

Organic Waste Treatment Service Contract

- Addendum Tender Report

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Organic Waste Treatment Service Contract – Addendum Report

Preamble

This addendum report must be read together with the Organic Waste Treatment Service Contract Tender Report dated September 2006.

1. Purpose

To make revised recommendations arising from the re-evaluation ordered by the High Court Judgment handed down by Deeny J on 16th March 2007.

2. Background

arc21 presented recommendations to the Joint Committee for the award of the Organic Waste Treatment Service contract to Terra Eco Ltd at the September 2006 meeting of the Joint Committee. Following the arc21 recommendation being notified to bidders, NWP Ltd filed legal proceedings to challenge the recommendation in the High Court.

The case was heard in the High Court between the 5th and 23rd February 2007 and Judgment was handed down on the 16th March 2007.

The Judgment required that the NWP bids be re-evaluated taking into account the availability at Keady of 40,000 tonnes per annum of capacity for the duration of the contract. The Judgment also allowed for arc21 to address the financial model of the plaintiff and see whether coping with any under capacity in the main plant would alter the scoring previously arrived at.

3. Contractual Issues

There are no further contractual issues beyond those in the Organic Waste Treatment Service Contract Tender Report dated September 2006.

4. Tender Returns

During the re-evaluation process, Thames Water Services Limited Trading as Terra Eco Systems informed arc21 that their tendered offers were withdrawn.

5. Evaluation

5.1 Criteria

There are no further issues beyond those in the Organic Waste Treatment Service Contract Tender Report dated September 2006.

5.2 Methodology

The Judgment stated that on foot of the re-evaluation, it may be fair and reasonable for the authority to seek clarification or supplementary information from the plaintiff. Accordingly, two further sets of questions were issued to NWP and a further site visit to the Keady facility was undertaken with further notes taken and supplementary information provided.

The technical re-evaluation work was undertaken by the same ORA / IGW personnel who had undertaken the original evaluation work. Additionally, Fichtner Consulting Engineers were commissioned to peer review the ORA / IGW work and to check and ensure fairness and consistency of the technical basis of the re-evaluation with the original work done on the other bids.

The financial re-evaluation work was undertaken by the same arc21 and member council accountants who had undertaken the original evaluation work.

The technical re-evaluation comprised two main strands. The first strand was the re-evaluation and re-scoring of the NWP bids against the assessment criteria sub-sections of the evaluation matrix, taking into account the availability at Keady of 40,000 tonnes per annum of capacity for the duration of the contract as required by the Judgment.

The physical arrangements at Keady were assessed to ensure the presence of 40,000 tonnes per annum of capacity as part of this work.

The second main strand of the technical re-evaluation was the calculation of the amount of material that may need to be sent to Keady to enable the Dargan Road (or Glenside) facility to operate at levels where it was likely to produce PAS100 compliant output.

An assessment of the quantity of material that may need to be sent to Keady to enable the Dargan Road (or Glenside) facility to operate at levels where it was likely to produce PAS100 compliant output was required to enable the financial evaluation team to address the financial model of the plaintiff and see whether coping with any under capacity would alter the scoring previously arrived at, as had been contemplated in the Judgment.

5.3 Marking System

The ORA / IGW report and scoring were presented to the evaluation team and agreed at an evaluation team meeting on the 8th October 2007. At this meeting,

the team also reviewed the interface / service sections that it had previously scored itself.

A further evaluation team meeting was held on 22nd October 2007 to consider the Fichtner peer-review, which was found to support the ORA position.

A final evaluation team meeting was held on the 5th December 2007 to confirm the final markings and the draft tender report.

6. Tender Outcome

As already stated in the Tender Report dated September 2006, ten tenders were received from four Select List Tenderers. These proposed a range of alternatives including alternate and additional site locations, longer contract durations and alternate financing mechanisms. The other Select List Contractors submitted letters of withdrawal. Subsequently, Thames Water Services Limited Trading as Terra Eco Systems informed arc21 that their two tendered offers were also withdrawn.

6.1 Cost

The NWP tenders are considered acceptable in cost terms.

In terms of the NWP proposals, it is of note that their three tenders were the least cost following the withdrawal of Terra Eco Ltd with a differential of some £10.35m between the NWP tender 1 and the next lowest tenderer.

The financial marking of the tenders was based on the lowest cost tender getting full marks with the other tenders getting their pro-rata proportion thereof.

Solely due to the withdrawal of the previously lowest tender from Thames Water Services Limited Trading as Terra Eco Systems, all the remaining financial marks have changed. The NWP tender (1) is now the lowest and gets full marks with the other tenders getting their pro-rata proportion thereof.

However, while the absolute financial marks have necessarily changed with the withdrawal of Thames Water Services Limited Trading as Terra Eco Systems, the relative positions of the remaining tenders have not changed.

6.2 Locational Issues

All three NWP tenders propose the use of transfer stations on the Authority sites at Antrim and Down together with a treatment facility for feedstock Type 1 material on the Authority site at Dargan Road.

NWP tender 1 has the main feedstock Type 2 treatment facility co-located with the Type 1 facility on the Authority site at Dargan Road. In this tender, all direct-hauled Authority feedstock Type 2 material is delivered to Dargan Road.

NWP tender 2 has the main feedstock Type 2 treatment facility located at their Glenside site. In this tender, all direct-hauled Authority feedstock Type 2 material is delivered to Glenside.

NWP tender 3 has the main feedstock Type 2 treatment facility located at their Glenside site and a feedstock Type 2 transfer facility co-located with the Type 1 facility on the Authority site at Dargan Road. In this tender, direct-hauled Authority feedstock Type 2 material is delivered to the closer of Dargan Road or Glenside.

All tenders propose new processing capacity in the event of award.

6.3 Technical Merit

The Judgment required that the NWP bids be re-evaluated taking into account the availability at Keady of 40,000 tonnes per annum of capacity for the duration of the contract.

The technical assessment found that, with the inclusion of the capacity at Keady, the NWP bids were strong and technically viable and ORA / IGW scored them accordingly against the assessment criteria sub-sections of the evaluation matrix.

The sections scored by ORA / IGW were the process related items and the scores mainly increased as they found that with the inclusion of the capacity at Keady, the NWP bids were strong and technically viable. The sections scored by the evaluation team were the interface / service related items and exhibited little change.

In particular, ORA investigated the capacity of the Keady site to meet operational arrangements of the contract on various different scenarios.

Issues arose as to whether the current infrastructure at Keady would remain fully operational for the life of the contract and ORA concluded that on any reasonable expectation of the load to be placed on Keady that the aerated static pile composting system there was likely to be able to meet demands. In fact, even this conclusion leaves out the very significant capacity of the tunnel composting system at Keady.

There would remain, as with any successful bid, some detailed matters regarding NWP's capacity to perform the contract which are to be addressed by seeking firm appropriate confirmations before any contract is entered into. In particular, some detailed planning matters affecting Keady would have to be dealt with in this way if the contract were to be awarded to NWP.

It is intended that these confirmations as to capacity will form part of the overall contractual matrix against which the parties will have to act in finalising the contract and in its eventual performance.

On this basis and as ORA have concluded that NWP is likely to be able to perform across a range of scenarios, these issues do not raise any questions of compliance or as to the appropriateness of the scoring of the NWP bid in this regard.

6.4 Financial Sustainability

The NWP financial model submitted was on the basis that all contract material would be treated at either the Dargan Road plant (tender 1) or the Glenside Plant (tenders 2 & 3). The tenders had been deemed to be financially sustainable on that basis.

However, the technical evaluation clearly identified that there would be under capacity at the Dargan Road plant (tender 1) or the Glenside Plant (tenders 2 & 3) and the Judgment allowed for arc21 to address the financial model of the plaintiff and see whether coping with the under capacity would alter the scoring previously arrived at.

Accordingly and as previously stated, the second main strand of the technical re-evaluation was the calculation of the amount of material that may need to be sent to Keady to enable the Dargan Road (or Glenside) facility to operate at levels where it was likely to produce PAS100 compliant output.

The financial evaluation team took account of the under capacity reported to them by the technical evaluation team and addressed the financial model of the plaintiff to evaluate the effect of coping with the under capacity. The financial evaluation team also performed sensitivity analysis as the calculated under capacity was necessarily an estimate and an exact figure can not be stated with precision.

On the basis of the analysis carried out, the NWP tenders were deemed to be financially sustainable.

Whereas the Terra Eco tenders were proposed to be self-financed 'on balance-sheet', the NWP tenders are dependant on external finance. Bank letters of intent in respect of funding have been supplied by NWP but they are subject to the normal bankers 'due diligence' clauses. There will therefore be a number of months between any recommendation of preferred bidder status and the financial close that is required before a viable contract can be considered for acceptance and signature.

Accordingly, it is recommended that any contract award recommendation is subject to the achievement of financial close.

6.5 Service Delivery Plan

Given that the Service Delivery Plan forms a main element of the contract, it was considered that it required to be read together with the Judgment handed down by Deeny J and the written clarifications received.

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Accordingly, the Evaluation Team recommends that any award to NWP must be based on a final Service Delivery Plan, which will be the tendered Service Delivery Plan, as qualified by the Judgment handed down by Deeny J and the written clarifications received.

6.6 Quality Systems

The NWP tenders were deemed to contain some deficiencies in the quality system proposals; however the Evaluation Team considered that these were very minor and procedural in nature and could be addressed in the contractual version of the Service Delivery Plan.

6.7 Bond

The Evaluation Team recommends that the Bond option is taken up in the contract subject to the costs being confirmed.

7. Discussion

As stated in the Organic Waste Treatment Service Contract Tender Report dated September 2006, two of the other Tenderers submitted variant bids. The Evaluation Team determined that in order to merit consideration of acceptance, a variant bid would have to demonstrate economic advantage when compared to the most competitive compliant bid.

7.1 Variant Bids

As stated in the Organic Waste Treatment Service Contract Tender Report dated September 2006, none of the variant bids demonstrated best economic advantage on the evaluation matrix.

Accordingly the Evaluation Team concluded that these variants did not merit consideration of acceptance.

8. Conclusions

As noted in the Organic Waste Treatment Service Contract Tender Report dated September 2006, a full evaluation was carried out on all acceptable tenders in accordance with the criteria set out in the contract documents relating to cost, quality and technical issues.

As noted above and in compliance with the Judgment handed down by Deeny J, a re-evaluation of the NWP tenders has been carried out taking into account the availability at Keady of 40,000 tonnes per annum of capacity for the duration of the contract.

Details of whole life gate fees for the relevant tenders, are given at Appendix II. These figures are based on the feedstock tonnage estimates given in the tender documentation.

In relation to the evaluation matrix, the NWP tender 1, comprising a main feedstock Type 2 treatment facility co-located with the Type 1 facility on the Authority site at Dargan Road together with transfer stations on the Authority sites at Antrim and Down is ranked highest and represents the most economically advantageous tender, at an estimated whole life value of £69,488,442 or an average whole life gate price of £44.03 per tonne. The bid is based on tonnage banded gate fees as shown at Appendix III.

The NWP tender 2, comprising a main feedstock Type 2 treatment facility located at their Glenside site and a treatment facility for feedstock Type 1 material on the Authority site at Dargan Road together with transfer stations on the Authority sites at Antrim and Down is ranked second at an estimated whole life value of £70,184,379 or an average whole life gate price of £44.47 per tonne. The bid is based on tonnage banded gate fees as shown at Appendix III.

These tenders both propose the construction of new facilities providing new capacity.

It should be noted that it is essential to achieve or exceed the contractual minimum guaranteed tonnage (80% of projections), emphasising the need to achieve projected tonnages if best value is to be achieved and economies of scale are to be accrued. Projected arisings and indicative delivery locations are given at Appendices IV and V.

It is also essential for member Councils to endeavour to deliver organic waste feedstock material to the contract within the tender contamination levels (Maximum 10% on any one load – Maximum 5% annual average). Where contamination exceeds the levels stated, the contractor is due the actual additional costs incurred (open book accounting procedures apply) plus the tendered percentage uplift on those costs.

9. Recommendations

It is recommended that:

- 1. Subject to financial close and securing appropriate confirmations from NWP, the tender is awarded to NWP, in accordance with the offer expressed in their Compliant (1) bid for a fifteen year contract period with optional extensions of one year increments, up to a maximum of five years, as the tender which represents best economic advantage.
- 2. The award of the contract will be based on the contractual version of the Service Delivery Plan, which will be the tendered Service Delivery Plan, as qualified by the Judgment handed down by Deeny J and the written clarifications received.
- 3. A Bond to the value of £100,000 is entered into in accordance with the provisions of the tender, subject to confirmation of costs.
- 4. Subject to Joint Committee's approval, financial close and securing appropriate confirmations from NWP, the recommendations are then considered as soon as possible by each Council in accordance with the requirements of the arc21 Terms of Agreement.
- 5. Pending the outcome of the democratic process, arc21 advises the Contractor of the decision of the Joint Committee (which is subject to confirmation and requires full democratic approval) and prior to financial close, underwrites the contractor to produce technical information necessary to proceed with planning applications for the facilities, up to a sum of £20,000, where specifically instructed, in accordance with the provisions of the tender.

Appendix I

Summary of Service Delivery Facilities Offered

		Agrivert Compliant	Agrivert Variant
Feedstock			
1	North	Antrim Transfer	None
Feedstock 2	North	Antrim Transfer	None
Feedstock 1 Feedstock	Central	Belfast Treatment (IVC) Belfast Treatment	Belfast Treatment (IVC) Belfast Treatment
2	Central	(IVC)	(IVC)
Feedstock 1 Feedstock	South	Down Transfer	None
2	South	Down Transfer	None

Notes

Both Treatment and Transfer include Reception of Feedstock Material

Antrim, Belfast and Down are client sites

IVC = In Vessel Composting

Feedstock 1 = Civic Amenity Green Waste

Feedstock 2 = Brown Bin - Kitchen & Garden Waste

		MB Composting Compliant	MB Composting Variants
Feedstock 1 Feedstock	North	Antrim Transfer	Antrim Transfer
2	North	Antrim Transfer	Antrim Transfer
Feedstock 1 Feedstock 2	Central Central	Belfast Treatment (AD) Belfast Treatment (AD)	Belfast Treatment (AD) Belfast Treatment (AD)
		, ,	, ,
Feedstock 1 Feedstock	South	Down Transfer	Down Transfer
2	South	Down Transfer	Down Transfer

Notes

Both Treatment and Transfer include Reception of Feedstock Material

Antrim, Belfast and Down are client sites. Variant offers contractor site at Down

AD = Anaerobic Digestion

Feedstock 1 = Civic Amenity Green Waste

Feedstock 2 = Brown Bin - Kitchen & Garden Waste

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		NWP	NWP	NWP
		Compliant 1	Compliant 2	Compliant 3
E. de Cont				
Feedstock 1 Feedstock	North	Antrim Transfer	Antrim Transfer	Antrim Transfer
2	North	Antrim Transfer	Antrim Transfer	Antrim Transfer
Feedstock 1 Feedstock	Central	Belfast Treatment (IVC) Belfast Treatment	Belfast Treatment (IVC) Glenside	Belfast Treatment (IVC) Glenside
2	Central	(IVC)	Treatment (IVC)	Treatment (IVC)
				& Belfast Transfer
Condatask				
Feedstock 1 Feedstock	South	Down Transfer	Down Transfer	Down Transfer
2	South	Down Transfer	Down Transfer	Down Transfer

Notes

Both Treatment and Transfer include Reception of Feedstock Material Antrim, Belfast and Down are client sites. Glenside is a Contractor Site

IVC = In Vessel Composting

Feedstock 1 = Civic Amenity Green Waste

Feedstock 2 = Brown Bin - Kitchen & Garden Waste

		Terra Eco	Terra Eco
		Compliant 1	Compliant 2
Condetant			A saturina Tua atma a sat
Feedstock	Nlowth	Antrina Transfer	Antrim Treatment
1	North	Antrim Transfer	(VCU)
Feedstock	N 1 (1	A	Antrim Treatment
2	North	Antrim Transfer	(VCU)
Feedstock		Belfast Treatment	Belfast Treatment
1	Central	(IVC)	(IVC)
Feedstock		Belfast Treatment	Belfast Treatment
2	Central	(IVC)	(IVC)
Feedstock		Down Treatment	Down Treatment
1	South	(IVC)	(IVC)
Feedstock		Down Treatment	Down Treatment
2	South	(IVC)	(IVC)

Notes Both Treatment and Transfer include Reception of Feedstock Material

Antrim, Belfast and Down are client sites

IVC = In Vessel Composting VCU = Vertical Composting Unit

Feedstock 1 = Civic Amenity Green Waste

Feedstock 2 = Brown Bin - Kitchen & Garden Waste

Appendix II Whole of Life Costs and Gate Fees for each remaining bid are as follows:

Name	Type of Bid	Type of Bid & Value Ranking			
		(Whole of Life)		(Whole of Life)	
Tenderer 3	Compliant 1	£69,488,442	1	£44.03	
Tenderer 3	Compliant 2	£70,184,379	2	£44.47	
Tenderer 3	Compliant 3	£73,678,058	3	£46.69	
Tenderer 1	Compliant 1	£84,406,556	4	£53.49	
Tenderer 4	Compliant 1	£129,850,484	5	£82.28	

Note: these figures are based on Gate Fees at 100% of projected tonnage, Transport Costs, Residual Assets Costs and a credit for the Estimated Value of Assets being acquired by the Authority at the end of the contract period using an economic useful life of 40 years.

Appendix III

Type 1 Material - Garden Waste - Gate Fee £

Band	Tonnage	NWP (1)	NWP (2)	NWP (3)
1	0 to 5,000	31.75	34.25	31.50
2	5,001 to 10,000	31.75	34.25	31.50
3	10,001 to 15,000	31.75	34.25	31.50
4	15,001 to 20,000	31.75	34.25	31.50
5	20,001 to 31,000	31.75	34.25	31.50
6	31,001 to 45,000	31.75	34.25	31.50
7	Above 45,000	31.75	34.25	31.50

Type 2 Material - Kitchen Waste - Gate Fee £

Band	Tonnage	NWP (1)	NWP (2)	NWP (3)
1	0 to 6,000	40.85	38.70	44.00
2	6,001 to 15,000	40.85	38.70	44.00
3	15,001 to 32,000	40.85	38.70	44.00
4	32,001 to 45,000	40.85	38.70	44.00
5	45,001 to 60,000	40.85	38.70	44.00
6	60,001 to 75,000	40.85	38.70	44.00
7	Above 75,000	40.85	38.70	44.00

Residual Assets

The cost to the Authority of the residual assets at the end of the 15 year contract period is £1,758,000 for NWP (1) and £231,000 for NWP (2) & NWP (3).

The estimated value of residual assets to be transferred to the Authority at the end of the 15 year contract period is £3,741,375 for NWP (1), £1,181,250 for NWP (2) and £1,787,500 for NWP (3).

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Appendix IV

Indicative Delivery Locations

Belfast Facility	Antrim Facility	Down Facility
Ards	Antrim	Down
Belfast	Ballymena	Lisburn (Closer Wards)
Carrickfergus	Larne (Closer Wards)	
Castlereagh		
Newtownabbey		
North Down		
Larne (Closer Wards)		
Lisburn (Closer Wards)		

Appendix V

Projected Tonnages

Note - First three years tonnages to be agreed with the successful contractor to allow Council roll-out of brown bins to match treatment capacity coming on-line.

Feedstock Material Type 1

Council	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Antrim	4,260	4,464	2,956	1,394	1,417	1,440	1,463	1,485	1,507	1,529	1,549	1,569	1,588	1,606	1,623	1,639
Ards	6,654	6,770	4,174	1,486	1,510	1,535	1,559	1,583	1,607	1,629	1,651	1,672	1,692	1,711	1,730	1,747
Ballymena	2,890	2,941	2,246	1,521	1,546	1,571	1,596	1,621	1,645	1,668	1,690	1,712	1,732	1,752	1,771	1,788
Belfast	9,355	12,875	7,887	2,724	2,769	2,813	2,858	2,902	2,945	2,987	3,027	3,065	3,102	3,137	3,171	3,202
Carrickfergus	2,423	3,033	1,805	534	543	552	561	569	578	586	594	601	609	615	622	628
Castlereagh	2,846	2,896	1,934	433	440	447	454	461	468	474	481	487	493	498	504	509
Down	3,887	3,955	2,233	451	459	466	473	481	488	495	501	508	514	520	525	530
Larne	1,583	1,849	1,054	232	236	239	243	247	251	254	258	261	264	267	270	272
Lisburn	7,070	8,317	6,117	1,775	1,804	1,832	1,861	1,888	1,915	1,941	1,965	1,989	2,012	2,033	2,053	2,073
Newtownabbey	6,250	7,215	4,690	2,075	2,109	2,144	2,177	2,211	2,244	2,276	2,306	2,336	2,364	2,390	2,416	2,440
North Down	5,914	6,427	4,095	1,662	1,689	1,715	1,742	1,768	1,793	1,817	1,840	1,862	1,883	1,903	1,922	1,941
Total	53,131	60,742	39,192	14,286	14,521	14,755	14,987	15,217	15,440	15,655	15,862	16,062	16,252	16,433	16,605	16,770

Feedstock Material Type 2

Council	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Antrim	0	0	2,342	4,763	4,842	4,920	4,998	5,076	5,151	5,223	5,294	5,361	5,425	5,487	5,545	5,600
Ards	0	0	3,717	6,539	6,647	6,754	6,861	6,968	7,071	7,171	7,267	7,359	7,448	7,532	7,612	7,688
Ballymena	0	0	2,003	6,720	6,832	6,942	7,052	7,161	7,268	7,370	7,469	7,564	7,655	7,741	7,824	7,901
Belfast	0	0	8,544	17,376	17,663	17,949	18,233	18,516	18,790	19,055	19,311	19,556	19,791	20,015	20,228	20,428
Carrickfergus	0	0	2,229	4,534	4,608	4,683	4,757	4,831	4,903	4,972	5,038	5,102	5,164	5,222	5,278	5,330
Castlereagh	0	0	3,195	6,497	6,604	6,711	6,817	6,923	7,026	7,125	7,220	7,312	7,400	7,484	7,563	7,638
Down	0	0	2,324	4,726	4,805	4,882	4,960	5,037	5,111	5,183	5,253	5,320	5,384	5,444	5,502	5,557
Larne	0	0	1,449	2,948	2,996	3,045	3,093	3,141	3,188	3,233	3,276	3,318	3,357	3,395	3,432	3,466
Lisburn	0	0	6,652	13,525	13,745	13,963	14,181	14,392	14,597	14,794	14,984	15,166	15,339	15,504	15,660	15,815
Newtownabbey	0	0	4,444	9,039	9,188	9,337	9,485	9,632	9,774	9,912	10,045	10,173	10,295	10,412	10,522	10,627
North Down	0	0	3,679	6,261	6,383	6,507	6,631	6,755	6,878	6,999	7,120	7,240	7,359	7,476	7,592	7,710
Total	0	0	40,580	82,927	84,312	85,693	87,069	88,431	89,755	91,038	92,277	93,471	94,617	95,713	96,757	97,761

