

DLA PIPER

FILE NOTE

CLIENT : TIE Limited (310299)
MATTER : Infraco (15)
DATE : 24 January 2011
REF & FILE NO : AF/CDV/310299/15/UKM/34682405.1

RJ, SW (McGrigors), S Rae, H Moffat at City Point (3pm - 4pm)

RJ:

CEC Meeting recently had passed on BSC's comments:

"tie misleading the Council" at the time of contract award.

Risks - tie knew full well what they were signing.

95% fixed price contract was an unreal description of the deal.

⇒ knowingly mislead the Council. RJ blindsided because not there at the time.

Risks:

tie guys believed and genuinely thought there was a ⇒ high degree of 'fixity', high degree of certainty on pricing.

- ASF gives explanations in detail, along lines of Internal note:
 - ⇒ Schedule Part 4
 - ⇒ Close Report
 - ⇒ DLA advice: March 2008, May 2008, February warning
 - ⇒ 31/03 McEwan email and 06/02 email alerting tie to problems
 - ⇒ Sketched time line
 - ⇒ Wiesbaden warning that had not seen the "deal"
 - ⇒ Willie Gallagher pressure to sign the Contract
 - ⇒ "false dawns" happened as tie tried to get BSC to agree price
 - ⇒ It was clear that BSC were gaming

- ⇒ Autumn 2008 advised **tie** to go to DRP
- ⇒ Multiple contact points at **tie** and CEC made advising inefficient
- ⇒ Attempted to engage CEC - some reluctance to hear bad news
- ⇒ Close Report and advice; (Risk Matrices show public sector risk retention) these could not be read as not disclosing Schedule Part 4 effect
- ⇒ Time lines to be serviced by advice, often advising on incomplete positions
- ⇒ McGrigors March Report - a further episode in unveiling what **tie** knew
- ⇒ 28 January 2008 close not realistic (so many open issues)
- ⇒ Would say same to Steven Bell, Dennis Murray: very difficult circumstances but **tie** was conceding positions and £ to get contract signed
- RJ: not interested in secondment agreement and emails. Will revert if needed. Happy that there was an agreement.
- RJ: may come back for further input.

In attendance for one hour (informal)