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**From:** Gill Lindsay  
**Sent:** 16 January 2008 14:59  
**To:** Colin MacKenzie  
**Cc:** Alan Squair; Nick Smith  
**Subject:** RE: Infraco Deliverables

Colin/Nick

We urgently need to have agreed product amending Tie product distributed Monday, even if CEC continues to have an additional separate document. Suggest these then form schedules as they stand to IPG Report. Meeting is 24 not this Friday now. Products are reqd not in advance of today as agreed Monday pm but by close of play today as WG is coming Thur am to review. Pl urgently progress.

Gill

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**From:** Colin MacKenzie  
**Sent:** 11 January 2008 15:28  
**To:** Gill Lindsay  
**Cc:** Alan Squair; Nick Smith  
**Subject:** FW: Infraco Deliverables

Gill,

With reference to the messages below I think it is now fair to say that the Contract Deliverables list has been taken as far as the members of the Property and Legal Issues Group can. In line with the Council decision of 20 December I believe the next step is for the two client directors, supported by yourself, to make recommendations to the Chief Executive on whether **tie** can be authorised to execute the BBS contract.

There may be some debate from **tie** about meeting these deliverables and the measure and timing of delivery in certain categories. My own view is that all of the items in the list were, and remain, critical for delivery to the Chief Executive prior to issue of the Contract Award Notice. I do not consider it appropriate for the Council to concede on any of the issues, but accept that this decision rests with the client directors and yourself.

I understand the matter will be discussed on Monday with the directors.

Regards,

Colin MacKenzie  
for Council Solicitor

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**From:** Andy Conway  
**Sent:** 11 January 2008 12:46  
**To:** Alan Coyle  
**Cc:** Rebecca Andrew; Gill Lindsay; Colin MacKenzie; Steve Sladdin; Nick Smith; Duncan Fraser; Alan Squair  
**Subject:** RE: Infraco Deliverables

Thanks Alan. We'll just use your list on Monday morning with Donald and Andrew. I've spoken with Colin and we all seem to be saying the same thing.

Have a good weekend.

Regards

Andy Conway

Tram Co-ordinator / City of Edinburgh Council

**From:** Alan Coyle  
**Sent:** 11 January 2008 11:09  
**To:** Andy Conway  
**Cc:** Rebecca Andrew; Gill Lindsay; Colin MacKenzie; Steve Sladdin; Nick Smith; Duncan Fraser; Alan Squair  
**Subject:** Infraco Deliverables

Andy

Please see feedback on the deliverables paper. I have highlighted in red text the more important elements, some of which, should be straightforward for tie to provide. I have also added comments in red text.

Regards  
Alan

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Susan and Alasdair,

I have met with colleagues from Finance and City Development to discuss the Deliverables Paper which you drafted. Following that meeting I am now in a position to forward the Council's requirements.

**1. Contract - All elements highlighted below relating to contract should be provided. The operating agreements are not critical to the signing of the contract, however, it would be good to maintain pressure on tie to close this out. I would anticipate these items should be fairly easy for tie to provide.**

All contract terms finalised and ready to be signed. This will require to be supported by a letter from DLA to the Council Solicitor, together with updated Risk Allocation Matrices. An explanation of the risk profile will be required, so as to give comfort to the Chief Executive before the Council executes the Guarantee in respect of tie's financial obligations.

tie to provide a list of what is not included within the BBS contract ( i.e. the items which BBS have specifically excluded ) with a financial value against each item.

Novation agreements completed and ready to be signed off.

CEC Guarantee agreed with BBS and ready for sign off.

Due Diligence on approvals signatures for Infraco and Tramco.

Operating Agreements for tie and TEL signed off.

tie to advise on current status of MUDFA contract and whether it has potential to hold up BBS contract and result in increase in costs.

## 2. Programme

Confirmed dates for 1a and 1b and understanding of programme risk.

Agreement of On-Street Construction Methodology as agreed amongst tie, BBS, CEC and TEL. The Council has serious concerns about closure periods. tie to produce cost implications for best and worst case scenarios relating to on-street construction and methodologies.

## 3. Employers' Requirements

tie to provide written summary to CEC of Employers' Requirements, including detailed scope of the Tram Works.

## 4. Due Diligence

Statement from the Preferred Bidder that they accept the performance run-time model and "law of physics" results and confirmation of acceptance of the emerging quality of design.

**5. Risk - All elements below are key. These details should also be relatively easy for tie to provide.**

There is a need for full transparency within the QRA, therefore

**tie** to produce a summary statement on QRA, with details as follows:-

(a) Black flag risks: what is the likelihood of any of these risks occurring ? What is **tie's** strategy to avoid said risks materialising ? What is the cost of exiting from a Black Flag item ?

(b) Details of the risk management strategy for the key risks. It is not sufficient to say that there is cash in the risk allocation, as this is not considered enough if all risks were to materialise.

(c) Detailed analysis of programme risk. Confirmation of the risk allowance for programme delay. Detail of items on critical path and what is being done to ensure they do not cause (further) delay.

**tie** to produce a written statement to CEC in respect of each risk item how that stood at 25 October 2007 compared with January 2008, and an explanation of how these items have changed in cash value.

**6. Value Engineering**

Statement on VE included in the final deal and other opportunities still available to the Project. This statement should explain the likelihood for realising opportunities: each item to have a measure of probability applied to it.

**7. Pricing - The pricing elements below should also be straightforward for tie to provide and should present no issue for them, this should be provided.**

The Council requires a detailed analysis of prices, costs and risks allowance. **tie** required to explain how prices for maintenance, etc. impact on operating cost assumptions.

Cross refer to paragraph 1 above re exclusions from contract by BBS.

Otherwise statement on % of costs fixed and % outstanding as provisional sums with programme for moving these to fixed costs.

**8. Funding**

See requirements in paragraph 7 above.

**9. NR Assurances - All elements relating to NR and associated issues should be provided. With regard to the APA this will not be signed by authority to sign the contract is provided. tie should provide comfort to the Council on this issue in writing detailing position.**

Full statement from **tie** on current status of every proposed agreement between CEC and NR, including Depot and Station Change Procedures. Full risk analysis in respect of each agreement explaining consequences for CEC in terms of time and cost relative to any delays in concluding agreements. This analysis to cross refer to BBS programme.

NR is believed to be contracting with third parties re other works at the Depot. Risk analysis to be provided regarding impact on BBS contract ( time and cost) arising from late completion of NR works.

**tie** to produce Plan B to take account of any delays in achieving agreement with NR on all matters, including Caley Ale House, Lift and Shift and Immunisation. This to be included in QRA report.

Minimum requirement that APA is signed by NR before authority is given to **tie** to conclude contract with BBS.

Minimum requirement that **tie** obtain written confirmation from First Scotrail ( and from other TOCs in respect of Station Change ) that they are not objecting to Depot and Station Change.

**10. SDS Assurances - All elements relating to this should be provided and should be straightforward for tie to provide.**

Full written explanation of SDS Novation to be provided by **tie**, including risks of failing to deliver design: will this lead to an extension of time claim and additional costs payable to BBS ?

Full details are required from **tie** on status and degree of completion of SDS design work as at 14 January 2008, including prior and technical approvals. If approvals risk is not being transferred to BBS the Council needs to know the impact and likelihood of the risks and a strategy for managing the risks.

**tie** to confirm that public sector ( **tie** and CEC ) do not pick up cost of any delays in Planning Authority or Roads Authority processing prior and technical approvals.

**tie** to provide written report on previous claim settlement with SDS identifying details, cause of claim and costs of settlement. Are any further claims expected from SDS ? Are any further claims from SDS competent ?

#### **11. Funding Letter**

Terms to be agreed between CEC and Transport Scotland by Financial Close, with appropriate support from **tie**.

#### **12. Third Party Agreements - *All items should be straightforward for tie to provide.***

**tie** to provide status report on all Third Party Agreements.

**tie** to confirm in writing that all Third Party Agreements were disclosed to BBS , and that BBS final price reflects them complying fully with all said agreements.

**tie** to report on status of agreements with Telewest and Scottish Power: are agreements needed ? If not, why not and any risks to CEC to be identified and quantified.

#### **13. Lease between CEC and tie**

To be concluded before Financial Close.

#### **14. Land Acquisition - *Again, all these issues while not critical to signing should be easy for tie to provide.***

**tie** to provide a full statement on land acquisition on behalf of CEC.

Has all GVD procedure been completed; if not, what remains to be processed ?

Is there a perfect match between land acquired by CEC and land required by BBS ? If there is a mis-match, **tie** to explain timetable for delivery of land to BBS, with reference to BBS programme requirements and cost/time implications of any delay in providing land to BBS.

Regards,

Colin MacKenzie  
for Council Solicitor  
City Chambers  
Edinburgh

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