

**West of England Joint Scrutiny Committee**

**11<sup>th</sup> July 2008**

**Joint Waste Strategy, Outline Business Case and the Procurement of Waste Treatment Capacity**

**Purpose of the Report:**

1. To brief the Joint Scrutiny Committee as to their role in ensuring that the Outline Business Case (OBC) and Affordability Envelope for Phase 3 of the WoE Joint Residual Municipal Waste Strategy (the Waste Strategy) are robust, fit for purpose, and that they meet the needs of the individual UAs and also the Department of Environment, Food and Rural Affairs (Defra).

**Background**

2. The West of England Partnership comprising the four constituent Unitary Authorities was formed in 2005 to deliver, amongst other things, a Joint Residual Municipal Waste Management Strategy (JWS), a Joint Waste Core Strategy (JWCS) and to procure long term waste treatment infrastructure to divert waste from landfill. The waste work has its own dedicated website: [www.rubbishorresource.co.uk](http://www.rubbishorresource.co.uk)
3. The waste aspects of the Partnership's work have so far been directed by a Joint Member Project Board comprising the Executive Members for Waste and Planning from each of the Authorities, and managed through a Directors' Programme Board. Technical, Financial and Legal Advisors have been appointed to work alongside a small dedicated team of officers to deliver the project outcomes.
4. The Member Project Board will shortly be transformed into the Joint Waste Committee which will implement the Strategy, whilst the development and adoption of the Joint Waste Core Strategy will be managed through a Planning, Housing and Communities Programme Board. Both these bodies are to be an integral part of the over-arching West of England Partnership, sitting alongside the Joint Transport Committee.

5. Scrutiny of joint waste issues has, thus far, been provided by a Joint Waste Overview & Scrutiny Reference Group (JWO&SRG) supplemented by individual UA scrutiny committees. The JWO&SRG has now been replaced by the West of England Joint Scrutiny Committee. Scrutiny will be an important part of delivering the OBC.
6. Future governance arrangements for waste management are the subject of a Joint Working Agreement.
7. This report deals with the process whereby the Partnership is applying to Defra for PFI funding support under Defra's Waste Infrastructure Delivery Programme (WIDP) for Phase 3 of the Waste Strategy. Key components of the OBC will need to be formally scrutinised prior to the submission of the OBC to Defra on 31<sup>st</sup> October 2008.
8. For example, an integral part of the OBC is an Assessment of Affordability of future waste management costs. This will summarise the results of a Stage 2 – Project Level Assessment of VFM as set out in HM Treasury's Value for Money Assessment Guidance (November 2006), the impact of which will need to be considered and scrutinised by not only the Joint Scrutiny Committee but also by each participating UA. Bristol, North Somerset and South Gloucestershire are pursuing a Phase 3 solution jointly. B&NES has elected not to participate in Phase 3.

### **Joint Residual Municipal Waste Management Strategy**

9. The Joint Waste Strategy was approved by the Cabinets/Executives of each of the four UAs in June 2008. The task now before the Partnership is to submit to Defra an Outline Business Case which will gain government support for PFI funding. A copy of the summarised agreed Joint waste Strategy is appended as Appendix A.

The Strategy has a four phased approach:

**Phase 1:** Waste reduction and source segregation (*Each UA to continue to maximise waste diversion/minimisation/recycling in*

*order to at least achieve the national recycling target of 50% by 2020).*

**Phase 2:** *Interim treatment of waste (a joint procurement process of all the 4 UA's which seeks alternatives to landfill for the period 2010- 2015, to avoid LATS penalties)*

**Phase 3:** Long term waste treatment to meet LATS diversion targets to 2020.  
*(B&NES has elected not to participate in Phase 3).*

**Phase 4:** Longer term treatment beyond 2020 *(This provides flexibility towards the adoption of emerging technologies and deals with waste after 2020 when predictions are more difficult to determine accurately).*

## **The Outline Business Case**

10. The preparation of the Outline Business Plan is following a rigorous and defined process set down by Defra's Waste Infrastructure Delivery Programme (WIDP). The textual content of the OBC must be in conformity with the requirements of Defra Guidance on OBC Applications for PFI Credits Version 4 – May 2008. In addition to our Technical, Financial and Legal Advisors, the Project Team has the benefit of a WIDP Transactor (at no direct charge to the project) who provides guidance in the preparation of the OBC, and will remain available throughout the procurement process up to award of contract(s) and beyond.

Defra guidance requires the Outline Business Case to specifically address:

- Strategic waste management objectives;
- Procurement strategy and reference project;
- Risk management, risk allocation and contractual structures;
- Project team and governance;
- Sites, planning and design;
- Costs, budget and finance;
- Stakeholder communications; and
- Timetable

Costs, Budget and Finance is required to deal with the issue of affordability.

11. An Expression of Interest (EoI) for PFI credits of £60m was submitted to Defra in March 2008. In May 2008 Defra gave the green light to the Partnership submitting an Outline Business Case (OBC) for the procurement of long-term waste treatment infrastructure capable of dealing with approximately 160,000 tonnes of waste per annum (ie: Phase 3 of the WoE Waste Strategy). As stated in paragraph 7, the OBC needs to be submitted by October 31<sup>st</sup> 2008 when it will then be scrutinised by a Treasury Project Review Group.
12. The EoI was also prepared in accordance with strict Defra guidelines, requiring the determination of a Reference Project through a Technology Options Appraisal (TOA) process. This resulted in three top ranking technologies; these were: Pyrolysis/gasification; conventional Energy from Waste (EfW) by incineration; and Biological Mechanical Treatment. Conventional EfW was subsequently modelled as the reference technology as it is a proven, deliverable and bankable technology at the scale the partnership requires. Defra dictates that these are key indicators when adopting the choice of Reference Project.
13. Future tenders will be evaluated against this Reference Project using financial, environmental and socio-economic criteria. The determination of EfW by incineration as the reference technology for Phase 3 does not in any way commit the partnership to choosing this as its final solution. It will, however, be the technology against which all tenders will be evaluated, based upon an output specification and an agreed set of performance indicators. The expectation is that whatever technology is finally chosen it should be capable of generating heat and power (CHP - Combined Heat and Power) for the benefit of the local community. CHP will be integrated into the financial modelling of the Reference Project.
14. The programme by which the necessary supporting documentation is prepared, approved and scrutinised has had to be timetabled within the period between now and 31<sup>st</sup> October 2008. As can be seen from the draft Decision Timeline in Appendix B this is extremely challenging.

15. The timeline sets out a proposed sequence of Joint Waste Committee and Joint Scrutiny Committee meetings to facilitate the receipt, consideration and scrutiny of those key components of the OBC that will pass before individual Cabinets/Executives for decision. At this moment in time, the most significant component of the OBC is the Assessment of Affordability, also known as the Affordability Envelope. The Technical and Financial Advisors to the project, Jacobs Engineering and PriceWaterhouseCoopers, along with individual UA Waste and Finance Officers will play a key role in undertaking this work.
16. It is suggested that for the purpose of scrutinising the work ahead, up to the submission of the OBC, that the relevant meetings should accommodate the following agenda. This programme has been extracted from Appendix B for ease of reference.

<b>Date</b>	<b>Meeting</b>	<b>Purpose</b>
11 <sup>th</sup> July 2008	Joint Scrutiny Committee	Introduction/presentation on the process of submitting the OBC and an explanation of the key components and stages in its preparation
Late July (TBC)	Joint Scrutiny Committee	More detailed presentation on the OBC and Assessment of Affordability supported by PriceWaterhouseCoopers, Financial Advisors to the project, setting out the key indicators by which we can secure a successful PFI bid
Between 1 <sup>st</sup> September and 2 <sup>nd</sup> October 2008	Individual UA Scrutiny Committees	Individual UA Scrutiny Committees are requested to comment upon the Assessment of Affordability the Joint Waste Committee (JWC) will have recommended from its 1 <sup>st</sup> September meeting and prior to it returning to the JWC on 2 <sup>nd</sup> October for further debate and recommendation to individual

		Cabinets/Executives later in October
Mid September – Possibly 11 <sup>th</sup> September 2008	Joint Scrutiny Committee	Ditto by the Joint Scrutiny Committee

16. The majority of the OBC is textual evidence brought forward from the Waste Strategy, the Expression of Interest, and the emerging Joint Waste Core Strategy. It will have a number of iterations during the period to October before submission, and will be significant in its volume. It is anticipated that there will be a continual revision of the document right up to the deadline date of 31<sup>st</sup> October. The Assessment of Affordability is the key piece of evidence on which future waste management costs will be defined. The programme requires this to be available by 1<sup>st</sup> September 2008 so that it can be scrutinised and approved in time for submission to Defra by 31<sup>st</sup> October 2008. Further details of the work around the Assessment of Affordability is provided below in paragraphs 18 to 23.
17. Following the submission and approval of the OBC by Defra, the programme towards contract award for waste treatment capacity under Phase 3 is set out in draft in Appendix C.

### **The Assessment of Affordability/Affordability Envelope**

18. As referred to earlier, the Assessment of Affordability is a key component of the OBC and is something which Defra requires to be formally approved by each participating UA. The Assessment of Affordability is the cost of the project to the Authority – expressed as annual cashflows and which should be compared to existing budget provision to assess affordability. Where a project is supported by a PFI credit, the annual value of the grant to the Authority should also be taken into account in assessing affordability. Where the cost is likely to require a significant budget increase, the Authority should assess the affordability of the project in relation to all of its commitments before proceeding.

19. Consequently it will be important to provide evidence to Defra that members have understood and approved the annual budget implications of procuring a PFI contract; eg: by contrasting the projected level of expenditure to historic annual waste management budgets for at least the 3 full financial years prior to the date of the OBC.
20. Defra and ultimately the Project Review Group (PRG) require clear and unambiguous evidence that the decision making body of each Authority (Cabinet/Executive in the case of the WoE) is committed to meeting its share of the cost of the PFI project over the lifetime of the contract. The OBC should also provide evidence that the relevant decision making body has understood there is significant uncertainty involved in the cost estimates at the OBC stage and that the risk that costs may change lies with the Authority. The latter point should be addressed by making members aware of the budgetary impacts if key input assumptions are varied. The range should be derived by sensitivity analysis involving downside scenarios.
21. Acceptable evidence of sign-up would include both the minutes of Cabinet/Executive meetings at which approval was given as well as a copy of a report to members clearly setting out the position. Defra and PRG require clear evidence that members have had sight of the full potential cost implications.
22. Defra advise that project teams share draft reports and wording of recommendations to members with their Transactor and WIDP scrutiny team in advance in order to confirm their suitability.
23. Officers believe that the Decision Timeline as set out in Appendix B should provide sufficient time for this to be achieved provided that the project is kept within programme. It is however a very challenging timetable.

### **Key Project Activities**

24. Quite clearly there is a significant volume of work to be undertaken by both the Project Team and its Technical and Financial Advisors in order to provide the requisite evidence to both Defra and the individual UAs that we can submit an OBC

capable of delivering a viable project worthy of PFI funding support.

25. Scrutiny at both the local and partnership level should ensure that the OBC is fit for purpose and meets the requirements of both individual Authorities and Defra.

## **Recommendation**

**That: Members consider the report in regard to the future scrutiny of the Outline Business Case for Phase 3 of the Joint Waste Strategy.**

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## APPENDIX B

### Draft Decision Timeline for OBC and Affordability Envelope (Full Economic Cost Model) for Phase 3

11 <sup>th</sup> July 2008	Joint Scrutiny Committee	Begin to acquaint Joint Scrutiny with OBC/Affordability process
Late July – 28 <sup>th</sup> July?	Informal JWC	Prepare JWC for decisions ahead
Late July (TBD)	Joint Scrutiny Committee	Further Scrutiny input inc. presentation by Financial Advisors
1 <sup>st</sup> September 2008	Formal JWC	JWC receives Affordability Envelope & draft OBC and forwards to UA scrutiny committees
16 <sup>th</sup> September 2008	Formal JWC	JWC considers Initial feedback from Scrutiny. More complete OBC document available for review.
Before 2 <sup>nd</sup> October 2008	Individual UA Scrutiny plus Joint Scrutiny Committee (TBC possibly 11 <sup>th</sup> September)	Additional period to consider Affordability Envelope if required
2nd October 2008 ?	Formal JWC	JWC considers Scrutiny comments and recommends Affordability Envelope to individual UA Executives/Cabinets
6 <sup>th</sup> October 2008	SGC Cabinet	Approves Affordability Envelope and OBC

		subject to final completion of OBC
28 <sup>th</sup> October 2008	NSC Executive	Approves Affordability Envelope and OBC subject to final completion of OBC
30 <sup>th</sup> October 2008	BCC Cabinet	Approves Affordability Envelope and OBC subject to final completion of OBC
31 <sup>st</sup> October 2008	DEADLINE	Submit OBC & Affordability Envelope to Defra

***NB: Each UA must ensure that it has the recommendation to be considered at their Cabinets/Executive in October entered into their Leader's Forward Plan in accordance with their forward programme for decision making.***

## APPENDIX C

### PROGRAMMED TIMETABLE FOR THE PROCUREMENT OF FUTURE WASTE TREATMENT CAPACITY UNDER PHASE 3

#### Phase 3

Deadline for OBC submission	31 <sup>st</sup> October 2008
Defra Approval of the OBC	February 2009
Project Review Group Approval of the OBC	March 2009
OJEU Advertisement inviting tenders	April 2009
Decision to invite specified bidders to participate in any Competitive Dialogue	Late 2009
Approval of the Invitation to Submit Outline Submissions	Early 2010
Approve Preferred Bidder	Mid 2010
Approve Final Business Case.	Late 2010
Award of contract	Early 2011