

Contract Specification:

**Guidance on the evidence required to justify disproportionate
cost decisions under the Water Framework Directive**

CONTRACT NUMBER: CRP/SG PROJECT 3

Contents

1	Introduction	1
2	Background	1
3	Aim	3
4	Products	3
5	Requirements	5
6	Method and Key Sources of Information	7
7	Quality Assurance	8
8	Timetable	8
9	Costs	9
10	Travel and Subsistence	9
11	Contract Award Evaluation Criteria	9
12	Monitoring	9
13	Additional Issues	11
	Appendix A	12

CONTRACT TITLE: Guidance on the evidence required to justify disproportionate cost decisions under the Water Framework Directive.

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1. Introduction

- 1.1 The Department for Environment Food and Rural Affairs (Defra) is promoting a collaborative programme of research on assessing the costs and benefits of options in river basin management for implementing the EU Water Framework Directive (WFD). This programme involves many of the major stakeholders in England, Wales, Scotland and Northern Ireland. The total cost of the programme, which is already underway, is estimated to be £1.5 million. Six projects are included in the research programme, of which project 1 is nearing completion and project 2 is underway¹.
- 1.2 In addition to Defra, the Welsh Assembly Government, Scottish Executive, Environment Agency, English Nature, Department for Trade and Industry, Scottish Environment Protection Agency, Scotland and Northern Ireland Forum for Environmental Research (SNIFFER), the Joint Environment Programme and UK Water Industry Research are currently offering funding for the programme, or for specific projects. It is anticipated that other organisations, including industry groups and Non-Governmental Organisations will also make financial commitments. Further organisations are contributing to the programme in kind, including Country Land and Business Association, UK Major Ports Group/British Ports Association and the Royal Society for the Protection of Birds (RSPB). Currently unassigned projects will be assigned by competitive tendering, wherever possible. The process of inviting tenders and appointing contractors for project 3 will be managed through Defra (hereafter referred to as 'the Client'), using the Client's procurement processes.

2. Background

- 2.1 Project 2 of the Collaborative Research Programme provides guidance on the methods and data to help assess the cost-effectiveness of potential measure options for achieving good status. Project 3, and subsequent projects, will build upon these outputs to consider the benefits of achieving good status and other objectives. Information on the benefits of making environmental improvements will inform decision-making on whether or not an alternative objective to achieving good status by 2015 is appropriate on the basis that achieving good status in this timescale would be disproportionately expensive.
- 2.2 The Water Framework Directive allows Member States to set an alternative objective to that of achieving good status by 2015 where, among other things,

¹ <http://www.defra.gov.uk/environment/water/wfd/economics/research.htm>

the achievement of good status in a water body by 2015 would be disproportionately expensive or technically unfeasible.

2.3 An alternative objective for a water body may be:

- Deadline extensions – Achieving good status by 2021 or 2027 rather than by 2015; or
- Less Stringent Objectives - The improvements towards good status that can be made by 2015 which are technically feasible and not disproportionately expensive

2.4 In practice, it may not always be clear whether improvement measures would best be described as technically unfeasible or disproportionately expensive. There are likely to be three different types of situation:

- Those in which measures are clearly technically unfeasible;
- Those in which measures may be technically unfeasible but proof that they are associated with disproportionate cost may be at least as straightforward as proof of technical unfeasibility;
- Those in which measures are clearly technically feasible and the decision on what objective it is appropriate to set rests on whether the measures would be disproportionately expensive.

The outputs from this study should be relevant to the second and third of these situations.

2.5 Member States may also designate surface water bodies as heavily modified or artificial. For such bodies, the default objective is to achieve good ecological potential and good surface water chemical status by 2015. However, analogous alternative objectives to those outlined in Paragraph 2.3 above can be set where achieving good ecological potential and good surface water chemical status by 2015 would be disproportionately expensive or technically unfeasible.

2.6 Justification for the use of an alternative objective has to be set out in the relevant river basin management plan. The plans will be subject to public consultation prior to being reported to the European Commission. This means that the evidence supporting the use of alternative objectives must be presented in a form that is easily understood by non-economists. It also means that it is important that comparable types and qualities of information are used in justifying the use of alternative objectives by the different parts of the UK.

2.7 An outline methodology for assessing disproportionate cost has already been developed and peer reviewed [*CEA and Developing a Methodology for Assessing Disproportionate Costs*¹]. This provides a generic approach to the

¹ <http://www.defra.gov.uk/environment/water/wfd/economics/research.htm>

assessment of disproportionate costs. The purpose of this study is to incorporate this methodology into practical guidance relevant to the range of water management decisions that will be involved in developing programmes of measures and setting environmental objectives.

3. Aim

3.1 The aim of the Project is:

To produce practical guidance on the evidence needed to justify why taking further measures to improve the status of a water body would be disproportionately expensive.

3.2 The guidance should:

- (a) Identify the evidence needed in different situations, ranging from those where the decision is likely to be clear cut, uncontroversial and of only local interest to those where the decision will be complex, controversial and of national interest; and
- (b) Identify the most useful forms for presenting the evidence to the range of different decision-makers, water users and other stakeholders involved in river basin management planning.

4. Products

4.1 The principal outputs from the project shall be:

- (A)** A list of the different benefits associated with improvements in the status of surface waters and groundwater, and an indication and explanation of their likely relative significance.
- (B)** Guidance on the range, type, format and quality of evidence appropriate to inform disproportionate cost decisions of varying difficulty. The guidance shall identify:
 - (i) The different types of costs and benefits likely to be relevant in different decision-making situations;
 - (ii) The information on costs and benefits likely to be sufficient to support decisions in each situation. It may be that many disproportionate cost decisions will be made without monetising environmental benefits. The guidance shall set out how each of the benefits identified in (A) should be qualitatively and quantitatively²

² e.g. number of beneficiaries; length of river improved; etc

described so as to provide sufficient objective narrative to inform judgements on whether costs are disproportionate;

- (iii) The appropriate methods to be used where environmental benefits are to be monetised; and
- (iv) An appropriate means of describing the level of certainty associated with benefit and cost estimates

(C) Guidance on:

- (i) A common structure for collating the evidence to inform decisions on whether making further improvements in the status of the water environment would be disproportionately expensive; and
- (ii) The most appropriate means of presenting that evidence for the purpose of informing decisions and to take account of the contextual information likely to be relevant to the different decision-makers and interested parties involved

The aim shall be to ensure that the evidence used to justify the use of an alternative objective - and to determine what that alternative objective should be - is both comprehensible and described in a way relevant to all interested parties including political decision-makers.

(D) An assessment of the number and types of cases in which the decision on whether or not an improvement in the status of the water environment would be disproportionately expensive is likely to be;

- straightforward;
- of intermediate difficulty; or
- complex, controversial and of national interest (and hence potentially requiring detailed information on costs and benefits).

The assessment shall be based on a suitable sample of case-studies. The studies shall be relevant to the main risks to the achievement of good status identified during the recent pressures and impact analyses undertaken by the agencies. The criteria which make a decision straightforward; of intermediate difficulty; or complex, controversial and of national interest shall be identified. The output shall be designed to inform the guidance prepared for the purposes of point (B) and to help the environment agencies and other relevant competent authorities estimate the likely workloads involved in collecting and collating the evidence needed to set objectives in the first river basin management planning cycle.

(E) Taking account of the guidance under point (B) on how benefits should be described qualitatively and quantitatively and on what methods are appropriate if benefits are to be monetised, a database of relevant values

(monetary and non-monetary) that are available for those benefits identified under point (A). This list should be prepared for use by a non-economist and should incorporate a description of potential errors associated with any values and guidance on issues that should be taken into account if the values are used to inform disproportionate cost decisions;

- (F) Taking account of the conclusions of points (B), (D) and (E), a list of benefit values (e.g. amenity value; etc) for which additional information is required. This shall include a description of any relevant qualitative, quantitative, or monetised information about the benefits that could play a significant role in informing decisions on whether measures would be disproportionately expensive. If appropriate, prioritised recommendations shall be made for a number of carefully targeted new empirical studies to fill major gaps. Such studies may be carried out in future projects of the Collaborative Research Programme.

5. Requirements

5.1 The guidance shall be designed to inform decisions on:

- (a) Whether to extend the deadline of 2015 for achieving good status for reasons of disproportionate expense;
- (b) Whether to aim to achieve less stringent standards than those required for good status for reasons of disproportionate expense; and
- (c) The improvements to the water environment that can be made without incurring disproportionate expense.

5.2 Product (B) shall therefore include guidance on:

- (a) The circumstances in which a time delay would affect whether achieving good status (or good ecological potential) would be disproportionately expensive;
- (b) Assessing the benefits resulting from incremental improvements in water quality; water resources; and morphology (habitats) as well as the benefits of making the improvements necessary to achieve good status

5.3 The project and the guidance it produces shall:

- (a) Take account of, and be relevant to, the measures and decision-making situations involved in river basin management planning in each of the different parts of the UK;

- (b) Take account of the costs of collecting information on costs and benefits; the contribution that information will make to facilitating decision-making; and the time available to collect and collate the information;
 - (c) Identify approaches that are proportionate to the difficulty and importance of the decisions involved and practicable to apply within resource and time constraints under which river basin management planning will operate; and
 - (d) Take account of the results of Projects 2a and 2b and the on-going work and draft outputs of Project 2c concerning of the costs and cost-effectiveness of measure options.
- 5.4 The guidance shall be comprehensible and useable by:
- (a) Regulatory bodies and other relevant competent authorities, in particular the Environment Agency, the Environment & Heritage Service, Northern Ireland and the Scottish Environment Protection Agency and specifically the field staff of those bodies who will be involved in collecting the evidence needed to justify the use of alternative objectives;
 - (b) Policy-makers in the UK administrations; and
 - (c) Water users
- 5.5 The guidance shall be written in non-technical plain English so that it can be readily understood and used by non-economists. It shall be designed so as to be useable within the resources and window of time available to the competent authorities for collecting the information required.
- 5.6 The reasons for selecting, and the benefits of, each recommended approach shall be described and contrasted with relevant alternatives.
- 5.7 Case-study examples (both actual and virtual) shall be used extensively to develop and illustrate the approaches proposed. Around 50 case studies should be carried out including examples covering:
- (a) Tidal waters, fresh surface waters and groundwater;
 - (b) England, Northern Ireland, Scotland and Wales; and
 - (c) A range of different improvement measures, including those relevant to heavily modified water bodies
- 5.8 The guidance produced in (B) and (C) shall be pilot tested in a range of different decision-making situations representative of the main cases likely to be encountered in making disproportionate cost assessments. The pilot testing

shall involve regulatory bodies; water users and other interested parties. The guidance shall be revised to take account of the lessons learned during the pilot testing work.

- 5.9 The Contractor shall organise a workshop for representatives of the main users of the outputs of the project in which it will describe the utility of the outputs by means of practical illustrations of their application.

6. Method and Key Sources of Information

- 6.1 This project shall make use, as relevant, of
- (a) The outputs of the DEFRA funded study; *CEA and developing a methodology for assessing disproportionate costs* (RPA January 2004)
 - (b) The analyses undertaken to date in implementing the Water Framework Directive (e.g. the Article 5 pressures & impacts analysis);
 - (c) Current practice in water management decision-making in the UK (e.g. in water industry investment planning) and in other countries, in particular other Member States such as France, Germany and the Netherlands;
 - (d) Interviews with relevant staff from the environment agencies and key interested parties;
 - (e) Case-study information;
 - (f) Outputs of the Collaborative Research Programme and allied projects (e.g. Project 2 and C4V reports; recent UKWIR research on cost-benefit methodologies);
 - (g) Other relevant literature, in particular any emerging from other Member States;
 - (h) Comments of peer reviewers (see Section 7); and
 - (i) Advice from the Project Board.
- 6.2 The project will require extensive consideration of the types of measures likely to be needed and the likely costs and benefits associated with these measures (see outputs from CRP project 2).
- 6.3 The approach shall recommend a method for taking into account commercially confidential information in decision-making whilst not presenting that information in the justification for the use of an alternative objective.
- 6.4 Any datasets established as part of the project shall be in formats that can be readily used by the environment agencies.
- 6.5 The source of any data included in the outputs of the project shall be identified together with information on the confidence, precision and limitations of that data.

- 6.6 Consultants should note that the Directive does not provide a means of exempting on the basis of disproportionate cost from:
- (a) Implementing the measures specified in other Community legislation (e.g. the treatment levels required for certain discharges under the Urban Waste Water Treatment Directive); or
 - (b) Achieving the objectives of other Community legislation (e.g. Shellfish Waters Directive)

This will be taken into account by the competent authorities when determining whether it is appropriate to set an alternative objective to that of achieving good status by 2015 on the basis of disproportionate costs. The remit of this Project does not extend to identifying the constraints imposed by the requirements of other legislation on the use of alternative objectives in river basin management planning.

- 6.7 Consultants should also note that decision-making on whether to authorise new water use activities likely to result in deterioration of status is not within the scope of this Project although the outputs of the projects are likely to be of use in assessing such cases and will contribute to future work in this area.

7. Quality Assurance

- 7.1 The draft outputs will be peer reviewed by a panel selected by the Project Board from the Programme's peer review pool.
- 7.2 The consultants shall facilitate the involvement of the Peer reviewers in relation to:
- Key options being considered during the production of the draft outputs specified in Section 4; and
 - The draft of each of the products (A,B,C,D,E and F) specified in Section 4
- 7.3 The comments received from the peer reviewers on the draft products shall be fed back to the Contractors for consideration prior to the delivery of each output.

8. Timetable

- 8.1 A set of milestones for the research is given below, together with dates by which each milestone must be reached. The successful tender will have included a detailed timetable of events that will ensure these milestones are achieved to schedule, with definite dates for each milestone. Any subsequent variations to the Contractor's timetable are subject to the Client's prior written agreement.

Milestone	To be completed no later than
Submission of tenders	Mid September 2005
Project start	End September 2005
Draft outputs C	December 2005
Draft outputs D	January 2006
Draft Outputs E and F	February 2006
Testing	February – March 2006
Final report	30 April 2006

8.2 Brief fortnightly written progress reports will be required for the duration of the contract. These shall provide summary updates on:

- Progress on key activities;
- Project risks and issues and how they are being managed; and
- The resources employed to date.

9. Costs

The tenderer must list separately staff costs, including individual rates and estimated man-day inputs, travel and subsistence, materials, sub-contracts and reports. This information must be provided in respect of any sub-contractors who will be employed for the purposes of this contract. Although all costs will be evaluated exclusive of VAT, the tenderer must state whether VAT is applicable.

10. Travel and Subsistence

All travel and subsistence costs must be included in the total cost of the proposals.

11. Contract Award Evaluation Criteria

Prospective Contractors must supply the Client with details of how they will undertake the proposed programme of work, including a breakdown of the content of the work. Prospective Contractors must provide a timetable for the completion of the contract, preferably in the form of a GANTT chart, and should include an initial risk assessment, identifying the key risks to non-delivery and potential mitigation strategies. Prospective Contractors must provide CV's of all staff who will be engaged in the contract and evidence of accomplishments in related areas.

It is anticipated that the prospective Contractor will need to deploy a team of staff that can demonstrate knowledge and experience of the following subjects:

- Recent and relevant multi-disciplinary project management experience;
- Economic expertise, especially in the field of appraisal techniques;
- Practical experience of carrying out appraisals, including cost-benefit analysis;
- Production of clear, concise and easy-to-use practical guidance for non-specialist users;

- A good understanding of the Water Framework Directive;
- An understanding of the water environment and water uses;
- An understanding of water management and the processes and bodies involved.

Contractors must supply details of the quality control procedures, together with details of past work undertaken in this area. This information must be provided in respect of any sub-contractors who will be employed for the purposes of this contract.

All bids will be evaluated against the following criteria:

- Value for money
- Grasp of the issues involved
- Sound approach to the task
- Capability and relevant experience
- Clarity of tender

12. Monitoring

Client's Contact Point

The Contract Supervising Officer for the Department will be Tom Griffiths (<mailto:tom.griffiths@wales.gsi.gov.uk>).

The Contract Supervising Officer will be the point of contact for the Contractor during the course of the contract. He may elect to meet a named representative of the Contractor as and when necessary to discuss any issues which may have arisen during the provision of the service¹.

See Appendix A

Contractor's Personnel

Tenderers should provide the names of personnel to be assigned to the contract, their status in the organisation and their previous experience of dealing with contracts of a similar nature. Tenderers should also give details of a nominated contact point.

Upon award of the contract, provision for regular progress reports to the Client will be made. Fortnightly written progress reports should be used to raise any issues that may arise and actions that need to be taken to resolve problems. More frequent verbal contact may be required at certain stages of the contract.

¹ The Contract Supervising Officer is an appointed executive member of the Programme Steering Group (PSG), who will be advised by a small board of PSG members, in association with the CRP Programme Manager.

13. Additional Issues

Prospective Contractors must declare in their tenders any conflict of interest in this area of activity.

APPENDIX A

Project 3 – Guidance on the evidence required to justify disproportionate cost decisions under the Water Framework Directive

