

Waste Strategy Project

Draft Business Plan (West)

Objective	To define the procurement strategy and decisions to be taken by the Joint Committees.
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Distribution	Core Team and Partnership Lead Officers (for onward distribution to Partnership Legal Officers)
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Version History		
Number	Location	Version
0.1	H:\PWM\Waste Programme Management\Key Documents\Business Plan\Business Plan Version 0-1 210105.DOC	Skeleton framework for discussion by core team and partnership lead officers.
0.2	H:\PWM\Waste Programme Management\Key Documents\Business Plan\Business Plan Version 0-2 010205.DOC	Initial draft for discussion by core team, partnership lead officers, and partnership legal officers.
0.3	H:\PWM\Waste Programme Management\Key Documents\Business Plan\Business Plan Version 0-3 210205.DOC	Draft for agreement by project sponsor.
0.4	H:\PWM\Waste Programme Management\Key Documents\Business Plan\Business Plan (West) version 0-4 250205.DOC	Second draft for agreement by partnership lead officers and partnership legal officers
1.0	H:\PWM\Waste Programme	Final version for adoption by

	Management\Key Documents\Business Plan\Current\Business Plan (West) version 1.0 070305.DOC	Partner Authorities
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SCHEDULE 2

ESSEX WASTE MANAGEMENT PARTNERSHIP

**DRAFT BUSINESS PLAN FOR THE WEST ESSEX WASTE MANAGEMENT
JOINT COMMITTEE**

**Version 1.0
7th March 2005**

1. INTRODUCTION

- 1.1 This document sets out the Business Plan for the Joint Committee (Committee) in relation to the procurement process to be undertaken by the Committee on behalf of each Partner Authority for the procurement of waste management contracts which will include refuse, composting and recycling collections (kerbside, bring banks and Civic Amenity and Recycling Centres), sorting, bulking and treatment facilities for the diversion from landfill and disposal functions (“the Procurement Exercise”) and the Committee shall carry out this Procurement Exercise in accordance with this Business Plan.
- 1.2 Other environmental and cleansing services may also be included at the discretion of individual Partner Authorities subject to proposals being endorsed by the Committee and not conflicting or prejudicing the objective of securing effective tenders for the provision of fully integrated waste services. As set out in the Procurement Strategy (see section 4), for the purposes of obtaining individual tender prices, Partner Authorities will be able to determine the service specification required to meet their local circumstances.

2. COMMUNICATION PLAN AND PUBLIC CONSULTATION

- 2.1 The Committee will have a role in developing and approving the Communication Plan for the Waste Strategy Project and consultation with members of the public and other stakeholders on the development and implementation of the Joint Municipal Waste Management Strategy for Essex.
- 2.2. The Committee will:
 - 2.2.1. Agree the methodology for any consultation exercise / stakeholder engagement relating to the Joint Municipal Waste Management Strategy;
 - 2.2.2. Have regard to the outcomes of such exercises in the development and adoption of the Joint Municipal Waste Management Strategy;
 - 2.2.3. Develop and approve the Communications Plan for the waste strategy project at a countywide and area level, which will:-

- 2.2.3.1. Support the implementation of the Joint Municipal Waste Management Strategy;
- 2.2.3.2. Enhance waste awareness; and
- 2.2.4. Explore and identify the need for any further public consultation relating to this project.
- 2.2.5. Be responsible for the development and assessment of a media protocol to ensure the interests of all Partner Authorities are recognised and managed during the procurement phase.

3. DECISIONS TO BE TAKEN BY THE COMMITTEE

- 3.1. The purpose of the Committee is to oversee and carry out the Procurement Exercise. In order to facilitate this certain decisions that are usually made by the Executive or the full Council (as the case may be) of each Partner Authority need to be taken by the Committee.
- 3.2. Set out below is a list of (1) the decisions that need to be taken by the Committee in relation to the Procurement Exercise – see section 3.5; (2) decisions which will be retained and made by each Partner Authority – see section 3.6; and (3) decisions to be taken by the Committee, but where the Committee will give each Partner Authority notification of the proposed decision in order for the Partner Authorities to comment on the decision before the Committee makes the final decision - see section 3.7.
- 3.3. All decisions taken by the Committee will be made by the Committee in accordance with the Committee's Constitution and any decisions of the Committee may be scrutinised in accordance with the scrutiny arrangements of each Partner Authority.
- 3.4. Decisions to be taken by the Committee are established within the context of the Procurement Strategy set out within this Business Plan.

3.5. Detailed list of decisions to be taken by the Committee:

- 3.5.1. Approval of the overall Procurement Strategy and process including the stages, as appropriate, outlined below:
 - 3.5.1.1. Approval and submission to Defra of the OBC (Outline Business case) (PFI only);

- 3.5.1.2. Approval of the OJEU (Official Journal of the European Union Notice) and PQQ (Pre-Qualification Questionnaire);
- 3.5.1.3. Development of evaluation criteria and scoring matrix for each stage of the selection process. Within this context, the views, opinions and needs of Waste Disposal Authorities will take precedence in establishing the evaluation criteria for recognised waste disposal activities. Equally, the views, opinions and needs of Waste Collection Authorities will take precedence in establishing the evaluation criteria for recognised waste collection and other Waste Collection Authority related services. The Committee will seek to establish consensus and appropriate balance of weighting for fully integrated waste tenders in accordance with the Procurement Strategy set out later in this Business Plan;
- 3.5.1.4. Completion of PQQ assessment and approval of long-list of bidders;
- 3.5.1.5. Approval and issue of the ISOP (Invitation to Submit Outline Proposals) and associated documentation to the long-list of bidders;
- 3.5.1.6. Completion of the evaluation of ISOP submissions and the selection of the short-list of bidders to receive the ITN (Invitation to Negotiate);
- 3.5.1.7. Approval and issue of ITN and associated documentation to the short-list of bidders;
- 3.5.1.8. Completion of the evaluation of ITN submissions and approval of Preferred Bidder or short-list of bidders to receive the invitation to submit a BAFO (Best and Final Offer);
- 3.5.1.9. Approval and issue of any BAFO to short listed bidders;
- 3.5.1.10. Clarification of BAFO documentation and bidders' submissions;
- 3.5.1.11. Completion of the evaluation of BAFO submissions and approval of the Preferred Bidder (and Reserve Bidder);

- 3.5.1.12. Agree terms and conditions of the Project Agreement and ancillary documentation; and
- 3.5.1.13. Prepare and submit FBC (Full Business Case) to Defra/Partnerships UK (PFI only);
- 3.5.2. Agree the principles for the management of the contracts, including service standards, performance targets, remedial action to deal with deficiencies and indicators to monitor and benchmark performance;
- 3.5.3. Agree the financial arrangements between Partner Authorities to pay for services within the new contractual arrangements, including the allocation of PFI credits (if applicable);
- 3.5.4. Agree the Site Acquisition Strategy for each Area (but the decisions to actually acquire project sites or land, or use CPO powers are retained by each Partner Authority);
- 3.5.5. Agree the Asset and Site Register details (but the decision to dispose of project sites or facilities is retained by each Partner Authority);
- 3.5.6. Approve the commitment of resources and funding to further work commissioned by the Committee, which is over and above that already covered by the fixed procurement costs shown in the Business Plan (see section 8.3 to which this paragraph is subject);
- 3.5.7. Direct the work programme of the Officer Steering Group, delegating decisions to the Officer Steering Group as the Committee feels is appropriate and is within the agreed terms of reference of the Officer Steering Group.

3.6. List of decisions retained by each Partner Authority.

Procurement Process:

- 3.6.1. Approval of Contract Award and financial contributions and other liabilities required from each Partner Authority;
- 3.6.2. Approval to enter into any required documentation where the decision to approve such is not to be taken by the Committee;
- 3.6.3. Issue of Certificates under the Local Government (Contracts) Act 1997;

- 3.6.4. Approval of any indemnities to be granted to officers signing Certificates under the Local Government (Contracts) Act 1997;
- 3.6.5. Services to be put forward for inclusion in the contract;
- 3.6.6. Whether a Partner Authority wishes to submit its own tender for any of the services.
- 3.6.7. Approval of additional budget for the procurement activities (see section 8.3).

Planning Permissions and Sites:

- 3.6.8. Decisions on planning applications for project sites. The County Council (and Southend-on-Sea Borough Council in relation to the Thames Gateway Area Group) will be the Planning Authority for the main waste disposal facilities. However, Planning Permissions may also be required from the other Partner Authorities for changes to vehicle depots, collections facilities etc.;
 - 3.6.9. Decisions to acquire any of the project sites or disposal or exchange of land;
 - 3.6.10. Any decisions to use compulsory purchase orders (CPOs) to acquire any of the project sites;
 - 3.6.11. Decisions to make sites / land available under the contract;
 - 3.6.12. Approval to dispose of project sites and any additional facilities to waste management contractors (including any issues relating to disposals at less than best consideration (Section 123 of the Local Government Act 1972 or Section 233 of the Town and Country Planning Act 1990)).
- 3.7. List of key decision points where notification will be given to each Partner Authority of the intended decision and invitation made to each Partner Authority for comments:**
- 3.7.1. Approval of long-list of bidders invited to submit ISOPs;
 - 3.7.2. Approval of shortlist of bidders invited to submit responses to the ITN;
 - 3.7.3. Approval of Preferred Bidder or shortlist of bidders invited to submit a BAFO; and
 - 3.7.4. Approval of Preferred Bidder (and Reserve Bidder) following BAFO;

3.7.5. Approval of the evaluation criteria and scoring matrix for each stage of the selection process.

4. PROCUREMENT STRATEGY

4.1. Overview of Procurement Approach

4.1.1. To ensure Partner Authorities meet their statutory and community obligations and comply with Government requirements of achieving greater value through collaborative working and the joint procurement of public services, the Committee, through its Constitutional arrangements, is tasked with exploring and pursuing a structured procurement strategy. The strategy will identify and establish the most effective and financially efficient service delivery models. In identifying this overall objective, the Procurement Strategy also acknowledges that individual Partner Authorities have a duty under their community governance responsibilities to develop Community Strategies reflecting local needs.

4.1.2. The Procurement Strategy therefore promotes the development of the "matrix" tendering philosophy that enables collective and individual Partner Authority tenders to be received, and to enable integrated and individual solutions to be evaluated.

4.1.3. This Business Plan requires that the Committee develops and explores three comparative procurement approaches pursuing:

- Private Finance Initiative (PFI).
- Public Private Partnerships (PPP).
- Public Sector Comparators (PSC)

A definition of the above terms is contained within the Glossary at the end of this Business Plan.

4.1.4. The approved strategy is to progress on the basis that PFI is the preferred option, assuming appropriate levels of PFI credit are awarded by Defra as a result of the OBC submission.

4.2. Tender Strategy.

- 4.2.1. In support of the partnership agreement, the Tender Strategy to be implemented by the Committee requires that tenders be sought for fully integrated (horizontally and vertically) waste management arrangements for each defined contractual area, and as a comparator, tenders to be sought for the delivery of services to individual Partner Authorities in accordance with their own local needs.
- 4.2.2. The Committee will be expected to secure and maintain appropriate waste sector industry interest in these arrangements and to make suitable amendments to this strategy to ensure every opportunity is taken to maintain competitive interest.
- 4.2.3. The Committee will be responsible for negotiating variances from tenders received to determine the best overall solution or solutions to be recommended for each contractual area.
- 4.2.4. To ensure sufficient competition is maintained throughout the procurement process, the Committee will be responsible for structuring the tenders so that both joint and severable waste disposal and waste collection arrangements can be pursued to enable both major waste industry and smaller waste industry representatives to compete including, where appropriate, tenders being submitted by local authorities exercising their responsibilities using their in-house Direct Service Organisations.
- 4.2.5. The Committee will explore opportunities for involving the community sector in the delivery of waste services.

4.3. Services To Be Included

4.3.1. For fully integrated contract arrangements

- 4.3.1.1. The scope of services to be included will be established during preparation of the specification. Fully integrated waste management contracts are likely to include refuse collection, composting and recycling collections (kerbside, bring banks and Civic Amenity and Recycling Centres), sorting, bulking and treatment facilities and disposal

and directly related ancillary services such as vehicle maintenance, if appropriate.

4.3.1.2. The specification for these services will be primarily output performance based to enable bidding contractors to financially and operationally optimise proposals for the delivery of the above services. The Committee will be responsible for determining output performance requirements and operational boundaries.

4.3.2. For individual tenders for partner authorities.

4.3.2.1. Partner Authorities will be free to determine their own local service specifications and functions/services to be included in any tender arrangements.

4.3.2.2. The Committee will seek, where possible, common service provisions and to establish consensus in performance requirements to enhance opportunities for efficiency gains in either operational service delivery, financing, support or management structures.

4.4. The Outline Business Case

The Outline Business Case (OBC) stage of the project is designed to further review the procurement approach, services to be included, and optimum levels of integration achievable in order to support any submission to Defra for PFI credits. The Procurement Strategy will be identified as part of the OBC process, including whether to approach the market in lots; which components should be PFI, and which should be based upon more conventional contracts. Should PFI not be viable PPP will be the fall back option. Different Contract Strategies will be required depending on the preferred approach.

4.5. Evaluation Framework

The evaluation of tender submissions will follow the guidelines identified in the 4P's Waste Management procurement pack Guidance (see Appendix A). High level criteria with weightings shall be developed and approved by the Committee prior to issue of the

The role and responsibilities of the Clerk to the Committee are set out in paragraph 8 of the Constitution.

7.2. The Committee will also be supported by the Officer Steering Group. The Committee will direct the work programme of the Officer Steering Group, delegating decisions to the Officer Steering Group as the Committee feels is appropriate and is within the agreed terms of reference of the Officer Steering Group.

7.3. The conduct of negotiations with preferred bidders will be undertaken by the Partner Authorities Senior Officers working with the project's technical, financial and legal consultants. The Partner Authorities will identify a named officer to negotiate on their behalf.

8. COSTS

8.1 Procurement Costs

The costs of the Procurement Exercise will be allocated on the following basis:

Unitary Authority	=	Total Professional Services Costs	X	$\frac{\text{Unitary Waste Tonnage}}{\text{Partnership Waste Tonnage}}$
District/Boroughs	=	40% Technical Consultancy Costs	X	$\frac{\text{District/Borough Waste Tonnage}}{\text{Partnership Waste Tonnage}}$
	+	2.5% Legal Consultancy Costs	X	$\frac{\text{District/Borough Waste Tonnage}}{\text{Partnership Waste Tonnage}}$
	+	2.5% Financial Consultancy Costs	X	$\frac{\text{District/Borough Waste Tonnage}}{\text{Partnership Waste Tonnage}}$
ECC	=	The balance of the Total Professional Service Costs		

The procurement costs given below are fixed for each authority and cover the work already budgeted for in the project programme.

Authority	2004/5	2005/6	2006/7
Braintree DC	£2,739	£6,090	£6,969
Brentwood BC	£1,756	£3,904	£4,467
Epping Forest DC	£2,507	£5,575	£6,380
Harlow DC	£1,448	£3,219	£3,684
Uttlesford DC	£1,745	£3,879	£4,439
Essex CC	£84,224	£359,892	£1,114,721

Note: the 2004/5 charge will not be invoiced until 2005/6.

8.2 Support Costs to the Committee

The cost of the Clerk to the Committee and secretarial support will be met by Essex County Council. The cost of the meetings of the Committee and Officer Steering Group (e.g. venue and domestic costs) are to be met by the authority 'hosting' each meeting.

8.3 Other Costs

The Committee will be able to approve the commitment of resources and funding to further work commissioned by the Committee over and above that already covered by the fixed procurement costs (shown above), providing the use of additional funding is budgeted for and agreed by all Members of the Committee and subject to the additional budget having been approved by the Partner Authorities.

9. SITES

9.1. Sites for the development of major waste infrastructure in relation to the West Area Group identified in the Essex and Southend-on-Sea site specific Waste Local Plan are:

- Braintree – Rivenhall Airfield, Silver End
- Epping Forest – North Weald Airfield, North Weald, Bassett

9.2. The identification of these sites in this Business Plan does not preclude any Partnering Authority from objecting to the whole or any part thereof being developed for that purpose.

9.3. The Committee will oversee the development of a Site Acquisition Strategy for each Area to manage and mitigate the risks around site availability.

9.4. In addition, the Committee will also steer the development of an Asset and Site Register to provide accurate background information to the Partnership and bidders on all assets and sites that may be available (either to be bought, transferred or leased) as part of the new contractual arrangements.

10. CONFIDENTIALITY AND THE FREEDOM OF INFORMATION ACT 2000

- 10.1. Confidentiality – each Partner Authority shall keep confidential all information received by it during the Procurement Exercise, unless the Committee agrees otherwise.
- 10.2. Freedom of Information Act 2000 – each Partner Authority recognises its responsibilities under the Freedom of Information Act 2000 and the Committee will agree a protocol that will apply in relation to all information requests received by any of the Partner Authorities in relation to the Procurement Exercise.
- 10.3. The Environmental Information Regulations 2004 – each Partner Authority acknowledges that the disclosure requirements of these Regulations are more extensive than those of the Freedom of Information Act and will seek to incorporate appropriate provisions dealing with these in the protocol mentioned above.

Glossary

Private Finance Initiative (PFI)

A PFI contract is long term service contract in which a private sector operator provides capital assets and associated services to a public sector body for a regular, performance related, “unitary” payment. The scheme receives financial support from central government through PFI credits, but imposes stretched targets.

The PFI approach requires adoption of the 4Ps/Defra standardised approach/pack and identifies benefits from both Horizontal (District to District & WDA/WDA) and Vertical (WDA/WCA) Integration. The PFI option is consistent with obtaining benefits from horizontal and vertical integration.

A PFI specification will need to be aligned to the advice contained in the 4P’s *Waste Management procurement pack Guidance* (a copy of which is contained in appendix A of this Business Plan). This is to reduce procurement costs to bidders and ensure the tender is attractive to the market. The model specification is Output based with flexibility to use input specification elements as appropriate. The model specification is structured to support PFI payment mechanisms based on performance management. The mechanisms have been designed to be acceptable to the banks and providers of finance.

Public Private Partnership (PPP)

A PPP is a working arrangement which has the aim of involving private sector recourse and expertise to deliver public sector assets and services. PPP would initially follow a similar procurement process as PFI, but no PFI credits would be available. It is likely that the contract strategy would be more fragmented.

As with PFI, the PPP option can provide both horizontal and vertical integration. The specification can be either Output based, Input based or a combination of both. The mix will affect the level of risk transferred to the supplier

Public Sector Comparator (PSC)

In order to support the PFI application, and as a comparator between a PFI and PPP procurement and delivery approach a traditional procured service in which the responsibility for financing and operating the waste management facilities post construction will be transferred to the public sector

must be modelled. It is not however intended to procure this PSC but this will be used to demonstrate the value for money of adopting a PFI or PPP approach.

Contract Lots

A 'lot' is a defined grouping of items or services or works. In contract terms it may state:-

- a single lot, which would require the tenderer to bid for all items or provide all services within the contract or
- the contract may be broken down into several lots, where the tenderer can opt to bid for items within one or more defined groups.

Lots are used where there are advantages to placing elements of a contract with more than one supplier. The Directives prohibit the artificial division of contracts into 'Lots' and also require Authorities to consider the aggregate amounts of contracts for the same works, products or category of service. A PFI may be advertised such that an award may be made in Lots.

Partner Authority

The Partner Authorities are the Waste Collection Authorities (WCAs – A Local Authority responsible for the collection of Municipal Solid Waste) and Waste Disposal Authorities (WDAs A Local Authority responsible for the disposal of Municipal Solid Waste and the provision of Civic Amenity Sites) who are members of the Area Group Joint Committees.

Outline Business Case (OBC)

For projects seeking government support towards the capital cost of a project in the form of PFI credits, a generic reporting structure needs to be followed which addresses all of the key evaluation criteria adopted by Government for assessing PFI credits. The key headings of the OBC are:-

- Executive Summary
- Support and Commitment
- Strategic Context
- Analysis of Existing Service Provision
- Options Appraisal
- The Preferred Option
- Delivering the Project
- Employee Issues

Official Journal of the European Union (OJEU) Notice

A contract notice must be placed in OJEU for projects that have a value above the thresholds set out in the Procurement Regulations.

The OJEU Notice sets the parameters for the whole project and needs to contain sufficient explanation of the project to attract bidders. It also should include details of the conditions for participating as regards the criteria that will be used to assess Bidders' economic and financial standing and technical capacity and ability.

Pre Qualification Questionnaire (PQQ)

Bidders expressing an interest in the project in response to the OJEU Notice are issued with a Pre-Qualification Questionnaire and project Information Pack. The aim of the Pre-Qualification Questionnaire is to:

- obtain information that will establish whether potential Bidders, or bidding consortia, have the technical capacity and ability and the economic and financial standing to deliver the project.
- determine whether there are any grounds on which a Bidder may be rejected under the Procurement Regulation

Invitation to Submit Outline Proposals (ISOP)

The ISOP may be issued to all Bidders with the PQQ, or to a long-list of Bidders after the pre-qualification evaluation has been completed, and it will enable a short-list of Bidders to be chosen. The ISOP will request in some detail the approach that the pre-qualified Bidders propose to take to the project, their willingness or appetite for taking on the risks associated with the project, and how they propose to structure and organise delivery of the project.

This stage can also be used to ask Bidders what, within a broad range, they expect their pricing to be. It should be noted that pricing would only be indicative at this stage, without commitment.

Invitation to Negotiate ITN

Once the short-list of Bidders has been selected, the Authority will be in a position to issue the full ITN to the short-listed Bidders. The ITN will be a development of the Information Pack issued with the PQQ, but provide more detail in terms of:

- instructions and guidance to the short-listed Bidders on the process to be followed, the timetable, the Authority's requirements for Bids, and the criteria for evaluation of Bids;
- details of the services required (as set out in the Output Specification);

- the proposed Contractual terms governing the arrangement, including any preferred Contract length and payment mechanism;
- the extent to which Bidders are able to submit Variant Bids.

Best and Final Offer (BaFO)

At the end of the Procurement process a preferred bidder (and possibly a reserve) may be selected and requested to provide a Best and Final Offer.

Municipal Solid Waste

Those wastes which are collected for treatment and disposal by a local authority. They generally comprise waste from households, civic amenity sites, street sweepings and local authority collected commercial waste.

