



St. Helens Council

Audit Report 2011/12

MWDA

Resource Recovery Contract Procurement

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St. Helens Council

EXECUTIVE SUMMARY

Merseyside Waste Disposal Authority

Resource Recovery Contract Procurement

Scope

To review and assess the systems operated by the MWDA in relation to its management of the Call for Final Tender stage of the Competitive Dialogue process for the Resource Recovery Contract procurement.

We will undertake a further, separate piece of work following the completion of the evaluation of final tenders to provide assurance on the final scoring of submissions prior to the appointment of the Preferred Bidder in 2012.

Background

The Resource and Recovery Contract is being procured using the Competitive Dialogue approach. This approach has been selected as the most appropriate procurement method as the process is well suited to the award of complex contracts where there is a need for the contracting authority to discuss all aspects of the proposed contract with the candidates prior to calling for final tenders. The adoption of this approach has been approved by the Authority.

The procurement process is at the final stage, namely, the Call for Final Tenders (CFT). Alternative contractors were eliminated at earlier stages in the dialogue process following evaluation of their submissions. Two contractors, SITA and Covanta, have been successful in progressing to the final stage.

Audit Opinion

The overall opinion based upon our review of the Call for Final Tenders stage is that the Competitive Dialogue process has been well managed and undertaken in accordance with the Authority's approved Evaluation Methodology and Approach. We have confirmed that, in accordance with Competitive Dialogue requirements, participants have been treated equitably in terms of them being engaged in dialogue with senior officers and the appointed advisors. We have reviewed issues logs, minutes of meetings and other key documentation in order to verify that the dialogue process has been effectively managed.

Key Issues

There are no key issues to be reported.

Agreed Action

There are no recommendations resulting from this review.

INTERNAL AUDIT REPORT**RESOURCE RECOVERY CONTRACT PROCUREMENT****1.0 Objectives**

The following control objectives have been applied to this audit: -

1. to ensure compliance with approved procurement strategy/processes.
2. to ensure that participants are treated equitably.
3. to review the use and management of the Extranet facility.
4. to ensure that Advisors are integral to the procurement process and associated decision making.

2.0 Conclusions & Recommendations**2.1 Control Objective – to ensure compliance with approved procurement strategy/processes.**

This objective is being met.

The adoption of the Competitive Dialogue approach to the procurement of the Resource Recovery Contract (RRC) was approved at a meeting of the Authority on 1 February 2008. At this meeting members approved the Evaluation Methodology and Approach.

At a meeting of the Authority on 27 November 2009, members approved the progression of two bidders, Covanta and SITA, to the final stage of the Competitive Dialogue process, Call for Final Tenders (CFT). This was after consideration of a report detailing the outcome of the evaluation of Detailed Solutions.

Regular updates have been reported to the Authority throughout the CFT stage.

During the audit, we were informed that the original reference project to be used as the benchmark for evaluating final bids was based on a 'two-stage' solution i.e. a mechanical biological treatment (MBT) phase and an energy from waste (EfW) incineration phase with facilities located on Merseyside. The two-stage process represented the upper end of the affordability envelope for partners and, as such, other solutions coming forward (including one-stage) were likely to also be within this affordability envelope. As bidders were not restricted to developing their proposal on a two-stage facility, as representative of the original reference project, it became the case that the proposals from both current bidders offered a more cost effective 'one-stage' solution. Consequently, advice was sought from the appointed Financial Advisor who deemed that the original reference project was no longer fit for purpose

in that it would prevent the evaluation methodology working in the way it was intended.

This resulted in a suspension of the dialogue process during which time Queen's Counsel's advice was sought (on two occasions) on the way to proceed whilst ensuring that bidders who had been eliminated in the earlier stages of dialogue had not been prejudiced. The concluding advice was to proceed with a revised reference project and to include certain adjustments to the evaluation model (regarding issues around transport costs and electricity income). We confirmed that the Counsel's advice on the way to proceed was reported to and approved by the Authority. Following this, both bidders were appropriately informed of the outcome.

2.2 Control Objective – to ensure that participants are treated equitably.

This objective is being met.

We have confirmed that there has been a structured approach to dialogue with each of the two successful bidders. A core team of senior officers and advisors has generally provided appropriate continuity of representation at meetings with each of the two bidders. In addition, the generally high level of consistency of representation has assisted in ensuring matters applicable to both bidders are given equal consideration.

As well as holding full dialogue meetings with both bidders, when necessary, meetings have been convened for specialist workstreams (Legal, Financial or Technical). It is evident from examining the minutes of meetings that have taken place that this has been afforded to both participants.

Regular Project Review Meetings (which exclude representation from the bidders) have been held at which key senior officers of the Authority together with representatives from each of the specialist advisors have attended. A review of the minutes of these meetings has confirmed that matters pertaining to both bidders have been subject to discussion and progress monitoring. The forum allows for cross-cutting issues, i.e. across the legal, financial and technical workstreams, to be appropriately addressed.

Both bidders have had equal access to Evershed's Extranet, the repository for all dialogue related documents and communications. Both bidders have been actively engaged in the use of the Extranet facility. From the testing we have undertaken it has been possible to confirm that there has been general consistency in the communications and the posting of documents to each of the bidders.

We were able to confirm that following the suspension of CFT as discussed earlier at 2.1 both bidders were re-engaged and issued with consistent information on the way to proceed. The revised evaluation approach was shared with both bidders and discussed in full team dialogue meetings in May 2011.

2.3 Control Objective – to review the use and management of the Extranet facility.

This objective is being met.

We were given access to the Extranet facility to enable us to examine its use by MWDA officers, advisors and bidders.

We confirmed that the facility provides appropriate segregation of each bidder's dialogue submissions and notifications.

The Procurement Director is the administrator for the Extranet. This ensures that the access rights are approved at a senior officer level. Users are granted 'Reader' or 'Author' rights, the latter enabling the user to post documents on the Extranet. We confirmed appropriate access rights had been granted to a selection of users.

Access to the Extranet is password controlled.

The bidders determine which individuals from their own organisations / advisors should have access and the type of access (Reader or Author). The Procurement Director liaises with the bidders to ensure that the access for their nominated personnel remains valid.

The current Extranet facility does not provide an Audit Trail to identify who has accessed the facility or their actions whilst logged on. We were informed that this is a facility that will be provided in a future version of the software, however, this is unlikely to be available for the current procurement project.

We confirmed that once the procurement has drawn to a close and a Preferred Bidder appointed, the Legal Advisor will provide the Authority with the full dialogue history from the Extranet (communications and documents) on CD's for retention purposes.

2.4 Control Objective – to ensure that Advisors are integral to the procurement process and associated decision making.

This objective is being met.

We confirmed from examining meeting minutes that there has been generally consistent representation from the Advisors throughout the CFT stage. It is our intention to review the payments made to advisors as part of our separate, regulatory work.

Meetings in relation to specialist workstreams (Legal, Financial and Technical) have ensured that appropriate focus on key aspects has been provided by the most relevant officers / advisors. Issues of a cross-cutting nature are addressed at Full Dialogue meetings and Project Review meetings which include representation from each workstream / Advisor.

We were able to confirm that issues raised in the dialogue process are recorded, reviewed, monitored and shared with all relevant parties. The format of the documentation to record issues provides for an appropriate audit trail to evidence discussion / agreement / acknowledgement of those issues. We examined a selection of matters raised and confirmed that they had evolved as a result of active dialogue between all parties.

We have confirmed that there has been appropriate representation at meetings from the Waste Infrastructure Delivery Programme (WIDP) whose role is to provide guidance and support to the Authority on behalf of DEFRA.