

Item No. 10	Classification: Open	Date: 13.02.2007	MEETING NAME Executive
Report title:		Integrated Waste Management Solution Contract – Invitation to Negotiate (ITN) evaluation and Preferred Bidder shortlist	
Ward(s) or groups affected:		All wards in Southwark	
From:		Strategic Director of Environment and Housing	

RECOMMENDATION

1. The Executive notes the matters set out in this report.

BACKGROUND INFORMATION

2. The Council has a pressing need to update and improve its performance in relation to waste services to enable it to meet its obligations under the Waste and Emissions Trading Act (2003). Under this Act, the Council faces financial penalties if key targets in relation to diversion of waste from landfill are not met. Significant capital expenditure by the Council is needed on new facilities from which improved services can be delivered.
3. Previous reports to the Executive have set out the options for procuring this new provision, and the PFI procurement route has been approved as the most appropriate for the Council.
4. This report provides an overview of the background to the latest stage, the Invitation to Negotiate (ITN), in the procurement of the Waste PFI contract. It sets out the ITN process, describes the bids the Council received and how these were evaluated.
5. Confidential matters are set out in the closed item. In the light of the issues discussed in the closed version of this report, and as a result of the ongoing commercially sensitive discussions with bidders, all recommendations are contained solely in the closed report.

Context for this procurement

6. The Council's Waste Management Strategy (2003-2021) sets out the Council's proposals for moving Southwark towards more sustainable waste management. The Executive approved the Waste Management Strategy on 2 December 2003.
7. The key features of the Council's Waste Management Strategy in 2003 were:
 - A reduction in the amount of Municipal Solid Waste generated in Southwark to below 3% by 2005, and below 2% by 2010. In real terms, due to population growth (estimated at a further 27,000 residents by 2021) the absolute amount of waste will rise; but – the strategy aims to deliver a decrease in the actual rate of growth;
 - Achievement of 30% recycling and composting standards for household waste by 2010/11 and 40% by 2015/16 and 50% standards by 2020/21;
 - Recovery of value from 45% of Municipal Solid Waste by 2010/11, 67% by 2015/16 and 75% by 2020/21.

8. The Waste Management Strategy included a two-stage options appraisal analysis to identify a “best technical and best value option” for improving waste management in Southwark. The options appraisal process included a financial, environmental and best practicable environmental option analysis. Fourteen options were considered at the first stage and four options plus a “do-nothing” option at the second stage. The Executive approved the recommended “best technical and best value option” on 18 May 2004 and further tasked Officers with pursuing an application for PFI Credits to the Government through development of an Outline Business Case (OBC).
9. The key features of the Council’s best technical and best value option in 2004 were:
 - An intensive education and waste minimisation programme introduced and education facility constructed;
 - Kerbside dry recyclable (paper, glass, cans etc.) collections expanded to include all recyclables from street (non-high rise) properties;
 - Medium and high-rise properties issued with survival bags for the collection of dry recyclables;
 - An increase in the number of “bring” recycling sites (e.g. bottle and paper banks) to 350 sites;
 - Organic kitchen and garden waste collected from street properties composted in an In-vessel Compost (IVC) facility;
 - Dry recyclable material collected at the kerbside separated at a Materials Recycling Facility (MRF);
 - Recyclable waste from medium and high-rise properties separated at a Materials Separation Plant (MSP);
 - Recovery and recycling of bulky and fly-tipped waste maximised; and
 - All residual (non-recycled) waste sent to a Mechanical and Biological Treatment (MBT) plant for further recycling and to generate a fuel used to generate power at an existing energy recovery facility.
10. The OBC explained the context for the proposed procurement, the need for change and the Council’s option appraisal process as well as further justification of the Council’s bid for PFI funding.
11. A comprehensive Reference Project was drawn up, indicating the services and facility requirements to show how the best technical and best value model could be delivered in practice. The key build features of the Reference Project and their approximate annual throughput requirements were:
 - A Mechanical and Biological Treatment (MBT) plant;
 - A Materials Recovery Facility (MRF) and Materials Separation Plant (MSP);
 - Materials recycling bulking facility;
 - An In-Vessel Composting Plant (IVC);
 - A new Household Waste Recovery and Recycling Centre (HWRRC); and;
 - A windrow composting facility.
12. On 8 March 2005 the Executive approved the procurement of an integrated waste contract to deliver the new facilities required to deliver the Council’s Waste Management Strategy. On 7 June 2005 the Strategic Director of Environment and Leisure, acting under delegated authority, approved six companies for progression through to the second selection stage – Invitation to Submit Outline Proposals (ISOP).

13. On 17 February 2006, the Executive Member for Environment and Transport, under Individual Decision Making powers, approved the following companies to be issued with the Invitation to Negotiate (ITN):

- Biffa Waste Services Limited;
- Cory Environmental Management Limited;
- Onyx Aurora Limited (now Veolia Environmental Services Aurora Limited); and
- Shanks Group plc.

14. The ITN required bidders to provide full proposals for an Integrated Waste Management contract, the key objective of which is the delivery of a robust and sustainable waste management solution that maximises recycling and composting and reduces landfill disposal to meet the Council's waste management strategy targets. It is anticipated that the appointed contractor will finance, design build and operate new facilities at the proposed Old Kent Road gasworks site; however, use of the site was not an absolute requirement of the ITN.

15. Applicants were required to submit a compliant mandatory Mechanical Biological Treatment (MBT) Bid and were also entitled to submit a non-MBT standard bid and variant bids. Details of the bid requirements are detailed below:

- Mandatory MBT Bid – a bid in which the cost proposed by the bidder includes the cost of a full MBT solution with responsibility for the end disposal of the MBT outputs. The cost includes transportation of MBT outputs including, where applicable, Refuse Derived Fuel;
- Non-MBT standard Bid – a bid which follows the same requirements as the mandatory bid, but which does not include the use of an MBT solution; and
- Variant Bid – a bid in which the bidder believes that value for money could be improved by adopting a different approach to that requested in the mandatory bid instructions.

Proposals could therefore be made on the basis of the bidder offering:

- Different or alternative terms of risk allocations;
- Different technical proposals from those contained in the standard bids; and
- Different delivery mechanisms.

16. All bids were to be evaluated on the basis of the most economically advantageous tender, having regard to a range of criteria. These were as follows:

- Delivery of service objectives, including planning;
- Economic cost in net present value terms and affordability of the project to the Council;
- Degree of acceptance to the Council's proposed contractual position;
- Employment, pensions and policies issues.

BIDS RECEIVED AND EVALUATION

17. On 8 September 2006 bids were received from both Cory, a company owned by Montagu Private Equity, and Veolia, a wholly owned subsidiary of Veolia Environnement, a major French utilities company. Both are leading UK waste companies.
18. Both Cory and Veolia submitted two bids; one, which met the ITN requirements to use MBT as part of the solution (called Bid 1 MBT); and a second, which did not use MBT technology (called Bid 2 non-MBT). Neither submitted a variant bid. A summary of bidders' proposals is presented below. A full analysis of all bids is available in the full Invitation to Negotiate Evaluation Report, which is referred to in the background papers of the closed report.

OVERVIEW OF BIDS

CORY BID 1 MBT

19. Cory's Bid 1 MBT is targeted to reach a 47% recycling and composting rate, and give a guaranteed final Standard of 45%.

Stakeholder engagement

20. Cory propose to partner Waste Watch, a group with 20 years experience of delivering waste communication campaigns, and the Science Museum.

Collection services

21. Cory propose the following collection service arrangements:

- To continue the current residual waste collection service to low and high-rise properties;
- To introduce a weekly co-mingled dry recyclable service for low-rise properties using sacks rather than blue boxes in 2008;
- From contract start low-rise properties will receive fortnightly green waste collections followed in 2011 by weekly organic kitchen and green waste collections alongside fortnightly residual waste collections; and
- High-rise properties will continue to receive the current dry recyclables collection service with weekly organic kitchen waste collections being introduced in 2011.

Treatment facilities

22. Cory propose to use the Old Kent Road (OKR) site for a range of waste reception, transfer and treatment facilities including:

- A Household Waste Re-Use and Recycling Centre (HWRRC);
- A stand-alone waste transfer station; and
- Linde Mechanical Biological Treatment (MBT) for residual waste
- Linde Anaerobic Digestion (AD) for organic waste

Cory propose the use of 3rd party capacity for a Material Recycling Facility (MRF) to sort collected co-mingled recyclables and green waste composting.

23. Cory has identified two possible options which may reduce costs; developing the biogas produced by the AD Plant as a fuel for the Refuse Collection Vehicle (RCV)

fleet, and construction of a MRF at the OKR Site.

Disposal

24. Supporting the OKR facilities is Cory's proposed Energy from Waste (EfW) facility at Belvedere as well as their own in-house landfill and transfer facilities.

Materials marketing

25. The response demonstrates experience of marketing source-segregated recyclables in other contracts

Contract mobilisation

26. Although Cory's response on mobilisation, contingency, and expiry addresses most of the key issues, it provides only basic detail in many areas. They do however provide a detailed plan of how contract mobilisation will take place. Greater detail is also given on how interim arrangements and transition periods will work and a breakdown of how Cory will seek to minimise disruption to services.

Contract management

27. Cory's response on service management issues gives an overview to the proposed solution. Proposals for Health and Safety are detailed and compliant with the Specification.

Contractual Issues

28. Whilst Cory have provided two high level commentaries on the project agreement, mark-ups of the performance and payment mechanisms and submitted a table of proposed derogations from SOPC3 (which simply reflects the text within the commentaries), it has not provided a mark-up of the project agreement or risk matrix.

Pensions & Employees

29. As there was no difference between either of Cory's submissions in this area of evaluation each Bid received the same evaluation score. Cory propose that staff will transfer under TUPE regulations. They also offer to accept admission into the Council's pension scheme allowing transferring staff who are existing members to remain within the scheme. They indicate that they are not able to offer a broadly comparable pension scheme. They had effective responses on procedures in staff appraisal, staff code of conduct, disciplinary/grievance procedures and whistleblowing and a reasonable approach to accident reporting. Cory's proposals in respect of consultation, trade union recognition and facilities for trade unions appeared to go beyond those required by statutory obligations.

Funding

30. In terms of likelihood of securing funding and the robustness of the commercial structure for the Bid, Cory has not operated the PFI structure proposed in its Bids. However, they adequately demonstrate the likelihood of securing funding for the contract. Cory provided a robust standard of support letters.
31. Cory propose to set up a Special Purpose Company to deliver this Contract. Their proposal is based on a project finance structure with funding provided by a major UK bank. The Bank would therefore wish to undertake a due diligence exercise.

CORY BID 2 NON-MBT

32. Cory's Bid 2 non-MBT differs from Bid 1 MBT through an alternative approach to waste treatment, which has an effect on how recycling, recovery and diversion standards are achieved. Instead of an MBT plant to be built on the OKR site, Cory propose a larger split level transfer station to enable increased use of their proposed EfW facility at Belvedere to treat residual waste. This approach leads to a minor increase in recovery and diversion, as EfW is the primary method of residual waste treatment, although it loses the small contribution in recycling that came with the MBT facility in the Bid 1 MBT.

VEOLIA BID 1 MBT

33. Veolia's Bid 1 MBT technical proposals are generally of good quality, although they lack detail in some areas. Particular attention is paid to the challenges of delivering an integrated waste management service in central London with a high proportion of high-rise properties and hard to reach groups.

34. Their target is to reach 44% recycling and composting rates, giving a guaranteed rate of 40%. Whilst this fails the Council's higher recycling/recovery targets from 2022 onwards, they do provide a reasoned justification for their stated service levels based on experience elsewhere. The proposal is compliant with LATS throughout the Contract and could generate over 281,000 spare permits over the project life.

Stakeholder engagement

35. Veolia propose a comprehensive short-term Stakeholder Engagement and Waste Minimisation plan, working with well-established partners, including London Remade and the Science Museum. This is a key area in the delivery of the bid and is reflected in the level of resource committed to it in the 4-year mobilisation phase after which more limited activities are undertaken.

Collection services

36. Veolia propose the following collection service arrangements:

- To maintain the current collection service provided to both low and high-rise properties;
- They are willing to discuss options for fortnightly collections but these do not form part of their bid currently;
- The current services for dry recyclables will continue (door to door bag collections for high-rise and box collections for low-rise) until 2010 when the low-rise service will change to co-mingled dry recyclables collected from kerbside sacks;
- Organic collections will be introduced in 2015 to low-rise properties only, and incorporated into the weekly green waste service provided from contract commencement.

Treatment Facilities

37. Veolia propose to use the Old Kent Road site for a range of high specification facilities to receive, transfer and treat waste. Public facilities include the following:

- A HWRRC and a Resource Centre incorporating sustainable design features for waste educational and public use;
- New treatment capacity incorporating a Horstmann MBT facility to treat residual waste with recovered fuel and recyclables outputs;
- A new MRF to sort collected co-mingled recyclables (including additional 40,000 tonnes capacity for 3rd party wastes);
- Bulking and transfer facilities integrated into the main treatment buildings.

Disposal

38. All facilities on the OKR are proposed to be integrated under one roof. These facilities will be supplemented by 3rd party capacity for thermal treatment (SELCHP), composting (not named) and landfill (London based).

Materials Marketing

39. Veolia's proposals for marketing the materials collected show that as a group they have established systems to track markets, and manage risks.

Contract mobilisation

40. Other than their comprehensive Pre-Mobilisation Plan, Veolia's response to other areas of mobilisation/contingency/expiry is lacking in sufficient detail.

Contract management

41. Veolia has submitted a generally good and well-structured proposal for implementing a system for contract management. The response details a number of interface options for Council to access the system, with real time access and good process diagrams and explanation of how compliance with Council systems will be managed. Proposals for both health and safety and quality assurance systems are also well detailed.

Contractual Issues

42. Veolia has submitted a detailed mark up and commentary of the project agreement, mark-ups of the risk matrix, performance mechanism and payment mechanism and a detailed table of its proposed derogations from the Treasury guidance set out in the Standardisation of PFI Contracts version 3 (SOPC3).

Pensions & Employees

43. Veolia propose a significant transfer of staff under TUPE regulations. They offer to accept admission into the Council's pension scheme allowing transferring staff who are existing members to remain within the scheme. They indicate that they are also able to offer a broadly comparable pension scheme as an alternative. Veolia provided sound proposals in some areas of Human Resources policy and procedures such as staff appraisal and disciplinary and grievance procedures. They provided well-considered proposals on consultation mechanisms in place with Trade Unions/ staff. There is evidence of data protection policy and evidence of understanding in this area

Funding

44. In terms of the likelihood of securing funding and the robustness of the commercial structure for the bid, Veolia's credentials include five major integrated waste management service contracts elsewhere in the UK. They adequately demonstrate capabilities to fund the contract.
45. Veolia's bids are based on making use of in-house funding with the debt financed by their parent company. Veolia, therefore, does not require external debt finance or other third-party investment to secure financial close for the contract. A letter of support from Veolia Environmental Services will be required and Veolia will need to undertake due diligence themselves.

VEOLIA BID 2 NON-MBT

46. Veolia's Bid 2 non-MBT only differs from their MBT Bid through an alternative approach to waste treatment which has a knock on effect on recycling, recovery and diversion. Instead of an MBT plant to be built on the OKR site, Veolia propose increased use of SELCHP to treat residual waste once capacity is available.

EVALUATION

47. The evaluation criteria are described in paragraph 16 above. A comprehensive evaluation of each bid was undertaken in compliance with the ITN evaluation methodology. Specialist teams, including the Council's external financial, legal and technical advisers, evaluated each of the four key criteria areas. The teams agreed their draft scores before presenting them to a Moderation Team comprising Project Board members. A second Moderation team meeting was held to consider any final issues and to consider the next stage of the process.
48. The evaluation indicates some major deliverability issues with both non-MBT bids. This deliverability issue was considered within the evaluation process. More information on this is contained in the Deliverability section below.

DELIVERABILITY

49. All of the solutions offered will require the selected contractor to obtain planning consent for the solution chosen and as such there are inherent risks associated with any waste management facility. However, in particular relation to both non-MBT solutions, there is a potential greater difficulty in obtaining planning permission for building the necessary capital infrastructure.

50. This issue arose because of the Greater London Bill published on 28 November 2006. This sets out the proposed powers for the Mayor of London to determine certain applications for planning permission. There have been recent indications by the Mayor (for example in the Further Alterations to the London Plan, and in press comments) which imply that it is less likely that a non-MBT Bid will be seen by the Mayor to comply with wider London policy or strategy. This centres around interpretation of policies on preference for alternative technologies, and the level of reliance on incineration capacity.

Risk Management

51. The procurement is being managed on Prince2 project management principles. This process enables effective risk allocation, monitoring and management. Risk workshops have taken place at critical stages and these have examined the key risks that will be encountered throughout the project. A risk register has been produced and is monitored and updated on an ongoing basis. Risk is given regular consideration at both Project Board and Programme Executive level.

52. As the procurement moves into its next phase, the most significant risk is the completion of the purchase of the Old Kent Road site within budget, as this remains critical to the wider project. A delay in the acquisition would cause a potential delay in the implementation of the new facilities. This would lead to the contractor seeking relief from performance requirements and would be likely require the use of alternative interim facilities.

OPTIONS

53. The Council has a number of options on how it could proceed. These are

1. Proceed to a Best and Final Offer stage with both bidders (BaFO)
2. Select and negotiate with a single preferred bidder
3. Abandon the PFI process and start a new procurement.

Community Impact Assessment

55. Waste collection and disposal are universal services that affect all residents of the borough. The proposed improvements to waste management arrangements comprising the Resource Programme should enhance the quality of life for all.

56. An Equality Impact Assessment is scheduled for when the new service provider has been identified and service design has reached an appropriate stage. Stakeholder engagement activities (research, consultation and communication) throughout the Resource Programme are following the emerging Statement of Community Involvement recommendations. This report relates to an interim process recommendation with no direct equality, diversity or social cohesion implications. An Equalities Impact Appraisal of the proposed service delivery outcomes will be undertaken and included as part of the final award report to the Executive.

Consultation

57. The first stage of the programme included extensive public consultation with residents on the Waste Management Strategy, consultation with prospective private sector partners, consultation with the Mayor of London on regional requirements and key stakeholders as well as the statutory consultation undertaken as part of the emerging Unitary Development Plan.
58. The consultation plan was informed by the Discussion Document on the Statement of Community Involvement and followed consultation with the Council's Community Involvement Development Unit.
59. Further consultation has been undertaken during the procurement phase on both the Waste PFI and OKRA Projects. This has included attending community council meetings and other public meetings, letter distribution, document displays and media work. Research was subsequently carried out to find out about the level of knowledge and understanding by the public of the programme. The results of the research were delivered in October 2006, and this data will be used to direct the focus and media for future stakeholder engagement.
60. A further programme of stakeholder engagement is scheduled upon completion of the ITN stage. This will include an advertising campaign encouraging people to find out more about the proposals, and reassuring the public about the issues that were identified in the last tranche of research. Further research will be carried out after this stakeholder engagement to assess the success of delivery of the message. These results will be presented to the contractor so that they know which areas they will need to focus on for their stakeholder engagement.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

BOROUGH SOLICITOR

61. The process, which has been followed in this procurement, is in accordance with the EU and domestic procurement regime and the Council's Contract Standing Orders.

FINANCE DIRECTOR

62. The concurrent report of the Finance Director is in the closed report.

HEAD OF PROCUREMENT

63. The Head of Procurement agrees with the concurrent report of the Borough Solicitor.

Background Documents

Integrated Waste Management Solutions Contract Document	Date of Issue	Document location	Responsibility
Report to the Executive. Integrated Waste Management Contract	18 May 2004	Constitutional Support Services	Paula Thornton 020 7525 3495
Gateway 1 report – Procurement Strategy Approval	8 March 2005	Resource Programme Data Room	Mike Green Departmental Procurement Manager 020 7525 2356
Official Journal of the European Notice (OJEU) Contract Notice	12 April 2005	Resource Programme Data Room	Mike Green Departmental Procurement Manager 020 7525 2356
Pre-Qualification Questionnaire	26 April 2005	Resource Programme Data Room	Mike Green Departmental Procurement Manager 020 7525 2356
ISOP Instructions and Questionnaire	22 June 2005	Resource Programme Data Room	Mike Green Departmental Procurement Manager 020 7525 2356
ISOP Information Pack	22 June 2005	Resource Programme Data Room	Mike Green Departmental Procurement Manager 020 7525 2356
ITN Documents issued.	15 May 2006	Resource Programme Data Room	Mike Green Departmental Procurement Manager 020 7525 2356

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Leisure		
Report Author	Mike Green / Chris Searles / Phil Davies		
Version	Final		
Dated	5 February 2007		
Key Decision?	Yes	If yes, date appeared on forward plan	May 2006
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Borough Solicitor & Secretary	Yes	Yes	
Chief Finance Officer	Yes	Yes	
Head of Procurement	Yes	Yes	
Executive Member	Yes	No	
Date final report sent to Constitutional Support Services	5 February 2007		