
From: Fitzgerald, Sharon
Sent: 14 November 2005 10:10
To: 'Ian Kendall'
Cc: Fitchie, Andrew
Subject: RE: copies of two letters to Ian Kendall

Importance: High

Ian

I have reviewed the letter from David Hutchison. The passages from the MOI and ITT are irrelevant in that they were all superceded by the contract - which is the one document which David does not quote from. The content of the OJEU Notice is important with regard to variations to the Services - however, with regard to the current issue, the fact that legal services is not listed within tie's requirements does not preclude PB seeking and paying for any legal support which it feels it requires in order to provide the Services and fulfil its contractual obligations under the SDS Agreement.

In the contract it is stated that

5.1 The SDS Provider shall (at its own cost and expense):

5.1.1 obtain and maintain in effect all Consents which may be required for the construction, installation, commissioning, completion and opening of the Edinburgh Tram Network as is consistent with, required by or contained within the Services; and

5.1.2 implement each Consent within the period of its validity and in accordance with its terms.

5.2 The SDS Provider shall provide copies of such Consents to the Client's Representative. At the request of the SDS Provider, the Client may at its discretion render appropriate assistance, without any obligation, in relation to obtaining any Consent.

"Consents" means without limitation all permissions, consents, approvals, non-objections, certificates, permits, licences, agreements, statutory agreements and authorisations, Planning Permissions, traffic regulation orders, building fixing agreements, building control approvals, building warrants, and all other necessary consents and agreements from the Approval Bodies, or any Relevant Authority, any other relevant third parties whether required by Law or the Tram Legislation or under contract;

In the scope it is stated that:

2.6.2 The SDS Provider shall:

[.....]

2.6.2.4 gain all relevant planning and other approvals and consents including traffic regulation orders (during construction and post-opening) to enable construction works to proceed in accordance with the requirements of the Master Project Programme;

3.2.1 The SDS Provider shall provide assistance to tie with the management of an advanced utilities diversion programme. This shall include:

[.....]

- **activities required to support the utilities diversion process including, but not limited to, traffic management plans/traffic regulation orders, site meetings and all necessary re-designs;**

I shall give you a call to discuss.

Sharon

PS

As an aside, of relevance to our recent discussion on transport modelling reTROs is the following obligation in the SDS scope and is also in the JRC scope:

3.5.10 The SDS Provider and the JRC shall be jointly and severally responsible for ensuring that the SDS-JRC Modelling Suite is capable of supporting the performance of the SDS Provider and of the JRC under their respective mandates with tie. The SDS-JRC Modelling Suite shall be configured to include the following applications, in addition to any application the SDS Provider considers necessary to answer its own or tie's requirements:

- **public transport demand and patronage/revenue forecasting capable of modal disaggregation;**
- **detailed traffic junction design recognition and evaluation and wider area effect assessment;**
- **temporary traffic diversion and traffic regulation order impact analysis.**

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From: Ian Kendall [<mailto:Ian.Kendall@tie.ltd.uk>]
Sent: 14 November 2005 08:28
To: Fitzgerald, Sharon
Subject: FW: copies of two letters to Ian Kendall

Comments on the attached letter re TRO's please.

From: Willie Fraser
Sent: 14 November 2005 07:36
To: Ian Kendall
Subject: FW: copies of two letters to Ian Kendall

ian,

Attached is a heads-up of 2 letters coming from PB.

Willie

From: McCauley, Paul [<mailto:McCauley@pbworld.com>]
Sent: Fri 11/11/2005 17:10
To: Willie Fraser
Subject: copies of two letters to Ian Kendall

Attached for your information are copies of two letters I just faxed to Ian Kendall.

<<SDS Programme letter 11-Nov.DOC>> <<TRO legal support letter 11-Nov.DOC>>
Paul

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