
From: Susan Clark
Sent: 08 August 2007 18:22
To: Graeme Bissett (external contact)
Subject: RE: EDINBURGH TRAM: CONTRACTUAL ISSUES

Graeme

This cannot be summarised in a brief note. However, some observations and suggestions follow:

- 1) We did explain to CEC last week that the intention had always been for contracts to be entered into between tie and the bidders. Colin did not raise any concerns about this last week.
- 2) We gave Colin, Alan and Nick copies of Heads of Terms last week to review and come back with a timescale for getting back to us on issues – no reply so far
- 3) We offered to sit down with them at any time to discuss the issues – no requests so far
- 4) We can sit down and take them through the current issues with bidders – I can arrange this but all Colin had to do was lift the phone and request this – do you want me to set it up?

You can probably tell I'm a wee bit narked – sorry.

This week is very busy – how about 8am Friday? Meanwhile let me know if you want me to offer the discussion with Colin.

Susan

Susan Clark

Delivery Director - Tram

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From: Graeme Bissett [<mailto:graeme.bissett@>]
Sent: 08 August 2007 13:47
To: Susan Clark
Cc: Lesley McCourt
Subject: FW: EDINBURGH TRAM: CONTRACTUAL ISSUES

Can you let me have a brief note on the issues below, and half an hour to discuss this week ?

Regards
Graeme

Graeme Bissett

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From: Colin MacKenzie [<mailto:Colin.MacKenzie@edinburgh.gov.uk>]
Sent: 08 August 2007 12:54
To: [graeme.bissett@\[REDACTED\]](mailto:graeme.bissett@[REDACTED])
Cc: Alan Squair; Rebecca Andrew; Duncan Fraser
Subject: EDINBURGH TRAM: CONTRACTUAL ISSUES

Graeme,

I have been considering the matters raised at last week's Workshop held at **tie's** offices, particularly the role of the Council in relation to the Tramco and Infraco contracts. Susan Clark indicated at the Workshop that the Council was not expected to be a party to either of these contracts being procured by **tie**.

This is a matter of some concern to the Council and I am keen to seek a definitive position from **tie** about the Council's role. It would appear that there are a number of possible options or levels of involvement for the Council.

1. Lowest level would be a letter of comfort from the Council to the Preferred Bidder (s) confirming its contribution of £45 million. This would be allied with a letter from Transport Scotland confirming its financial commitment by way of grant award.
2. The Council provides a letter of guarantee of all of **tie's** financial obligations under the two contracts.
3. The Council is a party to the contracts to the same effect as option two above.
4. The Council accepts joint and several liability for all obligations under these two contracts, financial and otherwise.
5. The Preferred Bidder may insist that the Council is party to these contracts in lieu of **tie**. This may have procurement implications.

In preparing to advise the Council on aspects of the contractual arrangements it is essential that I have a clear picture from **tie** of what position the bidders for both contracts are taking on the Council's role. Given that Preferred Bidder status has not been achieved, it is presumably possible that a bidder's position may change right up to conclusion of negotiations. As you now know from yesterday's meeting with the Council Directors a report is being submitted to members on 23 August. Could I therefore hear from you with the bidders' current position by Monday 13 August.

Kind regards,

Colin MacKenzie
for Council Solicitor

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