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**From:** Colin MacKenzie  
**Sent:** 02 May 2008 18:29  
**To:** Gill Lindsay  
**Cc:** Nick Smith  
**Subject:** EDINBURGH TRAM BRIEFING

**Importance:** High

Gill,

I thought it may be helpful to you were I to set out where things stand in relation to Financial Close.

#### **Minute of Council meeting 1 May 2008**

I have a copy of the Act of Council signed by John Sturt. This is on my desk should it be needed. BBS would probably want the original; maybe that went direct to you. The certified copy of 20 December 2007 Act of Council is now with DLA.

#### **tie and TEL Operating Agreements**

Both are with you, however Nick has raised the point about an amendment being required to deal with anticipated changes in price.

#### **Network Rail Framework Agreement**

I have written again to both Steve Sladdin and Mike Fitzgerald requesting them to contact you direct to give you comfort to sign off the agreement.

#### **Scottish Power Agreement**

I have written again to Andrew Fitchie requesting the standard letter of comfort required to let you sign off this agreement.

#### **CEC Guarantee**

I forwarded the final version to you electronically.

#### **Letters to Transport Scotland**

These styles have been forwarded to you. They will need to be topped and tailed, and some dates added in before being despatched to Malcolm Reed and copied to John Ramsay.

#### **T N Aitchison letter To W Gallagher**

I believe you have agreed the form of this letter.

#### **Tram Sub-Committee 12 May 2008**

Nick and I both commented on Finance's draft report dealing with the SDS claims.

#### **Procurement Issues**

I share your concerns about this matter. The price difference between BBS and Tramlines is clearly narrowing, maybe even to the extent where the latter would feel a challenge was appropriate and worthwhile, although I am bound to say I do not recall what the second lowest bid was in financial terms. In the worst case scenario the gap could be closing by as much as £20 million on a £240 million contract. The other aspect which gives cause for concern relates

to the suggestion that CAF joins the Infraco, despite the fact that these were two separately structured procurements and this option was not open at an earlier stage of the process with other bidders.

### **Chief Executive's delegated powers**

The previous issue arises once again about the extent of the delegated power granted to the Chief Executive. If discussions over the next few days result in a further increase in the contract price over the £508 million mentioned in the report and Act of Council, we are back to the materiality debate. One view is that any increase above £508 million must go back to members for approval, particularly since Council noted the "adverse movement in the estimated cost of the Tram Project..."

### **DLA letters**

I have already made known to you my views about the role of DLA on behalf of the Council and the worth of their letters. Those views have not changed.

Good luck over the next few weeks.

Regards,

Colin MacKenzie  
for Council Solicitor