

Strictly Private & Confidential: FOI(S)A exempt

Please find below a short updated summary of the items which have been formally addressed through the Dispute Resolution Process with BSC.

There are a number of contractual and legal work streams underway with reporting to the TPB a key output measure. As those items are executed, the outputs of the detailed Audits and specific DRP tests on further key principles will inform the relative strengths of issues and allow more certainty on programme and cost implications.

<u>Item</u>	<u>Issue/Value</u>	<u>Comments/Outcome</u>
Refusal to commence on Princes Street.	BSC did not agree change item for Princes Street (Contingency bus lane) and also state there were other Notified departures which needed to be agreed before they would start unless they were to commence on a Cost Plus, no risk basis.	After a stalemate lasting 4 weeks the parties agreed to implement the Prince Street Supplemental Agreement (PSSA) which addressed compensation event related matters (ground conditions etc.) on a demonstrable cost basis whilst retaining the original prices for the original scope of works. Work commenced on Princes Street in late March 2009.
Preliminaries for subcontractors in Princes St. Contingency Bus lane change	BSC argued for automatic inclusion of sub contractor prelim mark up, as summarised in Schedule Part 4 Appendix irrespective of actual requirement. (Values ranged from 15% - 60%)	Agreed at mediation in May 2009 at 17.5%.
Hilton Car Park	BSC alleged a change (c£100k). tie considered included within Construction Works Price. Taken to adjudication Oct 09	Adjudicator held tie's view that no further instruction required. Works now completed. [£100k saving]
E.o.T. 1	Time agreed at 7.6 weeks for V26 – V31 design programme change. BSC Value at £7.099m tie considered~£2.5m - £3.5m. Taken to mediation ion October 2009.	Mediation agreed process and valuation of £3.524m [£3.57m saving]

<p>Gogarburn Bridge</p> <p>[BDDI-IFC] Design issue</p>	<p>BSC claimed change for Base Date Design to IFC beyond normal development and completion of design. Their Estimate was submitted @ >£300k.</p> <p>Taken to adjudication Nov 09</p>	<p>tie considered all differences were normal development and completion of design.</p> <p>Adjudicator ruled that most items were changes but with a contract interpretation which went beyond tie's or BSC's submissions.</p> <p>Not challenged legally but considered as an extreme decision.</p> <p>BSC revised Estimate £235k.</p> <p>Valuation expected to be agreed at £176k [net £125k saving]</p>
<p>Carricknowe Bridge</p> <p>[BDDI-IFC] Design issue</p>	<p>BSC claimed change for Base Date Design to IFC beyond normal development and completion of design. Their Estimate was submitted @ >£300k.</p> <p>Taken to adjudication Nov 09</p>	<p>tie had agreed elements of change on this item (c£75k) caused by CEC requirements.</p> <p>Adjudicator ruled that some other items were changes but with a contract interpretation beyond tie's or BSC's submissions.</p> <p>Not challenged legally but considered as extreme decision.</p> <p>Valuation agreed at £138k [net saving £200k]</p>
<p>Russell Road Retaining Wall 4</p> <p>BDDI-IFC + Contamination +Access</p> <p>Alleged changes</p>	<p>BSC alleged a change of c£4.8m in 3 parts</p> <p>BDDI+IFC (£1.8m) Contamination (c£2.0m) Access (c£1.0m)</p> <p>Adjudication Dec 09/Jan 10</p>	<p>DRP resulted in BSC withdrawing the access item, agreeing to address the contamination on an actual cost basis and taking the BDDI-IFC item to adjudication.</p> <p>The Adjudicator's decision was closely aligned to tie's contract interpretation.</p> <p>However, he did decide that the change to the wall was a notified departure and valued</p>

		<p>at £1.46m.</p> <p>The updated view of this structure suggests that the actual costs are likely to be £2.6m (including c£1.1m for the contamination based on the adjudication), a reduction of £2.2m on the BSC estimate.</p>
MUDFA Rev 8 Programme	BSC seek an EOT of 9 months based solely on MUDFA impacts	<p>Agreed to be put on hold pending the agreed timeline to define a new programme to complete.</p> <p>Has now been reactivated and mediation took place on 16/17 March. Completed without agreement and BSC referred to adjudication on 22 April 2010. Hearing planned 16-18 June 2010.</p>
Haymarket Viaduct [BDDI-IFC] Design issue and Ground conditions	<p>BSC claimed >£400k for changes</p> <p>Commenced the DRP process in October 09</p>	<p>tie agreed there was an element of change but disagreed with BSC Estimate. Resolved by agreement at £195k during the Internal stage of DRP. [saving of >£200k]</p>
Baird Drive Retaining Wall [BDDI-IFC]	BDDI-IFC design issues. BSC currently claim £1.5m (reduced from £3.9m to £2.5m to £1.9m through various previous iterations)	<p>DRP process commenced on 15/1/10.</p> <p>tie agrees there is a change (as a result of NR requirements) but value this at ~£800k currently although this could increase dependent on information provision from BSC. Updated estimate received on 29/4/10 reducing claim to ~£1.25m. Agreed Without Prejudice at £915k on 18/05/10.</p>
Balgreen Road Retaining Wall	BDDI-IFC design issues. BSC claimed £800k	<p>DRP process commenced on 15/1/10.</p> <p>tie agrees there is a change (as a result of NR requirements) originally valued at £230k. Settled at</p>

		final stage of Internal DRP at £298k. [saving of £500k]
Section 7 Drainage [BDDI-IFC]	BDDI-IFC design issues. Key principle in PA1 associated with amendment being tested. BSC claimed £1.35m	DRP process commenced 10/2/10. tie agrees there are changes but evaluates this at £25 - £50k. There is a difference in principle of items omitted. Adjudicator decision on 24/5/10 supports Infraco as to the existence of ND. Value being ascertained with final resolution expected ~ £650k - £750k generating ~£600k saving from Infraco's initial claim.
Depot Access Bridge [BDDI-IFC]	BDDI-IFC design issues BSC claim £2.5m change.	DRP process commenced 12/2/10. tie agrees there is a change but evaluates this (based on the issue raised by BSC) as a £4.8m saving. Await BSC referral to adjudication.
Tower Place Bridge [BDDI-IFC]	BDDI-IFC design issues BSC claim £450k change.	DRP process commenced 25/2/10. tie agrees there is a change but evaluates this (based on Pricing Assumption 19) as a £300k saving. There is a difference between the drawings used by tie and BSC. Adjudication Decision generally for tie on 18/5/10. Valuation is a £260k credit. Overall benefit / saving from BSC claim ~£750k.
Murrayfield Underpass [PA1 & 34.1 / 80.13 instructions]	BDDI-IFC design issues BSC claim ~£145k change BSC challenge competence and tie 's right to issue instructions under 80.13 & 34.1	DRP process commenced 21/5/10. tie has acknowledged there is a notified departure but fundamentally disputes Infraco's position on 34/80.13. Expect to go to adjudication after CEO's meeting on 18 June.

Change Statistics (at 09/4/10)

<i>Total Notices by BSC</i>	565
<i>Deleted/withdrawn/superseded</i>	<u>(91)</u>
<u>TOTAL</u>	<u>474</u>
<i>Estimates Submitted</i>	241
<i>Estimates Outstanding</i>	250
tie <i>Change Orders issued</i>	130
<u>ESTIMATES SUBMITTED BUT NOT AGREED</u>	<u>111</u>
<i>Outstanding BSC Actions</i>	64
<i>Outstanding tie Actions</i>	25
<i>Disputed as Change</i>	26

<i>Value of agreed changes</i>	£16.2 m [61%]
<i>Original submission</i>	£26.7 m

Analysis of Estimates

Of the 241 Estimates received:

135 < £50k

91 < £10k

Smallest Estimate £127 (settled at £92)

Change Statistics (at 30/4/10)

<i>Total Notices by BSC</i>	672
<i>Deleted/withdrawn/superseded</i>	<u>(110)</u>
<u>TOTAL</u>	<u>562</u>
<i>Estimates Submitted</i>	267
<i>Estimates Submitted (Notified to BSC as Incomplete)</i>	(27)
<i>Estimates Outstanding</i>	286
<i>tie Change Orders issued</i>	137
<u>ESTIMATES SUBMITTED BUT NOT AGREED</u>	<u>103</u>
<i>Outstanding BSC Actions</i>	50
<i>Outstanding tie Actions</i>	20
<i>Disputed as Change</i>	33

<i>Value of agreed changes</i>	£16.37 m [61%]
<i>Original submission</i>	£26.93 m

Analysis of Estimates

Of the 267 Estimates received:

150 < £50k

99 < £10k

Smallest Estimate £60

Change Statistics (at 28/05/10)

<i>Total Notices by BSC</i>	689
<i>Deleted/withdrawn/superseded</i>	<u>(117)</u>
<u>TOTAL</u>	<u>572</u>
<i>Estimates Submitted</i>	287
<i>Estimates Submitted (Notified to BSC as Incomplete)</i>	(46)
<i>Estimates Outstanding</i>	281
<i>tie Change Orders issued</i>	148
<u>ESTIMATES SUBMITTED BUT NOT AGREED</u>	<u>93</u>
<i>Outstanding BSC Actions</i>	45
<i>Outstanding tie Actions</i>	17
<i>Disputed as Change</i>	31

<i>Value of agreed changes</i>	£17.933m
<i>Original submission</i>	£31.903 m

Reduction is 56% of Infraco's submission or 78% reduction compared to the correct final value.

Analysis of Estimates

Of the 287 Estimates received:

162 < £50k
108 < £10k

Smallest Estimate £60