

Frequently Asked Questions

Second Kelly Market Findings and Proposals

Question	Answer
General Kelly Questions	
What is the Kelly Programme?	<p>This programme is implementing the recommendations that resulted from the OGC report on Increasing Competition and Improving Long Term Capacity Planning (http://www.ogc.gov.uk/embedded_object.asp?docid=1001394 PDF). This report was accepted by HM Treasury Ministers and then launched on 10 December 2003 as part of the Autumn 2003 pre-budget report, along with an action plan (http://www.ogc.gov.uk/embedded_object.asp?docid=1001395 PDF). This high profile work covers the wider public sector and will, for the first time, see Government markets managed in a co-ordinated way with the potential for considerable value for money savings.</p>
What did the First Kelly Market achieve?	<p>The construction market was selected as the First Kelly Market (FKM).</p> <p>Forward looking demand plans (http://www.ogc.gov.uk/index.asp?id=1002791) were collected from public sector bodies so that a picture of public sector demand for major construction projects over the next 3 to 5 years could be developed.</p> <p>Work was undertaken on the supply side to obtain qualitative and quantitative data from suppliers of construction services in order to gain understanding of the issues facing the industry.</p> <p>Over the FKM project's duration, engagement with industry took place via a number of workshops and a regularly distributed newsletter updating government departments and industry.</p> <p>The project generated a set of proposals for the strategic management of public sector procurement in the construction market. These fall into three categories:</p> <ul style="list-style-type: none"> • Market Consultation – ways of embedding early supplier engagement in public sector procurements. • Market Shaping – ways of making and implementing market decisions based on specific regional pinch points and capacity issues. • Market Intelligence – ways of sharing supply and demand information to enable better future planning for suppliers and procurers. <p>The full list of proposals can be accessed from the OGC website (http://www.ogc.gov.uk/index.asp?docid=1003763).</p> <p>OGC's Smarter Construction Division will continue to collect and publish public sector demand data. Industry will have visibility of future public sector demand in the construction market over the longer term, which will help improve planning and bidding strategies. Smarter Construction Division also has responsibility for implementing the FKM proposals.</p>

Why was waste management chosen as the Second Kelly Market (SKM)?	Criteria	Assessment
	Market Size	Market large, Government a significant purchaser.
	Treatment/Disposal Capacity	Landfill is a key issue – declining in availability and no longer seen as sustainable method of disposal. Alternative disposal methods appear underdeveloped at present.
	Level of Competition	A few dominant market players. High degree of fragmentation geographically and by function.
	Statutory Obligation	EU Landfill Directive binding on national governments.
	Regional Variations	Urban/rural issues create variations in demand that will alter local market dynamics.
	Potential Efficiency Savings	£299m pa Local Authority efficiency savings in environmental services.
What is the link between Kelly, and Efficiency? How do these programmes fit together?	The Kelly Programme is not separate from the Efficiency Review. Delivering market management recommendations is an integral part of delivering efficiencies. The Kelly agenda is also strongly reiterated in Sir Peter Gershon's independent review of public sector efficiency <i>Releasing Resources to the Front Line</i> published on 12 July 2004.	
How will Kelly help UK firms?	Kelly aims to improve competition and long-term capacity planning within markets by sharing public sector demand information with industry and by increasing the public sector's knowledge of markets. All of this should provide industry (including UK firms) with a longer lead-time to meet public sector demand.	
How are you planning on measuring the benefits of Kelly?	The net effects of improved knowledge of the market and the resultant activities to improve capacity and competition will be measured. This will be done by assessing the improvements to the quantity and quality of responses to tenders for new market requirements.	
What is the scope of the Second Kelly Market?	The focus of the Second Kelly Market work has been the municipal waste market. There was in addition, a smaller sub-study on commercial and healthcare waste, but the findings are not reported at this briefing and do not affect the findings of the main work stream.	
Waste Findings		
Definition of municipal waste	As defined by the Landfill Directive municipal waste is "waste from households, as well as other waste which, because of its nature or composition, is similar to waste from households". The Government's preliminary view is that this should be interpreted as household waste and any other waste under the control of Local Authorities or agents acting on their behalf.	
Why concentrate on municipal waste? Why isn't OGC looking at the commercial and industrial waste currently going into landfill?	The SKM work has concentrated on municipal waste as this is the market in which the public sector is the most active. The Government set out its vision for sustainable waste management, including the management of commercial and industrial waste, in Waste Strategy 2000, the national waste strategy. Defra has fully supported the SKM work and funded the waste survey referenced in our findings. The SKM work will directly contribute to Defra's review of Waste Strategy 2000. For further information see - http://www.defra.gov.uk/environment/waste/index.htm	
Are Devolved Administration projects included?	OGC's remit does not include the Devolved Administrations although we have a role to share best practice with them. The Devolved Administrations have been consulted thoroughly in the Second Kelly Market project to share lessons learnt.	

Do you have information on all Local Authority plans?	The data collection process we undertook with Local Authorities produced a return rate of 193 surveys from waste collection authorities and 87 from waste disposal and unitary authorities, totalling 280 authorities or 71% of all English authorities (same rate of response across both collection and disposal authorities). Plans are in place to obtain a 100% view of the market and develop a sustainable collection process.
What specific data have you collected?	<p>Qualitative and quantitative information has been captured using the following means</p> <ul style="list-style-type: none"> • Local Authority Survey of demand – achieving a 71% response rate. • A series of one-to-one meetings with Local Authorities to produce case study evidence to back up our findings. • Interviews with suppliers to the waste management market to gain an industry perspective. • The SKM team also engaged with funders and potential new market entrants to gain a broader understanding of the market place and current barriers. <p>In addition the Kelly team have engaged with circa 450 organisations including:</p> <ul style="list-style-type: none"> • Over 300 Local Authorities • Government bodies such as the Audit Commission, Department for Environment, Food and Rural Affairs, Department for Trade and Industry, 4Ps, HM Treasury, Local Government Association, Ministry of Defence, National Audit Office, National Health Service, Office of the Deputy Prime Minister, Office of Fair Trading, Partnerships UK, Regional Centres of Procurement Excellence. • Industry and industry representative bodies including waste management companies, the construction industry, Voluntary Service Organisations, Environmental Service Association, Confederation of British Industry, Associate Parliamentary Sustainable Waste Group, Institute of Civil Engineers.
From your data, by how much will England exceed its landfill allowance by in 09/10?	<p>We cannot give a confident prediction of the figure, as it depends entirely on assumptions made at the point of calculation. For example, it is possible that facilities as yet unplanned, will be built and up and running by 2009.</p> <p>However it is our view that there is a serious risk that England will still exceed its landfill allowances in 2009/10 with potential LATs penalties and EU fines.</p>
Have you published all the data you collected?	OGC is publishing aggregated regional and national (England only) data. This is to ensure confidentiality of individual Local Authorities is maintained.
This data will become out of date very quickly - how can you ensure it remains timely and accurate?	The data collected was accurate at the time of collection. Sustainable data collection processes will be developed to maintain future waste market information.

Waste Proposals

<p>Who is going to make the changes you suggest?</p>	<p>Early discussions with Defra highlighted some concerns about the ability of the existing market to deliver the infrastructure needed within the required timescales, and therefore they were supportive of this work. The SKM findings provide evidence to support long held, serious concerns around the ability of the existing waste management market to deliver the significant investment needed for effective management of waste and to meet the approaching EU Landfill target in 09/10.</p> <p>Defra has already made progress in response to the findings of the SKM report and has established a Waste Infrastructure Development Programme (WIDP) to be the main delivery body for implementing these recommendations. The Programme Board will include representation from Departments, local government and industry. Its terms of reference are:</p> <ul style="list-style-type: none"> • to assist Defra in implementing the Government’s municipal waste policy, specifically in relation to the infrastructure investment needed to comply with EU Landfill Directive targets; • to facilitate and develop, in partnership with local authorities, a coordinated picture of local authority waste procurement plans and progress in line with the recommendations of this report; and • by considering the required waste investment programme needs for England as a whole, to develop and implement measures that will accelerate the delivery of the Government’s waste targets on a timely, value for money and affordable basis.
<p>Do the results indicate that central Government, including Defra, is not delivering?</p>	<p>No. Early discussions with Defra highlighted some concerns about the ability of the existing market to deliver the infrastructure needed within the required timescales, and therefore they were supportive of this work. The SKM findings provide evidence to support long held, serious concerns around the ability of the existing waste management market to deliver the significant investment needed for effective management of waste and to meet the approaching EU Landfill target in 09/10. Defra are aware of these challenges and fully support the SKM project.</p>
<p>Do the results indicate that Local Authorities are not delivering?</p>	<p>No. The SKM work has involved extensive consultation with over 300 Local Authorities. Our findings suggest Local Authorities are delivering, but are faced with the challenges, conflicts and constraints of the market as a whole.</p>
<p>Does Government have a preferred technology for waste treatment / disposal?</p>	<p>No. The Government recognises that, in order to meet the problem of reducing landfill availability, and the European and LATS targets, additional waste treatment capacity will be required. There is a range of technologies for treating waste. Defra is leading on a new technologies workstream under the WIP (Waste Implementation Programme) - see http://www.defra.gov.uk/environment/waste/wip/newtech/index.htm</p>
<p>Does this mean that lots more incinerators will need to be built?</p>	<p>The Government recognises that, in order to meet the problem of reducing landfill availability, and the European and LATS targets, additional waste treatment capacity will be required. There is a range of technologies for treating waste of which EfW (Energy from Waste) is one option.</p>

What is LATS?	Article 5(2) of the EC Landfill directive requires the UK to reduce the amount of BMW it sends to landfill. The Landfill Allowance Trading Scheme (LATS) has been developed as an innovative tool to enable Local Authorities in England to meet targets set by the directive. Implemented into the UK law by the Waste and Emissions Trading (WET) act, LATS are a yearly allowance for tonnages of waste that can be sent to landfill and have been allocated to every waste disposal authority. These allowances can be traded between authorities, banked and also borrowed to meet these yearly targets.
Does Defra agree that the LATS targets will be missed?	Defra recognises that LATs incentivises immediate action. The Landfill Directive is driving demand above industry capacity in the short to medium term. There is a serious risk that England will still exceed its landfill allowances in 2009/10 with potential LATS penalties and EU fines.
What are the implications for a Local Authority if it misses its LATS targets?	If, at the end of a scheme year (end of March), a Local Authority has sent more BMW to landfill than its LATS allowance permits, it will have the opportunity to purchase additional allowances from other authorities under the LATS trading scheme. If, after trading, a Local Authority has still exceeded its LATS allowance, it will be penalised at £150 per excess tonne. The LATS scheme also allows a Local Authority to borrow and bank its allowances between certain scheme years. For further information on LATS see - http://www.defra.gov.uk/environment/waste/localauth/lats/index.htm
What are the implications for the UK if it fails to meet its obligations under the European Landfill Directive?	If the UK fails to meet the Landfill Directive targets it risks being fined through the European Courts of Justice (ECJ). Potential maximum fines are some £180M per annum. If the UK fails to meet a Directive target for a given year, and fines are levied, then any Local Authority that exceeded its LATS allowance in that year could face a supplementary penalty.
Shouldn't the Government be concentrating on reducing the amount of waste being generated in the first place?	The Government believes that actions to stem the growth of household waste are urgently needed to help the UK meet the requirements of the Landfill Directive and move towards more sustainable waste management. Waste minimisation has not been part of the SKM work. Waste minimisation is being taken forwards under the under the WIP (Waste Implementation Programme) - see http://www.defra.gov.uk/environment/waste/wip/wastemin/index.htm
Should collection services be carried out at a county level?	The Kelly Survey included questions on integration and collaboration. Whilst in certain circumstances we encourage collaboration, our findings suggest that vertical integration could contribute to further market consolidation. Our findings suggest that the issues run wider than this and by being too prescriptive, the desired market changes will be delayed in the legislative processes.
PFI	
Is PFI ever suitable for waste projects?	PFI has the benefits of being a rigorous and proven process and clearly has a role in the mixed economy of procurement options.
Is a greater role envisaged for Prudential Borrowing?	Prudential Borrowing clearly has role to play as one of the number of funding options.

<p>What is Early Contractor Involvement ("ECI")?</p>	<p>ECI is a model more commonly used in construction. It works by selecting a contractor who will work with you on a single project or multiple projects under a programme and facilitates the early involvement of contractors at the project planning / options appraisal phase. Pricing for each project is determined in accordance with an agreed payment mechanism, which supported by open book and other vfm mechanisms such as benchmarking and a right to further compete elements if a price for a project / work element cannot be agreed. One of its advantages is that exact pricing and funding for the construction of facilities can be determined at the time when planning and design risks have been addressed and an affordable option has been approved by the authority. Procurement costs and timeframes can potentially also be reduced with this model, as much of the work on the detailed design and specification of facilities takes place post-contract by the successful bidder. A potential effect of this in the context of waste could be to free up scarce technical resource from lengthy bidding processes and focus capacity on "real work".</p>
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Non-Municipal Questions

<p>Definition of non-municipal waste</p>	<p>The non-municipal workstream has concentrated on the following areas of waste:</p> <p>Commercial waste, from public buildings: commercial waste originates from offices, wholesalers and retail but also education and public administration. It includes paper, cardboard, metals, glass and food. Around 75% of this waste is further categorised as 'general waste' (paper, packaging, sweepings etc), with the balance accounted for by food, metals, equipment etc;</p> <p>Healthcare waste, from delivery of NHS services. Healthcare waste for the purpose of the study has been broken down into three categories:</p> <p>Clinical Waste is defined in the Controlled Waste Regulations 1992 as any waste which consists partly or wholly of: human or animal tissues; blood and bodily fluids; excretions; drugs or other pharmaceutical products; swabs or dressings, or; syringes, needles or other sharp instruments; which unless rendered safe may prove hazardous to any person coming into contact with it; AND; any other waste arising from medical practice which may cause infection to any person coming into contact with it.</p> <p>Hazardous waste, which is essentially waste that contains hazardous properties that may render it harmful to human health or the environment.</p> <p>Domestic waste, which is the same as commercial waste.</p>
<p>Why did the Second Kelly Market expand to cover these waste areas?</p>	<p>The main justifications for including this additional research within scope was:</p> <ul style="list-style-type: none"> • significant overall public sector spend – but fragmented; • challenging new legislation and regulation is causing significant change • anecdotal evidence of competition and/or capacity issues <p>Furthermore, by including it, the Kelly work benefits from a total picture – all significant public sector waste procurement streams are included.</p>
<p>How did you go about collecting data for all of these sources of waste?</p>	<p>The sub study adopted a sample approach to collect data from around 30 public buildings. This included hospitals, central government buildings, Local Authority buildings, universities and colleges, prisons and MOD Garrisons.</p>
<p>How can this limited number of buildings be representative of the whole of the public sector?</p>	<p>The sample was chosen to include a range of different facilities but the results are not expected to provide a totally representative picture. The study attempted to gain some high-level insight into waste practice and procurement in different public sector buildings; the findings are therefore indicative rather than conclusive, and identify common issues and themes rather than hard data.</p>

<p>Isn't some of the required information available already?</p>	<p>Yes, but relatively little. For example, Central Government departments are required to complete the Sustainable Development in Government (SDiG) questionnaire on an annual basis, and the Environment Agency has some high level forecasts on commercial waste arisings. Existing data has been fed into our analysis, though much of the information we sought was not readily available via secondary research (e.g. contract values, volumes and durations). Furthermore, we also sought quantitative information on key issues such as waste minimisation and training, which required a new process.</p>
<p>Were suppliers consulted who specialise in these waste areas?</p>	<p>The municipal study encapsulated commercial waste companies in its supply interviews, as the main disposal suppliers are the same in both markets. In addition, we also consulted four waste management companies which specialise in clinical/hazardous waste, to gain an industry perspective on that market. The Environmental Services Association and the Sanitary Medical Disposal Services Association, industry bodies for the waste management market, were also consulted in this study.</p>