

## Appendix 8.c

### Qualitative Assessment Questions

The following appendix provides key questions and answers to issues raised in the “Supplementary Value for Money Guidance for Waste PFI” prepared by the Partnerships UK for Defra in September 2005.

The tables indicates the three qualitative factors that have been considered by The Partners;

- **Viability;**
- **Desirability; and**
- **Achievability.**

## VIABILITY

For PFI to be viable the investment objectives and desired outcomes need to be translatable into outputs that can form the basis of a contract and a sound payment mechanism; for example the quality and quantity of the outputs need to be ones that can be measured. Many service areas can be described in contractual terms, but some areas will be inherently 'non-contractible' as outputs.

Issue	Questions	Response
<b>Project level outputs</b>	Is the project delivery team satisfied that a long term contract can be constructed for this project? Can the contractual outputs be framed so that they can be objectively measured?	Yes. The project delivery team envisages that only residual treatment infrastructure facilities will be included in the PFI contract making it similar to other concluded PFI contracts, and on which proposed PFI documentation and guidance is based. The partnership proposes to use this documentation and guidance for its contract. Also the services are sufficiently limited in scope for there to be clarity of roles in a long term client-contractor split. The services to be provided can be defined in an output specification allowing objective measurement.
	Is the requirement deliverable as a service and as a long term arrangement? Can the contract describe the requirements in clear, objective, output-based terms?	Yes. The contract is for the design, build, finance, operation and maintenance (DBFOM) of the facilities to provide a residual waste management service for a 25 year operational period, making it attractive to the industry and also suitable for project financing.  The DBFOM of residual waste infrastructure can be defined by measurable performance standards which are output based, and which do not cut across the ability of the partnership to deliver the partnership's waste strategy .The key output requirement is the tonnage of waste diverted from landfill.

	Can the quality of the service be objectively and independently assessed?	Yes. There are a number of key output measures as defined in the output specification, that are straightforward to collect and form the bases of a performance framework, monitored by the WDA. In addition the Environment Agency and Planning and Highways authorities will monitor agreed standards
	Is there a good fit between needs and contractible outcomes?	Yes. The OBC clearly expresses the need for new long term residual waste treatment facilities driven by EU legislation and the contract clearly translated the resultant needs into contractual outputs.
	Can the contract be drafted to avoid perverse incentives and to deliver quality services?	Yes. The contract will be based on SOPC4, to provide a strong contractual basis. The contract payments set by the partnership will be on a tonnage delivered basis and the performance / deductions regime will focus on the key outputs (i.e landfill diversion), such that there will be no perverse incentive to deliver tonnage which would be subject to upstream recycling and composting, or incentive for the Contractor to deliver the partnership's primary objective.
	Does the project require significant levels of investment in new capital assets?	Yes. The project will require significant capital investment in a new waste disposal facility which makes it appropriate for a PFI style contract. The modelled capital requirement is £ 210 million
	Are there fundamental issues relating to staff transfer? Would any transfer be free from causing any loss of core skills that have strategic and/or long term importance to the procuring authority?	The core facilities to be included in the PFI contract are all new facilities which in the case of the residual project is an EfW with CHP. Staff transfer from an existing EfW could be applicable.

	<p>Is service certification likely to be straightforward in terms of agreeing measurable criteria and satisfying the interests of stakeholders?</p>	<p>Yes. Key criteria are defined in the output specification and form the bases of a performance framework, monitored by the WDA and linked to the payment mechanism.</p>
	<p>Does the project have clear boundaries (especially with respect to areas of procuring authority control)? If there are interfaces with other projects are they clear and manageable?</p>	<p>Yes. Coventry and Solihull are collection and disposal authorities, whereas Warwickshire has disposal responsibilities only. Warwickshire has agreements with the districts to deliver waste to a final delivery facility.</p>
	<p>Can the service be provided without the essential involvement of Authority personnel? To what extent does any involvement negate the risk transfer that is needed for VfM?</p>	<p>Waste services managed by the Partners are typically outsourced and the service is managed internally by the contractor with the partners acting as the client.</p>
	<p>Is the contractor able or likely to have control/ownership of the intellectual property rights associated with the performance/design/development of the assets for the new service?</p>	<p>Yes. Waste services are generally technology based and the full service risk is taken by the contractor. It is normal practice either for the Contractor to own the relevant technology and intellectual property rights or sub-contract with a technology supplier who will licence the Contractor to operate the technology for the project,</p>

	Will existing or planned elements within the scope of the project - or interfacing vitally with it – be complete before the start of the new service?	The PFI project involves treatment of residual waste only and as such all other elements will be complete prior to commencement of the new service. The service is defined and has no dependent services.
<b>Operational flexibility</b>	Is there a practical balance between the degree of operational flexibility that is desired and long term contracting based on up-front capital investment?	The minimum tonnage guarantee is expected to be far below the projected household waste available and calculated on waste growth and recycling rates assumptions. The partnership however has a duty to ensure adequate future capacity is provided. The contractor will also be able to sell spare capacity not taken up by the partnership in the early years of the project, subject to approval by the partnership.
	What is the likelihood of large contract variations being necessary during the life of the contract?	Every care will be take in drafting the contract, which will be based on current guidance, accordingly large contract variations are not expected during the life of the contract. However, due to the length of the contract there is potential for future changes in policy/ legislative which will have a material impact .Accordingly the mechanism for contract variations has been included within the contract in accordance with SOPC4 and waste specific derogations..
	Can the service be implemented without constraining the delivery of future operational objectives?	Yes, The key facility has been sized in line with the Partners exceeding its recycling and compositing target and very modest increases in waste arisings. Residual waste treatment is required as part of the Partners waste strategy’s objectives to achieve its statutory landfill diversion targets and operates independently from other aspects of the service.

	Is there confidence that operational flexibility is likely to be maintained over the lifetime of the contract, at an acceptable cost?	Yes. The contract payment mechanism will be based on recent 4ps guidance where payment is made on a variable basis according to volume of waste processed. This provides flexibility for the partners in terms of future waste growth scenarios. The Partners are intending to commit to a long term EfW solution, this is a tried and tested technology which will deliver the required outputs and is therefore unlikely to become unsuitable for the contractual purpose during the life of the contract.
<b>Equity, efficiency and accountability</b>	Are there public equity, efficiency or accountability reasons for providing the service directly, rather than through a PFI contract?	No. The design, build, finance and operation of waste disposal infrastructure by a private operator is in line with national policy (the Environmental Protection Act 1990 ). Also the level of investment involved makes the provision of waste facilities suitable for a PFI style contract.
	Does the scope of the service lend itself to providing the contractor with “end-to-end” control of the relevant functional processes? Does the service have clear boundaries?	Yes. The scope of the service has clearly defined boundaries being the weighbridge where responsibility for the waste is handed over to the contractor who takes on the responsibility to process the waste and to manage all outputs from the process.
	Are there regulatory or legal restrictions that require services to be provided directly?	No. There are no such restrictions and the proposed solution is in line with national policy and practice for the provision of this statutory service.

	Is the private sector able to exploit economies of scale through the provision, operation or maintenance of other similar services to other customers (not necessarily utilising the same assets)?	Yes. The private sector can offer spare capacity to third parties thus providing a revenue stream to the project
	Does the private sector have greater experience/expertise than the procuring authority in the delivery of this service? Are the services non-core to the procuring authority?	Yes. The private sector has significant experience in the delivery of the services .Indeed, our understanding is that no Authority has the expertise to undertake the design, build and operation of the facilities directly itself.  The services will impact on the delivery of targets for the partners and thus are core to the partner's future objectives.
	Is a PFI procurement for this project likely to deliver improved value for money to the department as a whole, considering its impact on other projects?	Yes. Given the projected level of landfill tax and the fines associated with failure to divert waste from landfill the procurement will deliver improved value for money. The procurement is also supported by Defra through the acceptance of the Expression of Interest.
<b>OVERALL VIABILITY</b>	Overall, in considering PFI, is the department satisfied that suitable long term contracts can be constructed, and that strategic and regulatory issues can be overcome?	Overall the partners believes the PFI contract structure should aid the delivery of the partners aims and strategic objectives achieving flexibility while still being value for money. It will also offer the right balance of flexibility with risk transfer and no regulatory issues to PFI.

## DESIRABILITY

PFI can provide better risk management and produce incentives to develop innovative approaches to output delivery. Consistent high quality services can be incentivised through performance and payment mechanisms. However, risk transfer is priced into the contract. The purpose of these questions is to consider whether the benefits of PFI are likely to outweigh any additional costs and disadvantages.

Issue	Questions	Response
Risk management	Bearing in mind the relevant risks that need to be managed for the programme what is the ability of the private sector to price and manage these risks?	The risks are a key reason for utilising a PFI contract, based on SOPC4, which is understood and accepted by the private sector and sets out the risks to be transferred to them, The private sector experience of this type of contract enables them to be able to price and manage programme risks. The Bidders will also have experience of building and operation appropriate facilities and are best place to managed the capex and operating costs of the project.
	Can the payment mechanism and contract terms incentivise good risk management?	Yes. Deductions within the payment mechanism, which will be based on the recent guidance issued by 4ps, PUK and DEFRA, will incentivise good risk management and operational efficiency by including incentives to encourage the contractor to mitigate the risks and believe the objectives of the contract .It will also focus on what are the key issues for the partners and reflect that the partners require an output focussed service and not an asset for its own use.SOPC4 will be used to ensure the contract achieves the appropriate risk transfer and risk management.

<b>Innovation</b>	Is there scope for innovation in either the design of the solution or in the provision of the services?	Yes. Whilst the partners have indicated the chosen technology as EfW, the partners are non the less open to bidders proposing alternatives which provide VfM and also providing they ensure a significant opportunity for innovation.
	Does some degree of flexibility remain in the nature of the technical solution/service and/or the scope of the project? Is the solution sufficiently free from the constraints imposed by the Authority, legal requirements and/or technical standards?	Yes. A degree of flexibility is required within the scope of the project to ensure value for money is obtained from the private sector. The services will be specified by the output specification, based on recent guidance from DEFRA, and as such, the nature of the technical solution can be flexed to meet these outputs and along with flexibility, be a key element of the evaluation.
	Does a preliminary assessment indicate that there is likely to be scope for innovation in the programme?	While ensuring that the PFI scope is narrow enough to be deliverable, i.e. the provision of a residual treatment facility, the partners believes that there are a sufficiently wide range of facilities and scope of processes to offer considerable scope for innovation and efficiency.
	Could the private sector improve the level of utilisation of the assets underpinning the project (e.g. through selling, licensing, commercially developing for third party usage etc)?	Yes. The partners, though the payment mechanism, will incentives the contractor to maximise third party revenue received in this project and the private sector have the network and contacts to obtain the best prices.

<p><b>Contract Duration and residual value</b></p>	<p>How far into the future can service demand be reasonably predicted? What is the expected life of the assets? What are the disadvantages of a long contract length?</p>	<p>The capacity of the facility has been modelled on challenging recycling targets (50%) and modest waste growths giving confidence that the waste available for the facility will be as predicted. If however waste arising does not match expectations the partners are confident the private sector will be able to utilise any spare capacity. The contract length of 25 years is required to ensure the project to be affordable. The disadvantages of long term contracts are significant changes in technology or legislation/policy which would impact on residual tonnages. With respect to technologies the facility will be capable of providing the service for the life of the contract and if necessary could be retro fitted. It should also be noted that the existing Coventry EfW facility has been operating for over 30 years and it could continue to operate until approximately 2020. With respect to inputs, as stated above any short fall, can be filled by third party waste.</p>
	<p>Are there constraints on the status of the assets after the contracts end?</p>	<p>The partners will follow SOPC4 in respect of the approach to sites and assets at the end of the contract. Assets will revert back to the partners with a residual life which allows it, if it is appropriate, to utilise the assets further and potentially re-let the contract. The land will also have planning permissions.</p>

	Given the possibility of changes to the requirement, the assets and the operating environment, is it possible to sustain value for money over the life of the contract utilising as appropriate, mechanisms such as benchmarking and technology re-fresh?	Yes. It is possible to sustain value for money over the life of the contract and the refreshment and maintenance of assets will be built into the contractual terms.
<b>Incentive and monitoring</b>	Can the outcomes or outputs of the investment programme be described in contractual terms which would be objective and measurable?	Yes. The primary measure will be the diversion of waste from landfill. Other performance standards, such as vehicle turnaround time, will be detailed in the Output Specification which will be based on recent DEFRA guidance.
	Can the service be assessed independently against an agreed standard?	Yes. The contractor will be assessed against the Performance Standards as set out in the Output Specification .The contractor will supply details of his performance monthly ,as part of the payment mechanise. This will then be assessed independently by the partners, which will be able to make deductions to the unitary charge for inaccurate reporting.
	Would incentives for service delivery be enhanced through a PFI payment mechanism?	The contract will include a payment mechanise based on the model recently issued by DEFRA, which links outputs directly to payment and deductions and will also incentives the contractor to continually improve the service, by for instance achieving additional landfill diversion.

<b>Lifecycle costs and residual value?</b>	Is it possible to integrate the design, build and operation elements of the project?	Yes. The contract is best delivered through the integration of design, build and operation to achieve risk transfer of the technical robustness of the facility and performance in operation.
	Is a lengthy contract envisaged? Will a long-term contractual relationship be suitable (or advantageous) for the service?	Yes. The contract is expected to be for 25 years with a 4 year build period including commissioning. The contract length is to ensure affordability. Disposal contract are typically between 10 and 30 years. This provides security of service and enables operational efficiencies to be achieved for the partnership.
	Are there significant ongoing operating costs and maintenance requirements? Are these likely to be sensitive to the type of construction?	Yes. In waste schemes, the operating costs including lifecycle and reactive maintenance costs are a more significant component than accommodation schemes. The fabrication of the facility will significantly affect both on-going and facility performance.
<b>OVERALL DESIRABILITY</b>	Overall, is the accounting officer satisfied that PFI would bring sufficient benefits that would outweigh the expected higher cost of capital and any other disadvantages?	Yes. The Authority believes that the benefits of PFI will outweigh the higher cost of capital. These benefits come from; the risk transfer of future costs, the certainty of service delivery, a market led solution, an innovative solution and aggregation of risks of construction and on-going delivery.

## ACHIEVABILITY

While PFI may allow a more efficient and effective combination of public and private sector skills, determining the rules that will govern the relationship between the two sectors does involve significant transaction costs. In particular, the procurement process can be complex and involve significant resources, including senior management time which may be required for project development and the ongoing monitoring of service delivery. Authority capacity and capability, together with private sector deliverability will have direct consequences for procurement times and the level and quality of market interest. PFI needs a robust competitive process to deliver fully its benefits and so the choice of procurement route should be informed by an assessment of the likely market appetite.

Issue	Questions	Response
Market Interest	Is there evidence that the private sector is capable of delivering the required outcome?	Yes. There is a capable and growing market of providers. undergoing significant development and realignment around the service requirements
	Does a significant market with sufficient capacity for these services exist in the private sector?	Yes. Evidence from market analysis and soft market testing is that there is sufficient interest in this contract. It is also apparent that there are a large number of Contractors bidding for this type of contract and that numbers are increasing with the entrance of EPC and foreign contractors .
	Is there likely to be sufficient market appetite for the projects in the programme? Has this been tested robustly? Is there any evidence of market failure for similar projects?	Yes. The partners have already conducted soft market sounding, the feed back from which has been positive. Recently a number of PFI contracts have been signed (including EfW and MBT technologies) and a larger number are in procurement. The use of SOPC4 and guidance documents has also given the market confidence in the process.

	Have any similar projects been tendered to market? Has the procuring authority's commitment to a PFI solution for this type of project been demonstrated?	Yes. Waste PFI projects are already in procurement with a number having reached financial close. The partners have demonstrated its commitment to a PFI project by receiving Members approval to submit this OBC.
	Does the nature of the project suggest that it will be seen by the market as a profitable venture?	Yes. Interest received from soft market sounding indicates that the market see this scheme as a profitable venture, particularly with potential sale of spare capacity to third parties.
	Are the risks associated with design, development and implementation manageable bearing in mind the likely solutions to the project?	The Authority will follow SOPC4 and associated guidance to ensure that the risk allocation is in line with that accepted by the industry and therefore manageable.
<b>Other Issues</b>	Is the procurement feasible within the required timescale? Is there sufficient time for: resolution of key Authority issues; production/approval of procurement documentation; staged down-selection and evaluation of bidders, negotiation, approvals and due diligence?	Yes. The partners have worked closely with its advisers to produce a realistic time table taking account of a number of issues, including the time required to obtain approvals from the partners, DEFRA and PRG.
	Is the overall value of the project significant and proportionate to justify the transaction costs?	Yes, the overall value is significant with initial capital expenditure of £210 million. Transaction costs are not material in comparison.
	Does the nature of the deal and/or the strategic importance of the work and/or the prospect for further business suggest that it will be seen by the market as a potentially profitable venture?	Yes. The risk allocation will follow SOPC4 which should allow the authority to be offered a value for money price which will deliver on- market returns for the Contractor.

	<p>Does the Authority have the skills and resources to define, deliver and support the service throughout the procurement and the subsequent delivery period?</p>	<p>Yes. The partners have allocated significant internal staff resources to the procurement team as well as engaging experience advisers in all of the necessary disciplines. It has also defined an initial contract management structure which will be further developed as the procurement progresses.</p>
<p><b>OVERALL ACHIEVABILITY</b></p>	<p>Overall, is the accounting officer satisfied that a PFI procurement programme is achievable, given an assessment of the market, Authority resources and the attractiveness of the proposal to the market?</p>	<p>Yes. The partners are satisfied that the procurement can be brought to financial close subject to receiving PFI credits as currently calculated.</p>