding and cash flow table

Previous total Authority to Spend on this scheme	TOTAL £000's	TO MARCH 2024 £000's	FORECAST				
			2024/25 £000's	2025/26 £000's	2026/27 £000's	2027/28 £000's	2028 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	0.0						
INTERNAL DESIGN FEES (6)	0.0						
OTHER FEES / COSTS (7)	0.0						
TOTALS	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Authority to Spend required for this Approval	TOTAL £000's	TO MARCH 2024 £000's	FORECAST				
			2024/25 £000's	2025/26 £000's	2026/27 £000's	2027/28 £000's	2028 on £000's
LAND (1)	0.0						
CONSTRUCTION (3)	0.0						
FURN & EQPT (5)	646.0	193.8	452.2				
INTERNAL DESIGN FEES (6)	0.0						
OTHER FEES / COSTS (7)	91.0		91.0				
TOTALS	737.0	193.8	543.2	0.0	0.0	0.0	0.0
Total overall Funding (As per latest Capital Programme)	TOTAL £000's	TO MARCH 2024 £000's	FORECAST				
			2024/25 £000's	2025/26 £000's	2026/27 £000's	2027/28 £000's	2028 on £000's
LCC Corporate Borrowing	737.0	193.8	543.2				
Revenue Contribution	0.0						
Capital Receipt	0.0						
Insurance Receipt	0.0						
Lottery	0.0						
Gifts / Bequests / Trusts	0.0						
European Grant	0.0						
Health Authority	0.0						
Private Sector	0.0						
Section 106 / 278	0.0						
Government Grant (Specify)	0.0						
Departmental Borrowing	0.0						
Any Other Income (Specify)	0.0						
Total Funding	737.0	193.8	543.2	0.0	0.0	0.0	0.0
Balance / Shortfall =	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Revenue effects table

REVENUE EFFECTS	2022/23	2023/24 SUBSEQUENT YEARS
	£000's	£000'S
EMPLOYEES		
PREMISES COSTS		
SUPPLIES & SERVICES		
EXTERNAL INCOME GENERATED		

What are the key risks and how are they being managed?

- 26 Regular monitoring of the emissions from the cremators is carried out and reported by the council's Environmental Health Officer (EHO). It is the expectation of the EHO that the council is actively seeking to reduce the emissions for fine particulate levels that are created as part of the cremation process. If emission levels at Lawnswood do not significantly improve, the council runs the risk of losing its approval to operate at the site.
- 27 There is a reputational risk should we fail to meet emissions targets with the council being the only authority in West Yorkshire not currently 100% mercury abated.
- 28 The council has undertaken financial due diligence of the supplier that has noted positive results for a contract of the proposed size.

What are the legal implications?

- 29 The use of CPR 9.5 to undertake a direct award to a single supplier is appropriate where there is a clear justification for the use of the procedure. As all the cremator equipment in Leeds is supplied and supported by FT, their use to attach ancillary filtration equipment is considered a sensible approach to reduce risks with interoperability and warranties that the use of another manufacturer would generate. Other than confidential Appendix 1 there are no grounds for keeping the contents of this report confidential under the Access to Information Rules. The decision pertaining to this report is subject to call in.
- 30 Appendix 1 has been identified as exempt/confidential under the Access to Information rules 10.4(3). The public interest in maintaining the exemption outweighs the public interest in disclosing the information and financial details which could adversely affect the business of the council and the business affairs of individual companies.
- 31 Awarding this contract directly to FT could leave the council open to a potential claim from other providers to whom this contract could be of interest, that the council has not been wholly transparent as the opportunity is not being advertised and at least four written tenders invited. However, the risk of any challenge from another contractor is deemed to be low based on the reasoning behind the proposed contract award set out in this report.

Options, timescales and measuring success

What other options were considered?

- 32 The installation of filtration equipment provides the most effective route to secure the required levels of current and future emissions to ensure future provision at the 3 crematoria in Leeds.
- 33 An open tender exercise for the supply and installation of filtration equipment was considered, however, it is deemed to be too high risk for the council to use a supplier other than the original manufacturer of the cremator plant to carry out these proposed specialist works. Any disruption to the provision of cremation services would have an immediate, negative, and high-profile impact on service users and the reputation of the council as well as impacting on the council's financial position.

How will success be measured?

- 34 Future emission tests will provide evidential information that the council's managed crematoria provision operate within legal parameters and are able to retain their approval to operate.

What is the timetable and who will be responsible for implementation?

- 35 From when the order is placed, there is a lead in time of 18 weeks and then a further 13 weeks on site (31 weeks in total). The manufacturer has confirmed that the service will be able to continue to operate whilst these works are being carried out on site. Therefore, there will be no disruption to funeral services across any of the council managed crematoria.
- 36 The Head of Bereavement Services and Workshop will be responsible for project management.

Appendices

- Appendix 1 - Financial breakdown

Background papers

- None