

Transmittal Letter

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My ref	Your ref	Tel (01743)	Fax (01743)	Please ask for
LR/SS		252007	255901	Laura Rowley

Dear John

Shropshire Waste Partnership PFI Draft Final Business Case

I have pleasure in enclosing the Final Business Case for the Shropshire Waste Partnership integrated waste management PFI project which is being submitted by Shropshire County Council, in its capacity as Contracting Authority for the Shropshire Waste Partnership.

The project has the full support of Members. Both the SWP Joint Committee and Shropshire County Council have reviewed the project proposals and given approval to proceed to financial close, subject to the approval of the Final Business Case.

The Final Business Case has been reviewed against the DEFRA checklist and has been prepared working closely with our transactors and our financial, technical and legal advisers.

The Authority confirms that it believes that there has been no market abuse in the course of the procurement process up to the point of submitting this Final Business Case.

You are already aware that it is critical to the Authority that it achieves unconditional financial close by early September 2007. Given the timescales involved, please do not hesitate to contact me if there is any further information you require or if there is anything my team or I can do to assist the approval process.

Yours sincerely

Signature removed from public version

Laura Rowley
Director of Resources
Shropshire County Council

N.B. On 25th July 2007 the Government announced that Shropshire County Council's bid for unitary status had been successful. However this unitary status is subject to a judicial review that has been requested by Shrewsbury & Atcham Borough Council.

Abbreviations

BaFO	Best and Final Offer
BMW	Biodegradable Municipal Waste
BSI	British Standards Institute
BVPI	Best Value Performance Indicator
DEFRA	Department for Environment, Food and Rural Affairs
ECWIP	Enabling Community Waste Initiatives Partnerships
ERF	Energy Recovery Facility
FBC	Final Business Case
HHW	Household Waste
HRC	Household Recycling Centre
ISOP	Invitation to Submit Outline Proposal
ITN	Invitation to Negotiate
IVC	In Vessel Composting
IWMF	Integrated Waste Management Facility
Joint Committee	Shropshire Waste Partnership Joint Committee
KPI	Key Performance Indicators
LATS	Landfill Allowance Trading Scheme
LPSA	Local Public Service Agreement
MBT	Mechanical Biological Treatment
MRF	Materials Recovery Facility
MSW	Municipal Solid Waste
OBC	Outline Business Case
OJEU	Official Journal of the European Union
Partnership	Shropshire Waste Partnership
PFI	Private Finance Initiative

Abbreviations

PIN	Prior Information Notice
PQQ	Pre-Qualification Questionnaire
PRG	Project Review Group
PSC	Public Sector Comparator
PUF	Performance Unavailability Framework
PUK	Partnerships UK
RCV	Refuse Collection Vehicle
RDF	Refuse Derived Fuel
RPI	Retail Price Index
SABC	Shrewsbury & Atcham Borough Council
SCC	Shropshire County Council
SDP	Service Delivery Plan
SMWMS	Shropshire Municipal Waste Management Strategy
SoPC	Standardisation of PFI Contracts
SWM	Shropshire Waste Management Ltd
SWP	Shropshire Waste Partnership
TUPE	Transfer of Undertakings (Protection of Employment) Regulations
VFM	Value for Money
WCA	Waste Collection Authority
WDA	Waste Disposal Authority
WIP	Waste Implementation Programme
WLP	Waste Local Plan
WRAP	Waste & Resources Action Programme

Abbreviations

WTF	Waste Treatment Facility
WTS	Waste Treatment Services

Executive Summary

1.1 Introduction

This Final Business Case (“FBC”) is an evaluation of the proposed Private Finance Initiative (“PFI”) contract for Shropshire to ensure that the project still meets the criteria for the award of PFI credits and that the project is affordable and offers value for money. The FBC has been prepared by Shropshire County Council (“SCC”) in its capacity as Contracting Authority for the Shropshire Waste Partnership (“SWP”).

SWP is a Joint Committee established under sections 101 and 102 of the Local Government Act 1972 to develop and implement an integrated waste management strategy within the partnership districts. It is a nationally recognised pioneering Pathfinder Strategic Partnership comprising one Waste Disposal Authority (“WDA”) and four Waste Collection Authorities (“WCA”), working together to provide the best value for money for Shropshire’s Council Tax payers.

The project comprises a 27 year single integrated waste contract for collection, recycling, recovery and disposal of all household and other municipal wastes within Shropshire. The original Outline Business Case (“OBC”) was predicated upon a 25 year contract term. More recently, SWP has determined that a 27 year contract offers better value in terms of affordability and mitigation of reliance upon LATS income.

The contract specification is an output based specification covering waste collection, recycling and composting and landfill diversion. The Preferred Bidder, Veolia, is proposing to meet the specification requirements by delivering and upgrading current waste collection services to include kerbside collections of plastic and food waste, upgrading the current network of Integrated Waste Management Facilities (“IWMF”), developing two further IWMFs to service the Oswestry and Bridgnorth areas, developing an In-Vessel Composting facility (“IVCF”) and an Energy Recovery Facility (“ERF”) to treat residual waste.

The project will:

- use waste education initiatives to reduce waste growth from current levels of 2% to 0% by 2022;
- maximise recycling and composting, achieving a rate of recycling and composting in excess of 50% by 2010, increasing to up to 54% by 2020;
- meet or exceed Landfill Directive requirements regarding biodegradable municipal waste (“BMW”) diversion.

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The project is programmed to achieve financial close on 12th to 13th September 2007. The new contract is due to start on 1 October 2007.

1.2 The Shropshire Waste Partnership

The following authorities are members of the Shropshire Waste Partnership:

- Bridgnorth District Council
- Oswestry Borough Council
- North Shropshire District Council
- Shropshire County Council
- South Shropshire District Council

The Constitution of SWP appointed SCC to act as the Contracting Authority for SWP. As such, SCC will enter into legal arrangements on behalf of the Joint Committee.

Shropshire County Council and Oswestry Borough Council have submitted a joint application to the Department of Communities and Local Government (“DCLG”) to become a Unitary Council for Shropshire. On 25th July 2007 we have been notified by central government that this bid has been successful however it is subject to a judicial review by Shrewsbury & Atcham Borough Council.

Pending the result of the judicial review, should the unitary status for Shropshire receive final approval, it would bring the collection activities of one further council, Shrewsbury & Atcham Borough Council (“SABC”), into the integrated waste management project. SWP has drafted a change protocol schedule to the project agreement which will govern the process of bringing SABC into the contract. Veolia has confirmed that it will, if required, undertake the collection services currently provided by SABC at a price below the current costs of SABC, taking into account any agreed pay awards pending and a proper reflection of Capital Charges. If Veolia is asked to carry out a collection service for SABC on a different specification, Veolia agrees that it will price the service based on an incremental cost to the SWP contract on an open book basis, incorporate that operating cost into the model, with no mark up, together with the capital expenditure costs and recalculate the unitary charge by solving the model to the previous Post Tax Project IRR. The treatment and the disposal of waste arisings within the area of SABC are already included in the contract.

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1.3 PFI funding for an integrated waste management contract

In October 2004, following a review of SWP's Outline Business Case ("OBC"), DEFRA awarded SWP an initial £35.8m of PFI credits to facilitate a step change in the way in which waste services are delivered in Shropshire.

SWP applied subsequently to DEFRA for more PFI credits requesting an additional £7.2m of credits, representing an increase of 19.9%. DEFRA has approved subsequently a £5m uplift in the level of PFI credits for this project, taking the overall level of PFI credits for the project to £40.8m.

Following the analysis of the proposed funding for the project by Ernst & Young, it appears that the project is still affordable. SWP and its advisors have worked tirelessly throughout negotiations with Veolia in order to reduce the total project cost and thereby deliver an affordable project.

1.4 Bidding History

Veolia will be identified formally as preferred bidder on 1st August 2007. A full bidding history is provided in Section 3 - Strategic Context.

1.5 Changes since OBC

The contract will deliver more robust landfill diversion performance than the original Reference Project that underpinned the OBC. The challenging contract recycling targets are consistent with those proposed at OBC and in line with the recently published National Waste Strategy. The contract is more expensive than the original OBC contract but the cost of the contract will be reduced by guaranteed third party income arising from the sale of energy and recyclates.

The original OBC Reference Project assumed a central MBT type plant which would extract recyclables, produce a material suitable for land spreading and generate Refuse Derived Fuel ("RDF") for use in an appropriate third party energy recovery plant.

Prior to receipt of returned ITNs in July 2005, the Environment Agency ruling on mixed waste derived compost removed the option of land spreading for this material. Recognising this restriction, both ITN responses proposed sending this material to landfill. In the absence of any third party facility, both responses also proposed sending the RDF to landfill. These responses were discussed both internally by SWP and with Defra. Although these proposals would have reduced the biodegradable content of waste going to landfill, neither SWP nor

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Defra considered that the proposals represented a robust or sustainable strategy for the long term management of waste in Shropshire.

Further discussions were held with bidders prior to the issue of BaFO documents to ensure that BaFO responses were based upon proposals which were scaled appropriately for Shropshire, reduced reliance on landfill, reduced transport impacts and provided a solution to the management of Shropshire's municipal waste which did not rely on speculative third party facilities.

Subsequent proposals from both bidders at the BaFO stage included the development of a small scale ERF on the Battlefield site in North Shrewsbury. These proposals would deliver guaranteed landfill diversion significantly in excess of OBC performance and Shropshire's LATS allowance requirements.

1.6 Value for Money

Figures in this section removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Using the guidance prevailing at the time, the original OBC suggested that the PFI route was capable of offering Value for Money, estimating a total present cost saving of £xxm in 2007 prices over the Public Sector Comparator ("PSC"). The results are shown in Table 1.1 below:

Table 1.1 Value for Money Analysis

	Present Cost (£m) (1 April 2007)
PSC (excluding risk)	xxx
PSC (risk adjusted)	xxx
PFI Option	xxx

Using latest Treasury guidance, the qualitative level 3 Procurement Level Assessment documented in this FBC indicates that:

- There has been a robust and rigorous competitive process in selecting Veolia as Preferred Bidder. The Authority confirms that it believes that there has been no market abuse in the course of the procurement process up to the point of submitting the FBC;

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- The Authority has been successful in achieving an appropriate and Value for Money level of risk transfer to the Provider through the payment mechanism, Project Agreement and performance regime; and
- The Authority is satisfied that it has achieved reductions in project nominal cost between Veolia’s submission of its Best and Final Offer and selection of Preferred Bidder. In addition, the Authority believes that the submission of this FBC is reasonable, both in terms of underlying technical and financial justification, but also in the context of the estimated cost of the Authority’s Reference Project.
- In order to provide an appropriate comparison and benchmark, SWP’s advisors revisited the OBC and prepared a revised Reference Project that was based upon a solution incorporating a small scale ERF.
- That revised Reference Project which was prepared in July 2006 showed a nominal cost of £xxm, whilst Veolia’s most recent model records a nominal project cost of £xxm over a 25 year contract term. Extending the contract by a further 2 years to 27 years increases the nominal project cost to £xxm. The equivalent figure over 25 years would be £xxm. This position is shown in Table 1.2 below:-

Table 1.2 Comparison to the Reference Project

	Reference Project (£m)	Veolia (£m)
July 2004 (OBC)	xxx	-
July 2006 (revised Reference Project)	xxx	
July 2007 (comparable 25 year Model)		xxx

The results above also illustrate that despite the additional capital expenditure required to accommodate an ERF rather than an MBT led solution, the project cost is only £xxm more over 25 years than the equivalent original OBC cost.

1.7 Affordability

The Authority has considered the affordability position relating to the contract in terms of the required uplift in its year one waste budget.

On the basis that a PFI credit of £40.8m is available, yielding a total Revenue Support Grant of £81.9m in nominal terms over the life of the project, the balance of necessary funding is considered to be affordable by the Authority.

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Full details of the affordability position for the project are set out in Section 6. In June 2007, Council members approved an uplift in the waste budget by £300,000 and SWP has drawn upon this capacity in order to reduce its current exposure to LATS income. The project therefore satisfies the Authority's current affordability criteria and Members have been made aware of the reliance upon LATS income to fund the project at regular stages.

Furthermore, the Authority's Section 151 Officer has confirmed that the projected cost of the contract is considered to be affordable based on information available today.

1.8 Stakeholder Commitment and Support

A comprehensive public consultation exercise took place during the development of the Shropshire Municipal Waste Management Strategy ("SMWMS"). 97% of those who responded said they would support new recycling initiatives.

In 2001, as part of the development of the Shropshire Joint Municipal Waste Management Strategy, a public consultation was carried out seeking views on the future direction of waste management in Shropshire. The response showed an overwhelming (96.7%) support for the outline strategy which recognised that in order to reduce reliance on landfill, Shropshire should consider developing facilities to recover energy (and if possible, heat) from residual waste. Responses to a further consultation carried out as part of the Waste Management Best Value review in July 2001 showed support for both incineration with energy recovery and energy recovery treatments other than incineration although a number of concerns were raised in both cases. Particular concerns were also raised regarding landfilling of residual waste.

With regard to corporate commitment, SWP partner authorities support the formation of a Joint Committee and new client body to provide governance of the single integrated waste contract.

Shrewsbury & Atcham Borough Council has elected not to join SWP, although this situation would change with the approval of Shropshire's unitary status.

1.9 Conclusion

The project delivers a sustainable, pragmatic and cost effective solution to the management of municipal waste in the county of Shropshire. The negotiated contract utilises an efficient mix of existing and new build infrastructure which allows the Authority, in turn, to exceed its LATS targets in each year of the contract, and to achieve the target levels of recycling, composting and recovery

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in the revised OBC. The Authority is confident that, through the positive incentives in the contract, Veolia will be encouraged to maximise recycling, composting and recovery and that the OBC performance levels are achievable through this contract. In doing this, SWP believes that it has met the PFI credit conditions imposed by DEFRA as part of the OBC approval process.

The Authority has adopted a rigorous tendering and competitive process, having followed EU procurement rules and has robustly evaluated the bids that have been received. Through this process, Value for Money and robust risk transfer have both been maintained. An appraisal of the balance sheet treatment of the project indicates that the transaction should be accounted for as off balance sheet from the perspective of the Authority.

The Value for Money Stage 3 assessment criteria confirms the conclusion in the revised OBC that the PFI project offers a better value for money solution than traditional PSC led procurement. In doing so, this is an efficiency gain to the public sector. In the absence of a quantitative VfM analysis at the FBC stage, which is no longer required by HM Treasury, this gain cannot be quantified.

Both the procurement process and contract have adopted the principal of Best Value to ensure that both economic and environmental efficiencies are maximised.

In conclusion, the project is affordable and efficient economically when considered against the costs of alternative bids and other procurement routes.

DEFRA is therefore requested to approve the Authority's FBC.

Project Definition

2.1 Definition

SWP is procuring an integrated waste management contract for municipal waste collection, recycling, recovery and disposal.

The contract will provide an efficient waste management service to collect, receive, transport, recycle, recover, treat and dispose of waste in an environmentally and economically sustainable manner.

2.2 Services to be delivered under the Contract

The Service Provider will be required to develop, implement and operate:

- refuse collection and recycling services;
- services for the reception of household waste at Household Recycling Centres located in Shropshire;
- a network of services and facilities to receive contract waste for transfer, treatment, recycling, composting, recovery and disposal.

The Service Provider will also be required to undertake additional environmental services, e.g. removal of fly tipping and, in South Shropshire only, street cleansing. Full details of the Services that will be required are set out in the Output Specification which is attached as Appendix I.

2.3 The Contract

The project will be part funded through the Government's Private Finance Initiative.

The contract will be for a duration of 27 years as SWP has agreed to extend the original contract term by 2 years. In respect of waste treatment, recovery and disposal services, the contract area will be the administrative boundary of the county of Shropshire.

For waste collection services the contract area will be the administrative boundary of the four district/borough councils of North Shropshire, South Shropshire, Bridgnorth and Oswestry.

Project Definition

2.4 Works and Services

The following paragraphs provide a description of the Works and Services included in the project that are described more fully in the Specification. For clarity, these have been divided into a number of discrete service elements as follows:

2.4.1 Design and Construction Services

comprising;

- design, construction, commissioning and acceptance of new Project Facilities; refurbishment of existing Project Facilities.

2.4.2 Works and Services Management Services

comprising;

- managing the smooth transition of the services from existing contractors at Service Commencement and to new contractors at expiry or early termination;
- obtaining and maintaining relevant quality assurance standards for the Works and Services;
- obtaining and maintaining relevant environmental management standards for the Works and Services;
- submitting and maintaining Provider's Proposals comprising a Works Development Plan ("WDP"), a Works Programme ("WP") and a Service Delivery Plan ("SDP") that detail how the requirements of this Specification shall be delivered;
- monitoring, managing and reducing Greenhouse Gas Emissions related to the Services;
- submitting and maintaining a Best Value Method Statement;
- undertaking Customer satisfaction surveys related to the Services;
- developing, operating and maintaining appropriate monitoring and reporting systems for the performance of the Services;
- providing the Authority with all access, information and assistance necessary to monitor the Works and Services.

Project Definition

2.4.3 Health, Safety and Welfare Management Services

comprising;

- managing and operating the Service in accordance with health and safety requirements;
- undertake the responsibilities as client under the CDM Regulations;
- recording the relevant health, safety and welfare arrangements that will be implemented and maintained;
- producing a quarterly health and safety report detailing accidents and dangerous occurrences reportable under Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (“RIDDOR”) and any new or improved procedures, training or other health and safety measures implemented.

2.4.4 Waste Minimisation, Education and Communication Services

comprising;

- continuation of the Authority’s activities and the introduction of initiatives to promote Waste minimisation, reuse and recycling including home composting;
- development of maintenance of a rolling 5 year Waste Minimisation and Education Plan;
- implementation of the Waste Minimisation and Education Plan;
- developing and managing the promotion and distribution of home composting units to the public;
- provision of facilities and Employees to manage visits to Waste Management Facilities by schools and other community groups.

2.4.5 Community Sector Integration Services

comprising;

- preparing and maintaining a Community Sector Engagement Plan detailing proposals for achieving broader project objectives and mechanisms for partnerships with community groups;
- liaising with relevant community groups such as the Shropshire Community Recycling Network (“SCRN”).

Project Definition

2.4.6 Contract Waste Collection Services

comprising;

- collection of Recyclable Materials, Green Waste, Mixed Compostable Waste and Residual Waste from the Collection Contract Area from the Services Commencement Date in accordance with the Specification;
- assisted Collections;
- Bring Bank site management and servicing;

2.4.7 HRC Services

comprising;

- develop, manage, operate and maintain HRC Sites in accordance with this Specification;
- receive Household Waste directly delivered by Customers in compliance with the Authority's HRC Permit system;
- providing facilities for the segregation of Contract Waste, and segregating Contract Waste, as appropriate;
- transport segregated Waste for Re-use, Recycling, Composting, Treatment, and or disposal as appropriate;
- providing facilities for the segregation of Waste Electrical and Electronic Equipment (WEEE), and liaising with the WEEE Contractor, as specified;
- receive, manage and disposal of Hazardous Household Waste delivered to or arising from HRC Sites;
- provision of supervised Mobile HRCs.

2.4.8 Contract Waste Reception and Transfer Services

comprising;

- reception, storage and transfer of Recyclable Materials delivered by SABC;
- reception, storage and transfer of Green Waste and/or Mixed Compostable Waste delivered by SABC;
- reception, storage and transfer of Residual Waste, Bulky Waste, WEEE, batteries, Clinical Waste and Household Hazardous Waste delivered by SABC;

Project Definition

- reception, storage and transfer of Street Cleansing Waste delivered by Districts;
- handling, transfer and transport of all Contract Waste collected by the Provider or otherwise.

2.4.9 Re-use, Recycling and Composting Services

comprising;

- the development, commissioning, operation and maintenance of the Project Facilities for the purposes of Recycling and Composting, including all initial and phased site and civil engineering works, mechanical, electrical and mobile plant and related activities;
- the operation and maintenance of Project Facilities for the purposes of Recycling and Composting comprising reception, weighing, processing, treatment, and recycling of Waste, management of the facilities, and the supply of labour, plant, equipment, utilities and other prerequisites;
- composting of Green Waste and Mixed Compostable Waste, and Recycling of Recyclable Materials collected by the Provider, in compliance with the relevant Contract Recycling and Composting Target;
- Recycling of Recyclable Materials delivered by SABC, in compliance with the relevant SABC Recycling and Composting Target;
- treatment of Green Waste and/or Mixed Compostable Waste delivered by SABC in compliance with the relevant SABC Recycling and Composting Target;
- securing markets for segregated Recyclable Materials, Compost, Rubble and materials which can be Re-Used;
- the transfer and sale of Compost where appropriate, transfer and sale of Recyclable Materials to reprocessors.

2.4.10 Waste Treatment Services

comprising;

- provision of interim services to divert Contract Waste from Landfill through the Off-Take Contract before the service commencement date for the waste treatment facility;
- the development, commissioning, operation and maintenance of the Waste Treatment Facilities, including all initial and phased site and civil

Project Definition

engineering works, mechanical, electrical and mobile plant and related activities;

- treatment of Residual Waste, in compliance with the Contract Diversion Target and the BMW Diversion Target;
- the operation and maintenance of Waste Treatment Facilities comprising reception, weighing, processing, treatment, and recycling of Waste, management of the facilities, and the supply of labour, plant, Equipment, utilities and other prerequisites;
- securing markets and/or disposal routes for all residues from Waste Treatment Facilities;
- wherever economically viable, securing markets for any energy generated by Waste Treatment Facilities.

2.4.11 Waste Disposal Services

comprising;

- landfilling (or alternative disposal) of all Residual Waste not treated by the Waste Treatment Facility, managed through the Off-Take Contract, or otherwise diverted from Landfill by the Provider;
- disposal of residues from all Waste Treatment Facilities;
- disposal of Clinical Waste.

2.4.12 Ancillary Services

comprising;

- collection of Fly-Tipped Waste from the Collection Contract Area;
- collection and disposal of Clinical Waste from the Collection Contract Area;
- disposal of Clinical Waste delivered to the Provider by SABC;
- disposal of Hazardous Waste;
- collection of Bulky Household Waste;
- collection of Schedule 2 Waste and Commercial Waste as directed by the Authority's Representative;
- recycling, treatment and/or disposal of WEEE in the event that the material is not picked up in a timely manner by the WEEE Contractor;

Project Definition

- provision of Emergency Services as directed by the Authority's Representative;
- operation and management Street Cleansing Services for the District of South Shropshire, from the Service Commencement Date to 30th September 2012.

Strategic Context

3.1 Introduction

With a population of 283,240¹, Shropshire is one of England's most sparsely populated counties. Municipal solid waste ("MSW") arisings in the County are projected to total 182,000 tonnes per annum ("tpa") at the start of the project, increasing to 232,640 per annum by the end of the project.

The amount of MSW in Shropshire is increasing at a rate of 2% per annum. The majority of waste is disposed currently to landfill sites. Whilst recent years have seen the development of three new integrated waste management facilities to provide a more robust recycling infrastructure there is not yet full coverage of the county and there is no significant recovery infrastructure.

SMWMS commits all parties to reducing dependency on landfill and to responding to statutory requirements for recycling and recovery of value from waste. Improving waste services is a key corporate priority for all Shropshire's councils.

SCC, the Districts of Bridgnorth, North Shropshire and South Shropshire and the Borough Council of Oswestry established SWP to deliver a sustainable waste service for the people of Shropshire. SWP seeks to ensure that the future waste management arrangements are sustainable, both environmentally and economically.

3.2 A Profile of Shropshire

Shropshire is England's largest inland county covering an area of over 1,234 square miles. It is bordered by Cheshire and Wrexham to the north and north-west, Telford & Wrekin and Staffordshire to the east, Powys to the west and Hereford and Worcester to the south.

There are 117,301¹ households in Shropshire. The main urban area is Shrewsbury which accounts for about 25% of the population. Other centres include the market towns of Oswestry, Whitchurch, Market Drayton, Ludlow, Bridgnorth and Church Stretton, which account for a further 23% of the population. Approximately half of the population live in the rural areas outside the market towns with some 550 villages and hamlets, many of which have less than 25 houses, although there are 6 villages with populations of between 2,000 and 5,600.

The County Council area is sub-divided into the following districts:

¹ Source 2001 census

Strategic Context

- Bridgnorth District Council
- North Shropshire District Council
- Oswestry Borough Council
- Shrewsbury & Atcham Borough Council
- South Shropshire District Council

A breakdown for each area is show in Table 3.1:

Table 3.1 Populations, Number of Households and Area

	Bridgnorth	North Shropshire	Oswestry	Shrewsbury & Atcham	South Shropshire	Total
No. of households*	20,925	23,149	15,657	40,308	17,262	117,301
Population*	52,535	57,102	37,318	95,896	40,389	283,240
% of County population	18.5%	20.2%	13.2%	33.8%	14.3%	100.0%
Square miles	244	262	99	232	397	1,234
Persons per square mile	215.3	217.9	366.9	413.3	101.7	229.5

* Source 2001 Census

Shropshire is famous for its countryside, with its Areas of Outstanding Natural Beauty and places of historic interest.

The main industrial areas are concentrated in Shrewsbury and the larger market towns. The employment of the area is characterised by a strong reliance on the service sector (public service, distribution and transport), manufacturing industry (mainly related to agriculture and food products) and other employment (agriculture, fishing, forestry, energy and water supply). 76% of employee jobs are in the service sector, manufacturing accounts for about 14% and agriculture 3%. The distribution of employment between the various sectors varies considerably between districts.

SCC as WDA for the County, is responsible for the management of waste collected by the District Councils and providing facilities for the management and recycling of waste.

The District and Borough Councils as WCAs for the County are responsible for collecting household waste and transporting it to waste management facilities, preparing recycling plans, providing household recycling centres and collecting (on request and at a charge) business and commercial waste.

Strategic Context

Figure 3.2 Plan of Shropshire



Strategic Context

3.3 Strategic Context

3.3.1 Shropshire Municipal Waste Management Strategy

Shropshire County Council and the five Shropshire District and Borough Councils consulted with Shropshire householders to produce the Shropshire Municipal Waste Strategy which covered the period from 2000 to 2020. The Shropshire Plan referred to the Waste Strategy 2000 document.

The SMWMS plan called for reducing the growth in municipal waste, increasing recycling and composting and identifying ways of recovering, composting and treating greater quantities of biodegradable municipal waste to reduce reliance on landfill for the final disposal of municipal waste.

The SMWMS anticipated the development of the Waste Local Plan and called for partnership working to deliver the strategy. The strategy anticipated the development of transfer loading facilities in advance of the closure of local landfill services.

3.3.2 The Shropshire Waste Partnership

In December 2002 SCC and four of the five District and Borough Councils signed a Memorandum of Understanding to work together as the Shropshire Waste Partnership. A formal constitution for the Shropshire Waste Partnership was agreed in August 2004. A link to this document has been provided at Appendix N.

Since that time SWP has worked to implement the aims of the Shropshire Municipal Waste Management Strategy.

3.3.3 Waste Legislation and the National Waste Strategy

Since the OBC was approved in September 2004, statutory developments have included the introduction of the Landfill Allowance Trading Scheme, the acceleration in the level of increase in the rates of Landfill Tax and the passing of the Waste Electronic and Electrical Equipment legislation. The updated National Waste Strategy was issued in June 2007.

SWP's contract takes into account the recently approved legislation and will deliver a solution that is consistent with the National Waste Strategy.

Strategic Context

3.3.4 Planning and the Waste Local Plan

The Shropshire Waste Partnership (“SWP”) is aware that one of the key areas of risk associated with waste management PFI projects is that of ‘planning risk’. Gaining planning permission for waste facilities is often controversial and rarely is it obtained quickly.

On that basis SWP wishes to assure DEFRA, and indeed all other stakeholders, that such risk has been recognised and that processes have, and will be, put in place to mitigate it. Effective communications and stakeholder engagement are key factors in achieving an operational start in 2012/13 for the ERF.

There is a perception that there have been a number of failed applications in recent times due to a negative political and public climate for ERF plants. It is therefore essential that the proposals for an ERF plant at Battlefield take into account the lessons that can be learned from recent case law and apply examples of good practice from those proposals that have had a successful outcome.

SWP commissioned two pieces of work in order to help secure a successful planning outcome when the current waste procurement contract, which includes ERF, is signed and proceeds towards a planning application.

In November 2006, Enviro Consulting Ltd was commissioned by SWP to undertake a high level review of planning risks associated with the strategy for the Battlefield site.

Details of Enviro report removed – EIR exception 12(4)e – internal communications

SWP has taken on board all the issues and recommendations put forward by Enviro and believes that in the final analysis the proposed ERF plant will have the maximum possible chance of gaining planning permission.

Secondly, and as suggested in the Enviro report, SWP has taken Counsel Opinion (on various) issues . . .

Details of Counsel’s opinion and SWP’s proposed responses to his recommendations removed – EIR exception 12(4)e – internal communications

Veolia has a particularly good track record with respect to community engagement on ERF proposals and the delivery of new ERF permissions. Veolia will lead on the consultation strategy and communications with the public on all new planning applications. They will be supported by SWP as appropriate to provide a united front. Joint working on this agenda has already commenced and a detailed communications strategy is being developed.

Strategic Context

SWP has always been mindful of the need for effective communications and is intent on engaging in meaningful discussions with the champion of any cause and of course most specifically statutory consultees such as the Environment Agency.

SWP members have been kept apprised of the project throughout the procurement stages and have had the financial risks and deliverability risks, including planning, explained to them by SWP officers.

Details of communications with Members and references to the Enviro Report and Counsel's opinion removed – EIR exception 12(4)e – internal communications

The draft Planning Health Framework is attached at Appendix L.

3.4 Analysis of Existing Service Provision

3.4.1 Existing Waste Management Arrangements

The existing pattern of waste management in Shropshire is dependant heavily on disposal to landfill sites. Historically, each WCA delivered waste to a local landfill site but some sites have now closed which may lead to WCAs having to transfer waste longer distances to a disposal point.

The Best Value Action Plan for Waste recommended building a network of local transfer stations and waste management facilities which would provide local delivery points and also allow implementation of new recycling initiatives. The first facility at Craven Arms opened in late 2003 and those at Whitchurch and Battlefield in 2005. (See Figure 3.3 for the location of waste management facilities in Shropshire).

3.4.2 Baseline Waste Volumes

The tonnage of MSW produced in Shropshire is shown in Table 3.3.

Table 3.3 Tonnage of MSW

Year	MSW (tonnes)	Percentage growth %
2002/03	170,118	
2003/04	171,900	1.0
2004/05	182,410	6.1
2005/06	177,853	(2.5)
2006/07	178,765	0.5%
2007/08	182,340	2.0%

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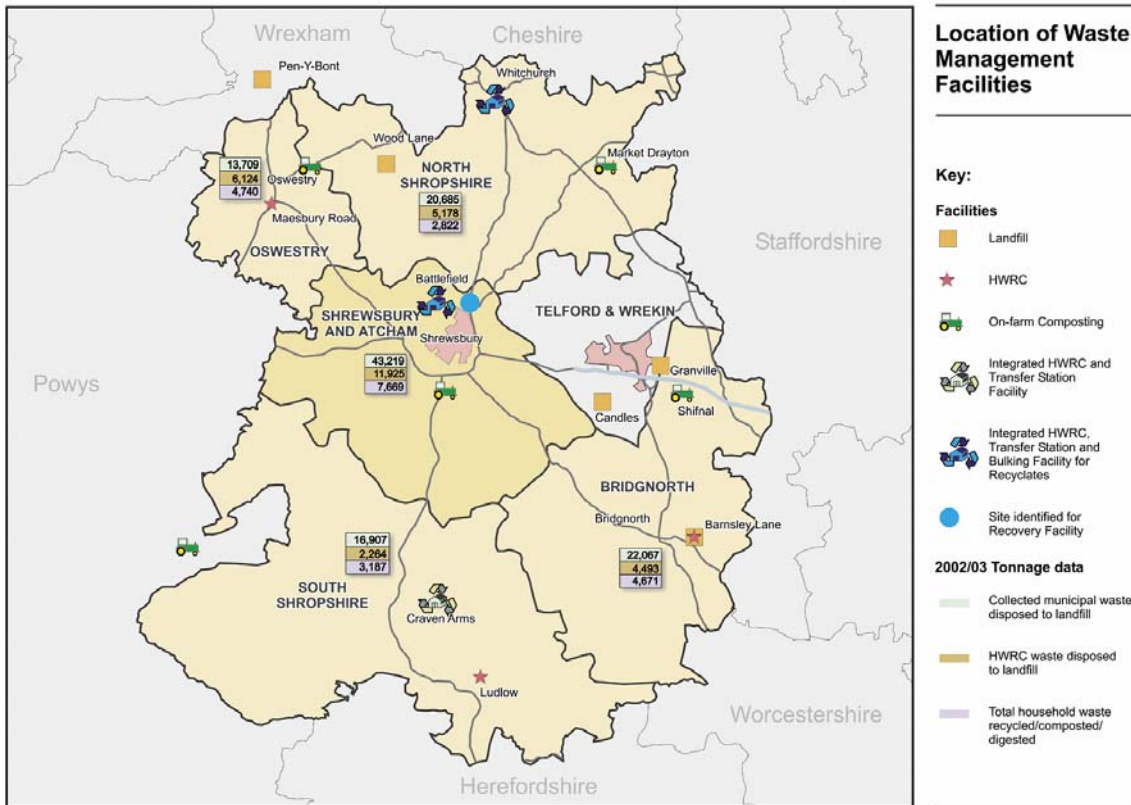


Figure 3.3

Location of Waste Management Facilities in Shropshire

3.4.3 Refuse Collection Arrangements

Apart from South Shropshire District Council, which has a contract with Biffa Waste Services, the District Councils use their own Direct Service Organisation (“DSO”) for the provision of refuse collection and street cleansing services. District refuse collection arrangements are summarised in Table 3.4:

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Table 3.4 District Council Collection Methods

Council	Refuse Collection Arrangements
Bridgnorth	Residual – alternate weekly collection from the kerbside using wheeled bins (95% coverage), remainder receives a weekly collection.
	Recyclate – fortnightly collection of paper, glass and cans using a box (95% coverage)
	Garden waste– alternate weekly collection using 240L wheeled bins. This service is provided throughout the year (95% coverage).
North Shropshire	Residual – alternate weekly collection from the kerbside using wheeled bins (100% coverage).
	Recyclate – fortnightly collection of paper, glass and cans using a box (100% coverage)
	Garden waste, Food Waste and cardboard – alternate weekly collection using 240L wheeled bins. This service is provided throughout the year (100% coverage).
Oswestry	Residual – alternate weekly collection from the kerbside using wheeled bins (92% coverage), remainder receives a weekly collection.
	Recyclate – fortnightly collection of paper, glass and cans using a box (92% coverage)
	Garden waste and cardboard – alternate weekly collection using 240L wheeled bins. This service is provided throughout the year (92% coverage).
Shrewsbury and Atcham	Residual – weekly kerbside collection using wheeled bins
	Recyclate - fortnightly collection of paper, cans, textiles, and glass using a box (80% coverage).
	Garden waste – fortnightly collection, no container provided. This service is provided from April – Nov (100% coverage).
South Shropshire	Residual – alternate weekly collection from the kerbside using wheeled bins (100% coverage).
	Recyclate – fortnightly collection of paper, glass and cans using a box (100% coverage)
	Garden waste, Food Waste and cardboard – alternate weekly collection using 240L wheeled bins. This service is provided throughout the year (100% coverage). Food waste only weekly collection trial to 5000 properties

At the start of the project in 2007 there will be county-wide alternate weekly collections of green and residual waste in wheeled bins with fortnightly collections of dry recyclates in boxes for over 95% of properties.

South Shropshire District Council's contract with Biffa Waste Services is due to end on 30 September 2007. Shrewsbury and Atcham Borough Council's recycling contract with SITA runs to October 2007.

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Dry recyclates are currently collected and processed under a range of contracts and agreements arranged separately by individual authorities, some of which run beyond 30 September 2007.

SWP's decision to adopt a single integrated waste collection, recycling, recovery and disposal contract, will affect the role of the three existing DSOs within the SWP. DSO staff will transfer to the new private sector contractor under TUPE legislation.

3.4.4 Household Recycling Centres (HRCs)

The County Council currently provides one HRC in each WCA area at which members of the public may deposit their own household waste for re-use, recycling, composting or disposal free of charge. Figure 3.3 shows the location of waste management facilities in Shropshire. Traditionally HRCs have been situated adjacent to existing or former landfill sites but with the phasing out of local landfill sites, the tradition of locating HRCs adjacent to landfills is changing. New modern facilities are located on industrial land nearer to the population centres. The new facilities are integrated waste management facilities comprising a purpose built HRC, a recyclate bulking facility and a residual waste transfer station thus allowing for greater segregation of wastes.

The old HRC facilities in Bridgnorth and Oswestry will be replaced with the new, modern facilities during the contract to achieve an enhanced recycling performance.

3.4.5 Waste Transfer Stations

A network of transfer stations (one in each District/Borough) is being developed in order to provide an accessible disposal point for the collection fleet and flexibility for the treatment and disposal.

- The integrated facility at Craven Arms incorporates a transfer station which serves the whole of South Shropshire but does not include bulking facilities for dry recyclates.
- The integrated facility at Battlefield serves the Shrewsbury & Atcham area and is licensed to accept up to 100,000 tonnes of municipal waste per annum.
- The integrated facility at Whitchurch serves North Shropshire and is licensed to accept up to 50,000 tonnes of municipal waste per annum.

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3.4.6 Disposal of Residual Waste

The majority of municipal waste that is not recycled or composted is landfilled at various sites. Table 3.5 shows the tonnage and source of waste deposited at each site. The location of landfill sites used by the County via its contractors is detailed in the waste facilities map at figure 3.3.

Table 3.5 Residual Collected Waste

WCA Area	Landfill Site	Average distance to landfill	Capacity/Lifespan of Landfill Sites	Approx tonnage 2006/07
Bridgnorth	Granville, Telford (direct RCV delivery)	12 -14 miles	Likely to have space for another 10 – 15 years	20,000
Oswestry	Pen y Bont Near Wrexham	12 miles	Bulked at Tudor Griffiths Group transfer station in Oswestry then to landfill	16,000
North Shropshire	Granville, Telford	25 miles	Most bulked at Whitchurch facility (some at Battlefield) to various landfill sites	19,000
SABC	Granville, Telford	11 miles	Bulked at Battlefield facility	44,000
South Shropshire	Granville, Telford	n/a	Bulked at Craven Arms Transfer Station	11,000

3.4.7 Waste Disposal Authority (WDA) Contractual Arrangements

Shropshire Waste Management Ltd (SWM), a subsidiary of SITA UK Ltd, is contracted until 15 February 2009 to dispose of the majority of residual waste in Shropshire. The Oswestry area is currently serviced by a temporary contract until October 2007. SCC has the following waste contracts:

- Group 1 Contract for Disposal of Residual Municipal Waste - under this contract SWM deals with the residual waste for most of Shropshire excluding Oswestry.
- Group 2 Contract for the Management and Operation of HRCs - this contract entails the management, operation, transportation and recycling,

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composting and re-use of waste from Council-owned HRCs. This contract ties in with the Group 1 contract for the disposal arrangements for residual waste.

- Group 3 Contract for the Provision and Management of HRCs - this contract entails the provision of HRCs on behalf of the Authority and includes the management, operation, transportation, recycling, composting, re-use and disposal of all waste received at the sites. The provision of new facilities which are county owned will eventually phase out Group 3 contractual arrangements where the site is owned by the provider. At present this only relates to the Barnsley Lane HRC in Bridgnorth.

Existing contractual arrangements have been designed to mesh with the commencement of the PFI contract in 2007. The operation of council-owned HRCs in Oswestry, South Shropshire, North Shropshire and Shrewsbury and waste disposal (landfill) in the Oswestry area, will terminate on 30 September 2007. Operation of the non-owned HRC and the waste disposal contract (landfill) for the remainder of the county will terminate in February 2009.

The current contracts will provide a guaranteed disposal route from the start of the contract to 2009.

3.4.8 Recycling and Composting Facilities

There are currently several operational composting facilities within Shropshire mostly small on-farm composting operations.

The marketing and disposal of kerbside collections of dry recyclates and green waste are managed via both local and national organisations.

3.4.9 Waste Minimisation and Education and Awareness Work

- Over 25,000 home composting units have been sold via Authority schemes since 2001. Since January 2006 the Shropshire Councils are part of the Waste Resources Action Programme (“WRAP”) scheme where highly subsidised bins costing £8 and £10 including delivery are available to residents. Residents also benefit from the support of a helpline, website and newsletters. This scheme will continue until at least March 2008. Additional support to the composters is now provided by the volunteer scheme “Master Composters” that can help in the community with specific advice and encouragement.
- The junk mail campaign has been simple and successful with over 22,000 people signing up to the Mailing Preference Service.

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- A full time Waste Education Support Programme (“WESP”) Officer works with over 60 schools to reduce their waste production and increase their recycling and composting. District officers also work with their local schools.
- Furniture recycling and real nappy campaign projects are being run by the community sector. SWP funds a post at and works closely with the Shropshire Community Recycling Network (“SCRN”).
- A number of campaigns have been funded by WRAP, SWP and SCC in the last two years. These have included:
 - 3 doorstepping projects to encourage residents to use their recycling services;
 - Literature and media campaigns to launch new services;
 - A pre and post campaign attitude survey, and participation monitoring to measure the effectiveness of the campaign;
 - A household recycling centre advisor project to encourage residents to separate their waste for recycling before and during their visit;
 - A DEFRA funded Incentives Scheme “Recycle for Charity, Recycle for Shropshire” working with BBC Radio Shropshire;
 - Bus and radio advertising;
 - Sponsoring events such as football matches and Carols in the Square;
 - An ongoing media PR campaign with local papers and interview and phone-ins with local radio;
 - Linking in with national events such as Recycle Now Week.

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3.4.10 Trends in Service Costs

Waste management costs have increased in recent years as demonstrated in Table 3.6:

Table 3.6 Trends in Service Costs

Year	BVPI 86 Waste collection cost per household £/household			
	Bridgnorth	Oswestry	North Shropshire	South Shropshire
2002/03	34.12	58.24	41.92	54.01
2003/04	42.22	63.68	67.30	68.35
2004/05	56.35	65.89	83.15	74.57
2005/06	63.36	75.48	75.57	92.54
2006/07 (unaudited)	54.64	73.36	91.35	90.48

Waste collection costs have increased as a result of waste growth and the implementation of the short term objectives of the SMWMS for kerbside collection of dry recyclables and green waste.

3.4.11 Best Value Performance Indicators (BVPis)

The following table shows the BVPI statistics for Shropshire. Recent years have seen a dramatic improvement in performance as a result of implementing the SMWMS and the work that individual SWP partner authorities have done towards achieving the statutory, Local Public Service Agreement (“LPSA”) and Local Area Agreement targets. This achievement has only been possible because of substantial investment in the service by all partners.

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Table 3.7 Best Value Performance Indicators 2000/01 to 2003/04

Indicator for Household Waste Arisings	2000/01 %/kg/£	2001/02 %/kg/£	2002/03 %/kg/£	2003/04 %/kg/£	2004/05 %/kg/£	2005/06 %/kg/£	2006/07 (unaudited) %/kg/£
BVPI 82a % recycled	7.85	8.61	10.35	12.69	12.89	16.11	18.12
BVPI 82b % composted	0.83	0.77	4.37	10.61	15.77	18.69	19.88
BVPI 82c % recovered for energy	0.22	0.14	0.31	0.24	0.0	0.0	0.0
BVPI 82d % landfilled	91.10	90.48	84.97	76.46	71.34	62.2	62.0
BVPI 84 Kilograms of waste collected per head	555	558	547	546	574	554	554
BVPI 87 Waste disposal cost per tonne	£25.84	£29.40	£32.06	£40.71	£46.15	£50.24	£58.80

3.4.12 Local Indicators

In 2003 SCC entered into a LPSA with the Government. Waste Management was selected as the partnership element of this agreement. SCC, in partnership with all the Districts, agreed to stretch the County statutory target of 21% in 2005/06 to 22% a year earlier in 2004/05.

Table 3.8 shows that Shropshire Authorities have a good track record of meeting short term targets. Substantial capital investment is required if the higher medium to long term targets are to be met.

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Table 3.8 Statutory Recycling Targets by District and LPSA Target

	2004/05 LPSA Target (%)	2005/06 Statutory Target (%)	Rates achieved 2004/05 (%)	Rates achieved 2005/06 (%)	Rates achieved 2006/07 (%)
Bridgnorth District Council	21	27	31	35	38
North Shropshire District Council	13	18	29	38	41
Oswestry Borough Council	18	18	28	42	41
Shrewsbury & Atcham Borough Council	21	27	22	26	28
South Shropshire Borough Council	23	30	27	37	53
Shropshire County as a whole	22	21	29	35	38

3.5 Bidding history

In October 2004 SWP advertised the contract and invited expressions of interest in accordance with European and UK procurement rules. Potential bidders were invited to submit an initial pre-qualification questionnaire and outline proposals for the contract by 7 January 2005.

In April 2005, the following bidders were issued with an Invitation to Negotiate (“ITN”):

Bidders names removed on grounds of commercial confidentiality – EIR exception 12(5)e

On 19 August 2005, compliant responses to the ITN were received from:

Bidders names removed on grounds of commercial confidentiality – EIR exception 12(5)e

At this stage, both bids were proposing to use a mechanical biological waste treatment (“MBT”) solution and offering poor levels of waste diversion from landfill. SWP discussed with DEFRA its concerns that the bids were not meeting the OBC aspirations. DEFRA advised that the low levels of BMW diversion

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could jeopardise the PFI credits awarded. In October 2005 both bidders were invited to reconsider their treatment proposals.

On 28 November 2005 the PFI Board approved taking both bidders through the ITN stage. It also approved commencing negotiations with both bidders on proposed technologies, risk transfer and affordability prior to seeking Best and Final Offers.

Details of bids removed on grounds of commercial confidentiality – EIR exception 12(5)e

There followed a number of meetings with both bidders to develop bid proposals. On 31 July 2006 both bidders submitted Best and Final Offers (“BaFO”).

On review of these BaFO submissions, SWP felt that more information was required in order to undertake a robust evaluation of the bids and the Bidders were given until 27 October 2006 to submit clarifications and additional information prior to the evaluation of BaFO submissions.

There were still issues with the revised BaFO submissions of 27 October 2006.

Details of bids removed on grounds of commercial confidentiality – EIR exception 12(5)e

An evaluation report was prepared for the PFI Board meeting of 29 November 2006. The evaluation was based on the submissions received on 31 July 2006, updated for information received on 30 October 2006, where this information had been presented clearly.

Details of bids removed from the section below on grounds of commercial confidentiality – EIR exception 12(5)e

The evaluation report showed that, **(one bid was)** considerably stronger than **(the other)**. Both **(bidders)** were invited to reconsider affordability and re-submit elements of their bid by 24 November 2006. A revised bid was received from **(one bidder)** on 24 November 2006. Meetings were scheduled with both bidders for December 2006.

Details of conversations with Bidders removed on grounds of commercial confidentiality – EIR exception 12(5)e

After this decision, SWP focussed its negotiations with Veolia and, in February 2007, the SWP Joint Committee sanctioned a period of exclusive negotiations with Veolia. This was undertaken to give Veolia confidence to commit to certain actions to help improve the deliverability and certainty of the project such as commencing ground investigations on the principal site in order to provide price certainty.

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The SWP project was selected for a second stage review by PUK and final papers were submitted in respect of this review in July 2007. There were two elements to the review: affordability and compliance with SoPC4 regulations.

Following the submission of second stage review documents, Veolia will be announced as preferred bidder on 1st August 2007.

Contract signature is scheduled for 12th and 13th September 2007 (**contract was signed on 29 September 2007**) and contract commencement for 1st October 2007.

3.6 Update from the Outline Business Case

3.6.1 OBC – credits awarded

On the basis of its OBC, DEFRA initially awarded the Shropshire Waste Partnership an indicative PFI credit of £35.8m to facilitate a step change in the delivery of waste services in Shropshire. In July 2007, this award was increased by £5.0m to £40.8m.

3.6.2 Developments since the OBC

SWP remains committed to delivering a step change in its waste service provision in order to meet recycling and landfill diversion targets. Since the original OBC was approved, SWP member authorities have continued to invest in waste infrastructure and collection schemes. Developments have included two new integrated waste management facilities, each comprising a transfer station and Household Recycling Centre and the roll out of a comprehensive three stream kerbside recycling collection system across the Partnership area. These improvements have all been funded by the SWP authorities and DEFRA funding.

3.6.3 Changes from the waste treatment solution proposed at OBC

The original Reference Project used a Mechanical Biological Treatment facility. Veolia is proposing to use an Energy Recovery Facility to deliver SWP's required levels of waste diversion. The Waste Treatment Facility is considerably more expensive than the MBT facility used in the OBC Reference Project but delivers a much more robust diversion of waste from landfill, as shown in Table 3.9.

The OBC Reference Project assumed a central MBT type plant which would extract recyclables, produce a material suitable for land spreading and generate RDF for use in an appropriate third party energy recovery plant.

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Prior to receipt of returned ITNs in July 2005, the Environment Agency ruling on mixed waste derived compost removed the option of land spreading for this material. Recognising this restriction, both ITN responses proposed sending this material to landfill. In the absence of any third party facility, both responses also proposed sending the RDF to landfill. These responses were discussed both internally by SWP and with Defra. Although these proposals would have reduced the biodegradable content of waste going to landfill neither SWP nor Defra considered that the proposals represented a robust or sustainable strategy for the long term waste management in Shropshire.

Further discussions were held with bidders prior to the issue of BaFO documents to ensure that BaFO responses would develop proposals which were scaled appropriately for Shropshire, reduced reliance on landfill, reduced transport impacts and provided a solution to the management of Shropshire's municipal waste which did not rely on speculative third party facilities.

Subsequent proposals from both bidders at the BaFO stage included the development of a small scale ERF on the Battlefield site in North Shrewsbury. These proposals would deliver guaranteed landfill diversion significantly in excess of OBC performance and Shropshire's LATS allowance requirements.

3.6.4 Affordability impact of post-OBC changes

When SWP submitted its OBC, it estimated that the Partnership waste budget would need to be uplifted by £2.4m in order to meet the anticipated costs of the Reference Project. As a result, the Authority increased its waste budget by £800,000 in the three years 2005/06, 2006/07 and 2007/08.

Re-running the affordability calculations on the bidder's current proposals indicated that SWP would need to increase its waste budget by a further £300,000 and also apply for an uplift in PFI credits. In June 2007, Council approved committing a further £300,000 of budget growth to fund this contract.

Quantification of LATS income removed – EIR exception 12(4)e – internal communications

SWP is planning to rely on income from the sale of surplus landfill allowances and ongoing Waste Performance Efficiency Grant funding to fund the contract. SCC and SWP members have accepted the risks of this funding not being achievable or available. At the same time, SWP has negotiated a 2 year extension to the contract to 27 years, which enables the project to reduce its reliance upon LATS income from £xxm under a 25 year contract to £xxm over a 27 year period, while remaining within the existing budget uplift requirement of £300,000 that has been sanctioned by Members.

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3.6.5 Landfill Diversion Performance: impact of post-OBC changes

Table 3.9 demonstrates the significant improvement in BMW diversion performance of the Veolia proposal as compared to the Reference Project included in the OBC. The OBC metrics have also been restated taking into account the Environment Agency’s ruling on MBT compost. The Veolia proposal is expected to send approximately 51% less BMW to landfill than the current forecast of the Reference Project included in the OBC.

Performance metrics removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 3.9 BMW performance - current proposals compared to OBC

	OBC as submitted	Impact of EA ruling on MBT compost	OBC restated for EA ruling on MBT compost	Veolia proposal of 17 July 2007*
2013 BMW sent to Landfill (tonnes)	xx	25,000t MBT compost to landfill. Assume BMW content of 20% (5,000 tpa)	xx	xx
2020 BMW to sent Landfill (tonnes)	xx		xx	xx
Total BMW sent to Landfill (tonnes)	xx	Assumes extra 5,000 tpa of BMW over 23 yrs	xx	xx (over 27 years)

* with 1 Oct 07 service commencement date

3.6.6 Recycling performance: impact of post OBC changes

Table 3.10 demonstrates that the enhanced BMW diversion performance has not compromised recycling performance; the Veolia proposal achieves a comparable level of recycling to the current forecast of the Reference Project performance.

Performance metrics removed on the grounds of commercial sensitivity – EIR exception 12(5)e

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Table 3.10 Recycling performance - current proposals compared to OBC

	OBC as submitted	Impact of EA ruling on MBT compost	OBC restated for EA ruling on MBT compost	Veolia proposal of 17 July 2007*
2010 Recycling Performance	xx%	25,000t of MBT compost fails to meet EA composting guidelines	xx%	xx%
2020 Recycling Performance	xx%		xx%	xx%

* with 1 Oct 07 service commencement date

3.6.7 Capital expenditure: impact of post OBC changes

The higher levels of diversion result from the use of more expensive waste treatment facilities, which will result in the project as a whole contributing significantly to the national landfill diversion targets. The higher levels of capital expenditure are summarised in Table 3.11.

Performance metrics removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 3.11 Project capital expenditure - current proposals compared to OBC

	OBC (£'000s)	Veolia proposal of 17 July 2007 (£'000s)
Bulking facilities/ Transfer facilities/ MRFs/ HRCs	xx	xx
In Vessel Composters	xx	xx
Additional Recycling and Recovery facilities	xx	xx
Facility Lifecycle costs	xx	xx
<u>Sub-total</u> - waste disposal projected capital costs including facility lifecycle costs	xx	xx
Waste collection service enhancement and lifecycle costs	xx	xx
Total Capital Expenditure (nominal)	xx	xx

* including lifecycle costs

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The table above shows that the cost of the waste treatment facilities has more than doubled since the OBC.

Routine replacements of bins, boxes and vehicles will form part of the capital expenditure incurred during the life of the project. The application for PFI credits included an amount for new collection initiatives given that, in the absence of the PFI project, the collection authorities would probably have applied for DEFRA funding for these new initiatives.

3.6.8 Cost of the contract

Veolia's proposal also has higher operational costs than the OBC contract. This is offset partially by higher income from energy sales and higher levels of guaranteed income from the sales of recyclable materials than had been envisaged in the OBC Reference Project.

A full analysis of the affordability of the project is given in section 6 of this report.

The nominal contract costs as at 17 July 2007, reflect the impact of the recently announced increases in the rate of Landfill Tax. After the budget announcement, SWP and Veolia identified several ways of reducing the project cost in order to mitigate the impact of this recent increase. Further details of the savings that have been agreed are provided in Table 5.3.

3.7 Infrastructure and Service Solution

3.7.1 Overview

The Provider shall develop and implement an integrated waste management system to collect, transfer, receive, recycle, compost, divert from landfill, treat, and landfill contract waste for which the Authority has a statutory responsibility in accordance with the objectives and Contract Targets set out in the Specification (the "Services"). The Services shall include the following:

3.7.2 Design and Construction Services

- design, construction, commissioning and acceptance of new Project Facilities;
- refurbishment of existing Project Facilities.

3.7.3 Works and Services Management Services

- managing the smooth transition of the services from existing contractors at Service Commencement and to new contractors at expiry or early termination;

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- obtaining and maintaining relevant quality assurance standards for the Works and Services;
- obtaining and maintaining relevant environmental management standards for the Works and Services;
- submitting and maintaining Provider's Proposals comprising a Works Development Plan ("WDP"), a Works Programme ("WP") and a Service Delivery Plan ("SDP") that detail how the requirements of this Specification shall be delivered;
- monitoring, managing and reducing Greenhouse Gas Emissions related to the Services;
- submitting and maintaining a Best Value Method Statement;
- undertaking Customer satisfaction surveys related to the Services;
- developing, operating and maintaining appropriate monitoring and reporting systems for the performance of the Services;
- providing the Authority with all access, information and assistance necessary to monitor the Works and Services.

3.7.4 Health, Safety and Welfare Management Services

- managing and operating the Service in accordance with health and safety requirements;
- undertake the responsibilities as client under the CDM Regulations;
- recording the relevant health, safety and welfare arrangements that will be implemented and maintained;
- producing a quarterly health and safety report detailing accidents and dangerous occurrences reportable under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995) and any new or improved procedures, training or other health and safety measures implemented.

3.7.5 Waste Minimisation, Education and Communication Services

- continuation of the Authority's activities and the introduction of initiatives to promote Waste minimisation, reuse and recycling including home composting;
- development of maintenance of a rolling 5 year Waste Minimisation and Education Plan;
- implementation of the Waste Minimisation and Education Plan;
- developing and managing the promotion and distribution of home Composting units to the public;
- provision of facilities and Employees to manage visits to Waste Management Facilities by schools and other community groups.

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3.7.6 Community Sector Integration Services

- preparing and maintaining a Community Sector Engagement Plan detailing proposals for achieving broader project objectives and mechanisms for partnerships with community groups;
- liaising with relevant community groups such as the Shropshire Community Recycling Network (SCRN).

3.7.7 Contract Waste Collection Services

- collection of Recyclable Materials, Green Waste, Mixed Compostable Waste and Residual Waste from the Collection Contract Area from the Services Commencement Date in accordance with the Specification;
- assisted Collections;
- Bring Bank site management and servicing.

3.7.8 HRC Services

- develop, manage, operate and maintain HRC Sites in accordance with this Specification;
- receive Household Waste directly delivered by Customers in compliance with the Authority's HRC Permit system;
- providing facilities for the segregation of Contract Waste, and segregating Contract Waste, as appropriate;
- transport segregated Waste for Re-use, Recycling, Composting, Treatment, and or disposal as appropriate;
- providing facilities for the segregation of Waste Electrical and Electronic Equipment (WEEE), and liaising with the WEEE Contractor, as specified;
- receive, manage and disposal of Hazardous Household Waste delivered to or arising from HRC Sites;
- provision of supervised Mobile HRCs.

3.7.9 Contract Waste Reception and Transfer Services

- up to the SABC Collection Date, reception, storage and transfer of Recyclable Materials delivered by SABC in accordance with Schedule 40 (Waste Reception Protocol);
- from 1st April 2010 to the SABC Collection Date, reception, storage and transfer of Green Waste and/or Mixed Compostable Waste delivered by SABC in accordance with Schedule 40 (Waste Reception Protocol);
- up to the SABC Collection Date reception, storage and transfer of Residual Waste, Bulky Waste, WEEE, batteries, Clinical Waste and Household Hazardous Waste delivered by SABC in accordance with Schedule 40 (Waste Reception Protocol);

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- reception, storage and transfer of Street Cleansing Waste delivered by Districts in accordance with Schedule 40 (Waste Reception Protocol); from 1st April 2010 to the SABC Collection Date, treatment of Mixed Compostable Waste delivered by SABC;
- handling, transfer and transport of all Contract Waste collected by the Provider or otherwise.

3.7.10 Re-use, Recycling and Composting Services

- the development, commissioning, operation and maintenance of the Project Facilities for the purposes of Recycling and Composting, including all initial and phased site and civil engineering works, mechanical, electrical and mobile plant and related activities;
- the operation and maintenance of Project Facilities for the purposes of Recycling and Composting comprising reception, weighing, processing, treatment, and recycling of Waste, management of the facilities, and the supply of labour, plant, Equipment, utilities and other prerequisites;
- composting of Green Waste and Mixed Compostable Waste, and Recycling of Recyclable Materials collected by the Provider, in compliance with the relevant Contract Recycling and Composting Target;
- from the Services Commencement Date, Recycling of Recyclable Materials delivered by SABC, in compliance with the relevant SABC Recycling and Composting Target;
- from 1st April 2010 to the SABC Collection Date, treatment of Green Waste and/or Mixed Compostable Waste delivered by SABC in compliance with the relevant SABC Recycling and Composting Target;
- securing markets for segregated Recyclable Materials, Compost, Rubble and materials which can be Re-Used;
- the transfer and sale of Compost where appropriate, transfer and sale of Recyclable Materials to reprocessors.

3.7.11 Waste Treatment Services

- diversion of Contract Waste from Landfill in accordance with the provisions of Schedule 33 Part 1 (Off-Take Contract Protocol);
- the development, commissioning, operation and maintenance of the Waste Treatment Facilities, including all initial and phased site and civil engineering works, mechanical, electrical and mobile plant and related activities;
- treatment of Residual Waste, in compliance with the Contract Diversion Target and the BMW Diversion Target;
- the operation and maintenance of Waste Treatment Facilities comprising reception, weighing, processing, treatment, and recycling of Waste,

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management of the facilities, and the supply of labour, plant, Equipment, utilities and other prerequisites;

- securing markets and/or disposal routes for all residues from Waste Treatment Facilities;
- wherever economically viable, securing markets for any energy generated by Waste Treatment Facilities.

3.7.12 Waste Disposal Services

- landfilling (or alternative disposal) of all Residual Waste not treated by the ERF, managed through the Off-Take Contract, or otherwise diverted from Landfill by the Provider;
- disposal of residues from all Waste Treatment Facilities;
- disposal of Clinical Waste.

3.7.13 Ancillary Services, comprising the:

- collection of Fly-Tipped Waste from the Collection Contract Area;
- collection and disposal of Clinical Waste from the Collection Contract Area;
- disposal of Clinical Waste delivered to the Provider by SABC;
- disposal of Hazardous Waste;
- collection of Bulky Household Waste;
- collection of Schedule 2 Waste and Commercial Waste as directed by the Authority's Representative;
- recycling, treatment and/or disposal of WEEE in the event that the material is not picked up in a timely manner by the WEEE Contractor;
- provision of Emergency Services as directed by the Authority's Representative;
- operation and management Street Cleansing Services for the District of South Shropshire, from the Service Commencement Date to 30th September 2012.

Stakeholder Commitment

4.1 Introduction

SWP is succeeding in its aim of transforming waste management in Shropshire because of the complete level of commitment shown by the partners. This is demonstrated by the fact that in August 2004, the partner authorities signed a binding constitution to align their activities – and budgets and other resources - to an extent not achieved or rarely even considered by other partnerships.

This commitment has been demonstrated and reinforced throughout the processes it has set up and through a series of key decisions which are described below.

There is also a high level of commitment by other stakeholders as demonstrated below.

SWP also believes strongly in regular and comprehensive consultation with stakeholders.

4.2 Stakeholder Commitment

More detail on consultation campaigns is given in Section 4.3 but examples include a comprehensive public consultation exercise that took place during the development of the waste management strategy – which revealed that 97% of those who responded said they would support new recycling initiatives – as well as a soft market testing day with representatives of the waste management industry. These campaigns not only provide vital information on what SWP needs to do but also strengthens the links with its stakeholders by making them part of the decision making process.

With regard to corporate commitment, SWP partner authorities supported the formation of a Joint Committee which first met in autumn 2004 to provide guidance and direction on new policies and initiatives. This is supported by a joint Directors Group which also meets on a monthly basis and by a joint Monitoring Panel – whose members are drawn from the scrutiny committees of the five partner authorities – which meet on an ad hoc basis to resolve major issues as they arise.

In addition, a new client body is being formed to provide governance of the single integrated waste contract.

SWP wishes to provide a quality integrated waste service for the residents of Shropshire and realises that the capital funding requirements in constructing plant and acquiring equipment is substantial. A bid for PFI credits has therefore been made and accepted and this bid was supported by SWP and its stakeholders. The PFI award helps to close the affordability gap which still

Stakeholder Commitment

prevailed, despite commitments from all of the SWP partner authorities to increase both capital and revenue spending on waste.

Key stages in the process of awarding that contract have included:

- Formal approval by SWP through its Joint Committee and the partners individually through their own approval processes to transfer their budgets and other resources to SWP. These approvals took place in January and February 2007;
- Formal approval by SWP through its Joint Committee and the partners individually through their own approval processes giving defined senior officers, in consultation with the Chair of the Joint Committee, to proceed to the signing of the contract. These approvals took place in June 2007.

SWP has particularly strong links with the Voluntary and Community Sector which it sees as a vital part of the future of sustainable waste management in Shropshire. To strengthen those links, SWP is now funding a post of full time co-ordinator working directly with, and embedded in, the Shropshire Community Recycling Network. The intention here is both to co-ordinate the sector's activities and to help strengthen its position in order to give it a more secure long term future. SWP and the partners also provide direct funding to schemes such as reusable nappies and furniture reuse schemes.

4.3 Stakeholder Consultation

Stakeholder consultation underpins everything that SWP does and is carried out in various forms and at various times.

Broad Public Consultation

The local authorities in Shropshire have developed a People's Panel which comprises a representative sample of Shropshire's population. Consultation with the Panel as part of the preparation of the Shropshire Integrated Community Strategy in 2001 revealed that the reduction and recycling of household waste received the highest level of support of any potential policy priority (86% of respondents were very supportive and 12% were slightly or moderately supportive).

The People's Panel surveys also indicate that over 60% of Shropshire's population believe that protecting the environment is the most important aspect of local authority policy and 94% put a high value on the quality of Shropshire's environment.

Stakeholder Commitment

Joint Municipal Waste Management Strategy and Best Value Review

In 2001, as part of the development of the Shropshire Joint Municipal Waste Management Strategy, a public consultation was carried out seeking views on the future direction of waste management in Shropshire. This involved consulting every household in Shropshire and other stakeholders. The consultation proved extremely successful with nearly 11,000 responses of which 97% identified broad support for a new strategic approach to waste management. An equally high percentage of respondents also stated that they would support new waste collection systems by separating materials for recycling. The results provided an invaluable insight into public attitudes to the objectives of the preferred waste management strategy and gave a good indication of the likely degree of support for future policy options. Strong evidence emerged that the people of Shropshire would be willing to participate further in recycling and composting.

A further consultation was carried out as part of the Waste Management Best Value review in July 2001 and this showed support for both incineration with energy recovery and energy recovery treatments other than incineration, although a number of concerns were raised in both cases.

Industry

A number of informal meetings have been held with representatives of the waste management industry. A more structured soft market testing day took place in January 2004. This was in advance of the formal start of the procurement process in autumn 2004 at which point SWP entered into much more detailed discussion with waste management companies.

Standing Conference

Section 21 of SWP's constitution states that a conference will be held each year in order to bring together "...persons interested in the development of waste management", the purpose being to seek a broad range of views on the future development of policy. Around 150 people are invited each year from the public sector, the business sector and the voluntary and community sector, with attendance running at between 70 and 100.

The next conference is due to take place on 22nd November 2007 and this represents an excellent opportunity to portray the complete story of the procurement of a major integrated contract and to seek views on future direction.

Stakeholder Commitment

Adjacent Local Authorities

One of the waste collection authorities in Shropshire, namely Shrewsbury and Atcham Borough Council (SABC), has not joined the Partnership but SWP nevertheless has to deal with the waste it collects. SABC will shortly be moving to a new collection system that ties in almost exactly with the system being deployed throughout the Partnership.

Similarly, the adjacent unitary authority of the Borough of Telford and Wrekin ("BTW") has chosen not to be a member of the partnership and is currently engaged on its own procurement exercise. However, regular constructive discussions between BTW and SWP ensure that practices and problems can be shared and all possible avenues for joint working can be explored.

Planning and licensing of waste management facilities

A contract on this scale inevitably carries with it the need to develop new facilities and all of these facilities will need to gain planning consent before construction can proceed. The planning process carries with it a substantial amount of consultation before an application can be heard by the Planning Committee. Much of this has a statutory base in that there is an obligation to seek the views of certain defined organisations, but it is open to a much wider base and anyone can express views on a proposed development.

It is likely that the most controversial proposal will be the development of an Energy Recovery Facility and, in recognition of this, Veolia has proposed setting up a Local Stakeholder Group well in advance of the planning application being submitted. This Group would have the remit of making sure the Contractor was aware of all the concerns and issues arising locally from the ERF proposal and to hear how the contractor will be dealing with them. This Group will also be involved in the development of the design for the ERF plant.

Finally, as well as a planning consent, the contractor will also need a Licence or Permit from the Environment Agency before they will be allowed to operate a facility. For the ERF plant, it will need to be a Permit under the Pollution Prevention and Control Regulations (PPC) and the process for issuing one of these also carries a statutory obligation to consult.

Value for Money

5.1 Introduction

PFI projects must demonstrate Value for Money (“VfM”) over alternative procurement options. In accordance with HM Treasury *Value for Money Assessment Guidance October 2006*, no adjustments have been made as part of this FBC to the quantitative VfM assessment carried out as part of the Outline Business Case (“OBC”), or subsequently during the course of the procurement. The focus of this FBC is on the Stage 3 Procurement Level Assessment, a qualitative assessment that involves a series of ongoing ‘checks’ on VfM. The four main VfM drivers are:

- Quality of competition;
- Success achieved in transferring an appropriate level of risk; and
- Reasonableness and stability of the costs; and
- The project structure and financial viability of the bidder.

In demonstrating the VfM of the project, this section:

- Reviews the VfM assertion made at the OBC stage; and
- Undertakes the Stage 3 Procurement Level Assessment.

5.2 Value for Money at OBC

In 2004, the Authority submitted an OBC to HM Treasury’s Project Review Group (“PRG”), with a revised OBC submitted in July 2004. The OBC contained a detailed VfM analysis in accordance with Treasury guidance applicable up to 31 December 2004 which concluded that procurement under the PFI route could offer value for money.

At the OBC stage, a Public Sector Comparator was developed, which estimated the cost to the Authority of undertaking the project itself and a valuation of the risks that would be incurred in doing so. This PSC was compared to the projected costs of a PFI option. The results are shown in Table 5.1.

Value for Money

Contract cost information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 5.1: Value for Money of a PFI solution at OBC²

Net Present Values at 1 April 2007	PSC Option £'000	PFI Option £'000
PSC Base Cost	xx	xx
Private Sector Cost	xx	xx
Revenues	xx	xx
Landfill Tax	xx	xx
Tradable Allowances	xx	xx
Sub Total	xx	xx
Client Costs	xx	xx
Differential Tax ³	xx	xx
Transferred Risk ⁴	xx	xx
Optimism Bias – Capital	xx	xx
Optimism Bias – Operating	xx	xx
Optimism Bias – Works duration	xx	xx
Present Cost (in April 2007)	xx	xx
Difference between PSC and PFI	xx	xx
Percentage under PSC net present cost	xx	xx

Source: 'Shropshire Waste Partnership – PFI Project Outline Business Case'

In constructing the PSC, the Partnership ensured that:

- All partners' views were sought in order to form an accurate assessment of the cost of risks had they remained with the public sector;
- All risks associated with the project were identified and allocated to the party best able to manage them;

² All costs are discounted at 6.09% (nominal) to 1 October 2004

³ Compared to the PFI Option

⁴ Compared to the PFI Option

Value for Money

- The implications of the Treasury “Green Book” were incorporated;
- The risk-adjusted PSC was robust and provided a reliable comparison with the shadow of the PFI model in order to demonstrate the VfM of the proposed project; and
- The PSC would continue to be updated and refined throughout the life of the project.

Accordingly, a PSC was developed that took account of the projected cost and associated risk to SWP of undertaking the project. The analysis also considered the level of taxation which would be lost to the Treasury if the project was delivered by the public sector as well as the client costs associated with delivering the project.

Contract cost information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

The revised OBC suggested that the PFI route was capable of offering VfM as it showed a total present cost advantage for the PFI route of £xxm (as at 1 April 2007 prices), which approximated to xx% of the post risk PSC cost.

The projected saving from the PFI route was ascribed to three factors:

- An assumption that the private sector will prove better able to manage the risks transferred to it than the public sector;
- An assumption that the private sector will prove more successful in optimising efficiencies associated with collection operations; and
- Economies of scale associated with the integration of services.

These savings outweighed the predicted higher cost of private sector finance.

The VfM evaluation therefore confirmed that a single integrated contract procured through the private sector outperformed the other options and it was therefore identified as the preferred option.

5.3 Procurement Level Assessment

In line with *HM Treasury’s Value for Money Assessment Guidance October 2006*, this section reaffirms the VfM assertion made at the OBC stage through a review of the three main VfM drivers, namely:

Value for Money

- Quality of competition;
- Success achieved in transferring an appropriate level of risk; and
- Reasonableness and stability of the costs.

5.3.1 Quality of Competition

The procurement process undertaken in selecting Veolia as the Authority’s Preferred Bidder has been competitive. This is borne out by the commentary below in respect of the quality of competition at key stages of the procurement process.

Table 5.2: Key Stages of the Competitive Process

Event	Narrative
<p>Response to Official Journal of the European Union (“OJEU”) Notice</p> <p><i>A strong competition ideally requires a number of well-qualified bidders. If the response indicates that this is not the case, then prima facie, optimal competitive conditions may be absent</i></p>	<p>Expressions of interest were received in response to the OJEU notice.</p>
<p>Pre-Qualification</p> <p><i>The Procuring Authority would ideally want to see a number of strong bidders pre-qualifying and will want to be satisfied that a sufficient number of these will submit bids</i></p>	<p>Five applicants returned the Pre-Qualification Questionnaire (“PQQ”). Of these, one organisation was deemed ineligible on the grounds of financial standing. Of the remaining four applicants, all were pre-qualified by the Authority. These represented waste management companies with a strong track record in the UK and good financial standing, and were regarded by the Authority as a satisfactory suite of Bidders to take forward.</p>
<p>Invitation to Negotiate (“ITN”)</p>	<p>The ITN involved a preliminary Invitation to Submit Outline Proposals (“ISOP”) submission issued in November 2004, and in conjunction with the PQQ, prior to the principal ITN submission, issued in April 2005. In January 2005, ISOP submissions were received from:</p> <p>Bidders’ names removed on grounds of commercial confidentiality – EIR exception 12(5)e</p>

Value for Money

Event	Narrative
	<p>All four bidders above were shortlisted by the Authority to participate in the main ITN stage. The ITN was issued to bidders on 4 April 2005.</p> <p>The ITN required bidders to submit 2 mandatory standard bids as follows:</p> <ul style="list-style-type: none"> • Mandatory bid 1 – the Provider assumed responsibility for all of the waste management services within the administrative boundary of Shropshire; and • Mandatory bid 2 – this bid excluded Shrewsbury and Atcham Borough Council (“SABC”) collection services. Contract waste still included residual waste collected by SABC along with SABC garden/kitchen waste, and dry recyclates were included as contract waste for delivery to the Provider for treatment and disposal. <p>Details of conversations and communications with Bidders removed on grounds of commercial confidentiality – EIR exception 12(5)e</p> <p>On 19 August 2005, the Partnership received two mandatory bid submissions from . . .</p> <p>Bidders’ names and details of their bids removed on grounds of commercial confidentiality – EIR exception 12(5)e</p> <p>Following a period of analysis, clarification and negotiation with both bidders, the decision was reached to invite (both bidders) to submit BaFOs.</p>
BaFO	<p>In April 2006, the BaFO documentation was issued (and) bidders were requested to provide a standard bid, excluding collection services in the SABC area and were given the opportunity to provide one or more variant bids at their discretion.</p> <p>Bid evaluation details removed on the grounds of commercial sensitivity – EIR exception 12(5)e</p> <p>Following the BaFO evaluation conducted in November 2006 the Authority determined that Veolia be selected as Preferred Bidder, with (the other Bidder) taken through as</p>

Value for Money

Event	Narrative
	<p>the reserve bidder.</p> <p>Bid evaluation details removed on the grounds of commercial sensitivity – EIR exception 12(5)e</p> <p>During the course of the BaFO evaluation, the Authority undertook specific negotiations with the two bidders aimed at reducing the total cost of the bids. As a result of these initiatives, specific areas where savings were achieved comprised the following:</p> <p>Areas of cost savings removed on the grounds of commercial sensitivity – EIR exception 12(5)e</p>
Post BaFO	<p>On 13 February 2007, the Authority entered into a period of exclusive negotiations with Veolia, while retaining (the other bidder) as a reserve bidder.</p> <p>On 18 April 2007, the Authority proposed to draft a Preferred Bidder letter to Veolia and sought Treasury approval to appoint Veolia as Preferred Bidder. Veolia has now received that draft Preferred Bidder letter and comments are being exchanged between parties with a view to finalising the letter by 31 July 2007.</p> <p>Bid costs removed on the grounds of commercial sensitivity – EIR exception 12(5)e</p> <p>During the course of these exclusive negotiations, the total cost of the project had been negotiated down further with Veolia and the anticipated project cost for a 25 year contract term as at 17 July 2007 is £xxm (nominal).</p> <p>Quantification of LATS income removed – EIR exception 12(4)e – internal communications</p> <p>As a result of further negotiation with Veolia, aimed at improving the affordability position of the project, it was determined that the project should be extended by a period of 2 years to 27 years. The impact of this measure has been to increase the nominal cost of the project from £xxm to £xxm as a result of the additional two years of service. At the same time, this has enabled the Authority to lower its reliance upon LATS income from £xxm under a 25 year contract to £xx. over a 27 year period, while remaining within the existing budget uplift requirement of £300,000 that has been approved by Members.</p>

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5.3.2 Success Achieved in Transferring an Appropriate Level of Risk

VfM for the Authority is achieved by balancing the transfer of risk to the private sector against the price charged by the private sector for accepting that risk. Optimal VfM will occur where risks are transferred to the party best able to manage them. This section summarises the success that the Authority has had in achieving appropriate risk transfer to the Provider in the context of:

- The payment mechanism; and
- The Project Agreement.

5.3.2.1 The Payment Mechanism

The payment mechanism for the Project has been developed based on initial guidance as set out in the 4Ps Waste Management Procurement Pack Guidance. The detailed working of the mechanism has been negotiated extensively to ensure an equitable risk transfer position reflecting the specifics of the project. A detailed review of the payment mechanism and its approach to key risk areas is set out in Section 8 of this document.

5.3.2.2 The Project Agreement

The current draft of the Project Agreement is included at Appendix F and the details of any required derogations are included at Appendix E. The Project Agreement follows the provisions of version 4 of the Standard Form of PFI Contract March 2007) (“SOPC4”) and subsequent guidance (including the derogations guidance issued by DEFRA in May 2006 and the 4Ps Waste Pack) suitably amended to reflect the specifics of this project.

The Authority acknowledges that the Project Agreement must transfer appropriate risks to the Provider and must achieve VfM. Furthermore, the Authority is satisfied that those terms of the Project Agreement which depart materially from SOPC4 principles have been conceded with the intention, inter alia, of delivering VfM in the context of the project as a whole.

5.3.3 Reasonableness and Stability of Costs at Preferred Bidder Stage

This FBC considers the reasonableness and stability of the total nominal unitary charge proposed by Veolia at Preferred Bidder in the context of three factors:

- The perceived robustness of the price tendered by Veolia at BaFO;
- Movements in price between BaFO and the final Veolia price; and
- The comparison of the final Veolia price against that projected by the Reference Project.

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5.3.3.1 Robustness of the BaFO price

Both Biffa and Veolia submitted detailed and well worked-up solutions at the BaFO stage and the content of these bids was evaluated rigorously by the Partnership's Project Team. A series of clarification questions was sent to the Bidders throughout the evaluation process. In addition, affordability workshops were held with both Bidders during the negotiation process. This period of negotiation was deemed particularly effective in mitigating a number of deliverability and commercial risks to the Authority. In Veolia's case, this has resulted in a number of downward price adjustments as set out in Table 5.3. In response to these clarification questions and affordability workshops, both bidders submitted revised financial models.

Overall, the BaFO evaluation exercise, augmented by a period of post-BaFO analysis, clarification and negotiation reinforced the view held by the Partnership's Project Team in respect of the reasonableness and stability of costs submitted by Veolia prior to its formal selection as Preferred Bidder.

5.3.3.2 Movements in the Price between BaFO and the Final Price

Bid prices removed on the grounds of commercial sensitivity – EIR exception 12(5)e

The nominal unitary charge of Veolia's BaFO proposal for a 25 year contract, submitted in November 2006 was £xxm (gross of PFI credits), which includes estimated risk adjustments as identified in the BaFO report and the Authority's estimation of business rates for the project facilities. Table 5.3 summarises the reduction in nominal cost of the project subsequent to the BaFO submission, including, where applicable, the estimate of business rates and risk adjustments made to the Veolia price and the impact of the contract term extension to 27 years.

The project cost in nominal terms for a 25 year concession period as provided in Veolia's latest model submitted on 17 July 2007, has been reduced by £xxm to £xxm. The proposed addition of a further two years to the contract term adds a further £xxm to the nominal cost of the project.

Value for Money

Bid prices removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 5.3: Reconciliation of Veolia’s BaFO price to current bid

Submission date	Key bid changes	(Savings)/ additions agreed £m
BaFO November 2006 ⁵	Total nominal project cost £m as at BaFO (25 years)	xx
	Detailed of negotiated price reductions removed on the grounds of commercial sensitivity – EIR exception 12(5)e	
17 July 2007	<ul style="list-style-type: none"> Total nominal project cost as at 17 July 2007 (25 years) 	xx
17 July 2007	<ul style="list-style-type: none"> Additional project cost for a two year extension 	xx
17 July 2007	<ul style="list-style-type: none"> Total nominal project cost as at 17 July 2007 (27 years) 	xx

In addition to the above amendments, the Authority has been discussing with Veolia the nature of the arrangements that would be required if Shropshire’s application for unitary status is successful and as a result, SABC is required to become part of the integrated contract. SWP has drafted a change protocol schedule to the project agreement which will govern the process of bringing SABC’s collection operations into the contract. Treatment and disposal of SABC waste arisings are already part of the contract. Veolia has confirmed in writing to the Authority that it will carry out the SABC collection services at a lower price than is currently charged, taking into account any agreed pay awards pending and a proper reflection of Capital Charges.

Details of detailed costing methodology to be used on including SABC in contract removed on grounds of commercial sensitivity – EIR exception 12(5)e

As part of the BaFO evaluation, the Authority has also benchmarked the capex and opex of each of the BaFO bids.

Comparison of bid costs removed on the grounds of commercial sensitivity – EIR exception 12(5)e

⁵ Source: BaFO Report November 2006. Figure is pre PFI credits and after risk adjustment

Value for Money

Comparison of bid costs removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 5.4 Comparison of BaFO costs

	Veolia bid £'000s	(Other) bid £'000s
ERF – capex	xx	xx
ERF – opex	xx	xx
Total	xx	xx
Opex – excluding ERF	xx	xx

5.3.3.3 Comparison to the Reference Project

The Veolia unitary charge is compared in Table 5.5 against that assumed in the Reference Project developed initially as part of the revised OBC submission. The analysis demonstrates that the Veolia price is reasonable in the context of the price that was predicted by the Reference Project.

Prices removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 5.5 Comparison to the Reference Project

	Reference Project (£m)	Veolia (£m)
July 2004 (OBC)	xx	-
July 2006 (revised Reference Project)	xx	
July 2007 (comparable 25 year Model)		xx

The increase in Reference Project cost since the submission of the original OBC was primarily due to the change in residual treatment technology from an MBT based approach to one based upon energy from waste. The capital expenditure required for the EfW solution included within Veolia’s bid is £xxm (in real terms) as opposed to £xxm for the MBT led approach (excluding cost of the RDF offtake). In addition, waste sector costs have increased as a result of rising construction prices and increases in landfill tax rates as announced in the 2007 Budget.

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The Authority has worked in conjunction with Veolia to mitigate the impact of these cost pressures and details of the various measures that have been introduced are set out in Table 5.3.

5.3.3.4 Project Structure and Financial Viability of Veolia

Veolia has not used a typical PFI funding mix/split to fund its bid, in that it is instead using corporate finance from its parent company, Veolia Environmental Services Plc (“VES”), to fund 100% of the senior debt funding necessary for the contract. To support this structure, VES has provided a Parent Company Guarantee (“PCG”) for the obligations of the SPV under the contract. In addition to this, Veolia states that any change in the equity stake ownership that Veolia holds in the contract SPV would not compromise the PCG provided by VES to the Authority. It is our understanding that this approach has been taken on PFI projects awarded to Veolia in Nottingham, Sheffield and East Sussex.

Veolia indicates that the capitalisation, turnover and profitability of the UK Plc are more than sufficient to provide the Authority with comfort. The Authority has reviewed the latest set of VES accounts (to the year ending 31 December 2005). VES currently has net assets of approximately £230m and has a level of interest bearing long-term debt 1.37 times shareholders’ equity and profit before interest, tax, goodwill and amortisation 2.563 times its net interest costs.

Having considered these financial measures against some alternate companies operating within the waste management PFI market, VES’s financial strength appears broadly comparable to some of its competitors. In addition, VES has a Dun & Bradstreet existing credit rating of 5A-1 which is the top credit rating available under Dun & Bradstreet’s system. The 5A indicates the tangible net worth of the company and the 1 represents the risk indicator. Therefore Veolia has sufficient capital to fund the SPV structure proposed for this contract. It also represents minimal financial risk, which gives the Authority comfort that the PCG can be supported adequately.

This structure allows Veolia a more flexible approach to adopting risk as banks will usually take a more cautious approach. Therefore post contract signature, Veolia has the flexibility to manage effectively any unforeseen debts of the SPV.

As part of the Value for Money assessment, no refinancing gains have been taken into account. Any such gains would be a benefit to Veolia and the Authority who has both agreed to any refinancing arrangements before they can occur. The impact of Authority termination on the contract has not been evaluated as part of the Value for Money assessment as it is not considered that there are any restrictions relevant to Veolia Bid 1 that would not be relevant to any other bid.

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5.4 Best Value and Continuous Improvement

Best Value is based around the principle of continuous improvement in service provision which requires improvement not only in the effectiveness and efficiency of service but also the achievement of cost savings. Service user satisfaction and the quality of services delivered as compared with comparable services delivered by other private, public and voluntary sector bodies will be crucial in determining whether the Authority fulfils its best value duty.

The Authority regards the PFI contract for the delivery of waste management services as the means by which best value and continuous improvement can be harnessed over the 27-year period. This is achieved through the setting of performance standards, the monitoring of compliance with those standards and the adoption of processes through which reasonable flexibility can be built into the contract to meet changing needs, improved industry performance standards and changes in technology.

The Authority is aware of its responsibilities in demonstrating best value both in relation to the procurement of services and in service delivery throughout the contract term, which has been demonstrated as follows:

5.4.1 Best Value through the Procurement Process

SWP has adopted a number of key principles in the letting of its waste management contract:

- Providing a waste service that is affordable and offers best value for money;
- Achieving at least the minimum statutory standards and Landfill Directive diversion targets but, ideally, achieving these targets within a shorter timescale and/or exceeding statutory targets;
- Achieving sustainable waste management with an emphasis on the waste hierarchy;
- Considering the effects of staffing provision within the community;
- Meeting community needs, addressing social inclusion and accessibility issues and providing opportunities for employment and community Partnerships;
- Making contractual arrangements that provide flexibility to meet changing legislative, economic and administrative conditions;

Value for Money

- Making the proposed solution attractive to the private sector and potential partners and maximising investment and funding opportunities;
- Applying a regional perspective;
- Applying the proximity principle.

5.4.2 Best Value through the Contract Term

The letting of a fixed price long-term contract can, in theory, conflict with the need to secure best value and continuous improvement in services throughout the 27-year period. The Authority has therefore sought to address this through the negotiated contract in a number of ways:

- The Provider is incentivised financially to minimise costs through the payment mechanism, thereby encouraging the level of service performance delivered by the Provider to increase over and above that underwritten at financial close;
- The Provider is incentivised financially to over-achieve on recycling, recovery and diversion performance through the payment mechanism, thereby encouraging the level of service performance delivered by the Provider to increase over and above that underwritten at financial close;
- The Authority will share in the benefits of recovery and diversion performance exceeding that underwritten at financial close by sharing in the economic gains in the form of reduced landfill tax cost and LATS surpluses;
- The Authority will share in the benefits of improved recycling services by sharing the profits generated from recyclate sales to the extent that these exceed expectation;
- The Authority will share in the benefits of extra electricity income by sharing the profits generated from electricity sales to the extent that these exceed expectation;
- The performance management framework will ensure that the Provider provides the service to the required contract standards throughout the contract term;
- The Change Mechanism will facilitate, where necessary, service changes which were unforeseen at the outset of the contract and provide flexibility through the life of the contract;
- The Provider will support the Authority in preparing Best Value performance plans and in undertaking best value reviews;

Value for Money

- Customer surveys will be carried out by the Provider in accordance with Best Value principles;
- Operational records for each area of service provision will be maintained and performance measured against a range of factors covering current performance, target performance and corrective action proposed as necessary; and
- The Provider's performance will be measured against a range of local and national best value indicators for waste management.

Affordability

6.1 Introduction

A full affordability analysis was undertaken as part of the development of the OBC to determine the affordability of the Reference Project to the Authority. The conclusion of this analysis was that the Partnership would need to commit to the provision of significant additional resources for waste management if new sustainable solutions were to be delivered, even if the Partnership received PFI credits. The analysis demonstrated that a PFI option, with PFI credits totalling £35.8m, would be significantly cheaper than continuing to rely upon landfill, and would also ensure the Authority's ability to deliver its objectives, meet wider national targets and deliver high levels of recycling and composting.

6.2 Calculation of the Budget Uplift Requirement

In demonstrating the affordability of the project as a whole this section updates analysis conducted in the course of the BaFO process in order to indicate the continuing affordability of the Veolia solution. The 4Ps Procurement Pack guidance states that "it is essential that the affordability analysis considers the total cost of the waste management service", and as this contract is for an integrated service delivery, the affordability analysis in this FBC is considered from the perspective of the Authority's entire waste disposal function, including 'other calls on budget'.

The Affordability Analysis conducted as part of the OBC compared the project costs against existing available resources such as Authority budgets, PFI credits and LATS revenues. The SWP partner Authorities' 2003/04 budgets had been inflated for known service enhancements and 2.5% operating cost inflation. A proportion of each partner authority's waste management budget was also retained as a contribution to central overheads and to fund the Joint Committee which will manage the new integrated contract and which may continue to provide some joint waste functions such as waste education.

The Authority has therefore compared expected funds available to pay for the contract against the project unitary charge, in order to calculate the budget uplift requirement in year 1 of the project. This budget uplift requirement also enables the Authority to invest surplus monies at the beginning of the project to pay an increased unitary charge towards the end of the project. On this basis, the calculated budget increase would result in a neutral cash position at the end of the project.

In determining the affordability of the project, the Authority has always been mindful of the need to deliver a project that satisfies its own affordability target,

Affordability

i.e. the budget uplift requirement in year one can be met from available resources. In its negotiations with bidders, the Authority has communicated this position and has stressed that it would consider abandoning the long term procurement in favour of a shorter term solution if its affordability criteria could not be attained.

Quantification of LATS income and price savings removed – EIR exception 12(4)e – internal communications and EIR exception 12 (5)e commercial sensitivity

In order to improve its affordability position and reduce the reliance upon LATS income, the Authority has also agreed an extension to the contract term from 25 to 27 years. This has enabled the Authority to:

- lower the equivalent unitary charge over years 1 to 25 from £xxm to £xxm;
- lower the equivalent real unitary charge in year 10 by £xx; and
- reduce the reliance upon LATS income from £xxm to £xxm over the project term.

6.3 PFI Credit and Revenue Support Grant (RSG)

As part of the approval of the OBC, the Partnership was notified that it would receive an allocation of £35.8m PFI credit for the project at contract signature. The PFI credit and Revenue Support Grant have been calculated in accordance with the Local Authority PFI Grant Reform that came into force in April 2005, as updated by “Local Government PFI Annuity Grant Determination (No.1) 28 March 2006”. Under this guidance, the calculation of the PFI credit and RSG can be undertaken in one of two ways:

- By abating the estimated whole life costs of the project (stated in Net Present Value terms) by a pre-determined percentage to reflect the revenue element of the scheme; or
- By the identification of the capital investment included within the bid price.

Within this FBC, the PFI credit has been calculated by the identification of the capital investment included with the Veolia financial model.

PFI credits within the OBC application were therefore sought with a net present value using the Treasury discount rate of 6.6% nominal (at 1 April 2007) as follows:

Affordability

Waste disposal capital and lifecycle costs	£31,438,123
Waste collection service enhancement lifecycle costs	£4,355,424
Total PFI credits sought	£35,793,547

The value of PFI credits was determined using the capital value method based on the capital and capitalised life cycle costs of the infrastructure needed to deliver the Reference Project. The capital value method was felt to provide a more certain and comparable cost base as there were expected to be significant variations in bidders' revenue costs for the project which could cause large variations in the PFI credits if the capital abatement method was used.

Details of capital expenditure removed on the grounds of commercial sensitivity – EIR exception 12(5) e

Subsequent to the initial award of £35.8m of PFI credits, the Authority has been negotiating a further PFI award to reflect the additional capital expenditure now required by the project as the main treatment plant is an energy recovery facility. The total capital expenditure within the most recent Veolia model is £xxm in nominal terms at 2007 prices. The net present value of capital expenditure is above the level of PFI credit approval, and therefore the Authority has approached Defra under separate cover requesting additional PFI credits. Having considered this request Defra has indicated a willingness to increase the level of credits by £5m to £40.8m, which the Authority has accepted.

6.4 Detailed Affordability Analysis

Table 6.1 sets out the estimated budget uplift requirement associated with the Veolia submission as at 17 July 2007 for four scenarios:

- A base case position, with no further assumptions added to the project costs;
- The impact of the increase in PFI credits from Treasury;
- Recognition of the income that could be received from the trading of LATS surpluses; and
- An accumulation of the additional PFI credits and the income from LATS trading.

Affordability

Budget uplift requirements and contract cost information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 6.1 Estimated annual budget uplift requirements for Veolia as at 17 July 2007

Options	1	2	3	4
	Base case	£5m uplift in PFI credits (A)	Landfill allowances (B)	Cumulative impact of A and B
	£'000s	£'000s	£'000s	£'000s
Budget uplift requirement as at 17 July 2007	xx	xx	xx	xx

Options 1 to 4 are discussed in further detail below:

6.4.1 Option 1: Base Case

Under the base case scenario, the total project cost is £xxm (in nominal terms) over 27 years and with a PFI credit award of £35.8m, this requires uplift in the budget in year 1 of £xxm.

6.4.2 Option 2: Additional £5m of PFI Credits

Table 6.2 sets out the estimated budget uplift requirements associated with the Veolia submission as at 17 July 2007 for option 2, taking into account the additional PFI credits of £5m to support the project cost.

Affordability

Budget uplift requirements and contract cost information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Table 6.2 Affordability of Veolia position at 17 July 2007 for Options 1 and 2

	Base case £'000s	£5m uplift in PFI credits (A) £'000s
Unitary charge	xx	xx
SWP Calls on budget	xx	xx
PFI Credit Revenue Support Grant	xx	xx
Sub-total (balance to be funded)	xx	xx
Partnership projected budgets	xx	xx
Difference over/(under) budgets	xx	xx
Affordability Gap	xx	xx
Plus interest on surplus	xx	xx
Total	xx	xx
Budget Uplift required	xx	xx

The introduction of additional PFI credits of £5m reduces the deficit in the Partnership's budget from £xxm to £xxm. The estimated annual budget uplift requirement has decreased from £xxm to £xx for the base case scenario.

6.4.3 Option 3: Landfill Allowances Revenues Recognised

Under this scenario, LATS revenue amounting to £xxm in nominal terms has been recognised as follows:

- £xx per tonne in 2007/08
- £xx per tonne in 2008/09
- £xx per tonne in 2009/10 to 2012/13
- £xx per tonne in 2013/14 to 2019/2020
- £xx per tonne from 2020/21 onwards

The impact of this revenue is to lower the budget uplift requirement in year 1 to £xxm.

Affordability

Budget uplift requirements and contract cost information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

6.4.4 Option 4: Additional £5m of PFI Credits and Landfill Allowances

Table 6.3 sets out the estimated budget uplift requirements associated with the Veolia submission as at 17 July 2007 for option 3, comprising a £5m uplift in PFI credits and recognition of surplus landfill allowance trading revenues.

Table 6.3 Affordability of Veolia position at 17 July 2007 for Options 1 and 4

	Base case £'000s	£5m uplift in PFI credits and landfill allowances £'000s
Unitary charge	xx	xx
SWP Calls on budget	xx	xx
LATS Income	xx	xx
PFI Credit Revenue Support Grant	xx	xx
Sub-total (balance to be funded)	xx	xx
Partnership projected budgets	xx	xx
Difference over/(under) budgets	xx	xx
	xx	xx
Affordability Gap	xx	xx
Plus interest on surplus	xx	xx
Total	xx	xx
	xx	xx
Budget Uplift required	xx	xx

The introduction of an additional PFI credit award of £5m and landfill allowances trading reduces the deficit in the Partnership's budget from £xxm to £xxm. The estimated annual budget uplift requirement has decreased from £xxm to £xxm on the base case scenario reflecting the £5m uplift in PFI credits and LATS

Affordability

revenues. This has the impact of making the project more affordable for the Partnership.

6.5 Confirmation of Affordability

Members of SWP have received reports on the additional budget contributions required to meet the estimated costs of the contract on a regular basis and the position of the Veolia contract compared to the original BaFO submission. They have agreed that sufficient sums are included in the 2006/07 budget and future budget projections for the Authority to pay for the service. The Section 151 Officer for the Authority has also confirmed that the projected shares of the cost of the contract are considered to be the most affordable solution based on information available today.

Contract cost information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

The total nominal unitary charge of the Veolia solution for a 27 year contract length at the point of FBC submission is £xxm. Whilst there may be price movements prior to contract signature associated with the final resolution of the remaining outstanding issues between the parties, the Authority does not expect the financial close price to be materially beyond the current price and is expecting to deliver an affordable project.

Contract

7.1 Introduction

The Project documents have been developed to reflect the requirements and principles of HM Treasury Guidance “Standardisation of PFI Contracts” Version 4 (March 2007) (“SoPC4”) and certain provisions of “Standardisation of Waste Management PFI Contracts: Guidance on SoPC derogations” (issued by DEFRA in May 2006). Derogations have been sought from PUK to reflect certain project specific issues (e.g. archaeology risk at Battlefield) and to reflect the fact that the Project is being financed by Veolia on an “on balance sheet” basis. The SoPC Compliance Table is attached at Appendix E.

7.2 Vires

The Project Agreement will be entered into by Shropshire County Council as contracting authority on behalf of the Shropshire Waste Partnership Joint Committee. Shropshire County Council will issue a Certificate under the Local Government (Contracts) Act 1997 certifying the Project Agreement in accordance with the 1997 Act. Details of the statutory processes are set out in Section 9.

7.3 Contracting Structure

7.3.1 The proposed project structure is illustrated on page 87.

7.3.2 A Project Agreement (“the Project Agreement”) will be entered into by Shropshire County Council (the “**Authority**”) and Veolia ES Aurora Limited (the “**Provider**”) on Financial Close for the provision of Works and Services. The Authority is entering into the Project Agreement as contracting authority on behalf of the parties to the Shropshire Waste Partnership Joint Committee. The Provider is a special purpose company established for the purpose of carrying out this contract. A summary of the key contractual terms contained within the Project Agreement is set out in point 7.4.2.

7.3.3 The Authority and/or the relevant district or borough council (depending on landowner) will grant the Provider a lease of each of the proposed sites of the

Contract

Waste Management Facilities at financial close. The leasing structure is not yet finalised.

Subcontractor information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

- 7.3.4** The Provider will enter into a Design and Build Contract with a Joint Venture company formed between **xx** and **xx** for the design, build, commissioning and operation of the ERF. Upon Financial Close, the Provider will have entered into a legally binding Memorandum of Understanding with **xx/xx** under which it can serve upon the **xx/xx** JV a Notice to Proceed requiring it to enter into the Design and Build Contract upon a Satisfactory Planning Permission being obtained for the Waste Treatment Facility.
- 7.3.5** The Authority will have a direct agreement with the **xx/xx** JV enabling the Authority to step in to the Design and Build Contract in the event of the Provider being in breach of the Design and Build Contract.
- 7.3.6** The Provider will enter into a contract for the Works relating to the Project Facilities (other than the Waste Treatment Facility) with Veolia Environmental Services (UK) Plc.
- 7.3.7** The Provider shall provide the Authority with a Parent Company Guarantee by Veolia Environmental Services (UK) PLC in favour of the Authority to secure due performance by the Provider of its obligations to the Authority. The liability of Veolia Environmental Services (UK) PLC shall be to the same extent as the liability of the Provider under the Project Agreement.
- 7.3.8** The Provider will enter into sub-contract(s) for the sale of electricity from the Waste Treatment Facility and the sale of recyclables.

Contract

Subcontractor information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

7.3.9 Veolia ES Shropshire Limited will enter into an Off Take Contract with **xx** under which **xx** will provide for the disposal of up to **xx** tonnes of waste per year to be accepted, from 2009/10 to 2010/15 at **xx**'s plants at **xx** by way of incineration.

7.3.10 The Provider will be responsible for operating the Project Facilities and there will not be any separate Operating Contracts.

Corporate debt facility details removed on the grounds of commercial sensitivity – EIR exception 12(5)e

7.3.11 Veolia Environmental Service (UK) plc will hold 100% of the equity share capital of the Provider and will also provide a Corporate Debt facility of £**xx** million to the Provider.

7.4 Legal Documentation Summary

7.4.1 Glossary of Terms

Subcontractor information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

“**Battlefield Site**” the land at Battlefield, Shrewsbury to be leased to the Provider pursuant to the Project Agreement;

“**Key Facility**” the Waste Treatment Facility;

“**xx**”

“**HRC**” means Household Recycling Centres;

“**IVC**” the In Vessel Composting Facility to be developed at a site to be proposed by the Provider;

“**Project Facilities**” means all or any of:

- the ERF;
- the Battlefield HRC;
- the new HRC at Bridgnorth;
- the Craven Arms HRC;

Contract

- the HRC at Maesbury Road, Oswestry (up to 1/4/09);
- the HRC at a new HRC site in Oswestry (from 1/4/09);
- the Whitchurch HRC;
- Delivery Points (a facility in each District to which the waste collection authorities can delivery Waste);
- the IVC.

“**SWP**” Shropshire Waste Partnership;

“**Waste Management Facilities**” all Sites and other facilities required to deliver the Services as set out in the Provider’s Proposals.

7.4.2 SUMMARY OF THE PROJECT AGREEMENT

Please note that this Project Agreement summary outlines the key contractual terms; it does not purport to be comprehensive.

7.4.2.1 Contract Period

The Provider is responsible for delivering the full services under the Specification for 27 years from the Planned Service Commencement Date under the Project Agreement.⁶ The Services to be provided include the development of an integrated waste management system to collect, transfer, receive, recycle, compost, divert from landfill, treat and landfill of contract waste for which the authorities forming the SWP have statutory responsibilities under the Environmental Protection Act 1990. The Works to be provided include design, construction and commissioning of new Project Facilities (including a Waste Treatment Facility at the Battlefield Site) and upgrading existing Project Facilities.

7.4.2.2 Design Development and Construction Phase

- (a) Part 3 of the Project Agreement sets out the obligations of the Provider in relation to construction and design of the Project Facilities.
- (b) Certification of the completion of the Works at the Waste Treatment Facility is the responsibility of the independent certifier. The Provider will

⁶ Please note that the Project Term can be extended for a period up to a maximum of **x** years where the Provider, having used all Reasonable Endeavours, has failed to secure a Satisfactory Planning Permission by the Planned Works Commencement Date for the ERF. **The number of years the contract can be extended for removed on the grounds of commercial sensitivity – EIR exception 12(5)e**

Contract

appoint the independent certifier who will also owe a duty of care to the Authority. In relation to the Project Facilities (other than the Waste Treatment Facility) the Provider is required to issue a Notice of Completion of Works following satisfactory completion of the Tests on Completion. The Authority is entitled to make representations before the Notice of Completion of Works is issued. Works are only complete where they satisfy the Tests on Completion set out in the Project Agreement.

- (c) The Provider is fully responsible for completing the Works in accordance with the detailed Specification and the Provider's Proposal (which are contained in Schedule 2 and 3 respectively of the Project Agreement).
- (d) The Provider and the Authority must employ a representative, who shall have full authority to act on behalf of the Provider and Authority for the purposes of the Project Agreement.

Subcontractor information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

- (e) The Provider cannot engage any new building contractor or any other member of the professional team without providing a collateral warranty to the Authority in an agreed form. Collateral Warranties will be provided at Financial Close from **xx** in relation to the Works in relation to the Waste Treatment Facility.⁷
- (f) The Provider has an obligation to develop and finalise the design and specification of the Works. There is also certain information which the Provider must submit to the Authority for review being the "Reviewable Design Data", which is set out in more detail in Schedule 9 of the Project Agreement. The Provider must also allow the Authority an opportunity to view any other items of "Design Data" (as defined in the Project Agreement) which is not Reviewable Design Data. Such Design Data is available upon request from the Authority's representative.
- (g) The Authority's representative has the right to enter the Sites at all reasonable times to inspect and view the sites and progress of the Works. The Provider must also supply information in respect of the Works as is reasonably required.

⁷ Please note the identity of those Sub-Contractors who are giving Collateral Warranties has yet to be agreed.

Contract

7.4.2.3 Planning

The Project Agreement places the responsibility for obtaining Planning Permission for the Project Facilities upon the Provider subject to a procedure to share the risk in relation to obtaining the planning permission for the Waste Treatment Facility (summarised in pages 88-91) and a Relief Event for delays in planning for the Project Facilities (excluding the Waste Treatment Facility) (which is referred to in Paragraph 7.4.2.5 below).

7.4.2.4 The Services

(a) Part 4 of the Project Agreement sets out the service obligations of the Provider and how these services are to be maintained and monitored throughout the contract period.

(b) The Provider will start providing Services on the Planned Service Commencement Date (1 October 2007).

(c) **Unitary Charge**

The Authority is required to pay the unitary charge in accordance with the principles of the Payment Mechanism summarised in section 8.

(d) **The Specification**

The Provider must provide the Services in accordance with the Authority's Specification (Schedule 2 of the Project Agreement) and the Provider's Services Delivery Proposals (which forms part of Schedule 3 of the Project Agreement). The Specification defines the Authority's minimum requirements for the Works and Services.

(e) **Maintenance**

The Provider has to ensure that sufficient maintenance and operating procedures are in place. If the Authority believes the Provider is in breach of this obligation then it may require that a survey be carried out. This right cannot be exercised more often than once every **x** years. **The number of times the provider can be requested to carry out a survey removed on the grounds of commercial sensitivity – EIR exception 12(5)e**

(f) **Monitoring and Inspection**

The Provider will self-monitor its performance in the delivery of the Services in accordance with the Performance and Unavailability Framework (Schedule 7b) and as set out in the Payment Mechanism.

Contract

The Authority or a representative has the right to enter upon any property used by the Provider to perform the Services to inspect the construction, operation and maintenance of the Project and to monitor compliance by the Provider with its obligations. The Authority may also at its own cost undertake its own performance monitoring to ensure that the Services are being performed to the required standard.

Ownership and Rights to Contract Waste

- (g) Title to Contract Waste will pass to the Provider when it is received by or in the possession of the Provider or its sub-contractors.
- (h) The Provider is obliged to accept all Contract Waste during the Contract Term and is required to treat it in priority to Non Contract Waste.
- (i) The Provider has the exclusive right from the Service Commencement Date to collect or have delivered to it all Contract Waste arising in the Collection Contract Area. The Authority does not give any guarantee about the quantity or composition of waste.
- (j) If the amount of Contract Waste forecast to be received by the Provider is likely to exceed a specified tonnage per annum the Provider is required to serve upon the Authority an Excess Waste Proposal stating either the Provider's proposal to deal with the Excess Waste or notifying the Authority that it does not wish to deal with the Excess Waste.

7.4.2.5 Force Majeure, Compensation Events and Relief Events

The Project Agreement provides standard protection to the Provider in accordance with SoPC4 granting relief in relation to Force Majeure, Compensation Events and Relief Events. The following additional derogations from SoPC have been submitted to PUK for approval:

- (a) **Compensation Event.** This will include a breach by the Authority of its obligations under the Project Agreement to give exclusivity of Contract Waste to the Provider. An additional Compensation Event has been provided in relation to the discovery of antiquities and /or human remains at the Battlefield Site ⁸that has the effect of causing the Provider to fail to meet the Planned Operations Date for the Waste Treatment Facility. The

⁸ Please note that this is an SoPC4 Derogation and is subject to approval by PUK.

Contract

Provider is entitled to an extension of the Contract Period for the period of the delay but no additional costs.

- (b) **'Relief Events'** include standard SoPC4 relief events together with the following derogations:
- i. the discovery of human remains, fossils, and/or antiquities at the Site of any treatment facility;
 - ii. delay to the Planning for any New Waste Management Facility (excluding the Key Facility);
 - iii. Protester Action at the Key Facility.

7.4.2.6 TUPE & Employees

The Project Agreement provides for the application of the Transfer of Undertakings (Protection of Employment) Regulations ('TUPE') where there is a change in the identity of the provider of any services within the scope of the contract. TUPE protects existing terms and conditions of staff who transfer to new service providers at the start of the contract. There are detailed provisions for the allocation of liabilities between the parties arising from the contracts of employment of transferred staff and for the provision of information and warranties. The contract also deals with the consequences for employees on the expiry or early termination of the contract.

7.4.2.7 Pensions

- (a) The Provider must enter into an Admission Agreement to enable eligible employees to participate or continue to participate in the membership of the Shropshire County Council Pension Fund ("**the Fund**").
- (b) The Provider is to ensure that any sub-contractor, to whom the employees are transferred to, shall enter into an Admission Agreement on substantially the same terms as the Admission Agreement.
- (c) In the event that the employer contributions payable by the Provider (in accordance with the terms of the Admission Agreement and of the LGPS Regulations) is determined by the Fund Actuary at a level greater than **x** in aggregate of pay, the Provider will pay the sum as determined by the Fund Actuary and an adjustment will be made to the Unitary Charge to reflect the payment. **Employer contributions payable by provider removed on**

Contract

the grounds of commercial sensitivity-EIR exception 12(5)e

- (d) In the event that the level of employer contributions payable by the Provider (in accordance with the terms of the Admission Agreement and of the LGPS Regulations) is determined by the Fund Actuary at a level lower than **x** in aggregate of pay, the Provider will pay the amount of employer contributions.

Employer contributions payable by provider removed on the grounds of commercial sensitivity-EIR exception 12(5)e.

- (e) If the Provider ceases to be an “Admitted Body” then the Provider will and shall ensure that the sub-contractors will establish a scheme certified by an Actuary in accordance with GAD as providing benefits “broadly comparative” to those that would have been provided by the LGPS and the Provider must procure that all eligible employees are offered membership of this scheme and are given their accrued benefits from the Provider’s scheme to the new scheme.
- (f) The Provider indemnifies the Authority against any losses suffered or incurred by it which could arise from claims by eligible employees or by any trade unions or elected employee representatives in respect of any claims which relate to pension rights or failure of the Provider to comply with the terms of the pension clauses in the Project Agreement.

7.4.2.8 Payment

Part 5 of the Project Agreement and the Payment Mechanism (Schedule 7a) contain provisions relating to the payment of the Provider.

7.4.2.9 Termination

- (a) Part 6 of the Project Agreement deals with the circumstances where the Project Agreement may be terminated.
- (b) The Project Agreement may be terminated because of an event of default on the part of:
- i. the Authority;
 - ii. the Provider; or
 - iii. a force majeure event.
- (c) The Authority may also terminate the Project Agreement:
- i. voluntarily;

Contract

(d) **Termination on Authority Default**

If the Provider wishes to terminate the contract on the basis of an Authority Default, the Provider must serve a termination notice on the Authority specifying the type of default within 45 days of becoming aware of an Authority Default.

(e) **Termination on Provider Default**

If a Provider Default occurs the Authority can if it wishes terminate the entire contract or just the Waste Treatment Service element of the Contract and continue with the Non-Waste Treatment Service. If it wishes to do either the Authority must specify the type of default and the contract or the Waste Treatment Service will be terminated on the day falling 60 Business Days after issuing the termination notice unless

- i. the Provider puts forward a rectification programme with 30 Business Day; or
- ii. rectifies the default within 60 Business Days

(f) **Partial Termination - Termination of Non- Waste Treatment Service**

- i. The Authority is entitled to terminate the Non-Waste Treatment Service in isolation from the remaining Project Operations by notice in writing to the Provider if a Non-Waste Treatment Service Provider Default has occurred. If an event of Provider Default unrelated to the Non-Waste Treatment Service occurs the Authority has the option to terminate the Waste Treatment Service in isolation from the remaining Project Operations or to terminate the entire Contract. These rights to partially terminate the Contract are a derogation from core SOPC4 principles but are agreed between the parties and have been approved by Partnerships UK.
- ii.
- iii. If the Provider rectifies the default within the time specified in the termination notice or implements the rectification programme, the termination will be deemed revoked and the Non-Waste Treatment Service will continue.
- iv. If the Provider fails to rectify the default within the specified time or fails to implement any rectification programme, the relevant Non-Waste Service will terminate in isolation from the remaining Project Operations on the date falling 60 Business Days after the date of receipt of the termination notice.

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(g) **Effect of Partial Termination**

All rights and obligations of the Authority and Provider under this contract concerning Non-Waste Treatment Service will cease and the Authority will have to pay any outstanding sums before the termination date. The parties have agreed detailed interface obligations which will apply in the event that the Non-Waste Treatment Services are terminated. These provide obligations concerning preparation of delivery schedules, setting out planned tonnages, a protocol for how waste is delivered and the contingency arrangements that will apply in the event of the Waste Treatment Facility being unavailable.

(h) **Assets on Termination**

On termination of the Project the Authority may require the Provider to transfer its rights, title and interest in and to the Authority at no cost to the Authority.

7.4.2.10 Compensation on Termination

- (a) Part 7 of the Project Agreement deals with the terms upon which any compensation is payable to the Provider on termination of the Project Agreement.
- (b) Where termination occurs as a result of an Authority default or an Authority voluntary termination, the Authority shall provide full compensation on termination in full to the Provider in accordance with SoPC4 principles.
- (c) Where termination is caused by a force majeure event, the Authority shall pay the Provider the "Force Majeure Termination Sum" in accordance with SoPC4 principles.
- (d) If the contract is terminated as a result of Provider default, the Authority shall be entitled to either retender the provision of the Project in accordance with clause 45.2 (Retendering Procedure) or require an expert determination in accordance with clause 45.3 (No Retendering Procedure).
- (e) If the Non-Waste Treatment Service is terminated in isolation from the other Project Operations, the Authority is entitled to either retender the Non-Waste Treatment Service or require an expert determination of the Value of the Non-Waste Treatment Services in accordance with SoPC4 principles (as modified).

Contract

7.4.2.11 Change in law

If a Qualifying Change in Law occurs then either party may write to the other to express an opinion on its likely effects giving viewpoint on:

- Any necessary change to the Works or in the Services;
- Whether any change is required to the terms of this contract;
- Whether relief from compliance with obligations is needed, including the obligation of the Provider to achieve the Planned Operations Commencement Date for a Key Facility;
- Any estimated Change in Project Costs;
- Any Capital Expenditure that is required or no longer required;
- Any resulting loss of revenue.

in each case providing in full detail the procedure for accomplishing the change in the Service. Responsibility for the costs of implementation shall be dealt with in accordance with clauses 54.2 (Parties to Discuss) to 54.6 (Adjustment to Base Unitary Charge).

A Qualifying Change in Law is defined in accordance with SoPC4 and the DEFRA Guidance and excludes a Foreseeable Waste Management Change in Law defined in Schedule 20.

7.4.2.12 Best Value Duty

The Authority has best value duties imposed on it under the Local Government Act 1999. The Provider has an obligation under the Project Agreement to make arrangements to secure continuous improvement in the way in which services are provided, having regard to a combination of economy, efficiency and effectiveness. The Provider must also support and assist the Authority in preparing best value performance plans and conducting best value reviews.

7.4.2.13 Indemnities

- (a) The Provider is required to indemnify the Authority from and against all liability for:
- i. death or personal injury;
 - ii. loss of or damage to property (including property belonging to the Authority or for which it is responsible);
 - iii. breach of statutory duty; and
 - iv. actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis),

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which arise out of or in consequence of the design, construction, operation or maintenance of the Sites or the performance or non-performance by the Provider of its obligations under the Project Agreement or the presence on the Authority's property of the Provider or any Provider Related Parties.

- (b) The Provider is not responsible or obliged to indemnify the Authority for:
- i. any injury, loss or damage, costs and expense caused by the negligence or wilful misconduct of the Authority or an Authority Related Party, its employees, agents or contractors or by the breach of the Authority of its obligations under the Project Agreement.
 - ii. any claims made pursuant to the indemnity in respect of Authority Property in excess of **x**.

Excess removed on the grounds of commercial sensitivity-EIR exception 12(5)e.

7.4.2.14 Insurance

The Provider is responsible for maintaining the project insurances which are set out as stipulated in Schedule 15 of the Project Agreement. Veolia, as outlined in the financial statements above, offered Group insurance options for value for money price reductions. Following detailed consideration of the SoPC4 Chapter 37 Corporate Finance provisions on insurance, the operational phase Physical Damage, Business Interruption and Third Party liability policies for the project were agreed to be provided by Veolia 'Group' policies. The construction insurances and the environmental insurance are to be project specific policies. The insurance provisions for the project specific policies are in accordance with SoPC4 Chapter 25 Insurance. The Veolia Group insurances are to comply with Chapter 37 principles on insurance, the key features of the Veolia proposals are:

- The Authority will be co-insured on the Physical Damage policy and the normal suite of Endorsements will apply, other than for payments into the Joint Insurance Account, where Veolia will be bound to pay proceeds into the account, not the Group insurer.
- The Authority will not be co-insured on the Third Party Liability policy, however an Indemnity to Principals clause will apply which offers some cover for Authority interests. A waiver of subrogation has not been possible, however the insurer can only 'step into' the subrogation rights of the Insured, which are limited by the indemnity regime in the PFI Agreement.

Contract

- The insurance price is fixed and no Insurance Premium Risk Sharing Schedule is included in the Agreement.
- Uninsurability remains as SOPC4, Unavailability will have a carve out for non-key (e.g. limits and deductibles are key) terms and conditions for the Group policies.
- The Veolia Group Insurance Broker will also be providing a Broker's Letter of Undertaking with notification of cancellation etc. for the benefit of the Authority, on similar lines to SOPC4 requirements.

The above meet the principles of SoPC4 Chapter 37 and represent value for money.

7.4.2.15 Dispute Resolution

Where there is a dispute between the parties under the Project Agreement then the Provider and the Authority must try and resolve it by the following means;

- (a) they shall first consult in good faith to try and come to an agreement in relation to the disputed matter; and
- (b) where agreement cannot be reached in good faith, they shall go to adjudication and failing that, arbitration.

7.4.2.16 Intellectual Property

- (a) The Authority is granted an irrevocable licence to use any Project Data that might be reasonably required by the Provider for the duration of the Project and only for purposes relating directly to it.
- (b) The Provider also grants to the Authority, free of charge, an irrevocable, non-exclusive and transferable licence to use all Intellectual Property Rights.

7.4.2.17 Assignment and Sub-Contracting

The Provider is prohibited from assigning, under letting, charging, selling, bargaining or otherwise dealing in any way with the benefit of the Project Agreement without the prior written consent of the Authority.

7.4.2.18 Local Government (Contracts) Act 1997

The Authority is required to issue a certificate under Section 3 of the Local Government (Contracts) Act 1997 in respect of the Project Agreement and the Relevant Discharge terms are set out in Schedule 13.

Contract

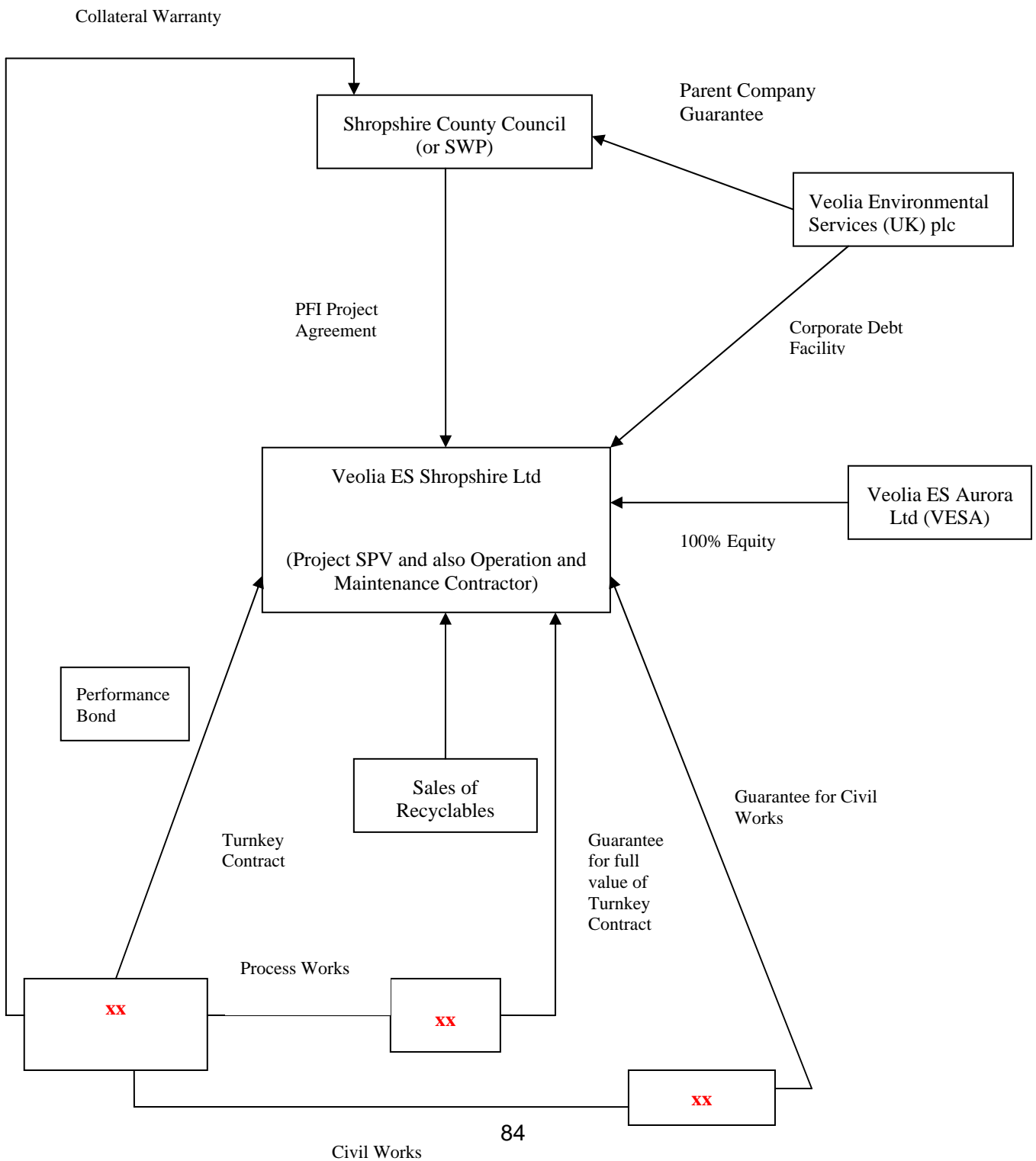
7.4.2.19 Refinancing

The Project Agreement contains a prohibition upon the Provider converting the financing of the Project from a corporate finance to a project finance basis without the Authority's consent. If the Authority does consent, any such refinancing will follow the standard SoPC4 refinancing provisions and the Authority will be entitled to receive 50% of any gains arising.

Contract

Subcontractor information removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Project Structure



Contract

Shropshire Waste Partnership Waste Management PFI Project

What are the potential consequences of a failure to obtain planning permission for the proposed ERF under the terms of the project agreement?

Who is responsible for obtaining planning permission?

The responsibility for obtaining planning permission for the ERF rests with the Provider. The Provider is obliged to use “all reasonable endeavours” to secure planning permission and to pay all necessary costs in preparing and making the planning application.

What happens if satisfactory planning permission is not granted initially?

If planning permission is refused, called in for review by the Secretary of State or granted but with unsatisfactory conditions attached to it, then the Provider must seek the opinion of an experienced planning barrister (“Leading Counsel”) on the merits of challenging the decision with further proceedings⁹. If Leading Counsel advises that there is a greater than 50% chance of successfully challenging the decision then the Provider must seek the approval of the Authority to take further proceedings. The Authority cannot unreasonably withhold or delay its approval to the Provider to take such further proceedings but it does have the right at any time during the process to require the Provider to revert back to Leading Counsel to see if there continues to be more than a 50% chance of success.

If Leading Counsel however advises at any time that the proceedings stand only a 50% or less chance of succeeding then the Authority must either direct the Provider not to pursue or to institute or continue with the proceedings. Even if the Authority refuses to give approval or direct the Provider to pursue further proceedings the Provider may still do so but it will be liable for all of the costs of the proceedings from the point at which the Authority refuses approval or gives a direction to cease proceedings.

Who bears the costs if further proceedings are required?

The percentage of costs of proceedings above the “appeal contingency” that the Authority will indemnify the provider removed on the grounds of commercial sensitivity – EIR exception 12(5)e

⁹ Further proceedings might include an appeal against the refusal, an application to remove conditions attached to the planning permission or making representations to the Secretary of State who may have called the planning application in for review.

Contract

If the Provider pursues further proceedings with the Authority's approval then the costs are borne by the Provider up to a limit set within the project agreement and referred to as the "Appeal Contingency"¹⁰. The Authority must indemnify the Provider for **x** % of all properly incurred costs of the proceedings above this limit. Within 28 days of the original planning application being called-in, refused or granted but with unsatisfactory conditions the Provider must provide the Authority with a detailed estimate of the likely costs of the future proceedings required and cannot incur costs above this estimate without the Authority's approval. The Provider is also under a duty to minimise the costs of the planning appeal.

The Authority has the option to pay its portion of the excess costs through an adjustment to the Unitary Charge, a one-off or series of lump sum payments or a combination of both. Furthermore, should the Provider succeed in the proceedings and be awarded any of its costs back the Provider must pass through to the Authority any of the excess costs it contributed to the planning appeal.

Who bears the additional cost of any Architectural Enhancements to the design of the ERF required by or likely to be required by the planning authority?

Information about who bears the cost of any Architectural Enhancements to the design of the ERF required by or likely to be required by the planning authority removed on the grounds of commercial sensitivity – EIR exception 12(5)e

What happens if there is a delay in obtaining planning permission?

The number of days the provider is entitled to an extension if there are delays in securing planning permission removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Provided the Provider has used "all reasonable endeavours" in trying to obtain satisfactory planning permission but has failed to obtain it by the date on which it is due to commence the works the Provider is relieved from its obligation to start the works on that date. Once the Provider successfully secures the planning permission it must then agree with the Authority revised dates for the commencement of works and services.

If a delay in securing planning permission results in the ERF not being commissioned in time to meet its planned operations commencement date then the Provider must perform an interim service to deal with the Authority's residual

¹⁰. **Information about the Appeal Contingency removed on the grounds of commercial sensitivity – EIR exception 12(5)e**

Contract

waste. An “Interim Service Plan” will need to be agreed with the Provider prior to financial close and provision will need to be made within the payment mechanism to pay for such interim services during the period in which the ERF is delayed. If the delay in obtaining planning has been caused by a failure on the part of the Provider to use “all reasonable endeavours” then the Authority is entitled to discount its payments for the interim service to take account of this.

Where as a result of delay results in the parties agreeing that the Works programme for the Waste Treatment Facility shall extend beyond the Planned Works Commencement Date for the Waste Treatment Facility, the Provider is entitled to an extension of **xx** days to the Term for each complete Month of delay or an adjustment to the Monthly Unadjusted Unitary Charge to produce a Post-tax Project IRR so that the Provider is “no worse off” as a result of the delay.

What happens after the grant of planning permission?

In the event that a satisfactory planning permission is obtained the Authority has the option to direct the Provider to start constructing the ERF straight away whilst the three month period for judicial review of the planning permission is subsisting. Should it choose to do this the Authority must be aware that if the planning permission is challenged then it must indemnify the Provider for any costs, losses, expenses or liabilities the Provider incurs up until the point at which the challenge is finally determined. In the absence of a direction, the Provider will wait until the three month challenge period has elapsed before starting the works.

Once it has received planning permission the Provider must send a copy of it to the Authority along with a notification as to whether it believes it to be satisfactory or unsatisfactory. If it considers the permission to be unsatisfactory the Provider must state why and indicate if there are any actions that could be taken to make it satisfactory such as taking further proceedings or making changes to the proposed works or services which would mean that the planning permission became satisfactory. If the Authority accepts the Provider’s view that the planning permission is unsatisfactory it must inform the Provider and state whether it accepts the proposal to make changes to the works or services or take further proceedings. Should the Authority disagree then the issue of whether the planning permission is satisfactory or not will be determined under the dispute resolution procedure within the project agreement.¹¹

¹¹ A dispute of this nature can be settled through either adjudication or arbitration under the project agreement.

Contract

If both parties agree that further proceedings are unlikely¹² to make an unsatisfactory planning permission satisfactory then the Authority has two options. It can either proceed to issue an “Authority Notice of Change” under the project agreement varying the works or services to comply with the relevant unsatisfactory conditions attached to the planning permission or it can ask the Provider to provide a “Revised Project Plan”.

What if there is an ultimate failure to obtain planning permission?

Details of terms on which the Waste Treatment Service is terminated removed on the grounds of commercial sensitivity – EIR exception 12(5)e

If there is ultimately a failure to obtain planning permission the Authority may either terminate the contract or ask the Provider to produce a Revised Project Plan. If it requests a Revised Project Plan the Provider must produce a draft Revised Project Plan within three months. The Authority and the Provider then have a six month period to negotiate the Revised Project Plan by the end of which the Authority must either accept the Revised Project Plan or reject it, in which case either the Authority or the Provider can serve notice on the other to terminate the contract.

From the date on which the notice to terminate the contract for planning failure is issued the Provider will provide a “Run Out Service” for a specified period which will be agreed within the Interim Service Plan and it will receive a specific payment for this. When this period ends the Contract Period shall terminate and the Provider is usually compensated as if the termination was caused by an event of Force Majeure¹³. However, due to Veolia’s split termination proposal it has specifically agreed to allow SWP to terminate the Waste Treatment Service element of the contract¹⁴ in the event of planning failure **xx**. Veolia will however have the right to continue to operate the Non-Waste Treatment Service¹⁵ element of the contract and will receive a reduced Unitary Charge payment to reflect this reduced element of the service.

¹² They can of course again seek the opinion of Leading Counsel to decide if further proceedings are likely to succeed.

¹³ This involves the Provider receiving any Senior Debt they have invested in the project back. Where the Provider is corporately financing the project, as Veolia is proposing to do, it would receive its capital costs invested back.

¹⁴ This is the element that relates to the EFW facility only.

¹⁵ This element of the contract encompasses all other services except the treatment of residual waste (i.e. street cleansing, waste collection and household waste sites).

Payment Mechanism

8.1 Principles of the Payment Mechanism

The payment mechanism, together with the financial model determines the payments that are made to the Provider for the provision of services under the contract. This section provides an overview of the principles and key components of the payment mechanism and examines how key operational risks are managed within this mechanism. A copy of the Payment Mechanism is included within Appendix G.

8.2 Key Principles

The payment mechanism for the Shropshire Waste Partnership project was developed from the standard guidance contained within the 4Ps Waste Management Procurement Pack. The payment mechanism is based on a unitary charge (in that it combines an element of repayment in respect of both capital and revenue costs) payable in conjunction with a series of performance standards and targets, with adjustments to the unitary charge if these performance standards are not attained, or are exceeded. The mechanism manages the risk to the Authority associated with three key inter-related contract objectives of (i) recycling performance; (ii) diversion performance (related to absolute LATS tonnage targets); and (iii) recovery performance (related to diversion of inert and active waste from landfill). The principles of the payment mechanism are to:

- Ensure that the Authority only pays for services when they are delivered by matching the level of payment with the associated provision of infrastructure and consequent increases in Recycling, Recovery and Diversion performance. Step up in payments for residual treatment is linked directly to the completion and delivery of the service at the key Waste Treatment Services facility;
- Provide positive incentives for waste minimisation activities undertaken by the Provider;
- Match the payment streams to the Provider's underlying cost drivers in order to maximise financial efficiency and to improve the Value for Money of demand risk transfer to the Provider;
- Incentivise behaviour that is consistent with the waste hierarchy by providing positive financial incentives to the Provider to exceed guaranteed recycling, recovery and diversion performance levels by making bonus payments that are linked to the financial benefits that will accrue to the Authority as a consequence. Performance obligations

Payment Mechanism

step up, where applicable, on the basis of the completion of project infrastructure and the capacity of the Provider to manage operational risk; and

- Provide incentives for the Provider to correct any failures as rapidly as possible and for the Provider to accept, within bounds determined by bankability and Value for Money, the financial exposures that would have otherwise been borne by the Authority as a consequence of the Provider under-performance in regard to recovery and diversion.

8.3 Payment Mechanism Overview

Indexation relating to labour costs removed on the grounds of commercial sensitivity – EIR exception 12(5)e

The Authority will pay a unitary charge to the Provider. Payment of the unitary charge is subject to the indexation provisions within the Project Agreement, which reflect the agreement reached with the Provider as follows:

- A proportion of the unitary charge is not indexed, representing the capital financing costs;
- A proportion is indexed at RPIX representing the non-labour costs; and
- A proportion is indexed at RPI **xx** representing the labour costs.

The indexation provisions are not linked to the specific indices on which the Provider has based its costs, and therefore the Provider bears the risk that its actual costs may vary by a different factor to that assumed in the indexation provisions.

The unitary charge will be paid on a monthly basis from contract commencement. The payment will be made on the basis of forecast tonnages received and processed in a contract month, with a reconciling adjustment at the end of the contract year to adjust to actual tonnages. The payment terms require the Authority to make payment within one working day of the end of the contract month to which the payment relates.

The monthly unitary charge to be paid in respect of each payment period comprises the following elements:

- The Monthly Unadjusted Unitary Charge;
- The Monthly Landfill Payment;
- The Ancillary Services Payment;
- The Pass Through Payment; and
- Performance and Unavailability Deductions.

Payment Mechanism

The monthly unadjusted unitary charge represents the rate charged by the Provider for services provided. This is made up of the Collection and Recycling Services (“CRS”) charge and the Waste Treatment Services (“WTS”) charge.

The CRS charge will be paid from the start of the contract and may be subject to performance and unavailability deductions for any shortfalls in the services and/or availability of these CRS facilities.

The step up in the unitary charge associated with the commencement of WTS operations is dependent upon the successful completion and operation of the WTS. Any delay in the planned operation of this key facility will result in an unavailability deduction being levied upon the Provider.

The monthly landfill payment (with an associated annual reconciliation) is intended to reimburse the Provider for its forecast landfill costs incurred, though landfill costs are only reimbursed to the extent that the Provider has already met the agreed diversion target. As such the Provider is incentivised to divert waste away from landfill through improved recycling, composting or end treatment.

In addition, the payment mechanism includes a number of volume adjustments which will adjust the payments made to the Provider within the relevant Contract Year to reflect any additional costs incurred or savings arising from the following:

- Increases or decreases in the number of households from forecast levels;
- Treating more or less contract waste than the forecast level of treatment; and
- Variation between the actual and forecast level of recycling and composting as a result of a change in the volume of contract waste.

A revenue share mechanism has also been incorporated within the payment mechanism so that the Authority can share in excess revenue generated from the sale of electricity and dry recyclates, where these are greater than the guaranteed levels. At the same time, the Provider is encouraged to divert waste away from landfill through bonus arrangements that share the benefit of landfill savings and any surplus income arising from landfill allowance trading.

The Payment Mechanism continues to function in the event of partial termination.

8.4 Approach to Key Operational Risk Areas

The payment mechanism addresses three principal risk areas:

Payment Mechanism

- Demand risk;
- Recyclate and other income risks;
- Performance risk

These are considered in greater detail below:

8.4.1 Demand Risk

Contract details removed on the grounds of commercial sensitivity – EIR exception 12(5)e

The unitary charge is set at financial close based on a shared future expectation between the Authority and the Provider as to waste growth, arisings and composition. As discussed above, volume adjustments are intended to take account of variations in costs should waste arisings / composition be different from that expected, though these are subject to bandings with a nil band applying for each of the volume adjustments.

As a result, the risk that the payment mechanism has been inappropriately calibrated is a risk that is partly borne by the Provider. The parameters that determine demand risk are minimum and maximum tonnages of municipal waste of **xx** tonnes either side of the base case level of contract waste.

In the event that tonnage arisings are below the minimum threshold (considered a remote possibility given current waste trends), a change mechanism will apply. Where waste arising is below expectation, but above the minimum threshold, the Authority pay on a variable basis for the tonnages processed in accordance with the volume adjustment provision. The Authority therefore pays to the extent that the assets are utilised.

Where tonnage arising exceeds the upper threshold, the contract change mechanism will apply. At this point the Authority and the Provider will agree on how to process tonnages of waste which fall beyond the maximum operating capacity of the PFI contract assets. This may involve modification or additions to the project infrastructure, or the utilisation of other third party treatment capacity. The price per tonne to manage this waste will be agreed at the time, and will be a risk borne by the Authority.

8.4.2 Recyclate and Other Income

Contract details removed on the grounds of commercial sensitivity – EIR exception 12(5)e

Third party income within the project arises through the sale of recyclates and compost produced as part of the treatment process (expected to amount to

Payment Mechanism

approximately £xxm over the term of the contract), the sale of electricity income arising from the ERF (£xxm over the contract term) and to a lesser extent the sale of surplus processing capacity to trade waste customers. This income is used to subsidise the price to the Authority.

Where third party income from these sources is greater than anticipated, the payment mechanism shares the benefits between the Authority and the Provider.

8.4.3 Performance Risk: Payment Mechanism (Downside)

Contract details removed on the grounds of commercial sensitivity – EIR exception 12(5)e

The payment mechanism attributes expected processing efficiencies to the project infrastructure. Where these processing efficiencies are not met, the Provider will absorb the balance of any incremental financial exposure that the Authority would have otherwise incurred as a result of this under-performance and additional waste being sent to landfill.

- Where the Provider fails to achieve the required recovery performance, it bears the balance of additional economic cost to the Authority associated with additional landfill tax and landfill gate fees over and above the costs of processing Contract Waste through recycling, composting or energy recovery that would have been incurred by the Authority had the Provider's performance met the required standards. No profit margin is available to the Provider where it fails to exceed expected landfill performance. This principle is consistent with the 4Ps Procurement Pack.
- Furthermore, where the Provider fails to achieve the required diversion performance, the Provider will bear the costs associated with the Authority acquiring LATS up to a cap of £xx per tonne.

8.4.4 Performance Risk: Payment Mechanism (Upside)

Contract details removed on the grounds of commercial sensitivity – EIR exception 12(5)e

In order to provide an incentive for the Provider to minimise the cost of the service to the Authority and to maximise performance, where the Provider exceeds targets, it is entitled to a share of the economic savings to the Authority generated by this additional performance. Furthermore, where the contract diversion targets are exceeded, the Provider will receive a share of the additional LATS income generated (also subject to a £xx per tonne cap).

Payment Mechanism

8.4.5 Performance Risk: Performance Mechanism

A copy of the performance mechanism is included within Appendix G. The performance mechanism sets out a deductions regime to deal with instances of unavailability or non-performance, as measured against performance criteria, where the consequences of failure are not explicitly related to recovery and/or diversion performance driven financial exposures and hence are not reflected in the payment mechanism. The Provider must monitor and record its performance in respect of the service delivery plan and notify the Authority of any failure. Any deduction from the unitary charge is based on the failures accrued in the relevant monthly period.

Further details to be added in respect of the performance and unavailability framework are set out below.

8.5 Principles of the Performance and Unavailability Framework

8.5.1 Performance and Unavailability Framework

It is the fundamental principle of the Contract that if the Provider does not provide a specified Service or Project Facility at any time, deductions are applied to the monthly Unitary Charge through the Payment Mechanism.

The Performance and Unavailability Framework (PUF) provides for these deductions to be made for unavailability of specified Project Facilities, and for poor performance in respect of the listed Key Performance Indicators contained within the PUF.

8.5.2 Unavailability

Unavailability deductions are able to be applied by the Authority in the following circumstances:

- in the event that collections are missed;
- in respect of HRCs and Transfer Stations, the project facility is not available to accept waste during the specified opening hours, and;
- in respect of the Waste Treatment Facility, the facility is not available to accept waste during the specified opening hours.

The unavailability deduction is a quantified cost, indexed in accordance with the project indexation provisions, that is applied to each missed collection or hour that a project facility or the Waste Treatment Facility is unavailable.

Payment Mechanism

8.5.3 Performance

The Authority has established a list of Key Performance Indicators against which it wishes to measure the performance of the Provider in the delivery of the Services and has allocated a monetary value to each occurrence of a performance failure to reflect the actual cost likely to be incurred by the Authority as a result of such failure.

Performance deductions will be subject to 'ratchet' whereby in the event that performance failures are not rectified within specified timescales, or are repeated, the quantum of performance deductions increases and may eventually trigger Provider Default.

The mechanism for performance deductions, and the link to termination provisions in the event of a performance failure not being rectified, is provided in the diagram below.

Statutory Processes

9.1 Summary

- (1) Shropshire County Council (“the Authority”) is a waste disposal authority having a statutory duty under the Environmental Protection Act 1990 (as amended) (“EPA”) to make arrangements for the disposal of waste that is collected by the waste collection authorities within its area.
- (2) Bridgnorth District Council, North Shropshire District, Oswestry Borough Council, Shrewsbury and Atcham District Council and South Shropshire District Council (“WCAs”) are waste collection authorities and have statutory duties to make arrangements to collect waste under EPA within their respective administrative areas.
- (3) The Authority and the WCAs (but excluding Shrewsbury and Atcham District Council) are parties to the Shropshire Waste Partnership Joint Committee (“the Committee”) which has been formed under sections 101 and 102 of the Local Government Act 1972 for the purpose of discharging the collective waste collection, disposal and management functions of its members. The members of the Joint Committee have agreed that the Authority (or its successors) shall be the contracting authority for the purpose of entering into the PFI Contract.
- (4) An advertisement (reference 198/169158) was issued dated 9 October 2004 in the Supplement to the Official Journal of the European Union pursuant to which the Authority sought proposals pursuant to the EU Services Directive (92/50/EEC) and the Public Services Contracts Regulations 1993 (ST 1993 No 3228) under the negotiated procedure for the provision of integrated Waste Management Services under the UK Government’s private finance initiative. A notice was also issued pursuant to Part 11 of Schedule 2 of the Environmental Protection Act 1990. The relevant requirements of Part 11 of Schedule 2 have subsequently been repeated.
- (5) The Authority will on Financial Close issue a Certificate under the Local Government (Contracts) Act 1997 certifying the Contract in accordance with the 1997 Act.
- (6) The Authority is a Best Value Authority under the Local Government Act 1999 and the functions in respect of which the Authority wishes to procure the Services under the Contract are Best Value functions.
- [(7) The SWP Joint Committee approved the entering into of the PFI Contract on 22nd June 2007

Statutory Processes

- [(8) The Council of Shropshire County Council approved the entering into of the PFI Contract on 29th June 2007.

Risk Allocation and Accounting Treatment

10.1 Introduction

The Partnership in conjunction with their financial and technical advisors (Ernst & Young LLP and EnviroS respectively), have carried out a full analysis of the key risks inherent in the project and allocation between the parties to the transaction. The results of this analysis can be found at Appendix K to this FBC.

In September 1998 the Accounting Standards Board (“ASB”) produced an Application Note (“AN”) for use in applying FRS 5 on PFI Transactions. Following this the Treasury Taskforce issued a revised Technical Note ‘PFI Technical Note Number 1 (Revised)’ on 24 June 1999 to “provide additional practical guidance on the following areas of the AN to ensure the overarching principles of the AN are consistently applied”. The accounting view provided by Ernst & Young LLP has been prepared in accordance with this Technical Note. A summary of the key conclusions is as follows:

- The qualitative assessment indicates an off-balance sheet position as balance of risk lies with the private sector;
- The quantitative risk analysis, based on the probability analysis of the risks provided by the Authority’s technical advisers, supports the outcome of the qualitative analysis and indicates an off-balance sheet position; and
- The overall judgement after weighing up the qualitative and quantitative indicators is that the balance of risk exposure indicates in favour of an off-balance sheet accounting treatment by the Authority.

10.2 Authority’s Opinion

The Authority’s Section 151 Officer has taken external professional advice from District Audit who is reviewing the qualitative and quantitative analysis of this project as prepared by Ernst & Young LLP, to assess whether the project indicates an off-balance sheet position. District Audit is forming its view of the application of the appropriate accounting treatment in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: a statement of Recommended Practice*. As is custom and practice, it has considered the scheme’s accounting treatment under *FRS5 Reporting the Substance of Transactions* and its *Application Note F - PFI and similar Contracts as interpreted by the Treasury Technical Note 1 (Revised) - Accounting for PFI Transactions*.

The Authority’s Section 151 Officer has concluded that there is no requirement to recognise a new asset on the Authority’s balance sheet as a result of this

Risk Allocation and Accounting Treatment

contract. This proposed off-balance sheet treatment of the transaction is consistent with that adopted for similar local authority waste PFI projects.

10.3 Auditor's Opinion

The Authority's auditors have been asked to comment on the Authority's view of the accounting treatment of this transaction. Based on the information presented the auditors have stated that they are not minded to challenge the Authority's proposed accounting treatment. Letters provided by the Authority's auditors in support of these statements have been sought and will be forwarded once they have been received.

Contract Management and Monitoring

11.1 Introduction

11.1.1 What the contract will deliver

The contract documents set out the structure within which services are to be provided under the contract. The Project Agreement is the key contractual document which establishes the legal framework for the contract. Appended to that there are currently forty five schedules which provide additional detail, including the specification of the services required under the contract and the Provider's proposals for delivering services to meet or exceed those requirements, how payment and performance will be managed and how the contract will accommodate change.

The contract will be for a term of between 27 years. In outline, the contract will provide the following services:

- Kerbside collections of recyclates and residual waste. In the short term the service will complete the roll out of the current alternate week collections of dry recyclates, garden waste and residual waste. The service will be extended to include kitchen waste collections and kerbside recycling of plastics in all areas by 2010. Target recycling rates are set out in the Specification of Contract Work but there is an overarching requirement for the service provider to maintain and improve on current levels of recycling performance.
- Management and operation of existing Integrated Waste Management Facilities at Shrewsbury (Battlefield), Craven Arms and Whitchurch.
- Development of new Integrated Waste Management Facilities at Oswestry and Bridgnorth.
- Marketing of recyclates (for a guaranteed minimum level of revenue).
- From the expiry of the current Authority waste disposal contract in February 2009, full responsibility for managing residual waste. The service provider will pick up responsibility for managing residual waste arising in the Oswestry area from the start of the contract.
- Development of a composting facility to treat mixed green and kitchen waste.
- Development of a major plant which will treat residual waste. This facility will generate electricity and minimise the quantity of biodegradable residual waste going to landfill.

Contract Management and Monitoring

The development of new facilities within the contract will be subject to extensive consultation, both in the period leading up to submission of the necessary planning applications and as part of the planning process.

11.1.2 How the contract will be monitored and enforced

SWP Client function will be split between a policy team and a contract monitoring team. The contract monitoring team will monitor the day to day performance of the service provider. In doing so, contract monitoring staff will refer to the agreed annual service plan that the service provider is required to produce and also to the principal contractual documents comprising:

- **The Project Agreement** – the principal legal document setting out the rights and duties of the parties to the contract.
- **Schedule 2** – the Detailed Specification of Contract Work which sets out SWP's requirements from the contract.
- **Schedule 3** – Provider's Proposals which set out the service provider's proposals for meeting SWP's contractual requirements.
- **Schedule 5** - the Base Case spreadsheet model which prices the contract based on base data (waste flows, performance, etc).
- **Schedule 7a** – The Payment Mechanism which details how the Provider will be paid for services delivered under the contract.
- **Schedule 7b** – the Performance and Unavailability Framework which details the deductions that will be made from payments to the Provider in the event of underperformance or unavailability of facilities.
- **Schedule 32** – the Provider shall maintain records and report to the Authority in accordance with this Schedule 32 (Reporting Requirements) for the purposes of;
 - comparison of the Provider's performance against the Authority's Waste Recycling and Composting and Contract Waste Landfill Diversion Contract Targets;
 - verification of payment and operational data under this Contract;
 - comparison of the Provider's performance against the KPIs set out in Schedule 7b (Performance and Unavailability Framework), for determination of any relevant Performance Deductions in accordance with Schedule 7a (Payment Mechanism);
 - where reasonably required completion of statistical returns (including CIPFA, DEFRA, Waste Data Flow etc);

Contract Management and Monitoring

- compilation of the Authority's Best Value Performance Indicators, and;
- where reasonably required, management information.

The primary concern is whether Contract Targets agreed for Recycling, Composting and diversion of Contract Waste from Landfill are being met or exceeded. Failure to meet these will result in direct deductions through Schedule 7a (Payment Mechanism) since they could result in additional costs to the Authority and, if prolonged could trigger a termination event. If the Provider exceeds certain Contract Targets, the Payment Mechanism includes provision for bonus payments to be made.

Schedule 7b Performance and Unavailability Framework sets out the framework for monitoring Performance and Availability of the Services and for determining any resulting adjustment to payment.

The Unavailability Framework fundamental principle is that if the Provider does not provide any Services, no payment will be made by the Authority to the Provider.

The Performance Framework assesses performance against Key Performance Indicators (KPIs), which are the standards to be applied in respect of the application of the Performance Framework.

The contract requires that the Provider self monitors their performance and reports this to the Client, the Client will have full access to the Provider's information to validate their reports and any inconsistencies that result in additional performance detections under the Performance Framework.

Schedule 7b also sets out Provider Default triggers which is a limb of Provider Default as set out in the Project Agreement.

At a higher level, it is anticipated that the SWP Monitoring Panel will, subject to a review of its Terms of Reference, have a remit to monitor performance and service standards from the commencement of services under the new contract and to make appropriate recommendations to SWP.

11.2 Resourcing

11.2.1 Staffing Arrangements and Transfers

The waste management services being taken into the PFI contract are provided currently by six different organisations, three local authorities (OBC, BDC and

Contract Management and Monitoring

NSDC) and three private contractors (SITA, WRG and Biffa). All the current staff, around 160 people, have their employment protected under the TUPE regulations which means provision has to be made for all of these staff to transfer to the new Provider.

This is a complex area and is being supported by the HR Officers of the partner authorities although increasingly, the incoming Provider will take responsibility for this.

11.2.2 SWP Management Structure

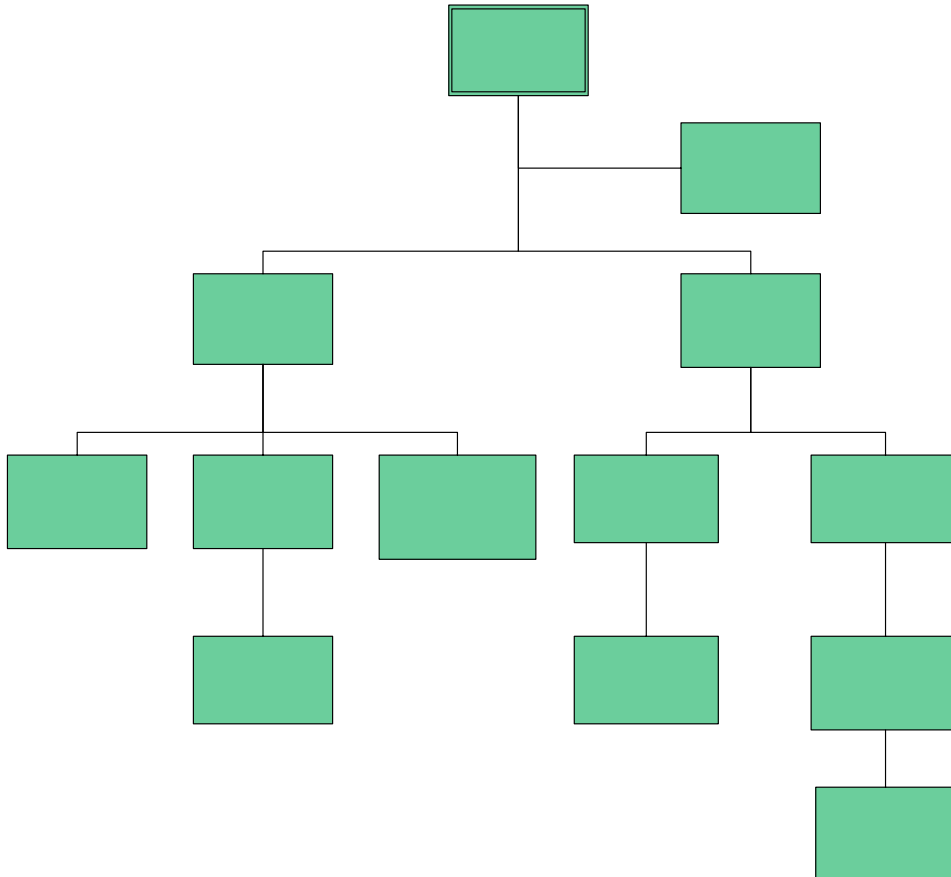
The SWP Client team is led by Adrian Poller.

This team will manage the contract and the wider interests of the Partnership once the contract has been let.

Apart from the Director and his personal assistant, the team consists of staff transferring from the partner authorities: 7 from SCC, 2 from Oswestry Borough Council, 2 from South Shropshire District Council and 1 from Bridgnorth District Council. There are no staff transferring from North Shropshire District Council.

An organogram of the SWP Client Team is shown below:

Contract Management and Monitoring



Key members of the Client Team have been involved throughout the development of the project. The SWP client team will be supported by Shropshire County Council by agreed Service Level Agreements.

Shropshire Waste Partnership
Management of Client Function

Contract Management and Monitoring

11.3 Benefits Monitoring Plan

Anticipated benefits		How the benefits will be measured
1	There will be county-wide alternate weekly collections of green and residual waste and dry recyclates for 95% of properties expanding to 100% by 2010.	There will be a property database containing details of services to each individual property.
2	Reduction in greenhouse gas emissions related to the services	A greenhouse gas methodology will be developed by 31 st March 2008 and will be included in the SDP to measure greenhouse gas emissions related to the services. This will be compatible with the Waste and Resources Assessment Tool for the Environment ("WRATE") which is the lifecycle assessment methodology that has been developed by the Environment Agency.
3	Introduction of initiatives to promote waste minimisation, reuse and recycling including home composting.	The Provider will develop a waste minimisation plan which will have targets against which performance will be measured through a KPI within the PUF.
4	Maintaining a Community Sector Engagement Plan to improve partnerships with community groups.	The provider will develop a Community Sector Engagement Plan which will have targets against which performance will be measured through a KPI within the PUF.
5	Diversion of waste from landfill	This will form part of the required monthly returns from the Provider as detailed in Schedule 32 Reporting Requirements and Schedule 7a Payment Mechanism.
6	Marketing of recyclates to provide a guaranteed minimum level of revenue.	This is not measured as it is already included in the unitary charge.

Contract Management and Monitoring

7	A Performance and Unavailability Framework to allow deductions for underperformance or unavailability of facilities.	This will form part of the required monthly returns from the Provider as detailed in Schedule 32 Reporting Requirements.
8	Agreed targets for; recycling, composting, diversion of contract waste from Landfill	This will form part of the required monthly returns from the Provider as detailed in Schedule 32 Reporting Requirements and Schedule 7a Payment Mechanism
9	Continuous assessment against KPIs	This will form part of the required monthly returns from the Provider as detailed in Schedule 32 Reporting Requirements.

Appendices

Appendices for public version of FBC

Appendix A	Defra Final Business Case Checklist	Included
Appendix B	Waste Assessment Criteria	Included
Appendix C	Accounting Treatment Paper	Not included – Internal Communication – EIR exception 12(4)d
Appendix D	Accounting Treatment Letter	Not included – Internal Communication – EIR exception 12(4)d
Appendix E	SOPC Compliance Table	Not included as does not represent final list of agreed derogations
Appendix F	Project Agreement	Not included because not the final version
Appendix G	Payment Mechanism	Not included because not the final version
Appendix H	PFI Credit Calculation	Not included because not the final version agreed by DEFRA
Appendix I	Output Specification	Not included because not the final version
Appendix J	Affordability report	Not included – Internal Communication – EIR exception 12(4)d
Appendix K	Risk Matrix	Not included – Internal Communication – EIR exception 12(4)d
Appendix L	Planning Health Framework	Not included – Internal Communication – EIR exception 12(4)d
Appendix M	OJEU notice	Not included – already a publicly available document
Appendix N	Memorandum of Understanding	Not included – already a publicly available document