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DURHAM/YORK RESIDUAL WASTE ENVIRONMENTAL ASSESSMENT STUDY REQUEST FOR PROPOSALS – DESIGN, BUILD AND OPERATE ENERGY FROM WASTE FACILITY

The Solid Waste Management Committee recommends the adoption of the recommendation contained in the following report, December 21, 2007, from the Director, Solid Waste and Administration:

1. RECOMMENDATION

It is recommended that Council endorse the short list of pre-qualified vendors of thermal waste treatment technologies and the subsequent issuance of a Request for Proposals by Durham Region for the design, construction and operation of a thermal waste treatment facility subject to Durham Council approval.

2. PURPOSE

This report describes the process of pre-qualifying vendors of thermal waste treatment technology in the context of the joint Durham/York Residual Waste Environmental Assessment and to present a short list of eligible vendors to participate in the Request for Proposals for implementation of a thermal waste treatment facility. Council authority is being requested to issue the Request for Proposals subject to approval by Durham Council.

3. BACKGROUND

On April 21, 2005, Regional Council adopted Clause 1 of Report No. 3 of the Solid Waste Management Committee to initiate a partnership with Durham to jointly undertake a Residual Waste Environmental Assessment Study.

On June 23, 2005, Regional Council adopted Clause 1 of Report No. 4 of the Regional Commissioner of Transportation and Works authorizing the Region to enter into an agreement with Durham to jointly conduct the York/Durham Residual Waste Environmental Assessment Study.

On June 22, 2006, Regional Council adopted Clause 1 of Report No. 4 of the Solid Waste Management Committee identifying the preferred and alternative thermal waste treatment technologies and authorizing staff to proceed with the Environmental Assessment process.

On May 24, 2007 Regional Council adopted Clause 1 of Report No. 6 of the Solid Waste Management Committee endorsing the issuance of a Request for Qualifications to energy from waste technology vendors in order to select a short list of vendors to participate in future Request for Proposals for the development and implementation of an energy from waste facility.

The next steps in the study are to:

- Approve, for inclusion in the Individual Environmental Assessment to be submitted to the Ministry of the Environment, the preferred site for the development of an energy from waste facility in early 2008.
- Complete the Environmental Assessment and (Environmental Protection Act) studies to be submitted to the Ministry of the Environment in 2008.
- Select the vendor in 2008 to build and operate the proposed facility (with work to commence subject to receipt of Ministry of the Environment and other approvals).
- Obtain approval from the Ministry of the Environment for the proposed project.
- Once the necessary approvals are received, construct the facility and start operation. Pending Ministry approvals the facility could be operational in early 2012.

4. ANALYSIS AND OPTIONS

At the completion of the site selection phase of the Environmental Assessment it will be necessary to start preparing submissions for regulatory approvals. The regulatory approvals applications will be required to contain information that is specific to the technology and equipment proposed for the energy from waste facility. The major components of energy from waste technologies are proprietary and differ significantly from vendor to vendor. As a result, it was necessary to proceed through a pre-qualification process in order to develop a short list of vendors to participate in the Request for Proposals process to select and engage a preferred vendor in advance of preparation and submission of the regulatory approval applications. The following describes the vendor pre-qualification process.

4.1 Request for Qualifications – Proponent Submissions

The Request for Qualifications issued by the Region of Durham, on behalf of York and Durham Regions, closed on October 11, 2007. Nine respondents provided eleven submissions for consideration by the Regions as listed below:

- City of Amsterdam Entity of Afval Energie Bedrijf (Waste and Energy Company AEB)
- Dongara Pellet Plant LP; Algonquin Power Systems Inc.; MCW Light Heat Cool; The State Group
- Veolia Environmental Services Waste to Energy Inc.; AMEC/Black & McDonald

- Greey CTS Inc.; Entech – Renewable Energies P/L; HighPoint Financial Services Inc.; Aecon Construction Group Inc.
- Covanta Energy Corporation
- WRSI/DESC Joint Venture; Fisia Babcock Environmental GmbH; Kiewit Industrial Company; Morgan Stanley Biomass LLC; Babcock & Wilcox
- ATCO Power Canada Ltd.; Thermoselect; Morrison Hershfield; EllisDon; Wabi
- Wheelabrator Technologies Inc. (A Waste Management Company)
- Urbaser SA (3 submissions were made)

4.2 Evaluation of Submissions

Three teams (procurement, financial and technical) made up of staff from both Regions and the consulting firms of Deloitte & Touche LLP, Jacques Whitford and Genivar, were assembled to evaluate the Request for Qualification submissions. A fairness monitor and legal advisor were consulted as required. The conduct of the evaluation process adhered to the following principles:

- The evaluation process and criteria were consistently applied to all submissions.
- Respondents were given reasonable opportunity to clarify their submissions upon the request by the evaluator in order to ensure the evaluators fully understood the information submitted.
- Evaluators used reasonable professional judgment based on their skills and qualifications in applying the evaluation criteria.

In order to protect the integrity of the selection process, all individuals involved in the evaluation process were bound by confidentiality provisions.

4.2.1 Completeness Evaluation of Submissions

The completeness evaluation was the first step in the evaluation process. The primary objective of the completeness evaluation was to ensure the presence of the required components and the fulfillment of the mandatory requirements. Additionally, the completeness evaluation identified and addressed any administrative issues with a submission, including any disclosed conflicts of interest or lobbying, so that the technical and financial evaluation teams could focus on substantive matters. As a result of this evaluation and in consultation with the legal advisor and fairness monitor, the procurement evaluation team disqualified one of the eleven submissions.

4.2.2 Financial and Technical Evaluation of Submissions

Following the completeness evaluation, the financial and technical teams were provided with copies of compliant submissions to evaluate. Each team member was required to sign a conflict of interest and non-disclosure of information acknowledgement form which became part of the official records.

The financial and technical evaluation teams assessed each compliant submission against pre-established evaluation criteria. Wherever a submission was not clear, clarifications

were requested from the Request for Qualifications respondent and the respondent's clarification responses were considered by the appropriate team during the evaluation process. As a result of the evaluation by the financial and technical evaluation teams, an additional four submissions were eliminated, again in consultation with the legal advisor and fairness monitor.

4.2.3 Recommended Short List of Pre-Qualified Proponents

Based on the analysis of the submissions, the following five proponents have been pre-qualified to participate in the subsequent Request for Proposals process, subject to the ratification of the Durham and York Regional Councils:

- Veolia Environmental Services Waste to Energy Inc.; AMEC/Black & McDonald
- Covanta Energy Corporation
- WRSI/DESC Joint Venture; Fisia Babcock Environmental GmbH; Kiewit Industrial Company; Morgan Stanley Biomass LLC; Babcock & Wilcox
- Wheelabrator Technologies Inc. (A Waste Management Company)
- Urbaser SA

The Request for Qualifications submission led by Veolia has met the requirements of the Request For Qualifications subject to one qualification. This submission team carries AMEC as a design engineering company and AMEC has served as a peer reviewer for the Municipality of Clarington. Veolia has been advised of the potential for a violation of article 6.24 of the Request for Qualifications should the Municipality of Clarington be chosen as the host community for the proposed energy from waste facility. Veolia has been advised that they will need to either replace AMEC in the Request for Qualifications submission team or have AMEC cease all peer review services for Clarington in the event that the municipality is chosen for the preferred site. This approach has been approved by the Request for Qualifications Fairness Monitor.

4.2.4 Fairness Monitor

A fairness monitor from KPMG has monitored the entire Request for Qualifications process and found that staff consistently applied all evaluation criteria.

4.3 Feedback to Respondents

Unsuccessful respondents will be notified in writing. Unsuccessful respondents will be offered the opportunity to meet with the evaluation team leaders and the legal advisor (as appropriate) to receive feedback on the evaluation of their submissions.

4.4 Records Management

The original Request for Qualifications submissions will be kept as a record of the selection process as required by applicable laws and the Region of Durham's Records Management procedures. An official record of the evaluation of each submission will be kept. Records of the evaluation results will be kept for all proponents/respondents as

required by applicable laws and regulations. A duplicate copy of the records management file for this project will be provided to the York Region legal department.

4.5 Request for Proposals

Subject to endorsement of the issuance of the Request for Proposals by both York and Durham Councils, York and Durham staff, together with the Durham/York consulting team, will finalize the preparation of the Request for Proposal package to be sent out to the pre-qualified proponents. It is expected that Durham Council will consider the issuance of the Request for Proposals in April. It is proposed that the results of the Request for Proposal process be forwarded to York and Durham Regional Councils for approval in the fall of 2008.

5. FINANCIAL IMPLICATIONS

Costs associated with the Request for Proposals process include services to be provided by the Environmental Assessment Study consultant team as well as the services of a Fairness Commissioner. The Regions have agreed in principle to share the costs of a Fairness Commissioner equally.

The Environmental Assessment Study consultant team will contribute to the preparation of the Request for Proposals and the evaluation of submissions. Evaluation is expected to be accomplished primarily through review of information submitted by the pre-qualified proponents, but may also require due diligence field inspections, dependent upon the submissions received. The approved budget for the Environmental Assessment Study consultant team includes allowances for provision of these services.

As the procurement lead, Durham retains the Fairness Commissioner, the cost of which is expected to be in the range of \$100,000 for the Request for Proposals phase of the project. York Region's share of this cost would be 50 percent. The draft 2008 capital budget for this project includes sufficient funding.

Durham Region has also budgeted \$400,000 for a consultant to develop and evaluate the Request for Proposals. York will continue to pay 50% of the Environmental Assessment costs which includes Request for Proposal costs as per our Memorandum of Understanding with Durham Region.

6. LOCAL MUNICIPAL IMPACT

In the course of discussions with the Municipality of Clarington regarding a potential Host Community Agreement, their participation in the preparation of certain parts of the Request for Proposals has arisen. It is likely therefore, should consensus on a Host Community Agreement be reached, that the local municipality will have involvement in the preparation of the Request for Proposals.

The process of issuing a Request for Proposals may have an impact upon local firms having an interest in participating as a sub-contractor or supplier of goods or services in a pre-qualified proponent's Request for Proposal submission. Given the international availability of the proprietary energy from waste technologies, the Request for Proposals is by necessity an open process, without local bias.

7. CONCLUSION

It is recommended that Council endorse the issuance, by Durham Region, of a Request for Proposals for the design, construction and operation of an energy from waste facility, to the list of pre-qualified proponents identified in this report. Staff will make future recommendations to Council regarding the results of the Request for Proposals and seeking authorization to proceed with the negotiation and development of a contract with the selected successful proponent.

For more information on this report contact Angelos Bacopoulos, Senior Project Manager of the Solid Waste and Administration Branch at 905-806-5544 in the Environmental Services Department.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are attached to this report.)