

This log is for information only and was generated as part of the previous tender exercise. The contract T&C's have been updated to reflect the agreed amends/changes as per notes in column H

REF	Question	Date Received	Answer	Date Responded	Response Private / Public	Change to Contract Document Required
2.1	Please could the Authority confirm the value of the "Authority Contracted Haulage rate (per mile)" as found in the Part 05 – Detailed Evaluation Methodology document?	11/06/19	<p>The Authority Contracted Haulage Rates are pre-established and are based on commercially sensitive rates bid and awarded to the DWPs haulage contractor - Weymouth and Sherborne Recycling. The contract runs until end August 2024 with a possible two-year extension.</p> <p>These were bid on existing delivery points which are as follows:</p> <ul style="list-style-type: none"> <li>•Eco Sustainable Solutions – Lodmoor, Dorset</li> <li>•Eco Sustainable Solutions – Parley, Dorset</li> <li>•Eco Sustainable Solutions – Piddlehinton, Dorset</li> <li>•Mark Farwell -Stourpaine, Dorset</li> <li>•New Earth Solutions – Canford, Dorset</li> <li>•Veolia Landfill – Blue Haze, Hampshire</li> <li>•Viridor Landfill – Dimmer, Somerset</li> </ul> <p>A mechanism exists within the contract to vary these rates where a new delivery point is established.</p> <p>New delivery point rates were bid on the following basis in relation to existing delivery points.</p> <ul style="list-style-type: none"> <li>•Within 0-5 Miles</li> <li>•Within 5-40 Miles</li> <li>•Within 45 Miles +</li> </ul> <p>Rates are in place for all HRCs and WTS for the transfer of waste to the existing delivery points.</p>	11/06/19	Public	n/a
3.1	The Waste available from the two commencement dates is not clear. Please can the authority clarify what services / Lots / Waste – and the [likely] annual tonnages for each waste stream – will require Treatment from 27 August 2020 (the Phase 1 Services Commencement Date) and from 1 September 2021 (the Phase 2 Services Commencement Date).	13/06/19	<p><b>From 27 August 2020</b></p> <p>Bulky Waste/ Lot 2, Lot 7 &amp; Lot 9 ~ 1,443 tonnes per annum</p> <p>Green Waste / Lot 3, Lot 8 &amp; Lot 9 ~ 34,499 tonnes per annum</p> <p>Food Waste / Lot 4, Lot 8 &amp; Lot 9 ~ 14,970 tonnes per annum</p> <p>Wood Waste /Lot 5, Lot 8 &amp; Lot 9 ~ 8,168 tonnes per annum</p> <p>Street Sweepings / Lot 6, Lot 8 &amp; Lot 9 ~ 3,495 tonnes per annum</p> <p><b>From 1 September 2021</b></p> <p>Residual Waste / Lot 1, Lot 7 &amp; Lot 9 ~ 58,908 tonnes per annum</p>	14/06/19	Public	n/a
4.1	The contract term for the Services is not clear. The 'estimated contract dates' on the Supplyingthesouthwest portal are '27/08/2020' start date and '26/08/2027' end date, respectively and page 6 of the Supporting Information states that 'a contract term in the region of 7-10 years was considered most financially beneficial to the authorities'. It is also noted that there is a potential 3 year extension available to Services. However, whilst the Waste Treatment and Disposal Contract defines the Phase 1 Services Commencement Date as 27 August 2020 and the Phase 2 Services Commencement Date as 1 September 2021, the Expiry Date is not defined. Please can the Council confirm the Expiry Date, or whether, in being in square brackets, the term is intended to be a 'bid-back item'. Alternatively, if the Expiry Date has not been defined at this stage to allow the authority flexibility, were there, for example, a delay in tender award / commencement of Services, please can the authority confirm the period (years) that the Services would be for, from the first commencement of Services.	13/06/19	The contract expiry date is 26/08/2027 (applicable to both Phase 1 and Phase 2 Services), with the potential for up to three-year extension. The term is not a bid back. The term without extension from 27 August 2020 is seven years.	14/06/19	Public	Insert 26/08/2027 to Expiry Date definition
5.1	Can the Council please confirm that it (or its agents) will carry out the loading of waste at the 4 waste transfer stations and that they will procure the Haulage from the Waste Transfer Stations to the Contractor nominated Delivery or Primary Delivery point?	18/06/19	This is correct. Loading and haulage services are not being offered as part of this opportunity.	19/06/19	Public	n/a
7.1	Can the Council please confirm that Primary Delivery point and Primary Treatment could be the same location?	18/06/19	The Primary Delivery point can also be the Primary Treatment site.	19/06/19	Public	n/a
8.1	Can the council please confirm that the duration of the Lot 1 is 7 years from September 2021 with an Option of a further 3 years term? Is it intended that Lot 1 and Lot 2 are co-terminus to enable a bid for Lot 7 as this does not appear to be the case given different start dates.	18/06/19	<p>The term of the contract is a for a fixed term (which is 7 years) from the Commencement Date to a fixed Expiry Date, irrespective of whether the Contractor is awarded Services which commence on the Phase 1 Services Commencement Date or the Phase 2 Services Commencement Date.</p> <p>In the event the Contractor is only awarded Services which commence on the Phase 2 Services Commencement Date, the Contract Term will remain 7 years, but the Contractor will only be providing Services for a period of 6 years (as the Services Commencement Date is a year after the Contract Commencement Date).</p>	19/06/19	Public	n/a

9.1	we draw your attention to a probable typo in Residual waste specification Part 2, Clause 2.2 August 2020 which we believe should read August 2022.	18/06/19	Correct this should read August 2022	19/06/19	Public	Replace 'August 2020' with 'August 2022'
10.1	Clause 11.2.7 of OJEU notice states Contract term for Residual waste Lot 1 is 120 months. The OJEU also states that the Contract term will be 7 years with an optional 3-year extension whereas Clause 2.2 of the Contract states extensions may be annual. Could you please clarify?	18/06/19	In respect of the Contract extension period, clause 2.2 of the Contract is correct. The Contract will have optional extension/s of <b>up to</b> 3 years. An OJEU Notice amendment is to be made in respect of this <a href="https://ted.europa.eu/TED/notice/udl?uri=TED:NOTICE:301308-2019:TEXT:EN:HTML">https://ted.europa.eu/TED/notice/udl?uri=TED:NOTICE:301308-2019:TEXT:EN:HTML</a>	26/06/19	Public	n/a
11.1	Is it feasible for the food waste from the four authority waste transfer stations to be delivered in bulk trailers which have a capacity of approximately 25 tonnes rather than roro containers?	18/06/19	The authority believes this is possible on a milk round basis from the Blandford and Sherborne WTS without site modification. The Bridport WTS would require modification to achieve this. The Crookhill transfer Station is for residual waste only.	19/06/19	Public	n/a
12.1	To enable us to provide you with best value, is there an opportunity for the contractor to collect the food waste from the authority's four listed waste transfer stations (Blandford, Bricdec, Crookhill and Sherborne)? If this is an option, would it be possible to arrange site visits?	18/06/19	Haulage services are not in scope for this opportunity. The incumbent haulage contractor has exclusive rights for haulage on all materials delivered to the WTS & HRCs.	19/06/19	Public	n/a
13.1	Please can the Authority confirm whether it would be prepared to make the right of extension under clause 2.2 of the contract to be by mutual agreement rather than by sole discretion?	24/06/19	We are not inclined to change this clause	26/06/19	Public	n/a
14.1	Please could the Authority confirm what practices are in place to separate bulky waste from residual waste at the Transfer Stations so as to minimise objectionable waste in the residual waste stream?	24/06/19	Bulky waste is deposited in a separate bay at the transfer stations	26/06/19	Public	n/a
15.1	The Definitions contained within Schedule 1 state that "the introduction of a tax on the incineration of waste" is a Foreseeable Change in Law together with any changes in Landfill and Export/overseas taxes. The mechanism of Clause 34 would therefore not allow a Contractor to restore their bid financial position in the event of the imposition of such a Tax. Given the Authority seeks the sole right to extend the Contract Period to 10 years without the opportunity for the Contractor to terminate at the end of the initial 7 year period, this would appear to be a substantial risk being passed to the Contractor which will lead to varying, but inevitably very substantial provisions in the prices submitted by all bidders leading to much higher payments by the Authority than if this risk was taken by the Authority (who is in a better position to recover this through its permitted charges in any event). Can the Authority please confirm that this is their intention in respect of both a potential Incineration Tax, an increase in landfill tax and Export/overseas taxes.	02/07/19	<p>The Authority has taken time to review this definition and will amend the wording in the following way, removing the introduction of an incineration tax and increase in Landfill Tax from part (b) of the Foreseeable Change in Law definition.</p> <p>Schedule 1 definition for 'Foreseeable Change in Law' to be updated to:</p> <p><b>Foreseeable Change in Law</b> means:</p> <p>(a) a Change in Law which on the date of this Contract has been published:</p> <ul style="list-style-type: none"> <li>— (i) in a draft bill as part of a government departmental consultation paper;</li> <li>— (ii) in a bill;</li> <li>— (iii) in a draft statutory instrument;</li> <li>— (iv) as a proposal in the Official Journal of the European Union; and/or</li> </ul> <p>(b) any of the following Changes in Law, including but not limited to:</p> <ul style="list-style-type: none"> <li>— (i) the introduction by any customs authority or non-UK government regulatory body of any tax or duty in respect of the export of Waste from the UK".</li> </ul>	08/07/19	Public	Change definition of 'Foreseeable Change in Law' in Schedule 1 of Contract Document - as detailed
17.1	An organisation has asked, following on from Clarification 14.1, if a site visit to the Transfer Stations could be accommodated to see and understand the waste separation process in more detail	04/07/19	<p>In respect of this request the Authority has decided that it will offer tours of the transfer station infrastructure on the following days - 31st July 2019 and 7th August 2019.</p> <p>Sites will be visited in the following order: Blandford TS, Sherborne TS, Bridport TS and Crookhill TS. Organisations wishing to attend should limit attendees to two representatives.</p> <p>Those organisations interested in attending are asked to please register your intention to attend via message via this portal. The deadline for registering your interest in attending (for either date) is <b>19th July 2019</b>.</p> <p><i>Please note - the Authority will not be conducting tours of its HRCs.</i></p>	10/07/19	Public	n/a

18.1	<p>Please would the Authority confirm, over the life of the contract, how it is intending to deal with the tonnages included in each successful bidder's submission. In particular:-</p> <p>a) Are there any circumstances where it may require the contractor to take more tonnage than the contractor originally bid for; and</p> <p>b) whether it may seek to contract with a contractor for the provision of capacity less than that which was originally bid for; and</p> <p>c) if a contract is entered into for a particular tonnage (whether the same or less than bid for), does the Authority intend to maintain that tonnage for the agreed contract term?; and</p> <p>d) the Authority noted in the bid documents that exclusivity might be acceptable to bidders in the absence of a guaranteed minimum tonnage. Where awards are made to more than one bidder, does this mean that the Authority will provide exclusivity to successful bidders for (e.g.) waste from specific transfer stations or particular waste streams? If not, what form does it envisage that such exclusivity will take?</p>	08/07/19	<p>a) Section 2 of each of the Material Category Specifications detail the basis for the anticipated tonnage. In all instances contractors should make provision for potential changes in the quantity of awarded waste by up to 10% of the Annual Tonnage. This has been allowed to account for fluctuations in the various waste streams. For example, where a contractor has bid and been awarded an annual allocation of 10,000 tpa they would be expected to accommodate between 9,000 &amp; 11,000 tpa. Please also refer to the Detailed Evaluation Methodology with particular reference to Part 1 viii for possible additional tonnage</p> <p>b) Yes, this is possible. Please refer to the Detailed Evaluation Methodology with particular reference to Part 1 vii</p> <p>c) Yes, it is the Authorities intention to maintain the awarded allocations for the duration of the contract but it is recognised that quantities available may be subject to general trends in arisings or affected by particular events or weather conditions.</p> <p>d) The Authority will award on a tonnage basis only, not geographically or by transfer station. Exclusivity is only available when one or a combination of the exclusive lots are awarded and covers the entire waste stream.</p>	10/7/19	Public	<p><i>In respect of question c):</i> Insertion at 2.1 on each Material Category Specification – “The Authority will use reasonable endeavours to maintain this tonnage throughout the contract period except where background trends in waste arisings or events outside the control of the Authority do not allow this.”</p>														
19.1	<p>We note at clarification 2.1 that the Authority has refused to provide its current haulage costs on the basis of commercial confidentiality. Unfortunately, in order for the bid process to be compliant with EU procurement rules it is essential that bidders are assessed on a "level playing field" basis. Bidders must also be able to submit their most competitive prices, - and to do this it is essential that they are able to balance haulage costs against their disposal costs in respect of what are likely to be a range of locations/delivery points open to them. If the Authority's haulage costs/rates vary depending on destination on anything other than a linear basis, this makes the matter even more complicated. In order to resolve this problem would the Authority please provide a transparent and standardised assessment process by which it will cost the haulage element of all bidders' solutions? We believe this must be based on a tonne per mile cost that the Authority will apply to all submissions so that each bidder can assess the otherwise hidden sum which the Authority will need to add to each submission. If the rates from each WTS are not all the same then each rate should specified.</p>	18/06/19	<p>The Authority will apply the following standardised rates from all sites for the haulage of the following waste streams:</p> <table><tr><th>Waste type</th><th>per tonne / per mile</th></tr><tr><td>Residual</td><td>0.52</td></tr><tr><td>Green</td><td>0.69</td></tr><tr><td>Wood</td><td>0.89</td></tr><tr><td>Food</td><td>0.79</td></tr><tr><td>Sweepings</td><td>0.96</td></tr><tr><td>Bulky</td><td>0.83</td></tr></table> <p>These rates take into account all forms of transportation used to deliver waste (Bulker/RORO/RCV/MRS) and the physical storage constraints at the Authorities HRCs and WTS.</p>	Waste type	per tonne / per mile	Residual	0.52	Green	0.69	Wood	0.89	Food	0.79	Sweepings	0.96	Bulky	0.83	16/07/19	Public	n/a
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20.1	<p>If it is feasible for a milk round collection to be undertaken using bulk trailers and rather than roro containers, will the Authority Contracted Haulage rate vary to take in to account which vehicle type is used, for example articulated vehicles instead of hooklift vehicles?</p>	09/07/19	<p>This may be feasible however attention is drawn to the response to clarification 19.1 above; For purposes of transparency, standardised haulage rates will be applied to all bids and these rates take into account all types of transportation.</p>	16/07/19	Public	n/a														
21.1	<p>We note that Clause 18.1 of the Contract states that the Parties (Authority and Contractor) agree that TUPE will not apply to any individual presently employed by the Authority. The Contractor has no source of information other than the Authority to verify this point. Could the Authority widen this definition to include employees currently in the employ of third party Contractors or service providers acting for or on behalf of the Authority and is the Authority willing to provide a warranty to that effect?</p>	08/07/19	<p>The Authority has contacted all incumbent contractors. Of these, all have stated that they do not consider TUPE to apply, with the exception of New Earth Solutions who do consider that TUPE applies and have subsequently provided the attached information to be issued.</p> <p><i>Please note that the attachment is password protected - password to follow under seperate message.</i></p>	21/08/19	Public	n/a														
22.2	<p>Will the Council consider stipulating a page limit for the service delivery plan response?</p>	19/07/19	<p>There is no word limit because the scope of the procurement means that bidders may submit responses for multiple waste streams</p> <p>Bidders should follow the SDP template and use the evaluation guidance to provide concise responses.</p>	26/07/19	Public	n/a														
23.2	<p>Can you please confirm, when calculating the standardised haulage rates, is the mileage in the equation a single or return journey.</p>	26/07/19	<p>This relates to a single journey. Not the return.</p>	29/07/19	Public	n/a														
	<p>1) At clause 26.1.1.2 The liability cap is expressed to be 100% of the annual sum. If the annual sum of the awarded contract was, say £10M, this would mean that at commencement of the contract the total potential exposure that the contractor has to allow for is 10 years times x £10M i.e. £100M. As long as there are no claims in each successive year this sum will reduce by £10M per annum until in the final year the actual liability cap is £10M. This level of exposure for this value of contract is unrealistic for properly governed, financially reliable contractors. We would therefore ask the Authority to revert to the industry standard cap of 2x the annual value, in the aggregate for the whole contract period (10 years). This still provides the Authority with a very substantial cushion which it could reinforce with a right to terminate if the cap is ever reached and not refreshed.</p>		<p>1) The Authority has reviewed this clause and will amend the contract wording as follows:</p> <p>26LIMITATIONS OF LIABILITY</p> <p>26.1Contractor Limitation of Liability</p> <p>26.1.1Subject to clauses 26.2 and 26.4, the maximum aggregate liability of the Contractor to the Authority under, pursuant to or in connection with this Contract (whether in contract, in tort (including negligence), for breach of statutory duty or otherwise), including liabilities arising from termination of this Contract, shall not:</p> <p>26.1.1.1during the Mobilisation Period, exceed fifty thousand pounds sterling (£50,000) (Indexed); or</p> <p>26.1.1.2during the remainder of the [term], exceed two hundred percent (200%) of the forecast Annual Services Payment in respect of the first Contract Year, (the Contractor Cap).</p>			<p>as per clarification response</p>														

24.2	<p>2) Schedule 4 Paragraph 2.13 - Overall Deductions Cap. The contract describes the Performance Deductions at 2.12.2.1 as "a price reduction (rather than damages) which reflect the reduction in the quality of service received by the Authority". On this basis, by capping the Deductions at 100% of the contract price, the Authority is effectively saying that it could envisage tolerating a performance by the Contractor to a point that is so bad that it provides no value whatsoever to the Authority. The most common approach taken by other Authorities is to recognise that where Deductions reach 5% of the contract price, the appropriate recourse is to terminate the contract/step-in rather than continuing to insist on performance by the contractor in return for no payment. We would therefore ask the Authority to adopt the standard approach of capping Deductions at 5% of contract price and relying on termination rights as the remedy for performance failure that exceeds this level.</p> <p>3) a) Clause 33.2.1 refers to Authority Voluntary termination but does not define the term or set out elsewhere in Clause 33 the basis or right for the Authority to do so. Please clarify or set out the detail of this form of termination.</p> <p>b) In the definition of Lost Profit Payment please confirm that the reference to "relevant Contract Year means the year following the date of termination based on the profits of the year preceding termination.</p> <p>4) Clause 36 – Supervening Events.</p> <p>a) We note that Clause 36.1 provides for continued monthly payments in the event of an Excusing Clause. On the basis that monthly payments are based solely on tonnage delivered, if no tonnage can be delivered then the monthly payments will be zero in any event. Could the Authority confirm if, for the purpose of this clause, "monthly payments" will be based on the average monthly payment made in the 12 months preceding the Excusing Cause.</p> <p>b) Please confirm if monthly payments will continue to be made for Relief Events. If not, please explain how the Authority would justify making Deductions for non- performance that is entirely beyond the Contractor's control.</p> <p>c) Please confirm if monthly payments will continue to be made for Force Majeure Events. If not, please explain how the Authority would justify making Deductions for non- performance that is entirely beyond the Contractor's control.</p>	18/07/19	<p>In view of the range of possible contract values the 5% Deductions Cap proposed is not considered acceptable and the Authority is not minded to change this element of the contract.</p> <p>3) a) This is an error to be corrected in the next draft by removing reference to Authority Voluntary Termination</p> <p>b) The "relevant Contract Year" is the year of termination (on the assumption termination had not occurred). This can be clarified in the drafting of the definition as follows:</p> <p>"Lost Profit Payment" means an amount which is the lower of E[●] or [●] per cent ([●]%) of the aggregate forecast Annual Services Payment in respect of <u>the Contract Year in which termination occurs (assuming for the purposes of calculation that termination did not occur).</u></p> <p>4) a) The Authority has reviewed this clause and has chosen to remove it.</p> <p>b) No. The Authority would have to make alternative arrangements in this event. The contractor only gets relief from termination.</p> <p>c) For Force Majeure no payments are made and there are no liability deductions</p>	07/08/19	Public	<p>n/a</p> <p>as per clarification response</p> <p>n/a</p>
25.1	<p><b>RE Clarification 24.2</b></p> <p><b>Point 2)</b> If expressed as a percentage the Deductions will automatically be reflective of the Contract Value - whether high or low. 100% of Contract Value is perceived across the industry as driving various negative behaviours, - particular as a "money making exercise" for less scrupulous authorities. We know that this is not the case in the present project - but most well governed bidders will struggle to get approval for much more than a 10% or possibly 20% cap. We would therefore ask the Authority to reconsider.</p> <p><b>Point 4) a) and b)</b> We understand that for Excusing Events and Relief Events the Authority would need to pay for alternative arrangements. The Contractor can therefore accept that as such, it will not be paid during such a situation. However, on the basis that such events are (by definition) beyond the Contractor's control, the Authority should not be able to penalise and unjustifiably benefit from such misfortune by additionally being able to levy deductions against the Contractor. Historically the basis for making deductions in such a situation was in PFI contracts where certain core payments still had to be made by the Authority. Where no such payments are being made by the Authority there is no justification in having a right to make deductions. Please could these Events therefore be framed as a "no payments in either direction" situation.</p>	21/08/19	<p>2) The Authority has reconsidered and will set the cap at 20% and will amend 26.1.1.2 to read:</p> <p>26.1.1.2 during each Contract Year, twenty percent (20%) of the forecast Annual Services Payment in respect of the relevant Contract Year,</p> <p>4) a) and b) The Authority agrees that the contractor should not be penalised with performance deductions during a relief event.</p> <p>Clause 36.3.4 will be removed.</p>	06/09/19	Public	as per clarification response
26.1	Can the authority please clarify Tender Clarification 5.1 regarding waste loading and haulage. Your answer is not clear. It is understood that haulage services i.e. from an authority run WTS to a contractor nominated delivery/processing facility is not offered as part of this opportunity and therefore needs to be procured by the contractor, however it is not clear how waste from a the WTS is to be loaded into a delivery vehicle bound for the waste processing facility. Is this being offered by the authority (or its agents) and if not how does the authority propose this is done.	21/08/19	Loading and Haulage is not in scope for this procurement. The authorities incumbent haulage contractor Weymouth and Sherborne Recycling has this responsibility, acting on the authorities behalf to deliver waste from the WTS to delivery points.	30/08/19	Public	n/a
27.1	With reference to Part 1 clause 5.4.1, can the authority please clarify its meaning of the term composition? This could allude to the make up or constituents of the contracted waste and could directly conflict with the Waste Acceptance Criteria and Definition of Waste. In effect the contractor is agreeing to accepting different waste other than what was initially contracted over the life of the contract.	21/08/19	<p>This is a general point regarding the make up and quantity of each waste stream, applicable to all tendered waste streams. It is covered more specifically within the Material Category Specifications which detail expected tolerance levels under the waste acceptance criteria for Objectionable waste which could potentially arise in each of the material categories delivered – (see section 6 in all cases).</p> <p>Section 7 defines in each case what the likely composition would be.</p> <p>The authority would not knowingly deliver anything other than Contract Waste detailed within the respective Material Category Specific during the contract term.</p>	30/08/19	Public	n/a
28.1	With reference to Part 1 clause 17.2.1, 17.2.2 & 17.2.3, will the authority consider making allowances for the hours between which a site can receive waste, in respect of Planning Permission and Environmental Permits governing those sites?	21/08/19	These hours are a minimum requirement and no allowances will be made.	30/08/19	Public	n/a

29.1	<p>With reference to Part 2 clause 7 Definition of Green Waste, will the authority:</p> <p>a) clarify the sentence; "Green Waste shall include all food waste collected in accordance with paragraph 1.1..." I draw your attention to food waste in this sentence. Is this a typo?</p> <p>b) Will the authority please clarify, under Objectionable, "any other household waste". What is the composition of "any other household waste"?</p> <p>c) Will the authority please clarify what is Prohibited Waste and then look to revise its Objectionable Waste Table 1 accordingly.</p> <p>d) Does the authority believe that it is acceptable for the contractor to accept 1% by weight of Objectionable Waste in any load of green waste? In an articulated vehicle this could equate to 260kg's per load of non green waste, which could currently be perceived as ranging from food waste, metal, glass, treated and untreated wood and potentially hazardous materials, which the contractor will then have to manage and dispose of at its own cost. Accepting this type of waste would not only directly contravene statutory requirements of the processing facilities Environmental Permit but also compromise the marketing of the finished compost product. Should the authority be actively aiming for 0% contamination/objectionable waste and working with the contractor to achieve this?</p>	21/08/19	<p>a) Thank you. This is a Typo and should read "Green Waste shall include all green waste collected in accordance with paragraph 1.1..."</p> <p>b) This represents anything other than the acceptable material which may arise as part of the authorities garden waste collection and HRC operations. These operations actively seek to prevent and reject this material before delivery but this cannot be guaranteed.</p> <p>c) Prohibited Waste is defined as per Schedule 1 – Definitions and Interpretation The Authority wishes to draw attention in this case to Schedule 7 3.1</p> <p>d) The Authority considers the 1% Objectionable waste threshold to be consistent with its own current contracts and a common approach in waste specifications let by other Local Authorities.</p>	30/08/19	Public	n/a
30.1	<p><b>Section/Clause Reference - Parties</b> Can the Council please clarify if there is meant to be a difference between the 'Authority' as defined in the Parties section and Dorset Council referred to in Recital A?</p>	22/08/19	There is no difference.	30/08/19	Public	n/a
31.1	<p><b>Section/Clause Reference - Clause 3 Performance Security</b> Can the Council clarify whether the decision in relation to the provision of the form of Performance Security is solely a decision of the Council or will the Contractor have the right to provide either a bond or a PCG?</p>	22/08/19	This will be at the authorities sole discretion based on the financial information received as part of the procurement process.	30/08/19	Public	n/a
32.1	<p><b>Section/Clause Reference - Clause 6 Maintenance of the Facilities</b> Can the Council confirm that it will at all times act reasonably in relation to its right to carry out a survey or inspection of the Contractor's Delivery Points pursuant to clause 6.2.1?</p>	22/08/19	The Authority will act reasonably in respect of this.	30/08/19	Public	n/a
33.1	<p><b>Section/Clause Reference - Clause 24 Set Off</b> Would the Council consider amending clause 24.1.2 of the Contract so that the Council is not permitted to set off any amount that it owes to the Contractor against any money owed to it by the Contractor under the Contract, unless the Contractor has provided its prior written consent?</p>	22/08/19	The authority has reviewed this, and it is a standard term which will not be amended.	06/09/19	Public	n/a
34.1	<p><b>Section/Clause Reference - Clause 26 Limitations of Liability</b> Can the Council confirm that the terms of clause 26 (Limitations on Liability) will extend to the indemnities the Contractor has been asked to provide?</p>	22/08/19	The limitations will not apply because the clauses expressly says that the limitations do not apply where they are excluded. Where there are no limitations the Council will be limited to and by its common law rights to claim damages for breach of contract.	06/09/19	Public	n/a
35.1	<p><b>Section/Clause Reference - Clause 31 Termination for Council Default</b> Can the Council clarify if the Contractor will still have the right to serve notice to terminate in the event of Council Default if it fails to serve the notice within the 20 Business Day period of becoming aware of the default pursuant to clause 31 (Termination for Authority Default)?</p>	22/08/19	The clause says the notice 'must' be served so prima facie if notice was not served in time this right would be lost. However if the default was a continuing breach it is arguable that the period would be extended by each day the breach was renewed subject to the breach being deemed accepted because of lack of action by the other party.	06/09/19	Public	n/a
36.1	<p><b>Section/Clause Reference - Clause 32 Persistent Breach</b> Can the Council please provide some information on what it considers to be breaches which potentially could be covered under the Persistent Breach provisions in clause 32?</p>	22/08/19	A persistent breach is defined and could be any act or default which is non -compliant with the contract. It would not be appropriate to list things as this may be held later against the Council if something was not included or different in nature. Council would not waste time over 'de minimis' but again the onus is on the contractor to comply with the contract and discuss any issues with the Council in a reasonable way whether major or minor.	06/09/19	Public	n/a
37.1	<p><b>Section/Clause Reference - Clause 34 Change in Law</b> Can the Council clarify if the Changes in Law covered by the second limb of the definition of 'Foreseeable Change of Law' will be excluded from the Change in Law mechanism set out in clause 34 for the entire term of the Contract? As currently drafted an increase in the standard rate of LFT, the introduction of a tax on the incineration of waste or the introduction of a tax in respect of the export of waste from the UK are covered by the definition of Foreseeable Change in Law and are excluded from the Services Specific Change in Law.</p>	22/08/19	Yes	06/09/19	Public	n/a
38.1	<p><b>Section/Clause Reference - Clause 35 Variation</b> Can the Council clarify if the Contractor will have a right to propose Variations or does it have to request that the Council issue Variation Notices pursuant to clause 35.8? As currently drafted the Contractor does not have a right to implement the Variation Procedure which is a concern particularly in relation to Services Specific Change in Law.</p>	22/08/19	Clause 34 modifies the variation procedure to take account of this situation and gives rights to the Contractor under 34.3.2.	06/09/19	Public	n/a
39.1	<p><b>Section/Clause Reference - Clause 40 Confidentiality</b> Would the Council consider amending the terms of clause 40(Confidentiality) to provide that the Contractor can disclose to Group Companies, professional advisers and any regulated authority including any relevant stock exchange?</p>	22/08/19	The authority has reviewed this, and it is a standard term which will not be amended.	06/09/19	Public	n/a
40.1	<p><b>Section/Clause Reference - Clause 42 Advertisements</b> Can the Council clarify why there is a restriction on notices and advertisements on Delivery Points? What if the Delivery Points are owned by the Contractor?</p>	22/08/19	This will be removed	06/09/19	Public	as per clarification response

41.1	<p><b>Schedule 2 Specifications - 3. General Objectives</b></p> <p>Can the Council clarify how the Contractor can 'assist the Council to reduce the costs of procuring the Services throughout the Contract Period' referred to in paragraph 3.1.5 in the Core Specifications in Part 1 of Schedule 2(Specifications)? How will the Council be procuring the Services during the Contract Term?</p>	22/08/19	This point is relevant in respect of the envisaged variations detailed within Schedule 8 and any other variation which may arise during the contract term.	30/08/19	Public	n/a
42.1	<p>It is not clear whether the savings that would be realised by the Authority from the direct delivery of Waste to a Contractor's Delivery Point / Treatment Facility form part of the Authority's evaluation of the 'whole life costs' of bids.</p> <p>How will the Authority evaluate bids that include the direct delivery of Waste by the Authority's Waste collection vehicles against bids that will require Waste to be tipped and transferred at one of the four Waste Transfer Stations? In addition to the haulage costs for bulked Waste from the Waste Transfer Stations, as provided in Clarification 19.1, what cost per tonne will the Authority apply for the operational expenditure of bulking each relevant Waste type at each Waste Transfer Station? What assumptions (i.e. collection round assumptions) will be used by the Authority to establish that a bidder's bid includes Delivery Points / Treatment Facilities that can be direct delivered to rather than the Waste sent to a Waste Transfer Station, with the subsequent savings applied?</p>	22/08/19	<p>The haulage rates published in response to clarification 19.1 on 16/07/19 explain that the material specific rates take into account all forms of delivery method utilised by the authority. These are calculated using the percentage splits detailed within the supporting information. Therefore all bids will be evaluated using a consistent haulage rate. Operational expenditure is out of scope in the evaluation as this is accounted for by the Authorities existing WTS management fees.</p> <p>It is not anticipated that residual waste currently being directly deliver will be diverted to the authorities WTS.</p>	30/08/19	Public	n/a
43.1	A bidder has asked, in light of the TUPE list from New Earth Solutions whether the Council would extend the deadline for posing clarification questions to be able to consider the implications and inform their response and pricing decisions.	22/08/19	<p>The authority has taken time to consider both the extension of the clarification period and the final tender submission deadline. In respect of any extended clarification window the authority can not guarantee the timely responses of questions raised and recognises the disruption and frustration this may cause to bidders. It is however prepared to extend the final tender submission deadline in view of the late publication of the TUPE information, to the <b>27th September 2019</b>, acknowledging the complexity and further consultation required for bidders to form a position on the matter. No further extension of the submission deadline will be granted.</p> <p>Th Authority wishes to note: The TUPE information provided has been submitted to the Authority by New Earth Solutions in order for the authority to facilitate this information to potential bidders as part of this tendering process. The Authority is not responsible for the content of any TUPE information provided. Nor does the Authority have a view whether TUPE is to apply or not. Tenderers are advised to seek their own independent advice as to the application or otherwise of TUPE to this tender. The Authority accepts no liability in respect of the same. Any TUPE implications are ultimately a matter for the incumbent supplier and any successful bidder.</p>	23/08/19	Public	n/a
44.1	A bidder has asked for New Earth Solutions' justification for stating that TUPE applies for the staff listed.	22/08/19	<p>The Authority requested from New Earth Solutions their justification for stating that TUPE applies for the staff listed.</p> <p>New Earth Solutions have responded - please see Clarification Log Appendix (as attached within this clarification log message)</p>	29/09/19	Public	n/a
45.1	<p>Regarding the potential transfer of employees, in accordance with the TUPE Regulations, please can the Authority provide the '% of time worked on contract' information for the New Earth Solutions staff. This will help confirm if the transfer of employees is in fact likely. Also, please can the Authority confirm if there are any posts currently vacant in addition to the list of staff provided. Finally, please can the pension and redundancy terms of each identified staff member be provided. This will ascertain if there are any enhanced terms.</p> <p>It will be unclear, until the evaluation of bids, how staff may transfer to a single Contractor, given that one, two or more new Contractors could undertake the Service from the Commencement Date. Further clarification from the Authority would be welcome at the correct stage, prior to Contract award.</p>	23/08/19	<p>The Authority requested responses from New Earth Solutions in respect of these points.</p> <p>New Earth Solutions have responded - please see Clarification Log Appendix (as attached within this clarification log message)</p> <p><i>Note - In respect of the response provided to this, bidders are asked to refer to the updated version of New Earth Solutions TUPE information (as also attached within this clarification log message)</i></p>	29/09/19	Public	n/a
46.1	Will the authority please clarify Part 1 i) & ii) in Part 05 Detailed Evaluation Methodology. Are tenderers tendering a delivered in gate fee for waste or a collected gate fee i.e. should haulage from Authority run collection points to tenderer run processing points be considered by the tenderer as part of this opportunity	23/08/19	Tenderers are expected to bid delivered gate fees. The authority will be responsible for haulage/ delivery of contract waste to the delivery points.	30/08/19	Public	n/a
47.1	With regards to item 3 Performance Security of the Contract Terms and Conditions, will the authority please provide more clarity around 3.1/3.2 and 3.3? What are the stipulations of such a bond/guarantee regarding the due performance and Contractor obligations? Is interest expected on this bond? What security is the Contractor offered for delivering such a bond amount? What is the performance criteria and how is this measured.	23/08/19	<p>The due performance obligations are those detailed within the contract, specification, service delivery plan and performance framework.</p> <p>The value of the bond shall be no greater than 10% of the forecast Annual Service Payment. No interest will be applied by the authority.</p> <p>The Bond or PCG is for the authorities security should the services not per performed in accordance with the contract, specification, service delivery plan and performance framework.</p>	30/08/19	Public	n/a