Waste Infrastructure Delivery Programme
Contract Management Training

defra
Department for Environment Food and Rural Affairs

Norfolk County Council

Managing Service Performance

8th May 2013 – NAME REDACTED

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Objectives

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For contract management team :

- to understand obligations relating to the delivery and acceptance of Contract Waste,
- to have an appreciation of how best to optimise contractor performance; and
- to be informed about what actions it may take for under performance.

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Agenda

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- Delivery of Contract Waste (10 mins)
  Exercise 1 (25 mins)
- Optimising Service Performance (10 mins)
- Under Performance (10 mins)
  Exercise 2 (25 mins)

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Delivery of Contract Waste

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Authority obligation

- Deliver up to Maximum Tonnage
- Additional Waste?

Guaranteed Minimum Tonnage

- Top Up Waste
- Substitute Waste

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Payment Mechanism for Contract Waste

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Incoming Waste Parameters

- WCA baseline
- Waste Acceptance Protocol
- Ad Hoc Waste

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Waste Acceptance Protocol

- Set of practical procedures for inspecting, accepting and classifying Contract Waste.
- Process can be presented in flow chart form to facilitate understanding.

Exercise 1

Consider one of the questions below (15 minutes) and prepare a 5 minute presentation :

(1) What are the Authority's obligations relating to delivery of waste and what should happen if the GMT is breached?

(2) What are the Contractor's obligations relating to waste acceptance; what should happen if Contract Waste exceeds maximum?

Authority's Obligations – Answer (1 of 2)

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If GMT breached then:

- Substitute Waste plan
- Top up waste clauses apply
- Contact other Authorities
- notify WIDP

If Contract Waste less than GMT the Authority needs to act promptly to minimise loss.

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Authority's Obligations – Answer (2 of 2)

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To deliver waste within:

- set parameters and
- maximum tonnage constraint

To pay for waste up to GMT even if less is delivered.

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Contractors Obligations – Answer (1 of 2)

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To accept waste within:

- set parameters and
- maximum tonnage constraint

To provide service in accordance with:

- the Contract
- the Service Requirements
- the Service Method Statements.....

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Contractors Obligations – Answer (2 of 2)

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To provide service in accordance with

- Good Industry Practice
- Legislation
- the terms and requirements of any Consents
- the terms of any lease or under-lease on the Sites

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Optimising Service Performance (1 of 2)

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Service Delivery Plans

- updated periodically
- amend service without formal Contract Variation

Quality Management System

- Quality Management Plan

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Optimising Service Performance

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Health & Safety

- Contractor responsible – named person (notified to Authority)
- Accident book - RIDDOR reporting
- Authority still responsible – CDM Regulations

Emergencies

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Under Performance (1 of 4)

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Recognising under performance

- Authority Requirements
- Contractors Proposals
- Performance framework
- Self monitoring
- Right of access

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Under Performance (2 of 4)

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Making deductions

- Self imposed
- Excusing Causes
- Caps
- Set-off
- Disputed Amounts
- Dispute Resolution Procedure

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Under Performance (3 of 4)

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Delays in Service Commencement

- Relief Events
- Force Majeure
- Revisions to Key Dates
- Contingency plans

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Under Performance (4 of 4)

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Authority Step-in

- Authority Rights
- Process
- Costs

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Exercise 2

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Consider one of the questions below in relation (15 mins) and prepare to feedback total (5 mins)

(1)The Contractor is making fraudulent claims in the monthly reports. What should the Authority do – what is the process for rectifying?

(2) When can the Authority exercise its right to Step-in – what process is to be followed; what are the cost consequences?

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Exercise 2 – (1) Answer (Fraud)

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- Clause 32.3 – increase monitoring, at Contractor's expense
- Clause 45.5 – withhold any disputed amount

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Exercise 2 – (2) Answer (Step In)

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Clause 33.1 - Right to Step-In

If the Authority reasonably believes that it needs to take action because

a) a serious risk exists to the health or safety of persons or property or to the environment OR

b) to discharge a statutory duty

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Exercise 2 – (2) Answer (Step In)

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Authority must notify Contractor of:

- the action
- the reason
- the start date
- the time period AND
- to the extent practicable, the effect on the Contractor

Contractor must given reasonable cooperation

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Exercise 2 – (2) Answer (Step In)

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Issue	Contractor Breach	No Breach
Does Authority indemnify Contractor in relation to Direct Losses caused by the Required Action?	No	Yes
Are Authority's costs deductible from Unitary Charge?	Yes	No
Is Contractor relieved of its obligation to provide the relevant part of Services?	Yes	Yes
Is there an obligation on Authority to use Good Industry Practice?	No	Yes

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Further Reading

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Issue	WIDP Contract Reference
Delivery of Contract Waste	Clause 23 to 25
Quality Management System	Clause 88
Maintenance	Clause 26
Health & Safety	Clause 29
Authority Requirements	Schedule 2
Contractors Proposals	Schedule 3
Performance framework	Schedule 4
Set-off	Clause 46
Disputed Amounts	Clause 45.5
Authority Step-in	Clause 33

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