

Risk Transfer
<p><b>Overview of Infraco Phoenix Proposal Position</b></p> <p>Infraco state they believe it is a fair and reasonable price.</p> <p>They include 8 groups of pricing exclusions which are further defined in the body of the proposal and have over 30+ qualifications / amplifications or exclusions. In addition, there are Terms and Conditions statements which will, when evaluated, mean a risk transfer is proposed.</p> <p>The proposal introduces new defined terms which require analysis, particularly the Actual Cost and Estimated Actual cost elements.</p>
Key Areas of Agreement
<p>Fossils and Antiquities are a retained <b>tie</b> risk.</p> <p>Landscaping: planting season risk associated with Sectional Completion to be accepted by <b>tie</b>/CEC but Infraco have obligation to complete next planting window.</p> <p>Includes for below ground obstructions but not for soft ground.</p>
Key Areas of Disagreement
<p><b>tie</b> still require Infraco to complete design and construct obligations.</p> <p>Approvals and consents risks attempted to be transferred back to <b>tie</b> / CEC.</p> <p>Network Rail Form C approvals based on standard timescales (but need to meet quality and timetable threshold for NR)</p> <p>Water connection issues at Depot (including existing BSC Non compliance) sought to be transferred to <b>tie</b> / CEC.</p> <p>Flooding risk at airport sought to be transferred to <b>tie</b>/CEC.</p> <p>Ground conditions /treatment risk not included</p> <p>Gogar Castle Access Road land availability to be in place by 31 March 2011.</p> <p>TRO misalignment risk sought to be transferred back to <b>tie</b> / CEC.</p> <p>Drainage alignment and Integration risk sought to be transferred back to <b>tie</b> / CEC.</p> <p>Earthing issue at Depot sought to be transferred back to <b>tie</b> / CEC.</p> <p>Contaminated materials included at maximum quantity (51000m<sup>3</sup>) and at specified locations but no upside benefit for <b>tie</b>/CEC and no specification of necessary treatment. No Price transparency for such inclusion.</p> <p>Utilities, unless already instructed via a <b>tie</b> Change Order, are excluded. No “unknown” utilities allowed for.</p> <p>Noise &amp; Vibration “floating slab” requirements are excluded. Needs to be checked against the drawings. Previous exclusion is only for “special” floating slab.</p> <p>Murrayfield Stadium Retaining wall (W18) &amp; RRRW4 LOD issues sought to be excluded by Infraco. PPP allows for close out of Planning and Technical Informatives as listed only.</p>

CEC Open Comments: any design or construction work proposed to be a **tie** Change. Siemens part of PPP apparently does not include for any storage beyond Rev 1 sectional completion C (March 2011!) therefore warehousing costs to be added. The costs of storage post-vesting are excluded.

27 trams and their costs required by Infraco under TSA.

No allowance made for any further work on design to satisfy Approvals as SDS say it could all be accepted now. (Note Infraco quote SDS, and then exclude the costs of further change under the PPP Price.)

Specific list of 14 exclusions to PPP Price for Design services: mixed bag: 1 -9 should be resisted; 10,11 ok; 12,13 included elsewhere; 14 resist.

SDS Incentivisation principle and valuation to be resisted.

Further Extended Construction and design support resource based on PPP Programme means no control over resource.

Performance Risks may be disguised or ignored as there is no explicit run time commitment included. That would be an element of transfer back to **tie**/CEC by default.

Maintenance proposals seek to move indexation risk back to **tie** / CEC.

Programme section includes resource constraints / assumptions:

- See separate report.
- Milestones for delivery of "excluded elements" linked into programme.

Only one Infraco Member to contract with the key sub contractor then risk of delay if contracting party fails.

#### **Detailed Work and Analysis required Pre-mediation**

1. Cyril Sweett plus Engineering & PM team to systematically check all of the attached drawings for completeness and areas of inconsistency with **tie** / CEC requirements. Complete by 7/3/11.
2. Detailed analysis of the likely range of cost associated with each of the items listed in the "disagreements" box). [Dedicated QS team mobilised for this week to tackle.] Initial assessment included in Risk Register circulated 4/3/11.
3. Programme analysis work stream also underway.