New Build 'Waste to Energy' Plant, Greater Manchester

DISPUTE RESOLUTION: on behalf of Main Contractor

Client:

Main Contractor

Appointed by:

Commercial Director — Main Contractor

Procurement:

Bespoke Construction Contract and Interface Agreement for PFI Project.

Brief:

CRM were engaged, following legal advice received by our Client, to provide detailed analysis and reporting to help deliver harmonious and equitable resolution of the commercial elements of the contract.

These included: claims arising with and from the Employer; various insurance claims; including PI; issues resulting from party insolvency mid-contract; preparation for formal proceedings including potential adjudication; TUPE; defects and technical issues.

Timeframe:

Our involvement commenced in January 2012 and concluded in September 2018

Description:

Our client was contracted to deliver a programme of projects to provide 'waste to energy' facilities across the region, under PFI.

Arising from the complexity of the scheme and the multiplicity of parties involved, there were numerous disputes and consequent claims arising relating to operational effectiveness, programme, cost and contractual obligations.

Engagement:

The Commercial Risk Management team worked daily alongside and with the site team, as well as liaison with the Client's Senior Management and legal advisors.

Outcome:

This contract was extremely complex with the problems revolving around the failure of some of the facilities to achieve the targeted level of recycling, power output and landfill reduction. The contractual arguments were detailed and needed specialist input into the engineering principles involved in what is a relatively new form of waste management.

Learning:

The Contractor had a legal review system running for a number of months prior to our appointment. This had the benefit of ensuring the claim work being undertaken by Commercial Risk Management was in line with these legal reviews. However earlier involvement of Commercial Risk Management would have been beneficial in this process by reducing extent and degree of difference , and earlier mitigation or programme impact.

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COMMERCIALRISK MANAGEMENT

Contact: Stewart Owen

+44(0)1494 778963 / (0)7817 143870

www.commercialrisk.management