

West of England Partnership
Joint Waste Committee
23 January 2009

Report of the Chief Executive

Phase 3 Joint Waste Treatment and Disposal Contract Approval of Evaluation Criteria

Purpose of the Report

- (i) To report on the outcome of the Stakeholder Workshop and consultation with the West of England Joint Scrutiny Committee on the tender evaluation criteria for Phase 3 tender evaluation;
- (ii) To propose the Quality aspects of a Tender Evaluation Framework by which tendered solutions (which will become the Contract at the end of the process) can be evaluated over the course of the procurement; and
- (iii) To consider and approve elements of the PQQ Evaluation Criteria for evaluating the first-stage pre-qualification questionnaire 'PQQ' responses from potential tenderers.

Introduction

1. Under the EU Procurement Rules, potential bidders must be notified of (1) the criteria that will be applied at PQQ stage to determine which bidders will pass into the next stages and also (2) the means by which their tenders will be evaluated during the bid stages. The PQQ Evaluation Criteria need to be provided with the PQQ documentation and the Tender Evaluation Framework should be provided at or before the start of the dialogue phase (i.e. when the Invitation to Participate in Dialogue (ITPD) is issued). Therefore the evaluation criteria and their weightings need to be determined as early as possible in the process of procurement.
2. The PQQ Evaluation Criteria do not relate to the Contract that will be let at the end of the process, rather they determine which potential bidders will be approved to proceed into the dialogue phase. The Tender Evaluation Framework will be used throughout the dialogue to create a shortlist of the best solutions and the selection of the final winning tender. By assigning criteria and weightings to the qualitative (eg. service delivery, technical, commercial, financial, legal and contractual) elements of the tender requirements, the Authorities can communicate to bidders their priorities and, more importantly, the basis on which their tenders will be evaluated.
3. In order to ensure that the evaluation process is fair and transparent, as obliged by EU Treaty principles, the assessment at PQQ and at the tender stages should follow a pre-defined evaluation strategy and should be consistent with the ultimate objectives of the project. As the dialogue progresses, the methodology of tender assessment may become more sophisticated and detailed. In particular, the criteria,

weightings and methodology must not be changed once they have been set out in the ITPD. It is important to note that the Tender Evaluation Framework relates to the bids for the project (ie. forward looking), whereas the PQQ Evaluation Criteria relate to matters such as the financial robustness of the bidding organisation (ie. backward looking). The Tender Evaluation Framework will be weighted to recognise that certain elements of the bid will gain greater importance at later stages of the dialogue. For example, the level of technical experience will warrant more detailed assessment early in the negotiation stages (ie. at Invitation to Submit Outline Solutions (ISOS), leading to a greater focus on commercial and contractual matters towards the latter stages of the negotiations (ie: at Invitation to Submit Detailed Solutions (ISDS) and at Call for Final Tenders (CFT)).

4. The Price and Quality elements of tenders are assessed separately within the Tender Evaluation Framework. Weightings are applied to the criteria to ensure that price and non-price factors are scored to reflect their relative importance and to arrive at a final value for money (VFM) judgement, ie. the Most Economically Advantageous Tender (MEAT).
5. The Joint Waste Committee has been delegated the responsibility of determining the content of the Tender Evaluation Framework for the evaluation of the tenders for the Phase 3 Contract. Information is also being provided to the Joint Waste Committee on the PQQ Evaluation Criteria as they are also relevant to the process of selecting bidders.

Background to this report

6. Waste Executive Members received a briefing on 11 December 2008 on the methodology to be employed in determining the Tender Evaluation Framework for Phase 3 tenders and the arrangements for engaging with stakeholders. A stakeholder workshop was subsequently held on Monday 12 January 2009.
7. Work done in liaison with advisors, Jacobs Engineering, PriceWaterhouseCoopers and Pinsent Masons, outcomes from the workshop, together with the views expressed by the Joint Scrutiny Committee on 23 January 2009, has resulted in the determination of a Draft Tender Evaluation Framework for assessing the Quality element of tendered solutions for Phase 3.
8. The workshop was attended by representatives of community and environmental groups, business and Government agencies, elected members and officers. A total of 39 representatives were invited on behalf of Bristol, North Somerset and South Gloucestershire. The workshop was facilitated by officers and advisors. 28 stakeholder representatives participated in the workshop at which the Quality element of the Tender Evaluation Framework was established.
9. The focus of the workshop was to determine the Quality criteria that will deliver the Key Service Objectives, ie: the outcomes that the partnering Authorities wish to secure from any future contract, and how tenders will be assessed.
10. The Key Service Objectives are derived from the priorities found within the adopted Joint Waste Strategy (JWS) and Outline Business Case (OBC). These were initially shared with the Scrutiny Committee on 12 December 2008, subsequently refined in the light of further examination of the core documents and then used as a reference

at the stakeholder workshop. The Key Service Objectives will be embodied within the Draft Output Specification to be circulated as part of the tender documentation.

11. For ease of reference the Key Service Objectives derived from the JWS and OBC are shown in Appendix A. This slide formed part of the supporting presentation given at the stakeholder workshop (slide no. 5). A copy of the full presentation is at Appendix B.
12. A key outcome of the contract will be Best Value - a combination of Price and Quality. It is of paramount importance that there is a robust and transparent process by which the Authorities can assess bidders' solutions and be confident that what is being proposed, and by whom, is capable of delivering the Key Objectives at an affordable cost; ie. a cost within the affordability envelope of the OBC.
13. The Authorities are obliged to inform bidding contractors as to how their proposals are to be evaluated. For this we need a Tender Evaluation Framework. An example of the Quality element of an evaluation framework which has been successfully used and tested on other waste projects was provided to stakeholders at the workshop. During the workshop stakeholders refined this model into one designed to bring forward the desired outcomes for Phase 3.

Financial Evaluation of Tenders

14. The Tender Evaluation Framework sections developed with stakeholders and the Joint Scrutiny Committee focused on the Quality aspects of forthcoming tendered solutions. Alongside this analysis of Quality will be an evaluation of Price. The tendered prices will need to sit within the affordability envelope of the Outline Business Case in order to achieve the Most Economically Advantageous Tender (MEAT).
15. To arrive at the overall Price for each bid, both the costs in the bidder's response and appropriate adjustments to take account of risk and consequential impact on the Authorities budgets will be taken into consideration. The overall Price should sit within the affordability envelope set out in the Outline Business Case for the bid to be acceptable.
16. For each bid, the score achieved in the Quality criteria, and the overall Price of each bid will be considered together to select the Most Economically Advantageous Tender. The detailed methodology for this will be communicated to bidders at the start of the tender process.
17. The completed Tender Evaluation Framework, including the Price element, does not need to be disclosed until the ITPD is to be issued. Work continues to determine how best to approach the evaluation of Price. This process will include a detailed consideration of WIDP recommendations and the experiences of other waste PFI projects. Once this is sufficiently developed with finance and legal officers/advisors a set of finalised proposals will be presented to the Joint Waste Committee.

Outcomes from the Stakeholder Workshop

18. The detailed outcomes from the workshop are illustrated in Appendix C. This provides an analysis of the weightings determined at the stakeholders. The opinions of the stakeholders have been converted into statistical data. The scatter and stacked diagrams are alternative ways of illustrating the relative weightings of the chosen criteria. Feedback from the day has been distributed to all participants.
19. Work then continued with our financial and legal advisors to incorporate the remaining Level 2 Quality Criteria within the Commercial and Financial, Legal and Contractual, and Overall Project Integrity elements of the framework, based on best practice across a number of similar waste PFI projects.
20. Officers and advisors then took the final average weightings of each criterion from the table groups at the workshop and placed them within the Draft Tender Evaluation Framework for Quality at the Invitation to Submit Outline Solutions now shown as Figure 1 within Appendix D.
21. It was this Draft Tender Evaluation Framework (Figure 1, Appendix D) that was presented to members of the Joint Scrutiny Committee when they were asked for their views on 23 January 2009.
22. Appendix D goes on to provide further detailed proposals relating to ISDS and CFT, which are referred to in paragraph 24.

Views of the Joint Scrutiny Committee

23. Minutes of the Joint Scrutiny Committee are published elsewhere. However at the meeting members expressed a desire to ensure that the Environmental criteria were given an appropriately high weighting and that Managerial, Contractual and Legal issues also needed to be considered in the context of Price.
24. Officers sought to reassure Members and explain how the basic evaluation criteria had been determined, and what the factors were behind Price, together with an explanation of the PQQ stage.
25. Reference was made to the recommendations of the Partnership's financial and legal advisors in respect of the remaining Level 1 and 2 criteria within the Commercial and Financial, Legal and Contractual and Overall Project Integrity elements of the Tender Evaluation Framework. The Committee's discussion then focused on the incorporating these elements into the framework and allocating appropriate weightings at each stage of the procurement (ISOS, ISDS and CFT).
26. Members were advised that once the evaluation criteria had been set, and competitive dialogue entered into, it was important that the criteria were adhered to and cannot be changed, in order avoid the possibility of legal challenge from unsuccessful bidders.
27. Members referred to the percentages at each stage of procurement and to the percentages in the Evaluation Criteria Model, and noted the approach of increasing the weighting given to the Legal, Financial and Contractual criteria in many sectors, with 4ps now encouraging this approach with waste projects.

28. Arising from the discussion amongst Scrutiny Members, the following changes to the percentage weightings were proposed and agreed as reflecting the Committee's views –

(1) Percentages at the ISOS stage of procurement for Level 1 criteria

Service Delivery and Technical – change from 73.6% to 75%

Commercial and Financial – change from 12.2% to 15%

Legal and Contractual – change from 11.1% to 10%

Overall Integrity – change from 3.1% to 0%.

(2) Percentages at the ISOS stage of procurement for Level 2 criteria under Service Delivery & Technical

Environment & Sustainability & Targets – change from 47.9% to 50%

To combine Management with Deliverability & Flexibility – change the combined percentage from 25.7% to 25%.

(The officers to make any necessary recalculations in respect of the remaining Level 2 criteria under Commercial & Financial, Legal & Contractual and Overall Integrity).

(3) Percentages at the ISDS and CFT stages of procurement for Level 1 criteria

Service Delivery & Technical - 60%

Financial & Commercial – 20%

Legal & Contractual – 15%

Overall Integrity – 5%

(The officers to make any necessary recalculations in respect of the remaining Level 2 criteria under Commercial & Financial, Legal & Contractual and Overall Integrity at ISDS and CFT).

PQQ Evaluation Criteria

29. The progression of bidders through to the bidding stages of the Phase 3 project will be subject to evaluation at the PQQ stage. This stage will evaluate the general capacity of the bidders to deliver the project. It does not look at anything related to their potential solutions or the content of the eventual Contract. It is proposed to short-list between 6 and 9 potential bidders from the PQQ process.

30. In order to progress, bidders will have to fulfil the following minimum criteria:

(1) Part One: Minimum Thresholds: This will determine whether the Applicant -

- Meets legal eligibility criteria.
- Has submitted a complete and compliant PQQ.
- Achieves the Council's minimum thresholds of financial standing, this minimum threshold is proposed to be £50m annual turnover.

- Achieves the Council's minimum threshold of technical capacity, this minimum is proposed to include evidence of comparable public sector projects
- (2) Part Two: All bidders who pass the Part One thresholds will then be assessed, scored and ranked against non-discriminatory and objective criteria. If less than 6 applicants pass the minimum thresholds, then part two evaluation is unnecessary and all those who pass part one will be invited to participate in the dialogue (ITPD). In the event that Part Two is invoked, the non-discriminatory and objective criteria to be applied under Part Two would be based on a Technical Assessment (project and technical experience; organisational experience and corporate policies) together with an Economic and Financial Assessment.

Proposal

31. The outcome of the Scrutiny Committee's deliberations culminated in a Tender Evaluation Framework for Quality that varied at each stage of the procurement process. These are shown as Figures 2, 3, 4 and 5 in Appendix D. The Joint Waste Committee will note that the contents of these frameworks mirror the percentage weightings adopted in similar waste projects as illustrated by 4ps in their overview shown at Appendix E.
32. The Joint Waste Committee is asked therefore to consider the adoption of the sections of the Tender Evaluation Framework as set out in Figures 2 to 5 in Appendix D as the means of evaluating the Quality aspects of Phase 3 tenders together with the elements of the PQQ Evaluation Criteria set out in this report; these will form part of the means of determining which bidders will progress to the tendering stages of the Phase 3 procurement.

Recommendation

That the Joint Waste Committee:

- (i) approves the Tender Evaluation Criteria as set out in Appendix D to this report as the means by which the Quality aspects of Phase 3 tenders will be evaluated at each stage of the procurement process;
- (ii) notes that in due course it will be asked to consider proposals as to how the Price of tenders will be assessed in relation to Quality; and
- (iii) approves the elements of the PQQ Evaluation Criteria set out in this report, which will form part of the means by which the PQQ responses of the potential Phase 3 tenderers will be evaluated.

- Appendices:**
- Appendix A: Key Service Objectives.
 - Appendix B: Presentation to the Phase 3 Tender Evaluation Criteria Stakeholder Workshop.
 - Appendix C: Analysis of Workshop Outcomes.
 - Appendix D: Figure 1: Evaluation Framework following the Workshop.
 - Appendix D: Figures 2 to 5: Recommended Evaluation Frameworks for Tender Evaluation.
 - Appendix E: 4ps Illustrative Overview of Evaluation Criteria for Waste Projects

**Access to Information
Background Papers**

West of England Joint Scrutiny Committee – Report on Phase 3 Tender Evaluation Criteria
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