

1 Client Relations

1.1 *tie*

As envisaged and reported last week the date of 28 January for financial close of the Infraco Contract has proved unattainable. *tie* has not yet advised a revised date but discussions this week have tended to assume an end-February target. Much beyond that and the view is that the Council would become nervous and with an end-March date for funds earmarked for this financial year to be spent anything later than end-February would compromise the spend profile.

I met briefly with Willie Gallagher on Wednesday after the Tram Project Board, mainly from my point of view to understand whether any marshalling of forces for cancellation of the scheme may be occurring. Willie was subdued but calm and I believe there is about a month left for successful conclusion. From PB's point of view it is important that the commercial issues outstanding are resolved to our satisfaction so that the risk of cancellation does not present any serious consequences for us.

As discussed at our meeting on Monday I presented Willie on Wednesday with an offer to step in to assist in the resolution of the problems arising from *tie*'s revisions to the Employer's Requirements. I focused on the need for verification of the revisions with the stakeholders; assessment of consistency of the clauses contained in the 700 page document; review of the SDS Design and BBS offer for compliance with the Requirements; and assessment of differences between the BBS Offer and the SDS Design. Willie thanked me for my offer and relayed its contents to Steven Bell and Matthew Crosse. Whether or not the offer is accepted in its entirety I have at least made Willie aware that a potentially serious problem exists and I have done that well in advance of any critical date in the procurement process.

The other priority with *tie* this week has been to address PB financial items as reported below. Damian Sharp has been influential in securing pragmatic agreement on the close out of the change control register.

1.2 City of Edinburgh Council (CEC)

CEC continues to focus on the programme for prior and technical approvals as the principal concern with reference to agreeing the BBS Construction Programme. Relations with Duncan Fraser and Andy Conway as the senior figures involved from CEC continue to be constructive.

1.3 BBS

BBS has this week submitted the final offer for technical scope from the Siemens part of the consortium. *tie* has asked for assistance from SDS in carrying out the review of the offer. A cursory inspection of the document thus far has revealed differences in interpretation with Siemens potentially expecting a greater level of detail from the SDS Design on the systems aspects which make use of Siemens proprietary equipment. We have advised that *tie* should seek clarification immediately of this part of the BBS Offer.

Relations with BBS continue in a positive vein as may be expected pre signature of the novation agreement. As much as avoiding increased risk with *tie* as a consequence of novation commitments it is clearly important that we attend to resolving any potential differences with BBS prior to signature. This despite BBS's stated commitment to a close working relationship with PB and expanded future joint business.

2 Commercial

2.1 Contract

2.1.1 Employer's Requirements

The Employer's Requirements topic has consumed further significant effort this week with Matthew Crosse persisting in his requests for PB to provide written confirmation that the SDS Design can be considered compliant with the latest version of **tie**'s revised Employer's Requirements. As reported previously I have consistently refused to agree to this on the basis that the request is unreasonable in the context of a still-changing unwieldy set of potentially inconsistent documentation. Finally today, Friday, **tie** has realised that I am not going to change my mind and David Crawley has intervened to support my stance. What has now been agreed is that PB will provide a clause-by-clause statement against version 3.1 of the document - (**tie** is currently working on version 3.3) - indicating our views on the content of each clause. The expectation of PB providing any blanket commitment has now disappeared. It will then be up to **tie** to determine the status of the overall document.

The issues to be resolved in relation to CEC views on the revised requirements and misalignment of the BBS offer with the Requirements and in comparison with the SDS Design remain but these are now acknowledged as issues for **tie** to resolve.

2.1.2 Novation

Geoff Gilbert has now provided me with a copy of a **tie** programme focused on achieving a final draft for a novation agreement by 18 February. A meeting has been scheduled for next Tuesday to review the current plans for novation and with a view to addressing the concerns which still remain in relation to the wording of any agreement and the timing of its execution.

2.2 Change Requests

As already reported, agreement was reached at the special Commercial Review meeting held on Thursday on the approval of £810,000 of change requests submitted by PB. **tie** is now to issue Change Orders. Sixteen Change Requests remain to be cleared and actions were agreed at Thursday's meeting against each one for further information to be provided either by **tie** or by PB.

A meeting has been scheduled for next Tuesday to finalise negotiations with Halcrow on the PB /Halcrow Change Control Register.

2.3 Claims for Prolongation

Signature of the Legal Agreement for the outstanding claim prolongation claim has been delayed, due this time to the death of Steven Bell's mother. Damian Sharp has now taken on the responsibility to close this matter out.

There has been no further discussion on the additional prolongation claim. This will now take place next week. In the meantime I have collated further information which can be used to support the main thrust of the argument for additional costs due to delays introduced by **tie** and the stakeholders.

2.4 Cashflow

Cash has now been received in the sum of £811,836 (inc VAT) against the Certificate for October 2007. Work is in progress to clear the November and December certifications. With the delay to novation beyond the 28 January target the next AFP for January will now be submitted to *tie* rather than to BBS. Certification *and payment* against this Certificate is due contractually before novation, and if novation is delayed beyond the end of February the February AFP will also have to be certified *and paid* before novation can be finalised.

2.5 Contract Valuation and Payment Certification Prior to Novation

PB has continued with the preparation of the status information required for valuation of the Contract prior to novation. Valuation is on the basis of the current status of:-

- Detailed design deliverables
- Prior Approvals
- Technical Approvals
- MUDFA IFC packages

We have yet to be advised by *tie* of any changes to scope directed by *tie* prior to novation as a result of any agreement with BBS.

3 Operations

3.1 Edinburgh Tram Network

3.1.1 Detailed Design Submissions

Progress to completion of the programme for delivery of the detailed design packages has accelerated in line with the plan developed in early December to achieve completion of as much of the SDS scope as possible prior to novation. The cumulative total of packages delivered stands at 287 vs. 297 forecast – (from an at-completion total of 326) - with the difference entirely attributable to delays introduced by the client. Of the remaining 39 packages 18 are the major Structures packages which have always been at the end of the programme and 8 are systems assurance packages which can be finalised rapidly on completion of other design packages. This acceleration and the delay to novation from 28 January should ensure that PB is in a stronger position at novation than may have been feared with a consequent reduction in risk for the continuing relationship with BBS post financial close of the Infracore Contract.

3.1.2 Prior Approvals

Prior Approvals status remains as reported last week. i.e. 6 secured from an at-completion total of 61.

3.1.3 Technical Approvals

The full evaluation of technical approval status (required prior to novation) has now been completed. (By Halcrow as part of their contracted scope). The analysis can be summarised as follows by approval body:-

| Approval Body | Total Required | Secured to date |
|---------------|----------------|-----------------|
|---------------|----------------|-----------------|

| | | |
|--|------------|-----------|
| City of Edinburgh Council (CEC) | 126 | 60 |
| Network Rail | 25 | 7 |
| Building Warrants | 10 | 0 |
| Scottish Water | 10 | 0 |
| Scottish Environmental Protection Agency | 10 | 0 |
| First ScotRail | 2 | 0 |
| Scottish National Heritage | 1 | 0 |
| British Airports Authority | 1 | 0 |
| Totals | 185 | 67 |

3.2 MUDFA

Discussion has yet to take place in any detail on any separate deal with *tie* for the provision of MUDFA design services post novation. This is now planned for next Tuesday as part of the novation planning meeting.

Current status on IFC Package delivery is that 7 of the 22 packages remain to be delivered, with two of them due for imminent release. Three packages are delayed due to client reasons and the other two are on programme as agreed previously with *tie*. In summary with the exception of one of the *tie*-delayed issues the scope is expected to be complete by end February.

4 Other Issues

Nothing to report

5 Weekly Look-ahead

- Tuesday. Novation planning meeting with *tie*. SCR & C Atkins to attend for PB
- Thursday. Weekly meeting WG /SCR
- Friday. Critical Issues Meeting. (D Crawley, *tie*, Chair)
- tba. SDS Contract valuation meetings with *tie*
- tba. Scope of work definition meetings with *tie* and BBS – to define any changes to design scope post novation
- tba. Employer's Requirements review meetings with *tie*

6 Timetable to Infraco Contract Award - Update

- to be confirmed. Final Report to Council from *tie*.
- to be confirmed. Novation of the SDS Contract.
- to be confirmed. Infraco contract award.