
From: Richard Jeffrey
Sent: 23 September 2010 13:27
To: Mandy Haeburn-Little
Subject: FW: STRICTLY PRIVATE AN CONFIDENTIAL - PREPARED IN ANTICIPATION OF LITIGATION
Attachments: CEO Tram Briefing.doc

Mandy, for comment.

Please do not tell Alan that I have given this to you.

Thanks

R

From: Alan Coyle [mailto:Alan.Coyle@edinburgh.gov.uk]
Sent: 23 September 2010 13:07
To: Richard Jeffrey
Subject: RE: STRICTLY PRIVATE AN CONFIDENTIAL - PREPARED IN ANTICIPATION OF LITIGATION

Richard,

Thanks for the info below. I've incorporated an edited version of your thoughts in the briefing. I've attempted to go through the key points on the project and have used elements of the Pitchfork report as a prompt. I'll be sending this off to Dave and Donald shortly for their comments. I have to head off in the next hour or so to meet with our External Auditors but if you have any comments either track changes or we can discuss either later today or tomorrow morning.

A

From: Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]
Sent: 23 September 2010 12:46
To: Alan Coyle
Subject: FW: STRICTLY PRIVATE AN CONFIDENTIAL - PREPARED IN ANTICIPATION OF LITIGATION

Alan, sorry meant to include you on this.

R

From: Richard Jeffrey
Sent: 23 September 2010 12:39
To: Susan Clark; Steven Bell; Stewart McGarrity; Mandy Haeburn-Little
Subject: FW: STRICTLY PRIVATE AN CONFIDENTIAL - PREPARED IN ANTICIPATION OF LITIGATION

As discussed

R

From: Richard Jeffrey
Sent: 23 September 2010 12:32
To: 'Dave Anderson'; Donald McGougan; 'Nick Smith'
Subject: STRICTLY PRIVATE AN CONFIDENTIAL - PREPARED IN ANTICIPATION OF LITIGATION

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Guys, Susan has postponed this pm's workshop. There are a number of reasons for this, but mostly I just want to take stock of where we are, and where we are going, so the workshop can be focussed on the right things.

On the assumption that termination of the contract is now a distinct possibility, we should think about what decisions will be required, and what strategy we will follow post termination. I set out my thoughts below for your consideration. You will see that some of these will need CEC input before we can move forward. I would welcome your reaction to this e-mail and an early meeting to discuss.

In the event of termination, several things will need to happen quickly and in parallel, and will need co-ordinating as they are inter related.

Here are my thoughts

1. Firstly a dedicated commercial and legal team will need to bring closure to the Infraco contract. There are several prescribed activities that need to be undertaken, and we would seek to conclude a financial settlement with the consortium to avoid if possible the issue reaching the courts. We must however recognise that this issue may end up being resolved in the courts, which is expensive, lengthy and risky for all parties, and has no certainty of outcome.
2. A team must very quickly secure the physical works, establish what we have in our possession, e.g. design and its status, what is actually built on the ground etc.
3. CEC must decide if at this stage it wishes tie (and/or TEL) to continue to administer the project in the short term. If not, then who? (see also workstream 6 below)
4. Very quickly, and in parallel to the above, (informed by item 2) the City Council must decide if it wishes to complete any part of the work that is currently underway, or immediately cease all works (apart from the minimum required to make safe).
5. In addition, the city council must decide if it still wishes to take delivery of the tram vehicles, or to cancel the vehicles as part of the contract termination and seek the return of all monies paid for the vehicles on the grounds of breach of contract by the consortium. (This will clearly have an impact on workstream 1 above). A similar debate may arise over materials which Siemens say they have already purchased. Clearly this decision will have to be made in anticipation of workstream 6 below.
6. In parallel, a team (which in my view, given the body of knowledge that now exists, should be made up from the existing people within tie) should take 6 months (is that long enough?) to assess the options for the way forward for the project, (including cancellation of the project), and present these options to the City Council. Until this work is done there can be no certainty of future cost or timescale, so all existing expectations should be seen as off the table. I do not believe it is reasonable to ask the City (or the project management) if it wishes to proceed with the project if we cannot give certainty on cost/scope or programme. This work will require funding. Who will do this work over the next 6 months, tie (and/or TEL) or someone else? (see 3 above). Included in the recommendations on the way forward, if the decision is to continue with the project, will this be under tie's management or will the City Council/Funders seek an alternative approach.
7. Tie will need to re-assess its manpower requirement in light of the above.
8. And finally, if the project is to proceed, there must be a formal lessons learned session (NOT a public witch hunt) to identify some of the underlying root causes of the current situation and ensure that they are not repeated (I have my views which I can share in a separate note).

Richard Jeffrey

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