

<b>SHADOW EXECUTIVE</b>
<b>17 MARCH 2009</b>

<b>SUBJECT</b>	<b>BEDFORDSHIRE ENERGY AND RECYCLING (BEAR) PROJECT: EXECUTIVE APPROVAL OF PROCUREMENT EVALUATION CRITERIA AND WEIGHTINGS</b> (To agree the Evaluation criteria to be used for the BEaR Project procurement process.)
<b>REPORT OF</b>	<b>Director of Sustainable Communities</b>
<i>Contact Officer: Ben Finlayson (01234 228927)</i>	

### IMPLICATIONS

<b>SUSTAINABILITY</b>	The preparation of the Evaluation Criteria has considered a number of sustainable criteria, including The Environment Agency tool for sustainable waste management – WRATE (the Waste and Resources Assessment Tool for the Environment) the Corporate policies and priorities of Central Bedfordshire and the Bedfordshire Authorities Waste Strategy. The Evaluation Criteria have been developed to enable the delivery of a proposal in the Central Bedfordshire submission document as well as supporting Central Bedfordshire’s Vision, and Corporate Priority 3, Managing Growth Effectively. Further sustainability implications are detailed in section 5.3 of this report.
<b>FINANCIAL</b>	The financial implications of this project were detailed in the Outline Business Case (OBC) which was agreed by the Shadow Executive on 30 <sup>th</sup> September 2008. The Evaluation Criteria detailed within this report aim to deliver this project within the affordability envelope previously agreed by the Executive.
<b>LEGAL</b>	When following the Competitive Dialogue procurement route, the Evaluation Criteria and weightings must be provided to bidders prior to each procurement stage. The evaluation methodology and process must be transparent and fair to ensure no legal challenge occurs. Further details can be found under section 5.2 of this report.
<b>PERSONNEL/EQUAL OPPORTUNITIES</b>	None
<b>COMMUNITY DEV/SAFETY</b>	None
<b>TRADES UNION</b>	None
<b>HUMAN RIGHTS</b>	None
<b>KEY ISSUE</b>	Yes

<b>BUDGET/POLICY FRAMEWORK</b>	No
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<b>OTHER DOCUMENTS RELEVANT TO REPORT</b>
Background Report – Outline Business Case and Joint Working Agreement.

<b>RECOMMENDATION(S):</b>	
<p>The Executive is requested to:</p>	
<ol style="list-style-type: none"> <li>1. <b>Note the contents of this report including the Project update; and</b></li> <li>2. <b>Agree the proposed criteria, sub criteria and weightings to be used to evaluate bidders’ submissions during the procurement for the long term residual waste treatment contract.</b></li> <li>3. <b>Authorise the Director of Sustainable Communities, in consultation with the Portfolio Holder (Safer &amp; Stronger Communities) to make minor and consequential amendments.</b></li> </ol>	
<p><i>Reason for Recommendation:</i></p>	<p><i>Recommendation (2): Item 8, Section C of the Joint Working Agreement (JWA) identifies the approval of the evaluation criteria as a “Reserved Matter” for agreement by each Executive Committee.</i></p> <p><i>Recommendation (2): The Partnership is going out to the market technology neutral basis (no preferred technology choice). The evaluation criteria have been developed to enable all technologies to be evaluated on an equal basis.</i></p> <p><i>Recommendation (3): The production of the Evaluation Criteria is a complex process following tight timescales. Due to the amount of work involved and the constantly changing market conditions the criteria and weightings for each stage of the procurement are not yet finalised. The criteria and weightings must be provided to bidders ahead of each procurement stage and the Team would work to ensure that they were finalised ahead of this time. This report to the Shadow Executive along with the attached Appendices’ details the high level criteria and weightings which are unlikely to change.</i></p>

## **Background**

Bedfordshire Energy and Recycling (BEaR) Project: Member Approval of Procurement Evaluation Criteria and Weightings

### **1. SUMMARY**

1.1 The Partnership is working to deliver a residual waste management solution that:

- Is sustainable;
- Reduces the Partnerships global warming impact compared to current waste management activities; and
- Aims to deliver/utilise both heat and power from the chosen technology.

1.2 Since submitting the Outline Business Case (OBC) in October 2008, as well as continuing to work with DEFRA on the PFI bid, the Project Team have focussed on creating the extensive documentation to take the project through the procurement phase. One key element of this documentation is the Evaluation Criteria.

1.3 This report details the proposed evaluation criteria to be used during the evaluation of tenders for the contract. It also covers the approach undertaken in creating the criteria and the scope of the contract to be let by the Partnership.

1.4 In approving the OBC for submission in September/October 2008, each Executive authorised the BEaR Project Board to prepare the procurement documentation including the evaluation criteria to be used to deliver the residual waste treatment contract. This report provides an update on the project and specifically outlines the evaluation criteria that, in accordance with the Joint Working Agreement, are a reserved matter for Executive approval.

### **2. REASON FOR DECISION / REPORT**

2.1 Concerns over the impact on the environment and decreasing landfill void space have resulted in new European and National legislation driving rapid change to existing waste management practices. These new laws have resulted in escalating costs for continuing to landfill through the Landfill Allowance Trading Scheme (LATS) which levies heavy financial penalties on Authorities that exceed strict landfill limits.

- 2.2 Bedfordshire County Council in conjunction with its financial advisers and in consultation with the Partner Authorities has investigated several funding routes. Work to date suggests that private sector funded procurement would be most appropriate and leveraging in PFI credits should deliver a more affordable project for the partnership. It has been demonstrated in the OBC which was approved by all Partner authorities in September/October 2008 that the value of PFI support would significantly reduce each authority's anticipated affordability gap.
- 2.3 In September/October 2008 the Bedfordshire County Council Executive along with the Shadow Executive of Central Bedfordshire Council, Transitional Executive of Bedford Borough Council and Executive of Luton Borough Council approved the:
- Joint submission of an Outline Business Case to DEFRA and HM Treasury for £110 million of PFI credits to support the delivery of a residual waste treatment contract; and
  - Joint Working Agreement between Bedfordshire County Council, Central Bedfordshire Council, Bedford Borough Council and Luton Borough Council and the associated Governance Structure.
- 2.4 The approved OBC was submitted to DEFRA on the 31<sup>st</sup> October 2008. DEFRA and HM Treasury are now in the final stages of considering this document with the aim of taking it to the Project Review Group (PRG) on the 17<sup>th</sup> March 2009. It is at this meeting that a decision will be made as to whether PFI credits will be awarded. Feedback from DEFRA suggests that the OBC meets the funding requirements and PFI credits should therefore be awarded.
- 2.5 In accordance with DEFRA's procurement timetable the Project Team must be in a position to publish a contract notice shortly after the notification of the award of PFI credits has been received. This contract notice, as well as setting out details of the contract to be let, should also provide bidders with a clear indication of the evaluation criteria to be used in the assessment of the tenders.
- 2.6 The agreement of the evaluation criteria to be used for the procurement of the long term residual treatment contract, as detailed under Item 8, Schedule C of the Joint Working Agreement, is a reserved decision for each of the Partnership Executive Committees.

### **3. PROPOSAL / DETAIL OF REPORT**

3.1 This section of the document provides:

- A summary of work carried out since the OBC approval in October 2008 (3.2 – Project Update).
- An overview of the next steps in the delivery of the Project (3.3 – Next Steps);
- An summary of the key objectives of the contract to be let (3.4 – Contract Objectives); and
- An overview of the proposed criteria to be used to evaluate submissions from bidders throughout the procurement exercise, detailing how the evaluation criteria were arrived at and each criteria's respective weighting throughout the procurement process (3.5 to 3.7).

#### **3.2 BEaR Project Update**

3.2.1 Recruitment of Project team – Following an internal recruitment drive involving all of the Partnership Authorities the majority of the posts within the Project Team have been filled on a permanent basis. An interim Project Director has been appointed whilst the permanent position is recruited using a specialist consultancy. Any remaining posts will be filled through the re-deployment process.

3.2.2 Procurement of advisers – Between December 2008 and February 2009 the Project Team along with the BCC procurement department sought to procure financial, technical and legal advisers to assist the Partnership authorities through the procurement process. The successful companies will be notified during March 2009.

3.2.3 Production of procurement documentation - The project team are currently preparing the required procurement documentation, including:

- Official Journal of the European Union (OJEU) Notice
- Output Specification
- Pre-qualification Questionnaire (PQQ) and associated evaluation methodology
- Descriptive document
- Instruction to Participate in Dialogue documentation

- Instruction to Submit Outline Solutions questionnaire and evaluation methodology

3.2.4 Market Sounding Day – see section 4.8 below

3.2.5 Site Visits – Opportunities have been arranged for Members to visit a Mechanical Biological Treatment (MBT) Plant, during March 2008.

3.2.6 Website – the BEaR pages of the BCC website have been updated and links are available from all Partnership authority websites.

### 3.3 Next Stages

3.3.1 The programme for the project is that procurement will commence in April 2009 following the award of PFI funding expected to take place in March 2009<sup>1</sup>. The competitive phase of the procurement is expected to last approximately 2 years and be complete by spring 2011. Construction will commence on an anticipated 36 months build and commissioning programme in spring 2013 with completion scheduled for spring 2016. The two year period from spring 2011 to spring 2013 will be used for the contractor to mobilise on to the site and obtain a planning permission for the plant which will require a detailed Environmental Impact Assessment (EIA) to be prepared during the procurement period.

3.3.2 The contract is anticipated to continue for a further 25 years under the management of the contractor with the plant expected to come under the ownership and control of the Council at the end of the contract in 2041 if it is constructed on land owned by the Partnership<sup>2</sup>. The evaluation criteria will incorporate an assessment taking into account the possibility of a bidder proposing a site not owned by the Partnership with its attendant risks and advantages. In addition bidders will be asked to consider whether alternative contract periods create greater cost efficiency for the Partnership.

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<sup>1</sup> Subject to any conditions that maybe set by HM Treasury

<sup>2</sup> Potential option to include a 5 year extension to 25 year contract term

### 3.4 The Contract Objectives

- 3.4.1 The contract objectives and project scope are set out below and form the basis of the output specification. The output specification is being developed in accordance with DEFRA's Waste Infrastructure Development Programme (WIDP) guidance for waste projects.
- 3.4.2 The output specification has been developed such that a range of technologies are capable of delivering the requirements of the Council and this has been tested through market sounding meetings with potential bidders.
- 3.4.3 The key service objectives are to deliver:
- The diversion of municipal waste from landfill in order to contribute to the achievement of the Partnerships landfill diversion targets whilst having regard to the waste hierarchy (reduce, reuse, recycle);
  - An environmentally sustainable service;
  - An effective, efficient, economic and affordable service that delivers Best Value.
- 3.4.4 As shown above, the contract's primary aim is for the treatment of the Partnership's municipal waste that is not reduced, reused or recycled. Central Bedfordshire "confirmed its aim to achieve the recycling/composting targets laid down in the Waste Strategy 2007 (50%) and where possible exceed the targets set, with the aim of achieving 60% recycling by 2020" at the Executive on the 30<sup>th</sup> September 2008. This will ensure that less than 50% of municipal waste from CBC will be sent to the facility. The output specification will require that the contractor, in dealing with this waste, meets the Partnership's targets for the diversion of Biodegradable Municipal Waste (BMW) from landfill, thus ensuring that no LATS penalties are incurred, and will set a minimum overall landfill diversion level.
- 3.4.5 The contract does not cover the collection of waste, nor the processing of recycling streams segregated for recycling by householders or through other front-end initiatives. However, the evaluation framework incentivises any additional recycling and recovery that can be achieved through the treatment of residual waste.

3.4.6 The Partnership is proposing to offer a site for the residual waste treatment technology to bidders. The preferred site as agreed by the County Council Executive in October 2007 is Rookery Pit South near Stewartby. However, it is emphasised that the Partnership is neutral on sites, and bidders will be invited to submit their own sites if available. Any proposed sites will be assessed in terms of their location, suitability for the particular technology and the likely success of any planning application. In addition the assessment will cover the risks in respect of service continuity through the contract and after contract completion in 2041.

### **3.5 Evaluation Strategy**

3.5.1 The evaluation strategy has been designed to ensure that it assesses bids on the basis of the Partnership's objectives and allows the decision making body to take decisions on a reasonable basis taking into account all relevant factors.

3.5.2 The procurement will be undertaken using the competitive dialogue process under the EU procurement rules and the evaluation will be on a MEAT (Most Economically Advantageous Tender) basis.

3.5.3 Once issued, the Partnership's procurement scope or stated objectives cannot be changed without the need to re-advertise, which has the potential to delay the project, impact on costs and increase risk. Additionally, once the criteria for award of the contract are published, the Partnership may only amend these in very limited circumstances.

3.5.4 The evaluation of bids received for the project is proposed to be carried out using an evaluation model which is designed to be neutral on technology alternatives but seeks to use proven technology solutions. The objective of the evaluation will be to ensure the Partnership is provided with the most appropriate solution, delivered in a way which minimises environmental impact and is located on a suitable site.



- 3.5.5 The evaluation approach will, in general, be to assess bids in a manner which will:
- Conform with all relevant statutory and regulatory requirements and best practice;
  - Be robust, objective and transparent;
  - Provide a framework that will facilitate a comprehensive review of each bid; and
  - Provide a clear audit trail.
- 3.5.6 The evaluation methodology will consider bids on a quality and price basis with a combination of these assessments being employed to rank the bids received at each bidding phase.
- 3.5.7 In order to ensure the evaluation process is neutral and not prejudiced in favour of any one technology option, detailed testing of the different technology solutions likely to be offered by the market has been undertaken. This testing has involved the hypothetical scoring of a range of technologies against the technical, sustainability and price criteria within the evaluation matrix using data provided by the project's advisors, based on their knowledge of the marketplace, to ensure a representative range of scenarios have been covered.
- 3.5.8 The testing has shown there to be no appreciable bias towards any particular technology. However, the evaluation framework has been designed to ensure that the Partnership selects the MEAT based on proven, deliverable technology. It will also encourage bidders to investigate opportunities to deliver the most sustainable solutions through the use of Combined Heat and Power (CHP) technologies.

### **3.6 Evaluation Methodology**

- 3.6.1 The evaluation of bids through the competitive dialogue process is split into a number of stages, with each stage involving the evaluation of a reduced number of bidders as they are de-selected at previous stages.

3.6.2 The procurement stages are as follows:

**PQQ** – Pre-Qualification Questionnaire. This stage is used to assess a bidder's technical capability and their financial and economic standing. It is backwards looking (i.e. it looks at their history) and does not take into consideration their proposed solution (as this will not have been identified at this stage of the procurement). Pre-qualification documentation is issued to any company that responds to the contract notice issued in the Official Journal of the European Union (OJEU) within the specified period. Due to the nature of the assessment the evaluation criteria used at this stage are significantly different to those used to assess the proposed solutions later in the procurement. An overview of the structure of the PQQ, type of questions asked at this stage and approximate criteria weightings is included in Appendix A. The Project Team along with any supporting officers will assess each of the returned PQQs with a view to taking no more than eight bidders through to the ISOS stage.

**ISOS** – Invitation to Submit Outline Solutions. This stage involves the evaluation of outline solutions provided by the bidders shortlisted in the PQQ stage. Bidders solutions are evaluated against the criteria discussed below. The focus of evaluation at this stage is on the bidders' technical ability as very little financial information is provided by the bidders at this stage. The evaluation of ISOS submissions will allow the Partnership to take no more than four and no less than two bidders through to the ISDS stage.

**ISDS** – Invitation to Submit Detailed Solutions. This stage involves the assessment of detailed technical and financial solutions provided by each of the remaining bidders. The criteria for this stage are detailed below. In recognition that there will now be more specific financial information to assess the criteria, weightings may change to those used at the ISOS stage.

**ISFT** – Invitation to Submit Final Tenders. This stage involves the assessment of the final bids by the leading bidders (usually 2). It uses the same criteria as the ISOS and ISDS stages but again the weightings may change slightly. This stage leads to the selection of the preferred bidder.

3.6.3 The evaluation criteria enable bids to be scored against one another and ultimately allow the project team to de-select the least compliant bids to ensure the procurement exercise delivers the MEAT. Bidders will be made aware of the criteria and approximate weightings at an early stage in the process to enable them to develop a solution that best meets the Partnership's needs or alternatively to allow bidders who may not be able to offer a compliant bid to withdraw from the process.

3.6.4 The evaluation criteria are split in to a number of levels:

**Level 1 Criteria** – This is the initial high level split between Quality and Price

**Level 2 Criteria** – This is the further split of Quality and Price in to more detailed sub-criteria.

**Level 3 Criteria** – This is the further split of the Quality sub criteria in to more detailed sub criteria. The Price sub criteria are not broken down in to this level of detail.

3.6.5 A number of workshops with officer and member attendees have been held which have led to the formulation of the criteria discussed below. The criteria have also been presented to Members ahead of this Executive meeting at dedicated seminars to provide a level of understanding and input.

### 3.7 The Evaluation Criteria

3.7.1 Table 1 below shows the proposed high level evaluation criteria to be used at the ISOS, ISDS and ISFT stages and the associated weightings of each. A detailed explanation of exactly what is assessed at each stage is contained in Appendix B. Table 2 identifies the level 3 sub criteria of the quality evaluation. The weightings of the level 3 criteria are not proposed to change through the procurement process. The technical sub criteria shown in Table 2 break down one further level to level 4 and are shown in Appendix C.

**Table 1 – Level 1 and 2 criteria and associated weightings at each stage of the procurement**

Level 1	ISOS	ISDS	ISFT	Level 2	ISOS	ISDS	ISFT
Quality	60-80	60	60	Technical	36-48	36	36
				Funding & Commercial	18-24	15	15
				Legal & Contractual	6-8	9	9
				<b>Sub Total - Quality</b>	<b>60-80</b>	<b>60</b>	<b>60</b>
Price	20-40	40	40	Price & Affordability	6-12	24	24
				Sensitivity Testing	12-24	12	14
				Payment Profile	2-4	4	2
				<b>Sub Total - Price</b>	<b>20-40</b>	<b>40</b>	<b>40</b>
<b>Totals</b>	<b>100</b>	<b>100</b>	<b>100</b>		<b>100</b>	<b>100</b>	<b>100</b>

3.7.2 The Options Appraisal used in the production of the OBC was based on a 60% Price / 40% Quality Level 1 split. The change from this earlier ratio to the current ratio (shown in Table 1) which will be used for bid evaluation is a result of a number of the qualitative elements of price now being assessed under the quality element. An example of this is the assessment of the carbon impact of technologies, which during the Options Appraisal was assessed in terms of cost (Shadow Price of Carbon) within the Price element and will now be assessed under the Quality element. A number of other qualitative price elements are now also assessed under the Quality level 2 sub criteria 'Funding and Commercial' element (detailed in Appendix B). The Price element for the purposes of bid evaluation purely focuses on assessing the cost of the solution in Net Present Value (NPV) terms using a number of methods.

**Table 2 – Level 3 criteria and associated weightings**

Level 1	Level 2	Level 3	ISOS	ISDS	ISFT
Quality	Technical	Overall Technical Solution	9 -12%	9.0%	9.0%
		Environmental Performance	3.6 - 4.8%	3.6%	3.6%
		Service Operations	5.4 - 7.2%	5.4%	5.4%
		Planning & Permitting	9 - 12%	9.0%	9.0%
		Works & Commissioning	7.2 - 9.6%	7.2%	7.2%
		Management Solutions	1.8 - 2.4%	1.8%	1.8%
		<b>Sub Total – Technical</b>	<b>36 - 48%</b>	<b>36.0%</b>	<b>36.0%</b>
	Funding & Commercial	Financial Robustness	6 - 8%	3.0%	1.5%
		Deliverability & Funding	6 - 8%	5.0%	5.0%
		Payment Mechanism	2.4 - 3.2%	2.0%	3.5%
		Risk Mitigation	3.6 - 4.8%	5.0%	5.0%
		<b>Sub Total – Funding &amp; Commercial</b>	<b>18 - 24%</b>	<b>15.0%</b>	<b>15.0%</b>
	Legal & Contractual	Compliance with BEaR Project Agreement & Schedules	1.8 - 2.4%	2.7%	2.7%
		Compliance with SOPC4 and DEFRA Derogations	3.6 - 4.8%	5.4%	5.4%
		Contract Structure / Consortium Support	0.6 - 0.8%	0.9%	0.9%
		<b>Sub Total – Legal &amp; Contractual</b>	<b>6 - 8%</b>	<b>9.0%</b>	<b>9.0%</b>
	Sub Total – Quality	<b>Sub Total Quality</b>	<b>60.0%</b>	<b>60.0%</b>	<b>60.0%</b>
Price	Price & Affordability	Not applicable (No Level 3 Price Criteria)			
	Sensitivity Testing				
	Payment Profile				
	Sub Total – Price				
Totals					

3.7.3 As shown above in Table 1, the Price element of the evaluation will make up 40% of the evaluation score at the ISDS and ISFT stages, however at ISOS stage it will make up 20-40%<sup>3</sup>. The Price weightings may be lower at ISOS stage because at this stage firm pricing information is not usually available.

<sup>3</sup> The exact weighting of Price at the ISOS stage is still being considered and is subject to market testing.

#### **4. CONSULTATION**

- 4.1 A similar report to this one will be taken to Bedfordshire County Council Executive (10th March 2009), Luton Borough Council Executive (30th March 2009) and Bedford Borough Transition Executive (19th March 2009).
- 4.2 Ahead of the Executive meetings a series of seminars have been carried out with all Members being invited to feed in to the creation of the criteria and weightings. The seminars aimed to:
- Give an update on the project;
  - Outline the purpose of the evaluation criteria;
  - Detail how the evaluation criteria were derived; and
  - Explain the methodology for applying them when assessing bids.
- 4.3 These seminars have provided Members with the opportunity to ask questions and provide feedback. As many comments as possible will be fed back in to the criteria and any outstanding issues will be reported verbally to the meeting.
- 4.4 The production of the evaluation criteria has taken account of the Bedfordshire Authorities Municipal Waste Management Strategy which was created following extensive consultation with the public.
- 4.5 Consultation with elected members about the Project has previously taken place through the Bedfordshire Authorities Waste Partnership and the BEaR Project Board. Regular engagement has also taken place with the BCC Environment Services Overview and Scrutiny Committee. The Project has gone to Executive a number of times during its life.
- 4.6 The elected members, parish councillors and residents have had the opportunity to attend tours of operational waste treatment facilities on a number of occasions with further visits being arranged ahead of procurement initiation. Visits to modern waste facilities have provided key stakeholders with the opportunity to experience such technologies first hand and to ask questions about technologies and operations. Briefings will continue to be provided to elected members via the Members Bulletin, workshops, seminars and further visits to waste treatment facilities.
- 4.7 The Communications Strategy provides a comprehensive approach to informing all stakeholders on the BEaR Project. The key aims of the strategy include:

- Identify key stakeholders and plan the most effective channels for communicating with them
  - Identify how appropriate consultation shall be carried out
  - Ensure that communication activities are carried out in a co-ordinated and consistent way
  - Develop ways of responding to enquiries and information that may arise during the project's lifetime
  - Identify the roles and responsibilities of people tasked with delivering effective communications
  - Ensure that communications activity is appropriately planned, resourced and any associated risks and issues are managed
  - Ensure that any reactive communications are properly managed and in line with the overall strategy.
- 4.8 On the 6th November 2008 a Prior Information Notice was published in the OJEU notifying the market of the BEaR projects impending procurement exercise and advertising a project market sounding day on the 1st December 2008. Madeline Russell, Leader for Bedfordshire County Council welcomed the 38 companies that attended. A summary of the project was provided by the Project Director and Colin Chick, Corporate Director of Environment and Regeneration, Luton Borough Council closed the presentation outlining Luton Borough Councils commitment to the project. One to one sessions were provided for those bidders who registered an interest.
- 4.9 A full public consultation, including road shows was launched in January 2006 to ascertain the public's views on how Bedfordshire should manage its waste in the future. When respondents were asked whether they thought rubbish remaining after increased recycling should be thermally treated to produce electricity, 98% of people agreed. A project specific micro-website was also launched in 2006 and several press releases relating to the project have been issued and related articles have been placed in the BCC magazine delivered to all households.
- 4.10 In February 2008 a letter and information sheet was sent to all residents and businesses in the vicinity of the preferred site advising them of the BEaR Project. These were supported by presentations to the local Parish Councils in May 2008. Additionally, in November 2008 the BEaR Project Team held holding further visits to EfW facilities, inviting members and residents from Parish Councils close to the proposed site.

4.11 Continued open and honest stakeholder engagement and involvement will strengthen support for the project and contribute to successful project delivery. Communications will ensure stakeholders are kept informed and updated with reliable information and will reinforce widespread support from the residents of Bedfordshire and Luton.

## **5. RISK ASSESSMENT**

### **5.1 Financial implications/risks including value for money**

5.1.1 As part of the Executive approval of the Outline Business case in October 2008 members were required to sign off an affordability envelope under which the cost of the project would be acceptable. The affordability envelope was based on Energy from Waste with Combined Heat and Power (the Reference Project).

### **5.2 Legal implications/risks**

5.2.1 The evaluation criteria and weightings have been reviewed by all of the Partnership's advisors. Bevan Brittan the legal advisers have confirmed that the weightings are compliant with all relevant procurement legislation.

5.2.2 The project has already been subject to the Freedom of Information Act and The Environmental Information Regulations. This will continue and as such the project could consider proactive release of certain documentation and information through the Councils' publications scheme.

### **5.3 Sustainability implications/risks**

5.3.1 In the development of the evaluation criteria the project team has considered:

- The need for the evaluation to be technology neutral and not provide one technology with an unfair advantage
- The requirements of Waste Strategy 2007
- The Corporate policies and priorities of the Council.
- The Bedfordshire Authorities Municipal Waste Management Strategy 2006.



- The Bedfordshire and Luton Minerals and Waste Local Plan, adopted 2005.

## 6. CONCLUSION

- 6.1 For years, Councils as Waste Disposal Authorities have relied on landfill as a primary method of disposing of the municipal waste. In order to satisfy the requirements of the national, regional and Bedfordshire Waste Management Strategies together with the European Landfill Directive, it is essential that new waste management facilities are delivered to provide an alternative to landfill disposal.
- 6.2 In order to deliver new infrastructure Bedfordshire County Council in conjunction with the other Partner Authorities must let a long term contract to the most suitable bidder and this must be done as soon as possible to ensure that fines are avoided.
- 6.3 All of the Partnership authorities have been involved in the production of the evaluation criteria included in this report that will subsequently be used to assess the bids. The evaluation criteria attempt to capture all of the elements that are important to the authorities involved and are weighted to identify the most important elements.
- 6.4 As the production of the criteria is a reserved decision for each authority as part of the Joint Working Agreement, it is essential that agreement takes place to enable the Project to progress in to the procurement phase with the full backing of each authority and Defra. Failure to agree the evaluation criteria and weightings to be used could cause significant delay leading to additional LATS fines and potential loss of PFI funding aid.
- 6.5 The Partnership will engage with the market on a technology neutral basis inviting bidders to express an interest following the issue of the OJEU notice. The evaluation criteria will aim to deliver the Most Economically Advantageous Tender (MEAT) but will also encourage bidders to investigate opportunities to deliver the most sustainable solutions through the use of Combined Heat and Power (CHP) technologies.

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**Background Papers:**

Outline Business Case

Appendices to Report:

Appendix A – Structure of PQQ

Appendix B – Evaluation Criteria Explanatory Notes

Appendix C – Proposed Level 4 Technical Criteria

Appendix D – Glossary

**Location of Papers:**

Outline Business Case – Available Online (BCC Website)

Appendices – Attached to this report

**File Reference:**

## **Structure of the Pre-Qualification Questionnaire**

The questions in the PQQ are all based on Regulations 23 to 26 of the Public Contracts Regulations 2006 and are split into 12 sections:

- **Section A (General Information)** requests general details of the Bidder, how it is organised and, where appropriate, what the relationship is between the Relevant Organisations. Information is sought regarding court actions and/or employment tribunals and confirmation regarding eligibility to tender under the Regulations.
- **Section B (Financial and Economic Information)** asks for financial and economic information for each Relevant Organisation.
- **Section C (Technical Capacity and Ability)**, supplemented by **Section D (Experience of Working on Similar Projects)** and **Section E (Methods of Working)**, asks for information that will be used in determining whether the Relevant Organisation meets The Partnership's minimum standards of technical ability. The Relevant Organisation must detail its experience in PFI/PPP and technical experience in undertaking its designated role within the Bidder's proposals.
- **Section F (Ability and Approach to Raising Project and/or Corporate Finance)** is included to inform The Partnership on the experience of the Bidder in raising project finance and/or corporate finance, and the proposed approach for this Project.
- **Section G (Quality Management, Environmental Management and Sustainability)** asks for information on quality management, environmental management and sustainability policies and systems for each Relevant Organisation.
- **Section H (Health and Safety)** is included to inform The Partnership on Health and Safety Policy and procedures for each Relevant Organisation.
- **Section I (Equal Opportunities)** asks for information on the Relevant Organisations' Equal Opportunity Policy.
- **Section J (Certification)** requires each Relevant Organisation to certify all information supplied in the PQQ submission. The section also empowers The Partnership to take up any such references as may be necessary for selection of a Relevant Organisation to participate in this procurement.
- **Section K (Consortium Acknowledgement)** requires each consortium member to confirm its commitment to the consortium.
- **Section L (Certificate as to Collusion and Canvassing)** requires each Relevant Organisation to confirm it has not colluded in any way with other Relevant Organisations or canvassed.
  
- **Appendix 1 (Checklist)** is to be completed to confirm all sections of the PQQ have been completed and supporting documents provided.
- **Appendix 3 (Financial Reference Authorisation Form)** is to be completed.

**Table 3 – PQQ stage proposed criteria weightings**

	<b>Weighting</b>	<b>Minimum Pass Score</b>	<b>Individual Pass/Fail Questions Apply</b>
<b>Legal/Eligibility</b>	n/a (Pass/Fail Only)	Pass/Fail	ALL
<b>Financial Eligibility</b>	n/a (Pass/Fail Only)	Pass/Fail	Some elements
<b>Technical Ability</b>	70%	n/a	NONE
<b>Economic &amp; Financial Standing</b>	30%	n/a	NONE

**Evaluation Criteria Explanatory Notes****Level 2 Quality Sub-Criteria**

*A – Technical* – This element covers a range of further criteria around the technical qualities of the bid and is further broken down below (Level 3).

*B – Funding & Commercial* – This element will evaluate the financial robustness of the bid, the deliverability of the funding package and the strength of financial commitment of the consortium and its backers. This is further broken down below (Level 3).

*C – Legal & Contractual* – This element will assess the level of risk transfer from the Council to the contractor, the commercial terms of contract proposed by the contractor and the terms of any third party contracts the contractor proposes to enter into such as, for example, an off-take agreement to take outputs from the plant after processing. This is further broken down below (Level 3).

**Level 2 Price Sub Criteria**

*A - Price and Affordability* - Quantitative assessment of the NPV of the Whole System Cost, including an assessment of the Bidders ability to deliver within the Authority's affordability requirements in terms of NPV of Whole System Cost]

*B - Payment Profile* - Qualitative assessment of the extent to which the Bidder is able to deliver a profile of payments which will not cause significant stepped increases in the costs year on year following Full Service Commencement, and thus not potentially negatively impact on the Authority's budgetary position

*C - Sensitivity Testing* - Qualitative assessment of the extent of the potential to cause significant cost risk to the Authority in respect of costs which the Authority has little control over, and which it is likely to bear the risk of

**Level 3 Sub Criteria**

*A – Technical:*

*A1 - Overall Technical Solution* – This element evaluates the robustness and flexibility of the actual technical solutions via a number of more detailed criteria such as emission control systems.

*A2 - Works and Commissioning* – This element evaluates the robustness of the build and commissioning proposals via a number of more detailed criteria such as community communications during the build period.

*A3 - Planning and Permitting* – This element evaluates the quality of the proposals in terms of the approach to planning and permitting via a number of more detailed criteria such as how realistic the timetable is.

*A4 - Environmental Performance* – This element evaluates the actual environmental performance in terms of diversion of waste from landfill and emissions.

*A5 - Service Operations* – This element evaluates the bidders proposals for operating the facility once built. It includes an assessment of maintenance arrangements and monitoring and compliance etc.

*A6 - Management Systems* – This element evaluates the management systems that the bidder proposes to put in to place such as Health and Safety and Environmental management Systems (EMS).

*B – Funding & Commercial:*

*B1 - Financial Robustness* – This is the Qualitative assessment of various elements including the extent to which the financial submission complies with the relevant financial model and financial submission instructions.

*B2 - Deliverability of Funding Packages* – This is the Qualitative assessment of the deliverability of the project in funding terms which includes an assessment of the debt/equity split and The impact of the funding proposals / proposals for sourcing funding arising from credit crunch.

*B3 - Consortium risk mitigation structure* – This is the Qualitative assessment of the appropriateness of the consortium structure taking into account the sub-contracting structures and the guarantees and other related factors in place to support the structure

*B4 - Acceptance of Payment Mechanism* – This is a qualitative assessment of the extent to which the Authority's Payment Mechanism is accepted and includes such elements as the bidders approach to structuring the Base and Marginal Elements of the Unitary Charge, and the Bidders approach to and acceptance of the Council's principles for commissioning period payments.

*C – Legal & Contractual:*

*C1 - Compliance with SOPC4 and DEFRA Derogations* – This element evaluates how well the bidder complies with the Standardisation of PFI Contract Terms (version 4) set by the Treasury as well as the DEFRA derogations.

*C2 - Compliance with BEaR Project Agreement and Schedules* – This element evaluates how well the bidder complies with the Project Agreement (effectively the contract) and the schedules contained within it.

*C3 - Contractual Structure / Consortium Support* – This element evaluates the structure of the proposed bid in terms of any consortium. It is likely that bidders will form consortiums to bid for the contract.

**Proposed Level 4 Technical Criteria:**

<b>A1.1</b>	<b>Overall Technical Solution</b>
	<ul style="list-style-type: none"> <li>Robustness of technology proposals</li> <li>Reference Projects (proven track record, reliability and deliverability)</li> <li>Flexibility of solution (waste volume, composition and legislative change)</li> <li>Products and end markets (incl CHP)</li> <li>Management of residues to landfill</li> <li>Emission control systems</li> <li>Robustness of mass balance</li> </ul>
<b>A1.2</b>	<b>Works and Commissioning</b>
	<ul style="list-style-type: none"> <li>Design principles (e.g. vehicle logistics, reception, storage, masterplan, architectural)</li> <li>Sustainable design issues (materials, water, energy)</li> <li>Construction management and community communications during works</li> <li>Quality and robustness of contract specifications (eg. EPC, Civils, M&amp;E)</li> <li>Works Programme</li> <li>Mobilisation Plan</li> <li>Testing and Commissioning Plan</li> </ul>
<b>A1.3</b>	<b>Planning and Permitting</b>
	<ul style="list-style-type: none"> <li>Land ownership/acquisition</li> <li>Quality of planning strategy, methodology and risk management</li> <li>Site specific policy/strategy consistency, development impact and other planning issues</li> <li>Approach to permitting issues, methodology and risk management</li> <li>Realism planning/permitting timetable</li> </ul>
<b>A1.4</b>	<b>Environmental Performance</b>
	<ul style="list-style-type: none"> <li>Contract Waste Diversion from landfill</li> <li>Diversion of Biodegradable waste from landfill (LATS compliance)</li> <li>Recycled/Composted %</li> <li>Environmental impacts (WRATE)</li> </ul>
<b>A1.5</b>	<b>Service Operations</b>
	<ul style="list-style-type: none"> <li>Operating Plans (e.g. opening hours, turnaround times, waste handling, security)</li> <li>Maintenance arrangements</li> <li>Contingency Plan</li> <li>Nuisance minimisation procedures</li> <li>Environmental and planning monitoring and compliance</li> <li>Waste Transport and Haulage (off-site)</li> <li>Data information systems</li> <li>Third Party Waste Protocol</li> <li>Emergency arrangements</li> <li>Hand back Plan and procedures</li> <li>Best Value (inc benchmarking, market testing, continuous improvement, indexation)</li> <li>Client Reporting and meetings</li> <li>Performance monitoring</li> <li>Complaints management</li> <li>Visitors Centre</li> <li>Ongoing Community Liaison</li> </ul>

<b>A1.6</b>	<b>Management Systems</b>
	Management Systems QMS & EMS Resourcing & management arrangements HR, Equal Opportunities and Social Cohesion Health, Safety And Welfare

## Appendix D

### Glossary:

Acronym	Term	Definition
CD	Competitive Dialogue	Procedure in which any economic operator may request to participate and the authority conducts a dialogue with candidates admitted to procedure, with the aim of developing one or more suitable alternatives capable of meeting requirements, on the basis that candidates chosen are invited to tender.
	Descriptive Document	Explains what we want to achieve and the process for the procurement of the Residual Waste Treatment Facility.
ISDS	Invitation to Submit Detailed Solutions	Procurement stage where bidders are invited to submit detailed proposals.
ISOS	Invitation to Submit Outline Solutions	Procurement stage where bidders are invited to submit less detailed proposals.
ISRS	Invitation to Submit Refined Solutions	An optional stage of procurement where bidders are invited to submit refined proposals.
JWA	Joint Working Agreement	Agreement signed in October 2008 by the Partnership Authorities participating in the BEaR Project.
LATS	Landfill Allowance Trading Scheme	A scheme whereby waste disposal authorities are allocated allowances for the amount of biodegradable municipal waste that can be disposed of to landfill.
MSW	Municipal Solid Waste	Waste from households, commercial and other activities/sources whose activities are similar to those of households and commercial enterprises.
	Model Contract	Standard Form SoPC4 for project agreement
OBC	Outline Business Case	A detailed and costed business case, where the authority will demonstrate that pursuing their solution will deliver value for money (vfm)..
OJEU	Official Journal of the European Union	A Journal where notices are placed as an official means of information delivery concerning the progress of a particular competitive procurement.
	Output Specification	The Output Specification defines the outputs that an authority requires from a Contractor over the term of the Contract. It only specifies the outcomes that are required to be achieved not how they are achieved.
	The Preferred Bidder	The Preferred Bidder means the Bidder selected by the Project Board as preferred bidder.
	Payment Mechanism	The payment mechanism is both a method for payment and a method of providing an incentive to high performance.
PFI	Private Finance Initiative	A method to provide financial support between the public and private sectors.
PIN	Prior Information Notice	Contracting Authorities are obliged to publish in the OJEU an annual notice, called a Prior Indicative Notice (or a Prior Information Notice) setting out what the Contracting Authority proposes to purchase in the forthcoming year.
PQQ	Pre-Qualification Questionnaire	Process to enable authorities to create short list of potential providers by obtaining sufficient information to evaluate suitability in terms of; technical knowledge, experience, capability, capacity and organisational and financial standing.
SoPC4	HM Treasury: Standardisation of PFI contract	Standardisation of PFI contract version 4