

## DEFRA'S CRITERIA FOR AWARDING WASTE PFI CREDITS

**These criteria, which waste projects must meet to be considered for PFI credits, are in addition to the general criteria set out in the Green Book which must be met by all PFI projects. Authorities should also be aware of the outcome of the Waste Strategy Review which is due to be published later this year.**

Criterion	Cross Reference to Relevant Part of OBC
<p>1. Schemes (which may involve more than one Authority) must demonstrate how they will contribute to delivery of their authorities' adopted Municipal Waste Management Strategies (regardless of whether they are Unitary or Two-tier Authorities).</p> <p>Local Authorities are strongly encouraged to have explored with neighbouring authorities the opportunities for joint working when considering a major procurement<sup>1</sup>. Scale and strategic impact are two important aspects to consider when proposing a scheme. In line with Government policy, PFI projects with a capital value below £20 million will not be supported. However, DEFRA's upper threshold of £40m for the availability of PFI credits for individual projects no longer applies.</p> <p>In two-tier areas, proposals should demonstrate how the two tiers of local government will work together to deliver their targets under legally binding agreements or constitutions, which should be in place by the start of procurement. By Outline Business Case (OBC) stage we would expect a minimum of a detailed Memorandum of Understanding (covering major points of principle), or establishment of joint waste management structures or formal contractual arrangements.</p> <p>In two-tier areas, a Joint Municipal Waste Management Strategy will be a requirement towards this and should include clear, long-term targets for Biodegradable Municipal Waste diversion; recycling; etc. which have been adopted or are close to adoption by all stakeholders.</p> <p>In other types of partnership, such as regional or multi-area partnerships, plans should demonstrate evidence of strong joint working and the intention to have legally binding agreements or arrangements (e.g. joint waste management boards) in place by the start of the dialogue process.</p>	<p>Section 3 explains how the project delivers the Council's Municipal Waste Strategy. Section 9 comments on the regional dimension.</p>

<sup>1</sup> There are at least five reasons why co-operation with neighbouring Authorities is desirable: first, the role of *scale* in a project which may be particularly relevant in attracting strong market interest – an important driver of value-for-money (see section 7); second, the availability of suitable sites is not evenly distributed across the territories of all Authorities; third, transport links and logistics may dictate co-operation across Authority boundaries; fourth, failure by Authorities to co-operate may hand a significant negotiating advantage to a supplier who is sizing a facility to cater for more than one Authority's needs; and fifth, economies of scale, which are another important driver of value-for-money.

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<p>2. PFI credits are awarded to authorities primarily to deliver increased diversion of biodegradable municipal waste from landfill. Proposals should demonstrate how the schemes:-</p> <ul style="list-style-type: none"> <li>- contribute to or complement longer-term national targets for recycling and composting as well as diversion of biodegradable and other municipal waste from landfill, indicating the amount of biodegradable and other municipal waste expected to be diverted from landfill over the whole life of the project;</li> <li>- support or complement the authority's plans for recycling set out in their Municipal Waste Management Strategies.</li> </ul>	<p>Section 3 sets out the targets for both recycling and diversion. Section 4 explains how these targets will be delivered, with a mixed procurement package of which the residual treatment is one part.</p>
<p>3. Proposals should show how schemes will provide additional contribution to national landfill diversion during the contract period and up to 2020 as required under the Landfill Directive, where appropriate.</p>	<p>As above</p>
<p>4. Waste minimisation is at the top of the waste hierarchy. While PFI is frequently not an appropriate mechanism for addressing waste reduction, proposals should make clear what other action the authority is taking to reduce generation of MSW.</p>	<p>Section 3 includes a section on Waste Minimisation, which is a primary focus of the Council's Waste Strategy.</p>
<p>5. The use of residual waste treatment options involving recovery, including energy from waste solutions, will have an integral role in treating the waste we cannot 'design out', re-use or recycle. Such options should be considered while also demonstrating that there is no future barrier to meeting reduction, reuse and recycling targets.</p> <p>The Authority should have done sufficient analysis of the technical, environmental and economic options to have identified a preferred solution within the OBC, so that bidders will not be expected or required to carry-out their own repetitious options appraisals.</p>	<p>Section 4 explains the detailed options appraisal process and how the sizing of the EFW is based on the challenging recycling strategy targets detailed in Section 3.</p>
<p>6. Proposals should demonstrate that other relevant authorities, the public and interested parties have been consulted and that there is a broad consensus supporting a recognised long term waste management strategy which is reflected in the proposed solution.</p>	<p>Section 9 is devoted to Stakeholder consultation, although Section 3 also discusses the Waste Strategy consultation.</p>
<p>7. Proposals should follow HMT value for money guidance and clearly demonstrate that the proposed project offers a value for money solution when compared with other procurement options. Evidence is required to demonstrate that the authorities have considered and approved all on-going funding requirements necessary to make the project affordable over its whole life. This evidence should include signed commitments from members, or minutes of members meetings clearly demonstrating that they have committed to the ongoing affordability of the project<sup>2</sup>.</p>	<p>Section 8 deals fully with both VFM methodology and affordability.</p>

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<sup>2</sup> The approval should be on the basis of members having a clear understanding of the range of possible costs based on a sensitivity analysis giving best and worst case scenarios.

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<p>8. Proposals must follow the extant guidance for PFI procurement; i.e. Defra-issued specific guidance, the 4Ps Waste Management Procurement Pack, SoPC3<sup>3</sup> and other HMT guidance on PFI procurement. Authorities should also be aware that even if a proposal receives PFI credits support from Defra all OBCs will have to gain final approval from the inter-departmental Project Review Group (PRG) that they are ready to proceed to procurement. The criteria for the PRG assessment of business cases are available on the HM Treasury website (<a href="http://www.hm-treasury.gsi.gov.uk">www.hm-treasury.gsi.gov.uk</a>).</p>	<p>Section 5 explains the Council's commitment to Waste PFI standardisation</p>
<p>9. Residual disposal solutions (e.g. refuse derived fuel, fibre, soil improvers) must demonstrate the destination of any residual output and the existing or intended commitments for and cost of effecting such disposal. Proposals should include findings from soft market testing indicating a market appetite for the proposed residual product, so as to secure value for money. Where there is a potential for third-party income (e.g. from sale of recyclate, electricity, heat, etc.), this should be considered as part of the value for money analysis. Where new or alternative technologies are proposed in the reference project, they should be shown to be bankable and deliverable.</p>	<p>Section 9 includes market sounding, Section 5 covers markets for outputs and Section 8 includes a third party income sensitivity</p>
<p>10. Preferential consideration will be given to capital projects which focus on residual treatment plant only, including, but not limited to, Energy from Waste, Mechanical Biological Treatments, and Anaerobic Digestion<sup>4</sup>.</p>	<p>Section 4 explains that the Council is only seeking PFI Credits for the residual treatment plant.</p>
<p>11. Proposals should demonstrate how the potential for community sector involvement in service delivery through the project has been assessed. Where, as a result of such work, a decision is made to exclude or displace such services, a value for money case must be put to support such an approach.</p>	<p>Section 9 explains that the EFW plant does not displace any community initiatives.</p>
<p>12. Projects should consider the potential for including other waste streams such as commercial or industrial waste, on the basis of securing a value for money solution. However, projects must demonstrate that:</p> <ul style="list-style-type: none"> <li>- the project continues to deliver value for money in relation to the biodegradable municipal waste being managed through it;</li> <li>- any cross subsidisation of the costs of disposing of non-municipal waste streams is transparent and acceptable to all stakeholders.</li> </ul>	<p>Section 4 refers to the sizing of the EFW being based on the Council's projected waste growth but allowing third party waste to take up spare capacity in the interim. It is not assumed that a larger facility will provide better VFM, but the procurement will allow the market to determine the optimum size.</p>

<sup>3</sup> A set of waste sector specific derogations to SoPC3 is being issued in tandem with these criteria. The Procurement Pack is being updated, with the second edition due in mid-2006, and will contain some standard drafting for waste PFI procurement.

<sup>4</sup> This does not necessarily preclude projects comprising combined or integrated facilities or a wider scope of services, where such projects offer clear benefits such as improved value-for-money, deliverability and affordability and that substantive market interest exists through soft market testing. If there is not sufficient evidence for a real market for such projects, they are unlikely to be approved.

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<p>13. Projects should have potential sites under consideration which accord with the relevant waste planning authority's statutory development plan. Where this is being updated to reflect Planning Policy Statement 10 (PPS10) projects should align with the policies in PPS10.</p>	<p>Section 7 provides detailed reference to the Council's site and planning policy strategy (including PPS10)</p>
<p>14. Authorities responsible for projects will be expected to engage in the preparation of the relevant regional spatial strategy and local development plan documents so as to help secure an up-to-date and supportive planning context in line with PPS10, including appropriate land allocations.</p>	<p>Section 7 explains the current status of RSS and local development plan documents.</p>
<p>15. Authorities should take proactive action to acquire sites in line with the development plan, or which they are confident will accord with the development plan if components of the development plan are under review or in preparation.<sup>5</sup></p> <p>Consideration will be given on a case by case basis to the status and substance of those planning policies and plans currently in place at authorities.</p>	<p>Section 7 explains that a reference site is in the Council's ownership, and explains the accord with and status of current and emerging policy.</p>

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<sup>5</sup> Availability of necessary site(s) identified and secured by the Authority does not preclude bidders offering alternative sites, but does provide a secure reserve position which increases competition, reduces bid costs (both thereby enhancing value-for-money) and improves deliverability of the project.

## PRG'S CRITERIA

Criteria	Contents	Cross Reference to Relevant Section of OBC
<b>Summary</b>	<ul style="list-style-type: none"> <li>• A description of the project including all services within the scope and proposed concession length</li> <li>• Detail decisions where services have not been included within the scope</li> <li>• The value of PFI credits approved by the Department and any other central government funding</li> <li>• Note if there is more than one procuring authority and cross refer to where this may impact on project deliverability – e.g. funding, procurement, contractual terms</li> <li>• Any issues to highlight (including if this is an application for additional credits)</li> </ul>	Section 4
<b>Affordability</b>	<ul style="list-style-type: none"> <li>• Projected PFI service payments identified</li> <li>• Shadow bid assumptions – capex, opex, lifecycle etc</li> <li>• Comment on funding assumptions e.g. gearing</li> <li>• The PFI credit support and the method of calculation</li> <li>• Comment on all budgeted sources of income including any risks associated with the income assumptions (give careful consideration to 3<sup>rd</sup> party income assumptions)</li> <li>• Are any land sales anticipated</li> <li>• Confirmation that no capital payments from authority planned or why exceptional circumstances exist</li> <li>• Affordable in the first full year, showing the unitary payment and matching sources of income</li> <li>• Affordable over the whole life of the contract, taking into account all sources of income including existing LA resources, projected additional revenue support and additional income from capital receipts or third party income</li> <li>• Review consistency of indexation assumptions</li> <li>• Affordability analysis (base case and sensitivities), and impact on budgets, accepted by Members, Senior Management and budget holders. Detail supporting evidence (e.g. cabinet minutes)</li> <li>• The assumption made of when PFI credits will start</li> <li>• On-going affordability risks</li> </ul>	Section 8
<b>Design Quality</b>	<ul style="list-style-type: none"> <li>• Project to demonstrate how they intend to meet key objectives of the Egan Report (for example safety, minimising waste, supply chain management, etc)</li> <li>• Authorities are expected to take account of the guidance on design quality included in the DCMS publication 'Better Public Buildings', the OGC guidance 'How to achieve Design Quality in PFI Projects' and the 4ps 'Achieving Quality in Local</li> </ul>	Section 7

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	<p>Authority PFI Building Projects.</p> <ul style="list-style-type: none"> <li>• Note any sector specific (e.g. housing, waste) design legislation / guidance and how it is to be followed</li> <li>• Detail any involvement with CABE, whether the authority has appointed a “design champion” how good design will be addressed in the ITN / Evaluation etc (e.g. through Design Quality Indicators)</li> <li>• Has adequate consideration been given to design and whole life cost issues</li> <li>• Consider the guidance on design provided in Appendix 7 of the PRG Code of Practice</li> </ul>	
<b>Output Spec</b>	<ul style="list-style-type: none"> <li>• Requirement specified in terms of service outputs required, rather than particular assets or solutions</li> <li>• Range of on-going services included in the requirement defined broadly, to offer scope for efficiencies and innovation</li> <li>• Specification pitched at a level that is justifiable in terms of procurement best practice and robust precedent from similar projects, is consistent with affordability assumptions, and further enhancement in specification needs to demonstrate that value for money is not diminished</li> <li>• Are specifications based on standard sector guidance (e.g. schools)</li> <li>• Are the specifications based on previous projects, experience and good practice</li> <li>• Is there anything either within or outside of the Project scope that is considered unusual</li> </ul>	Section 4
<b>Risk Allocation</b>	<ul style="list-style-type: none"> <li>• A PFI risk matrix has been prepared, identifying all the foreseeable risks associated with the scheme, and making a preliminary risk allocation</li> <li>• Are risks allocated appropriately between the parties following standard form guidance including sector specific guidance where relevant such as 4Ps procurement packs</li> <li>• Is there an Internal Risk Register identifying all risks to be managed by the public sector that ranks the lists in order of importance and a risk owner and mitigation strategy</li> <li>• Is there regular reporting of risk management to the Project Board and is there a process to regularly update the risk register</li> </ul>	Section 5

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<p><i>Commercial Interest</i></p>	<ul style="list-style-type: none"> <li>• Evidence of commercial interest including approach to market sounding exercises</li> <li>• Provide evidence of number of organisations contacted and response. Is there likely to be sufficient market interest in the project</li> <li>• Are there factors which might hinder a good competition (e.g. geographic or sector related)</li> <li>• Certainty of income stream to meet contract payments</li> <li>• Willingness to consider appropriate opportunities for generation of other revenues, either from sales of assets or third party use of assets and services</li> </ul>	<p style="text-align: center;">Section 9</p>
<p><b>Compliance with Standard Form</b></p>	<ul style="list-style-type: none"> <li>• Commitment to use current version of SoPC terms and conditions or sector specific Standard Form where this has been approved</li> <li>• Commitment to use the bidding process to embed standard T&amp;Cs</li> <li>• Any likely project or sector specific derogations identified and a process in place to identify and deal with these issues</li> </ul>	<p style="text-align: center;">Section 5</p>
<p><b>Value for Money Analysis</b></p>	<ul style="list-style-type: none"> <li>• Has the department undertaken a stage 1 VFM analysis that identifies the sector or investment programme as suited to PFI procurement</li> <li>• Has the authority completed the stage 2 quantitative and qualitative VFM assessment</li> <li>• For the quantitative assessment have robust input costs, economic assumptions and risk assumptions for both the conventional and PFI solutions been applied</li> <li>• Provide details of the quantitative VFM benefit and the sensitivity analysis / indifference points. Compare with other projects in the same sector</li> <li>• Evidence that the stage 2 qualitative evaluation has been completed by the project team, is project specific and is supported by a good evidence base</li> </ul>	<p style="text-align: center;">Section 8</p>
<p>Suitability of Advisors</p>	<ul style="list-style-type: none"> <li>• Has the Authority identified all of the advisory support it will require</li> <li>• Have advisors been appointed. If not when will they be appointed</li> <li>• If the Authority is using in-house resources are they suitably skilled and experienced</li> <li>• Who are the appointed advisors? What are the terms of the appointment and has a suitable budget been identified?</li> <li>• Do the advisors have suitable sector specific experience</li> <li>• Willingness of advisers to share lessons and approaches, without undue confidentiality and copyright constraints</li> <li>• Arrangements for periodic review of performance of advisers</li> </ul>	<p style="text-align: center;">Section 6</p>
<p>Indicative Timetable</p>	<ul style="list-style-type: none"> <li>• Procurement timetable prepared</li> <li>• Detail and total length and breakdown into component parts</li> <li>• Timetable and affordability assumptions consistent</li> <li>• Stages of procurement process kept to a minimum consistent with achieving optimal project delivery at least cost</li> </ul>	<p style="text-align: center;">Section 10</p>

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	<ul style="list-style-type: none"> <li>• Total elapsed time from OJEC to completion realistic taking into account sector specific experience</li> <li>• Timetable is consistent with previous experience within the sector</li> </ul>	
Project Team	<ul style="list-style-type: none"> <li>• Project management experience. Provide specific details of previous PFI experience of the project team especially that of the Project Manager and Project Director</li> <li>• Detail the numbers of full and part time resources both current and planned</li> <li>• Appropriate range of skills and experience, whether from advisors or in house, for the deal envisaged</li> <li>• Project team demonstrates capacity to undertake the procurement</li> <li>• Is there a suitable project management structure including reporting lines to the Project Board and members</li> <li>• Have suitable powers been delegated to the Project Team to effectively manage and progress the procurement</li> <li>• Is there a project budget and if so is it sensible</li> <li>• Accessible to involvement of 4Ps / Departmental PFU</li> <li>• Recommendations from any recent gateway reviews plus info on how the authority has responded to these</li> </ul>	Section 6
<b>Commitment of Sponsors, Stakeholders &amp; Users</b>	<ul style="list-style-type: none"> <li>• Demonstrable support from all key sponsors (such as Councillors and Senior Officers) and, where appropriate, users such as School Governors. Consultation with all other stakeholders</li> <li>• Detail any relevant decision making processes</li> <li>• Ensure consistency between support of stakeholders and affordability commitments</li> <li>• Is there an effective communications strategy to liaise with all interested groups and keep them informed of progress / key decisions</li> </ul>	Section 9
Statutory Process	<ul style="list-style-type: none"> <li>• Ensure statutory processes are either complete or factored into the timetable</li> <li>• Note the relevant regulatory processes</li> <li>• Consider risk of delay, need for public consultation etc</li> <li>• Are sector specific issues adequately addressed</li> <li>• Is there a mitigation strategy in place to manage statutory risks (especially relevant where planning may be contentious)</li> <li>• Has the project got outline planning permission? Are there any other bodies which will have right to veto e.g. Mayor of London, GOSE etc. What consultation has taken place with these</li> </ul>	Sections 7 and 9
Other	Detail any relevant information that is not covered by any of the headings above	
Conclusions	<ul style="list-style-type: none"> <li>• From the evidence presented in the OBC and any meetings and further correspondence provide a view as to whether the project is in a suitable state of development to advance to the next stage of procurement</li> <li>• There are three broad categories of conclusion that</li> </ul>	Section 1/ all sections

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	<p>the PRG reviewer might reach:</p> <ul style="list-style-type: none"><li>a) The PRG criteria have been met and it is recommended that the project can proceed to procurement.</li><li>b) The project meets the PRG criteria to a sufficient extent to recommend its overall approval but specific attention should be focussed on x, y and z. List recommendations.</li><li>c) The project needs further development work and is not recommended for approval by the PRG at this time – the specific outstanding issues are a, b and c. List recommendations.</li></ul>	
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