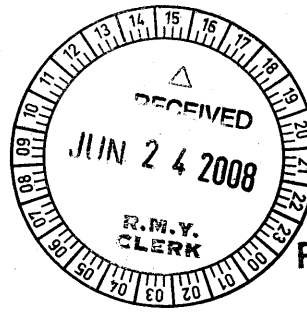




June 16, 2008

Mr. D. Kelly
Regional Clerk
The Regional Municipality of York
17250 Yonge Street
Newmarket, ON L3Y 6Z1



REGION OF YORK
CLERK'S OFFICE

FILE No. - p27

The Regional
Municipality
of Durham

Clerk's Department

605 ROSSLAND RD. E.
PO BOX 623
WHITBY ON L1N 6A3
CANADA

905-668-7711

1-800-372-1102

Fax: 905-668-9963

E-mail:

clerks@region.durham.on.ca

www.region.durham.on.ca

Pat M. Madill, A.M.C.T., CMM I
Regional Clerk

RE: DURHAM REGION ENERGY FROM WASTE (EFW)
PROJECT: DETAILED BUSINESS CASE AND REQUEST → Chair
FOR PROPOSALS (2008-J-13) → CAO
OUR FILE: D04 → E. Mahrey

Mr. Kelly, the Joint Finance & Administration and Works Committee of Regional Council considered the above matter and at a meeting held on May 28, 2008 Regional Council adopted the following recommendations of the Committee:

- "a) THAT Regional Council receive this report for information, including detailed analysis of EFW financial implications, potential budget and property tax impacts, and project risk assessment, based upon the business case report, "Durham-York Energy-from-Waste Facility: Business Case, May 2008," completed by Deloitte and Touche LLP for Durham Region, and provided herein as Attachment No. 1. to Report #2008-J-13;
- b) THAT Regional staff be authorized, based upon the detailed business case, RFP principles and project specifications proposed herein, to finalize the EFW RFP and project agreement documentation, and issue the RFP to pre-qualified vendors in order to select a preferred vendor to:
- i) Complete the requirements of the EA and EPA processes; and,
 - ii) Design, build, and operate a Regionally-owned EFW facility on the preferred site 'Clarington 01,' as identified through the EA process and approved by the Regional Councils of York and Durham in January 2008;
- c) THAT Durham Region's RFP for the design, build and operation of the facility be issued on the following basis:
- i) Only proposals submitted by the five pre-qualified vendors of RFQ 601-2007 will be accepted, including:
 - A) Veolia Environmental Services Waste to Energy Inc.; AMEC/Black & McDonald;

100% Post Consumer

- B) Covanta Energy Corporation;
 - C) WRSI/DESC Joint Venture; Fisia Babcock Environmental GmbH; Kiewit Industrial Company; Morgan Stanley Biomass LLC; Babcock & Wilcox;
 - D) Wheelabrator Technologies Inc. (A Waste Management Company); and,
 - E) Urbaser SA;
- ii) As per the January 23, 2008 direction of Regional Council, the RFP will demonstrate the Region's commitment to protecting the health and safety of the residents of the Municipality of Clarington and Durham Region, by ensuring the successful proponent incorporates into the design and installation of the EFW facility, the most modern and state-of-the-art emission control technologies that:
- A) Meet or exceed the European Union (EU) monitoring and measurement standards;
 - B) Commit to Maximum Achievable Control Technology (MACT) for emission standards and monitoring; and,
 - C) Support the Region of Durham's aggressive residual waste diversion and recycling program, to achieve and/or exceed, on or before December 2010, a 70% diversion rate for the entire Region, with these programs continuing beyond 2010;
- iii) The RFP will include provisions for continuous sampling of dioxins in addition to stack testing, as defined by EU2000/76/EC and MOE A-7 guidelines;
- iv) Vendors will be required to demonstrate an ability to accommodate future expansion (scalability) as required to accommodate post-diversion residual waste volume growth up to a maximum capacity of 400,000 tonnes;

- v) Vendors will be required to demonstrate an ability to meet the requirements of up to a 25-year design, build and operate contract, with terms and conditions to be set out within RFP documentation;
- vi) The RFP will be issued based upon current discussions with the Province (emissions and power purchase) not resulting in a material change to the results presented herein; and
- vii) The RFP will solicit proposals for the design, build and operation of an EFW facility of 140,000 tonnes of operating capacity at project start-up, based upon the following:
 - A) Durham Region will provide a maximum of 100,000 tonnes of post-diversion waste commencing at project start-up;
 - B) York Region will provide a minimum of 20,000 tonnes of post-diversion waste commencing at project start-up; and
 - C) Surplus capacity totaling 20,000 tonnes of operating capacity will be shared equally between the two Regions;
- d) THAT the Region of Durham enter into a Durham-York Memorandum of Understanding (MOU) with the Region of York which shall govern the process and cost sharing arrangement to complete the EA for Residual Waste and establish an energy from waste facility, including a York Region ownership, and capital and operating cost share of no less than 21.4%, based upon the recent conclusion of negotiations between the Regional partners and consistent with the following:
 - i) Durham and York shall construct a facility with an initial annual processing capacity of approximately 140,000 tonnes, with Durham responsible for the capital and operating costs for 100,000 tonnes of waste and York responsible for the capital and operating costs for 20,000 tonnes of waste;
 - ii) York and Durham shall equally share the capital and operating costs for approximately 20,000 tonnes of surplus processing capacity;

- iii) The parties shall share equally (50/50) the cost of certain oversized capital components of the EFW Facility and site, where such over sizing is deemed to be operationally and financially prudent; and
- iv) The party requiring future expansion of the facility shall pay for such expansion of processing capacity;
- e) THAT the Regional Chair and Clerk be authorized to execute the MOU, subject to review and approval by the Regional Municipality of Durham CAO, Commissioners of Works and Finance and the Regional Solicitor;
- f) THAT subject to approval of Recommendation b) above, the Regional Solicitor and Commissioners of Works and Finance be authorized to execute expanded and/or new agreements (to be shared 50/50 with York Region) with existing EFW consultants, in order to maintain continuity while advancing the EFW project, with agreements to include:
 - i) Extension of the current contract with HDR Inc. including an increase for 2008 of up to \$300,000 (excluding applicable taxes), to accommodate recent requirements by the Regions for extended technical support related to emission technology and limits, including additional meetings/discussions with regulatory bodies as well as to provide continue technical expertise to the Regions as required to accommodate negotiations and agreement finalization with the preferred vendor, subsequent to the RFP evaluation process;
 - ii) Extension of the current contract with Deloitte and Touche LLP, with an increase for 2008 of up to \$175,000 (excluding applicable taxes), to continue to provide financial advisory services and expertise to the Regions regarding commercial best practices, the power purchase agreement with the Ontario Power Authority, and to accommodate negotiations and finalization of commercial terms with the preferred vendor subsequent to the RFP evaluation process;
 - iii) An increase in the 2008 EA Budget for public consultation (Genivar/Jacques Whitford) totaling up to \$100,000 to accommodate expansion of the public consultation process beyond normal EA requirements, to ensure timely responses to concerns raised by Committee and Council delegations and

other members of the public, and to include additional meetings, preparation and presentations, other than those originally contemplated;

- iv) Extension of the contract with the law firm Borden Ladner Gervais LLP, with an increase of up to \$200,000 (excluding applicable taxes), to continue to provide legal expertise to the Regions, including the power purchase agreement with the Ontario Power Authority, post-RFP negotiations with the preferred vendor, and advice associated with respect to the Environmental Assessment and approvals process; and
- v) THAT the required scope and/or budget changes or new agreements, totaling \$775,000, shared 50/50 with York Region, and as noted in Recommendations f), i) to iv) above, be financed from the 2008 Solid Waste Management Operations."

Please find enclosed a copy of Report #2008-J-13 of R.J. Clapp, Commissioner of Finance and C. Curtis, Commissioner of Works, for your information.



P.M. Madill, AMCT, CMM I
Regional Clerk

PMM/cb

Encl.

- c: The Honourable J. Gerretsen, Minister of the Environment
P. Barrie, Clerk, Municipality of Clarington
D. Merriman, GENIVAR
R.J. Clapp, Commissioner of Finance
C. Curtis, Commissioner of Works
B.J. Roy, Regional Solicitor