

<h1>BRIEFING</h1>	TO:	BDR Joint waste Board.
	DATE:	6/2/25
	LEAD OFFICER:	Paul Hutchinson BDR PFI Waste Manager 07824 350753 Paul.hutchinson@rotherham.gov.uk
	TITLE:	Request to Change Parent Company Guarantor from Renewi PLC to Biffa BidCo in the PFI Waste Treatment Project agreement.
1. Background		
1.1	<p>In October 2023, Renewi PLC, who's UK Municipal Division were contracted to operate the BDR PFI Waste Treatment Facility, announced it would undertake a "strategic Review of its UK Division to actively explore a range of options to achieve an exit from the UK market.</p> <p>In May 2024 Renewi PLC entered into an agreement for Biffa to acquire Renewi's municipal business in the UK.</p>	
1.2	<p>Biffa LTD acquiring 100% of the shares in Renewi PFI Investments Limited (formerly Shanks PFI Investments Limited), Biffa will:-</p> <ul style="list-style-type: none"> • And own 100% of the shares in Renewi BDR Limited which is also known as Contractor under the Project Agreement. • Own 100% of the shares in Renewi BDR Holdings Limited which is also known as Hold-Co under the Project Agreement. • And 100% of the shares in Renewi UK Services Limited (formerly Shanks Waste Management Limited) which is the Construction Sub-Contractor and the Operating Sub-Contractor of the BDR PFI. 	
1.3	<p>Approval or rejection of the sale was not contractually required to be given from the BDR Council, as it did not alter the Contract, just the ownership of the contractor.</p>	
1.4	<p>The sale was officially completed on the 10 October 2024.</p>	
2. Key Issues		
2.1	<p>In anticipation of the sales completion, a formal written request was received from Renewi/Biffa in Jul 2024, seeking the Council's approval to replace Renewi PLC with Biffa BidCo LTD as the Operating Sub-Contractor's, Parent Company Guarantor (and various other Guarantors as stipulated in the Project agreement). And to seek approval from the Councils for amending and replacement of Renewi to Biffa as Guarantor within Project Agreement documents as well as other related drafting changes.</p>	
2.2	<p>Unlike the sale, where the Council's approval was not required, any changes to the Project Agreement (amendments to Guarantors) would require Council Approval.</p>	

3. Key Actions and Timelines

- 3.1** Although approvals were sought in advance of the sale with the Council to change the Guarantors within the project agreement, there was no timeline stipulated. Having approval (or not) would not hold up the sale from progressing.
- 3.2** Until agreed and changed, the Parent Company Guarantor would remain Renewi PLC and although it may be a priority for Renewi to see the Guarantor changed, the BDR team would undertake it's due diligence and respond accordingly.
- 3.3** The BDR Manager, with his external Legal and Financial Advisors engaged with Renewi/Biffa to seek clarification to numerous aspects of their request. From the further information received, and from interpretation of the contractual specifications required by a Guarantor in the Project agreement, The BDR Team's opinion is that Biffa BidCo **does not** meet these contractual requirements.
- 3.4** Therefore, we have rejected their request. We have advised them of the contractual stipulations required of any Company wishing to become a Guarantors and highlighted that a Letter of Credit is an alternative to a PCG.
- 3.5** **04/10/24** - A formal rejection response was issued to Biffa/Renewi
- 3.6** **28/10/24** – BDR Team sought opinion and understanding from the Banks and Funders who have financed this project on their position and opinion of the request to change Guarantors. In general, they are of the same opinion as our analysis – The request for the change in Guarantors should be rejected. The Banks will be undertaking their own due-diligence and will dialog with the BDR Team in future.
- 3.7** **15/11/24** – The BDR Team met with other Councils (whose PFI is operated by Renewi/Biffa) and DEFRA/WIDP to take soundings on the change in ownership, any (change / approval) requests received, and understand any issues / risk perceived from the sale to Biffa. From the meeting it was clear that the approach already undertaken by the BDR team was as advised by DEFRA/WIDP, i.e. that Biffa BidCo **does not** meet these contractual requirements, and the request should be rejected.
- 3.8** **02/12/24** – Biffa responded to the BDR PCG rejection letter (and later issued variations of our letter to other Councils) counter-arguing our rejection, and outlining further argument / contract interpretation to our position and points raised, to re-state their PGC change request.
- 3.9** **31/01/25** – A further DEFRA/WIDP meeting was held with all Biffa PFI Councils in respect of the 2nd Biffa request / Counter Argument. DEFRA/WIDP re-affirmed their advice that the position taken by BDR to reject the PCG change request on the grounds that it does not meet the contractual requirement is correct.
- 3.10** **06/02/25** - The BDR manager met with the Director of the SPV and re-iterated our position and would confirm this in writing. We await Biffa's response.

4. Recommendations

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| 4.1 | That Joint Waste board be made aware of the rejection of the request from Biffa/Renewi to change the Parent Company Guarantors in the Project Agreement. |
| 4.2 | Be aware that the BDR Manager will now await response from Renewi/Biffa to the second rejection letter. But until them the BDR Team are satisfied that the current Parent Company Guarantee with Renewi PLC is in place and acceptable for the Project Agreement. Should this cease Biffa will be in default and will need to implement a suitable alternative – Sufficient PCG or Letter of Credit. The BDR manager will update on any further development in due course. |