

AGENDA MANAGEMENT SHEET

Name of Committee	Environment and Economy Overview and Scrutiny Committee
Date of Committee	3 December 2009
Report Title	Project Transform - Sub-Regional Residual Waste Treatment Solution - Evaluation Criteria
Summary	The report outlines the evaluation criteria to be used throughout the procurement process to evaluate submissions proposed by tenderers for permission for a new residual waste treatment solution to serve the needs of the sub-region (Coventry Solihull and Warwickshire).
For further information please contact	John Daly Director - Project Transform Tel. 01926 418138 johndaly@warwickshire.gov.uk
Would the recommended decision be contrary to the Budget and Policy Framework?	Yes/No
Background Papers	Project Transform - Submission of an Outline Business Case for PFI Credits.

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

Other Committees	<input checked="" type="checkbox"/> Council Report - 21 October 2008.
Local Member(s) (With brief comments, if appropriate)	<input type="checkbox"/>
Other Elected Members	<input checked="" type="checkbox"/> Councillor D Bryden <input checked="" type="checkbox"/> Councillor M Doody <input checked="" type="checkbox"/> Councillor R Sweet <input checked="" type="checkbox"/> Councillor J Whitehouse } for information
Cabinet Member (Reports to The Cabinet, to be cleared with appropriate Cabinet Member)	<input checked="" type="checkbox"/> Councillor A Cockburn – for information

Chief Executive	<input checked="" type="checkbox"/> D Clarke, Strategic Director of Resources
Legal	<input checked="" type="checkbox"/> S Burrell – agreed.
Finance	<input type="checkbox"/>
Other Chief Officers	<input type="checkbox"/>
District Councils	<input type="checkbox"/>
Health Authority	<input type="checkbox"/>
Police	<input type="checkbox"/>
Other Bodies/Individuals	<input type="checkbox"/>

FINAL DECISION **YES/NO** *(If 'No' complete Suggested Next Steps)*

SUGGESTED NEXT STEPS :

Details to be specified

Further consideration by this Committee	<input type="checkbox"/>
To Council	<input type="checkbox"/>
To Cabinet	<input checked="" type="checkbox"/> 17 December 2009.
To an O & S Committee	<input type="checkbox"/>
To an Area Committee	<input type="checkbox"/>
Further Consultation	<input type="checkbox"/>

Environment and Economy Overview and Scrutiny Committee - 3 December 2009

Project Transform - Sub-Regional Residual Waste Treatment Solution - Evaluation Criteria

Report of the Strategic Director for Environment and Economy

Recommendation

The Environment and Economy Overview and Scrutiny Committee is asked to consider the report and forward any comments to Cabinet.

1. Background

- 1.1 In October 2008, Council (together with Coventry City Council and Solihull Metropolitan Borough Council) approved the submission of an Outline Business Case for Private Finance Initiative (PFI) credits, to the Department for the Environment, Food and Rural Affairs (Defra), to support the provision of a new residual waste treatment solution for the sub-region for the twenty five year period between 2016 and 2041. Following a review of the Outline Business Case by Defra and HM Treasury, Project Transform (the sub-regional partnership) was awarded £129 million of PFI credits (in June 2009) to support the delivery of the Project. Since the award of the PFI credits, the project team and their advisors have been developing the documentation for the procurement of the solution to meet the partners' requirements.
- 1.2 In order to ensure that the partners' obtain the best solution to their needs and meet the European procurement rules, it is necessary to develop a defined set of criteria by which to evaluate the solutions submitted and thereby determine the final contract award decision.
- 1.3 The criteria will require approval from the partner councils which is being requested, in addition to this meeting, at the Cabinet meetings of Coventry City Council on the 15 December 2009 and Solihull Metropolitan Borough Council on the 17 December 2009.
- 1.4 There are no direct financial implications of this report. The criteria relating to finance, detailed within this report, will ensure that the Project remains with the affordability approved by Council in the October 2008 report.

- 1.5 The contract award decision will be the subject of a report to the full Councils of each of the partners at the end of the procurement process in 2012.

2. Context

- 2.1 It is recognised that the Council requires a long-term solution to its residual waste treatment needs as its existing primary means of disposal using landfill is unsustainable due to its increasing cost, reducing capacity and impact on the environment.
- 2.2 In response to the need for a new solution and to achieve value for money, the Council has formed a partnership with Coventry City Council and Solihull Metropolitan Borough Council to develop a new residual waste treatment solution.
- 2.3 In October 2008, the Council and its partners approved the submission of an Outline Business Case to Defra for PFI credits to support the new solution. The partners were awarded £129 million of PFI credits in June 2009.
- 2.4 In order to determine the solution which best meets the partners' needs and comply with the European procurement rules, there needs to be a set of criteria in place to evaluate the solutions submitted. The criteria has to be published, prior to requesting the pre-qualified organisations to submit their outline solutions, and cannot be changed during the procurement process.
- 2.5 The Project has already been advertised in the OJEU and organisations that submitted pre-qualification questionnaires, in response to the OJEU notice, are being evaluated on their track record of delivering residual waste treatment solutions and their financial standing. This means that we will only invite organisations to provide outline solutions that have the technical and financial ability to provide a solution to meet our residual waste treatment needs.
- 2.6 Although the reference project developed for the PFI Outline Business Case was a combined heat and power energy from waste plant on the London Road site in Coventry, this is an open procurement in which bidders can propose any technical solution at any location. This process will help ensure the widest possible range of options can be considered.
- 2.7 A bidders day was held, for private sector organisations interested in bidding for the contract, in order to provide information relating to the contract and set out our approach to the procurement. This day was well attended and included representatives from the main private sector organisations that provide waste disposal solutions.

3. Options Considered and Recommended Proposals

- 3.1 The criteria recommended to evaluate the solutions proposed to meet the Council and its partners' residual waste treatment needs have been developed:-
- (i) To take account of local requirements;

- (ii) Following guidance provided by the Waste Infrastructure Delivery Programme (WIDP) - a partnership between Defra and Local Partnerships (formerly 4ps – the Local Government Association’s organisation formed to provide advice and guidance to Councils undertaking complex procurement exercises); and
 - (iii) From the lessons learnt and best practice from similar projects further into the procurement process.
- 3.2 The criteria have been subject to appraisal by the Project’s allocated Defra WIDP advisor and he has confirmed that the recommended criteria are line with other similar projects and build on the lessons learnt from these projects.
- 3.3 The nature of the contract in that it is:-
- (i) a sub-regional partnership,
 - (ii) follows a PFI procurement route;
 - (iii) has an forecast total contract cost, over the twenty five year period, in excess of £1 billion; and
 - (iv) will cover a twenty five year period (planned to be 2016 to 2041).

means that it requires a robust and detailed set of criteria in order to effectively evaluate proposed solutions.

- 3.4 The process for the development of the criteria has been:-
- (i) Initial formulation by the project team, representing the three partner Councils, and their specialist advisors;
 - (ii) Consideration by the Project Board (made up of Directors from the three partner Councils and our WIDP advisor);
 - (iii) Consideration by a stakeholder workshop (see consultation section below);
 - (iv) Presentation of the principles of the criteria to Members of the three partner Councils at Members Seminars; and
 - (vi) Approval by the Project Board.

Principles of the Evaluation Criteria

- 3.5 The evaluation criteria have been split into three areas described as ‘Level 1 Criteria’ namely:-
- (i) Finance;
 - (ii) Legal; and
 - (iii) Technical
- 3.6 The three Level 1 criteria have been further split down into ‘Level 2 and Level 3’ criteria which consider more detailed aspects of the proposed solution.
- 3.7 At each level and for each criteria, a weighting has been attached to reflect its relative importance at each stage, namely the outline solution, detailed solution and call for final tenders stages of the procurement process.

- 3.8 The criteria will be applied initially to determine whether the solutions meet the minimum threshold requirements (e.g. are within the Project's approved affordability) and then a scoring system will be applied to measure how closely each part of the solution meets the relevant criteria. The solutions will then be ranked and the highest ranking solutions taken into the next stage of the three stage procurement process.

Financial Evaluation Criteria

- 3.9 The main objectives of the financial evaluation criteria are to ensure that the solution:-
- (i) Is within the approved affordability;
 - (ii) Incentives the provider of the solution to deliver the performance levels defined in the contract; and
 - (iii) Is bankable; i.e. the proposed funding package for the Project is deliverable.

Legal Evaluation Criteria

- 3.10 The main objectives of the legal evaluation criteria are to ensure that the proposed solution:
- (i) Achieves value for money through risk transfer to the provider of the solution; and
 - (ii) Is structured in a manner which protects the interest of the partner Councils.
- 3.11 The basis of the legal evaluation will be the latest standard form PFI contract (SoPC4) as tailored by WIDP to reflect the issues arising and lessons learnt from earlier projects. Any derogations from the standard form contract require approval from WIDP and failure to agree any derogations would mean the withdrawal of PFI funding.

Technical Evaluation Criteria

- 3.12 The technical evaluation criteria covers all aspects of the solution which are not covered by the finance or legal criteria (see table below).
- 3.13 In respect of the performance evaluation criteria, this includes a number of targets to ensure maximum diversion from landfill and maximum pre and post treatment recycling.

Evaluation Criteria

- 3.14 The recommended Level 1 and 2 criteria at the different stages of the procurement process are set out in the table below:-

	Outline Solution		Detailed Solution		Call for Final Tenders	
	%	%	%	%	%	%
Technical		75		50		35
➤ Deliverability of the technology	33		33		33	
➤ Sustainability including green house gas impacts	10		10		10	
➤ Service quality	20		20		20	
➤ Service continuity	5		5		5	
➤ Performance	27		27		27	
➤ Compliance with contract specifications	5		5		5	
	100		100		100	
Financial		20		35		50
➤ Cost	20		40		70	
➤ Financial quality	80		60		30	
	100		100		100	
Legal		5		15		15
➤ Risk allocation and commercial terms	70		70		70	
➤ Commercial deliverability	30		30		30	
	100		100		100	

- 3.15 As we move through the procurement process from outline solutions, detailed solutions and then to call for final tenders, the relative importance of the criteria and hence the weightings change to reflect the aspects of the solution which are being tested at that stage of the process.
- 3.16 At the outline solution stage (about two years before the final contract award), the main objective of the evaluation is to test the technical deliverability of the Project. Further into the process as our confidence in the deliverability of the technical aspects of the solution increases we place more emphasis on the financial and legal aspects. Once call for final tenders is reached, the main determinant will be price as, by this stage, we will have confidence that the technical solution meets our needs and is deliverable.

Other Options

- 3.17 Throughout the development of the criteria, the project team has considered other options in terms of the weights attached to the criteria. The recommended criteria are considered to provide the best fit with the achievement of the partner Councils' objectives and to be consistent with best practice.

Recommendation

- 3.18 Cabinet is recommended to approve the criteria for the contract award decision as detailed in this report.

4. Results of Consultation Undertaken

- 4.1 A stakeholder day was held to ascertain the views of a range of invited stakeholders regarding the draft evaluation criteria. Invited stakeholders included the Environment Agency, Government Office of the West Midlands, transport specialists from each of the Councils, Trade Unions and local environmental groups.
- 4.2 Attendance at the day was low, however there was a broad consensus from the attendees, including a representative of a local environmental group, that the right areas had been included in the evaluation criteria and that the weightings allocated reflected the relative importance of the individual criteria.
- 4.3 The stakeholders unable to attend the day were sent a follow-up e-mail, including the presentation that was given on the day, asking if they had any views they wished to contribute to the process. No further comments were received.

5. Timetable for Implementing this Decision

- 5.1 The evaluation criteria will be included in the Invitation to Participate in Dialogue documentation which will be issued to pre-qualified organisations in January 2010 at the commencement of the Invitation to Submit Outline Solutions stage of the procurement process.

6. Finance and Legal Implications

Financial Implications

- 6.1 There are no direct financial implications arising from this report.

The October 2008 report covering the submission of the Outline Business Case for the Project set out the affordability envelope for the Project. Any variation from this position will require approval from the partner Councils.

Legal Implications

- 6.2 It is a requirement of the Public Contract Regulations 2006 that the evaluation criteria against which all of the tenders will be evaluated prior to the contract award decision are set and published prior to the submission of tenders. The regulations also require that the relative weightings associated to the criteria are published.

These evaluation criteria are in compliance with the regulations.

7. Other Implications

7.1 Risk Management

The Project has a detailed risk register which is regularly reviewed and considered by the Project Board. The risk to the Council associated with the failure to deliver the Project is included on the Corporate Risk Register.

7.2 Impact on the Authority

The procurement of a residual waste treatment contract in partnership and through a PFI procurement process will impact on the organisation in a number of ways including:-

- (i) The requirement to ensure the Council meets its recycling targets as set-out in the Outline Business Case and thus complies with Waste Strategy for England 2007; and
- (ii) The establishment of a joint contract monitoring arrangement with Coventry and Solihull.

7.3 Implications for (or Impact on) the Environment

The provision of a new treatment solution for residual waste will provide a positive impact on the environment through the diversion of waste from landfill. There are sustainability elements within the evaluation criteria.

7.4 Implications for Partner Organisations

The project provides a framework within which future sub-regional projects between the Council, Coventry and Solihull Councils can be delivered.

The structure used and lessons learnt can be incorporated into the emerging plans for sub-regional collaboration, in a number of areas of service delivery, to ensure that the Council together with its' partners provides maximum benefit to the million residents (of the sub-region) from our collective resources.

PAUL GALLAND
Strategic Director for Environment and Economy
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Warwick

23 November 2009