

NORTH LONDON WASTE AUTHORITY

REPORT TITLE: NORTH LONDON HEAT AND POWER PROJECT – COMMERCIAL STRATEGY

REPORT OF: PROGRAMME DIRECTOR

FOR SUBMISSION TO: PROGRAMME COMMITTEE

DATE: 7 SEPTEMBER 2020

SUMMARY OF REPORT:

This report covers the functional strategy for Commercial Management on the North London Heat and Power Project.

RECOMMENDATIONS:

The Committee is recommended to note the approach set out in the Commercial Strategy in Appendix A.

SIGNED:  Programme Director

DATE: 25 August 2020

1. INTRODUCTION

- 1.1. The North London Heat and Power Project (NLHPP) team are currently developing and implementing a programme manual – a suite of documents designed to guide successful delivery of the programme. Within this, a series of strategy documents will form the top level of the manual defining the challenges to be addressed, and the strategic approaches to meeting these. The initial set of strategies identified for development and their outline purpose is included in Table 1.

Strategy	Outline Description	Presented to Members
Information Management	Looks at the control of our information, data and knowledge.	October 2019
Resource Management	Addresses the need for people, assets and funds.	January 2020
Risk Management	Looks at the approach to management of risk	January 2020
Health, Safety & Wellbeing	Considers all aspects of keeping all parties associated with the NLHPP safe and well	March 2020
Technical Assurance	Addresses how the Authority will oversee the development of the technical solution and design development	March 2020
Monitoring & Control	Considers aspects associated with scheduling, controlling costs and reporting on the programme.	July 2020
Delivery and Construction Management	Deals with the core construction activities and the challenges linked to interfaces, operational site working and logistics.	July 2020
Commercial	Considers the procurement and subsequent delivery of contracts	September 2020
Financing Function	Considers the challenges associated with planning, obtaining and managing the necessary financing for the programme	September 2020
Stakeholder Engagement	Addresses the challenges associated with the range of stakeholders in the programme.	November 2020

Social Value	Looks at the aspects of social and community benefits that the works will bring.	November 2020
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Table 1 - List of NLHPP Strategy Documents

1.2. These strategies will be provided to Members at suitable opportunities to enable an understanding of these challenges of those elements of the project, and how the project team will address them.

1.3. Each management strategy must adapt to changing or emerging needs of the Project and, as such will be reviewed periodically. It is anticipated that the Project strategies will be submitted to the Programme Committee for review and noting approximately annually. Therefore, from January 2021 onwards, the review cycle will begin again.

2. COMMERCIAL MANAGEMENT STRATEGY

2.1. This report presents the functional strategy for commercial management, which is included in its entirety in Appendix A. The overall purpose of the Commercial Management function is to ensure the success of all projects in the North London Heat & Power Project by providing strong commercial management & leadership, leadership on health & safety and well-being, robust commercial controls, strategic procurement advice, and a sound contracting strategy. Applying this to the early stages of a project ensures the profitable management of projects and contracts from inception to completion and ensures the identification and development of project opportunities. One of the key challenges highlighted within the strategy is that the North London Waste Authority (NLWA) does not have an existing project controls infrastructure that other major project developers might have in-house. Consequently, plans and working practices are being developed utilising the expertise and experience of the NLWA officers and management advisors. As well as being a challenge to develop, this provides an opportunity to employ best practice in the development and deployment of a system tailored to the requirements of the Project.

2.2. The strategy covers the following aspects (with further detail being contained in the document, which is at Appendix A):

2.2.1. Challenges – the initial challenges facing this function including the need to monitor a set of diverse projects, which vary in scope, value and duration, while providing reliable progress data to a range of stakeholders with a broad range of interest and understanding levels; attracting the right staff; making decisions in a timely manner to facilitate the programme’s success; encourage good behaviour with the supply chain whilst ensuring sufficient interest in the projects; to deliver projects on time within cost whilst achieving the highest standards of health, safety, wellbeing and social

value. Additionally, the challenge of managing the commercial response to COVID-19 is being addressed in a progressive way to underpin the commitment to deliver the best model for public sector project delivery. The progressive approach represents the latest industry best practice and innovation – with reference to Institution of Civil Engineers (ICE) Project 13 which is an approach that “seeks to develop a new business model – based on an enterprise, not on traditional transactional arrangements – to boost certainty and productivity in delivery, improve whole life outcomes in operation and support a more sustainable, innovative, highly skilled industry.”

2.2.2. Strategic approaches – an effective and knowledgeable team will be developed; staff recruitment will be prioritised; working methods will be consistent; management systems will be developed and used with transparency and accuracy of reporting; collaborative behaviour will be developed with other teams and the supply chain; and positive early engagement with suppliers to encourage competitive

2.2.3. Implementation plans – the next level of documents required to establish the monitoring and control function, including plans for reporting, project assurance, cost and schedule management.

2.3. The strategy then outlines some of the key risks, stakeholders and resource requirements that are considered in taking steps forward. A notable point is the need for collaboration with other elements of the wider Authority and advisor teams.

2.4. As with other strategy documents presented, this strategy cannot be delivered in isolation and will be implemented in conjunction with the other functional strategies and plans.

3. CURRENT STATUS

3.1. At the time of providing this strategy to Members, the Commercial team is well established. The Laydown Area East contract has been successfully closed. The procurement of the EcoPark South project has resulted in the appointment of a contractor. On the Energy Recovery Facility (ERF), the OJEU notice and all supporting documents have been issued and a substantial interest from the market has been generated. Lastly a progressive approach to the events of the COVID-19 pandemic has been implemented in line with best policy from the Government and industry.

4. EQUALITIES IMPLICATIONS

- 4.1. The strategy accounts for the range of stakeholders that the commercial function must address (recipients of reports and programme data, for example) and aims to provide accessible and complete information to all those parties.

5. COMMENTS OF THE LEGAL ADVISER

- 5.1. The Legal Adviser has been consulted in the preparation of this report and has no comments to add.

6. COMMENTS OF THE FINANCIAL ADVISER

- 6.1. The Financial Adviser has been consulted during the preparation of the report and comments have been incorporated.

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APPENDIX A COMMERCIAL MANAGEMENT STRATEGY

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1 Context and Vision

The North London Heat and Power Project (NLHPP) is the programme of works authorised by Development Consent Order (DCO) granted in February 2017 through which the existing energy from waste (EfW) plant at the Edmonton EcoPark will be replaced with a new Energy Recovery Facility (ERF). The programme of works includes provision of a Resource Recovery Facility (RRF) for reception and transfer of waste incorporating a public Reuse and Recycling Centre, and EcoPark House (EPH), a visitor centre which will be used to provide community / education space and back up office space. In preparing for and carrying out the works in the NLHPP programme, the management team is working closely with LondonEnergy Ltd (LEL) the operators of the EcoPark and the current EfW plant.

Create a waste management facility in which local communities take pride, which demonstrates value and is a model for public sector project delivery”

The NLHPP leadership team have developed a vision for the programme, set out in the box above. Each function of the programme organisation will play a role in delivering the vision and this document, the “function strategy”, sets out the challenges to achieving the vision and the approach to overcoming them.

2 Purpose

This document is the function strategy for Commercial Management.

The overall purpose of the Commercial Management function is to ensure the success of all projects in the North London Heat & Power Project by providing strong commercial management & leadership, leadership on health & safety and well-being, robust commercial controls, strategic procurement advice, and a sound contracting strategy. Applying this to the early stages of a project ensures the profitable management of projects and contracts from inception to completion and ensures the identification and development of project opportunities.

The function particularly addresses the communication of commercial strategy, engagement with contracting partners and the successful execution of contracts.

3 Starting Point

From a standing start the programme has built a Programme Management Office with well defined roles for Project Management and governance. The works packages have been agreed as:

Ref	Description
E1a1	Laydown Area (East)
E1a2	Laydown Area (West) and Eastern Access
E1b	Northern Access
E2a	Transport Yard Relocation
E2b	Sewer Diversion Enabling Works
E2c	Sewer Diversion Main Works
E3	Resource Recovery Facility (inc in EcoPark South)
E4	Utilities Corridor and DNO Main Services

Ref	Description
E5	No Longer in use
E6	Eco Park House (inc in EcoPark South)
E7	Energy Recovery Facility (ERF)
E8	EfW Decommissioning & Demolition
E9	Southern Access Widening
E3a	EcoPark South
E3b	Northern Area Clearance

The Commercial team is now being formed to achieve the vision of the North London Heat & Power Project through the support of the Project Teams for the packages outlined above.

4 Challenges

The programme challenges that this strategy will support the addressing of are:

Challenge	Description
Commercial Leadership across the Projects in the NLHPP	The Programme has multiple projects of different size and complexity. These form part of the overall programme and have a series of interdependencies. These require co-ordinated commercial and project leadership to ensure both individual and overall success. The challenge is to create a working matrix structure that allows both functional and project management.
Attracting staff of the right calibre and appropriate skill sets	During the lifecycle of the Programme from procurement through to post contract management across the different projects, which differ in size and complexity, there will be a business need to match the personnel employed with the tasks to be completed. This requires flexibility in staff resourcing and the availability of suitable candidates.
Length of time for decision making	Due to the Authority structure the length of time in making decisions can be a major restraint. This requires the Commercial function to identify, analyse and recommend courses of action in advance to ensure the projects are not delayed but ensures good governance.
Variety in scale and nature of contracts	There are (or will be) multiple contracts in place, with construction contractors, technical and professional advisors as well as more specific third-party delivery agreements. Consistent but flexible practices and controls are needed to support their procurement and administration. This challenge is increased by a challenging environment of small contractor culture and the timeliness of information from them.
Commercial behaviour and perceptions of suppliers	Given the restricted number of potential suppliers and the history of procurement, sufficient suppliers have to be attracted to the project to deliver and provide competitive tension. The contractors should also be encouraged to show collaborative behaviour, the contracts should be used as means of driving standards in the contractors and their supply chain.
Contractual Management of other required outcomes	To ensure that not only Time, Cost and Quality are delivered but the Authority Vision including Health, Safety and Wellbeing

Challenge	Description
	/ Social Value are managed successfully through the contract(s).
Regulation and governance in procurement	The NLWA is bound by both external and internal governance that may not be immediately clear or understood by the growing programme management team. Clear control is needed to minimise the risks to challenge of the procurement event.
Public Sector Procurement in North London Waste Authority	There is an additional challenge in NLWA in the level of scrutiny and the need for transparency in the procurement and management of contracts. This includes reporting, the transparency of commercial close outs of contracts and the monitoring of spend against Delegated Authority.

5 Strategic Approach

The approach to meeting these challenges will be based around the following key areas:

Area	Explanation	Addresses
Team leadership	Build an effective and knowledgeable commercial team embedded in the projects to which they are assigned	Commercial Leadership across the Projects in the NLHPP
Staff recruitment and flexibility	Identification of staff structure and requirement for permanent NLWA staff positions. Procurement of appropriate staff through recruitment or the service agreement with ARUP.	Attracting staff of the right calibre and appropriate skill sets
Staff recruitment and flexibility	If permanent Authority staff are required, benchmarking to similar roles in the private sector should be used to attract the best candidates	Attracting staff of the right calibre and appropriate skill sets
Consistent Working Methods	Implementation of a robust commercial management plan to detail appropriate working practices for all aspects of the commercial function.	Variety in scale and nature of contracts / Commercial Leadership
Management Systems	Implementation of suitable tools to monitor contract activities such as compensation events (e.g. Asite NEC4 tool, cost/expenditure monitoring).	Variety in scale and nature of contracts.
Collaboration with Project teams, functional departments, suppliers and key stakeholders	By embedding in the project teams and structured engagement with functional teams – issues will be recognised and dealt with in sufficient time for the decision process to deliver a timely result.	Length of time for decision making
Early positive engagement with suppliers	Through the use of one-to-one meetings / Market Engagement Days / Website & external	Commercial behaviour and perceptions of suppliers /

Area	Explanation	Addresses
	communications / Competitive Dialogue – one message delivered to communicate the commercial and contractual approach of NLWA.	Contractual Management of other required outcomes
Working with the PMO	The Commercial function to work closely with the Project Managers and the Legal Department to ensure compliance with Public Procurement Rules whilst maximising commercial flexibility to realise better value.	Regulation and governance in procurement
Reporting and Transparency	Designing and implementing reporting processes to give relevant, timely and accurate information to the Programme and Authority Members.	Public Sector Procurement in North London Waste Authority

6 Supporting Plans

The following management plans and supporting documents will be required to implement this strategy.

Strategic Plan	Purpose	Description
Contract Change Plan	To set out the process allowing changes to be made to the project's contract and programme plan in a timely way complying with the relevant delegated authority and maintaining the integrity of the project.	This plan makes sure that the changes made to contractual and pricing are within both individual's authority limits and the Delegation of Authority given by members. This will be revised once the Digital Strategy has been implemented.
Commercial Management Plan	To set out the detailed working practices and protocols for commercial activities, including procurement, contract administration and oversight.	Contains explanation of how activities should be undertaken for use by all project team members.
Task Order Process	To manage the letting of scope to advisor contracts	Details the process to be used for defining, agreeing and monitoring task orders allowing scope to be let to existing advisor contracts.
Digital Strategy	To enable the efficient work of the programme through a robust digital backbone	This will provide the programme with the platform to control the document flow and authorisation procedures and allow for the required

Strategic Plan	Purpose	Description
		timely response to contract documentation.
Procurement Strategies (Individual Strategies for each Project procurement)	Sets out the strategy for each project's procurement, the path to arrive at that strategy and actions required to execute the strategy.	Provides the opportunity for Authority Governance to approve the approach to procurement. Clear approach for each project that enables internal execution and certainty for those engaged in bidding.

7 Risks

Potential risks which threaten the successful delivery of this strategy are:

Description	Planned Mitigation(s)
Lack of suitable bidders in the marketplace for each of the projects	Work divided into suitable lots to match the market availability of suitable bidding companies. Sustained meaningful Market Engagement to ensure that potential bidders fully understand the opportunity being offered.
Approach of the Contractors	The contractor's behaviour does not align with our collaborative and progressive working methods. This is being addressed through the development of collaborative working methods using workshops facilitated by the programme development team.
An inappropriate allocation of risk makes the commercial opportunity unattractive to bidders	Through Market Engagement understand the acceptable risk allocation for the projects relating to their size, complexity and market sector. The development of a risk strategy that protects the Authority but also creates a fair and equitable allocation of risk. The risk allocation to be governed by the principle that risk is borne by the party in the best position to manage it.
Inappropriate selection of contract form	Through the 1 to 1 meetings with the market leading suppliers and the conversation started by the Market Information Days the proposed form of contract has been communicated to, and accepted by, the market.
Failure of Project delivery contractor	Design and implement qualification criteria and contract protection that allows for the successful delivery with the failure of a main contractor
Covid-19	The outbreak of a major pandemic has led to a radical rethink of both site and office working. A collaborative approach has been developed to meet the commercial challenges this represents.

8 Development

The Commercial Management Strategy is intended to be valid for the duration of the NLHPP programme. However, it is recommended that this Strategy document and associated plans are reviewed every six months and updated if required to reflect any new challenges or objectives which emerge, and any lessons learned as activities become live workstreams and policy and political circumstances change.

9 Resources

In establishing and delivering this strategy and its subsequent management plan, some key resource requirements have been identified:

Description	Requirement
People Staff	Sufficient resources to execute the strategy
People: External Commercial Resource	Flexible resource of sufficient calibre to meet the changing skill set requirements of project delivery
Tools: Stakeholder Management software	A digital strategy that allows the efficient and accurate monitoring and delivering of the pre and post contract requirements
Internal resource - PMO	Project Management teams that enable project delivery goals

10 Functional Stakeholders

A high-level summary of stakeholder interfaces is captured below. A full detailed stakeholder management plan with regards to this function will be prepared within the relevant management plans.

Stakeholder	Relationship
Programme Office	Inform them and take information about programme to inform work development
Project Delivery	Take information to inform work development, work with them on contractor liaison.
Governance and Legal	Inform them and take information about programme to inform contract and risk development
Finance	Inform of cost; liaise on budget implications
Technical Authority	Consult with this function on details required to support contractual and risk positions
Technical Advisers	Consult with – to inform the contractual and risk positions
Legal Advisers	Work with to transform commercial positions into efficient legal drafting
Planning Advisers	Take information to inform work development, work with them on contractor liaison.
Supply Chain/Contractors	Negotiate and put in place contracts that deliver the Programme vision and the agreed Authority risk position
Operator/LEL Officers	Inform Borough Officers through formal meeting structure and informal briefings. Work with fellow NLWA officers to create delivery of the Programme vision.
Members	Inform Members through formal meeting structure and informal briefings.
Public	Work through Authority Communication Officers to answer questions raised by the public