

being made in advancing infrastructure installation works. It decided, with the approval of the Tram Project Board, to further escalate its approach to enforcement of its interpretation of the contract's terms and conditions. **tie** also began a fundamental review of the contractual position with BBS.

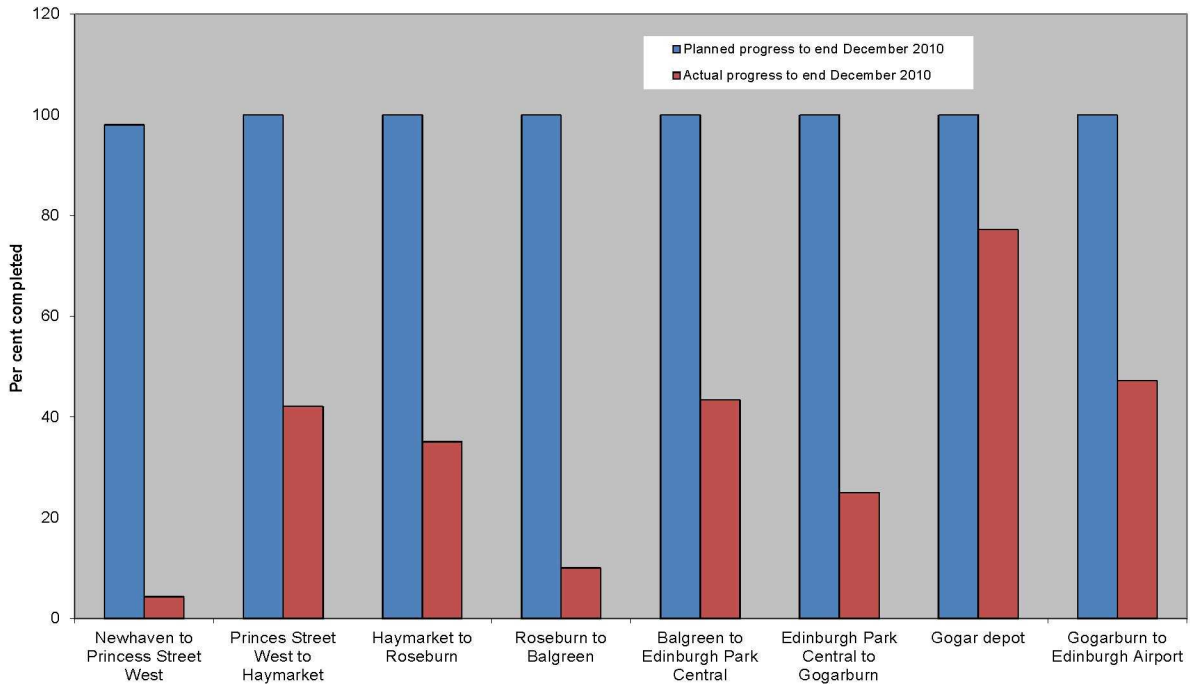
46. **tie**'s current dialogue with BBS seeks to focus on ensuring a revised programme which clarifies the sequencing of work and the respective parties' responsibilities. However, a continuing difficulty with the progress of infrastructure construction work is **tie**'s and BBS's different interpretation of certain contract clauses. **tie** has issued a number of instructions to BBS to proceed with works in accordance with its interpretation of the contract. According to **tie**, BBS has a different interpretation of its contract responsibilities and is not progressing works where there is a change, or an alleged change, to the contracted scope of works until a price is agreed. In June 2010, it was reported to a full meeting of the council that a large proportion of the changes proposed by BBS remain unresolved, mainly due to BBS being slow to provide sufficient technical evidence to support its claims for extra payments.<sup>10</sup>
47. As well as trying to resolve the disagreements with BBS through the terms of the contract including use of the dispute resolution process, **tie** has also begun to consider termination of the infrastructure contract. However, it recognises that any such decision would have significant consequences for the progress of the trams project and it is taking extensive legal advice on the matter.
48. Infrastructure construction is now largely at a standstill except for certain items most of which were not in the scope of the infraco contract and which **tie** has awarded to other contractors. **tie** estimates that, overall, some 28 per cent of the infraco works has now been completed against an original plan of 99 per cent by the end of December 2010 ([Exhibit 6 overleaf](#)). Although significant progress has been made in some areas, such as the construction of the Gogar tram depot, limited progress has been made elsewhere. Off-street works i.e. those which do not involve the tram network running along existing streets, from Haymarket to Edinburgh Airport have seen a little more progress (40 per cent completed against a plan of 100 per cent) than on-street from Haymarket to Newhaven (11 per cent complete against a plan of 99 per cent).
49. In summer 2010 **tie** reported to CEC and Transport Scotland that operational service by February 2013 was achievable although this was dependent on satisfactory resolution of the contractual dispute. **tie** has reported, however, that BBS considers November 2013 to be a more realistic start date based on progress to date.

---

<sup>10</sup>Edinburgh Tram Project – Update Report, report considered at CEC meeting of 24 June 2010

## Exhibit 6: Progress to date on infrastructure construction

**tie** estimates that 28 per cent of infrastructure construction works are now complete although some sections are more advanced than others.



Source: Transport Scotland Internal Period Report, Edinburgh Tram Network, Period 10 2010/11

## 20 out of 27 tram vehicles have been completed

50. The project plan for the construction of trams expected that all 27 vehicles would be delivered by September 2010. **tie** signed pre-contract agreements for the supply and maintenance of 27 tram vehicles with Construcciones y Auxiliar de Ferrocarriles SA (CAF) in October 2007. However, the plan to transfer this work to the infraco contract and the extensive negotiations between **tie** and BBS before the infraco contract was signed, meant that tram vehicle construction could not start until May 2008, some five months later than planned. CAF delivered the first tram vehicle in April 2010 against the original plan of December 2009. Since then, 20 trams have been completed and the remaining seven are in production. CAF is currently on target to deliver the final tram by April 2011.

## **Phase 1a has cost £402 million to the end of December 2010 and is unlikely to be delivered within the current funding limit**

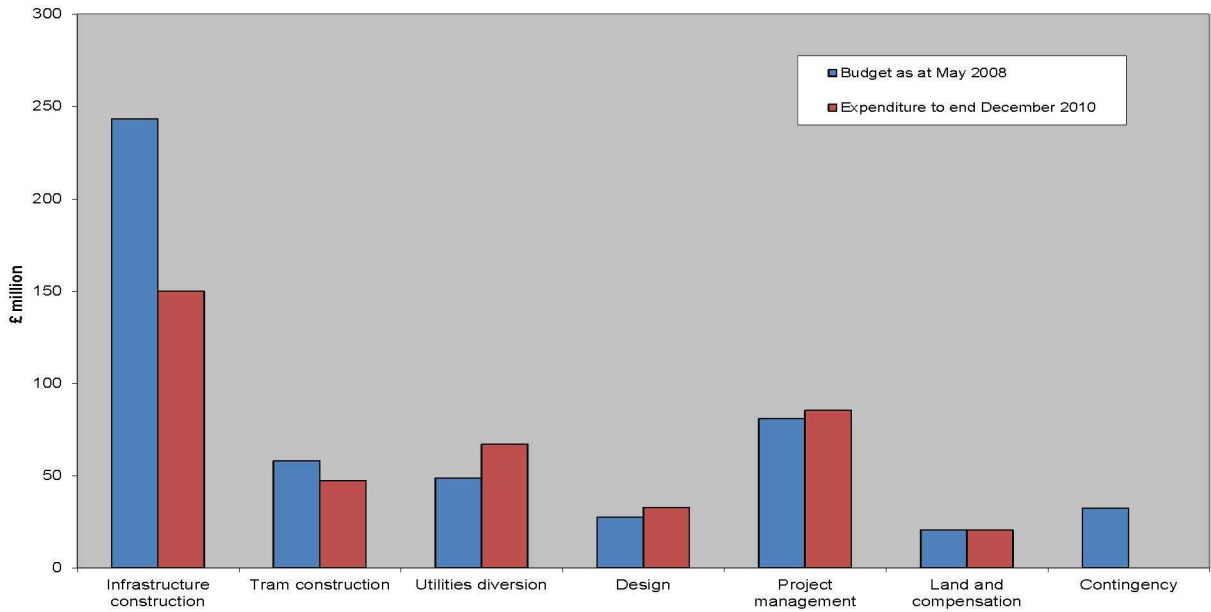
51. **tie**'s final business case for the trams system, which CEC approved in December 2007, indicated that Phase 1 was expected to cost £585 million with Phase 1a costing £498 million<sup>11</sup>. Final negotiations between **tie** and the preferred bidders for the tram vehicle and infrastructure construction contracts in the period to May 2008 when the infraco contract was signed, increased the overall estimated cost of Phase 1a to £512 million. The main reason **tie** provided for this increase was the firming up of provisional prices to fixed prices. This increased the expected cost of both these elements of the project but, because a higher proportion of the project's total costs were considered to be fixed, it also allowed the built-in contingency for unexpected cost increases to be reduced from £52 million to £32 million.
52. **tie** has spent a total of £402 million on Phase 1a to the end of December 2010, some 79 per cent of the estimated cost as at May 2008 and 74 per cent of the available funding of £545 million. Infrastructure construction forms the largest element of expenditure, representing 37 per cent of the total costs to date ([Exhibit 7 overleaf](#)). **tie** should have spent around £501 million to the end of the December 2010 had the project been progressing to plan.
53. **tie** has regularly updated the project's budget over time. A consequence of the delays in the project's progress has been that expenditure profiles have changed with much more expenditure now forecast to occur in 2011/12 than originally planned ([Exhibit 8 overleaf](#)). For example, the final business case planned that £162 million was due to be spent in 2008/09 and £181 million in 2009/10. Actual expenditure in these years amounted to only £101 million and £114 million respectively. As a result, **tie**'s latest expenditure projections show planned expenditure of £87 million in 2010/11 and £111 million in 2011/12, compared to £39 million for both years according to the final business case.

---

<sup>11</sup>Edinburgh Tram Network Final Business Case Version 2, **tie**, December 2007

**Exhibit 7: Edinburgh tram network spend to the end of December 2010**

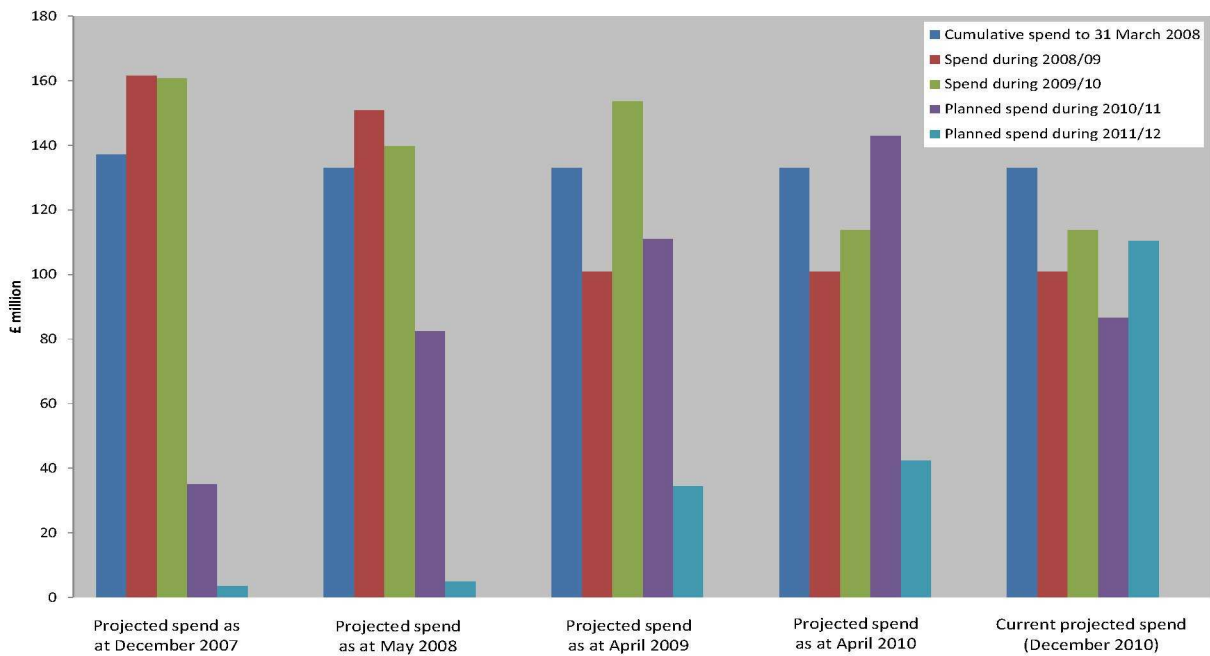
tie has spent a total of £402 million on Phase 1a to the end of December 2010.



Source: Audit Scotland

**Exhibit 8: Planned and actual expenditure profiles**

A consequence of the project's delays is that more expenditure will occur later than first planned.



Source: Audit Scotland

54. We analysed actual spend to date against the total budget set when the infraco contract was signed in May 2008, and what was projected to be spent at that time to the end of December 2010 ([Exhibit 9 overleaf](#)). The results show:

- **Infrastructure construction** – **tie** has spent £150 million to date on infrastructure construction against a total budget of £243 million and a projected spend to the end of December 2010 of £241 million. Spend to date therefore represents 62 per cent of the budget set in May 2008 while only 28 per cent of the scope of works has been delivered. However, it is not unusual in contracts of this kind to make an initial up-front payment to allow the contractor to purchase materials and to mobilise, and a strict linear relationship between spend and progress should not be expected. Although **tie**'s latest projections set an expected total spend of £276 million for infrastructure construction, this is heavily dependent on resolution of the dispute with BBS.
- **Tram vehicles** – **tie** has spent £47 million to date on tram vehicle construction against a total budget of £58 million and a projected spend to the end of December 2010 of £54 million. Given the good progress made so far, **tie** is confident that the tram vehicles will be delivered to budget.
- **Utilities diversion** – **tie** has spent £67 million to date on utilities diversion against a total budget of £49 million. Utility diversion works were expected to be completed by the end of December 2010 so the projected spend to this date is also £49 million. The unanticipated extra amount of utility works which had to be undertaken has contributed to expenditure greater than budget. However, as many of the diverted pipes and cables were old and in need of repair, CEC and **tie** expect that the utility companies will contribute around £4 million towards the cost of this work. Utility companies have yet to agree how much they will contribute.<sup>12</sup>
- **Design** – **tie** has spent £33 million to date on design work against a total budget of £27 million. Design works were also expected to be completed by the end of December 2010 so the projected spend to this date is also £27 million. **tie** considers that round 20 per cent of design work has still to be delivered and its current projections put the total cost of design work at £34 million.
- **Land and compensation** – **tie** has spent £20 million to date on land and compensation which matches both the total budget and the projected spend to the end of December 2010. **tie** does not expect to incur further expenditure on land and compensation in respect of Phase 1a.

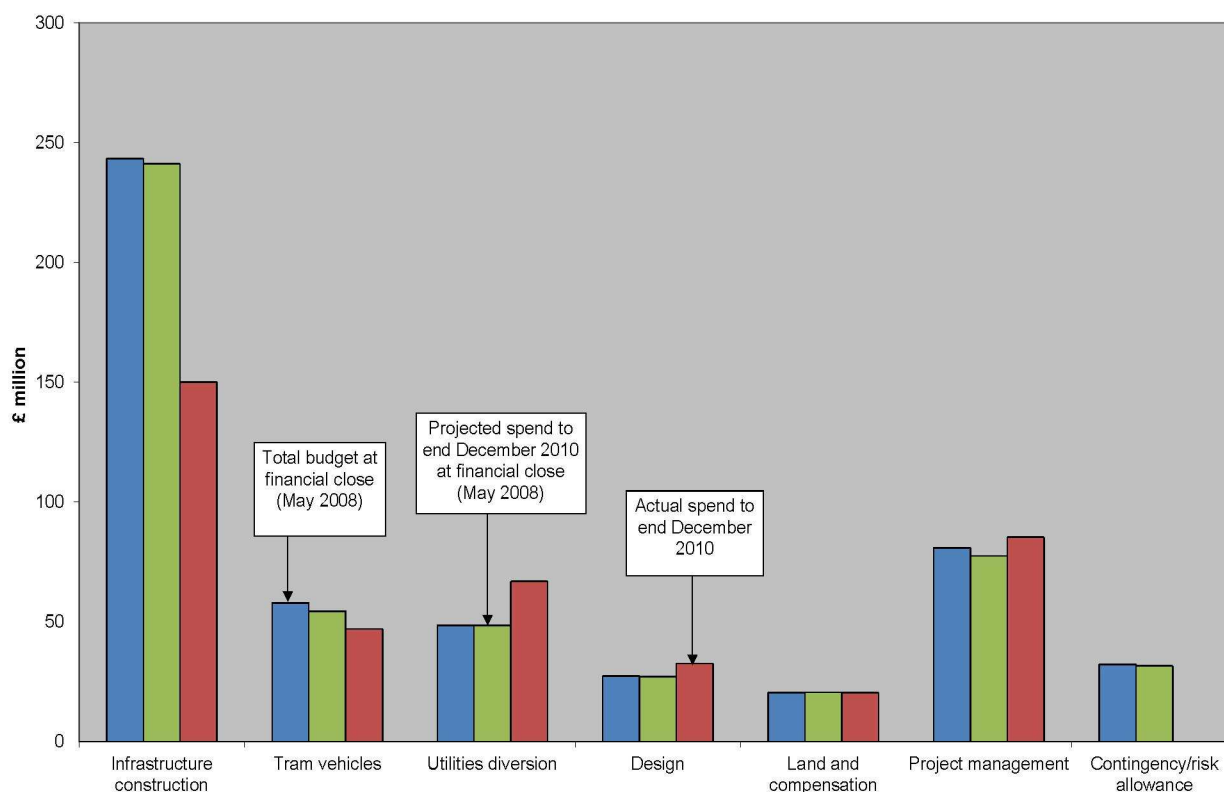
---

<sup>12</sup>Edinburgh Tram – Multi Utilities Diversion Framework Agreement Update, report considered at the CEC Tram Sub Committee meeting of 22 March 2010

- **Project management** – **tie** has spent £85 million to date on project management against a total budget set in May 2008 of £81 million and a projected spend to the end of December 2010 of £78 million. The dispute with BBS has led to **tie** obtaining additional advice in areas such as contract and dispute management, technical and forensic planning/delay analysis and litigation. It currently projects a total spend of £98 million on project management although this is dependent on resolution of the dispute with BBS.
- **Contingency/risk allowance**– **tie** has now allocated the £32 million allowance for contingencies and risk which was set in May 2008 across other expenditure headings. **tie**'s latest projections contain no contingency/risk allowance.

### Exhibit 9: Spend by type against budget

Some elements of the projects are over budget while expenditure in others has not kept pace with plans.



Source: Audit Scotland

55. While **tie** considers it can accurately predict the final outturn expenditure for most elements of the project, it is unable to report a robust final cost estimate for infrastructure construction. **tie** says that, until the key contractual issues with BBS are resolved, it is not possible to forecast accurately what the trams project will finally cost. It has developed a range of expenditure estimates based on different scenarios but the contractual dispute with BBS needs to be resolved before these figures can be verified. In March 2010, CEC indicated to Transport Scotland that it is unlikely that the full scope of Phase 1a will be completed within the Scottish Government's cost limit of £545 million.

## CEC and tie are now considering different options for taking the project forward

56. **tie** is now considering the completion of Phase 1a in incremental stages due to the programme and cost difficulties experienced so far. The main focus of incremental delivery would be to deliver the Edinburgh Airport to St Andrew Square as the first phase, as **tie** considers this would yield early economic benefits and would allow integration with bus services. **tie** has still to clarify the cost of this, and other sections of Phase 1a which would be delivered later. However, **tie** considers a phased approach would enable the best use of the remaining budget to deliver a viable tram service.
57. According to **tie**'s final business case, Phase 1a was expected to generate benefits of £1.77 per £1 of cost. To date, **tie** has not commissioned a complete reassessment of the benefit cost ratio (BCR) presented in the final business case, although it expects that any future incremental implementation of Phase 1a will require CEC to demonstrate a positive BCR from the additional expenditure. **tie** has, however, done some calculations to demonstrate the continuing economic viability of the project if Phase 1a is completed in its entirety. While we have not audited these calculations they indicate:
- if the costs of delivering the whole of Phase 1a were to increase to £640 million (a 25 per cent increase on the cost when the final business case was approved in May 2008) then, all other things being equal, **tie** estimates the BCR for the project would reduce to 1.37 i.e. £1.37 of benefits per £1 of cost
  - in addition to the increase in costs above, if slower than expected new development and delayed growth in passenger numbers associated with the later delivery of the whole of Phase 1a results in a 20 per cent reduction in the discounted value of time travel benefits, **tie** estimates that the BCR would be further reduced to 1.10.<sup>13</sup>
58. CEC is also considering ways in which it may be able to increase its funding of the trams project. Due to the lack of clarity on the project and its associated costs, CEC is examining contingency planning options up to a capital cost of £600 million. To date, it has achieved contributions of £16 million from developers and other sources, although the effects of the recession mean that contributions are currently lower than expected.
59. CEC is considering whether it may use the contributions already received to cover borrowing with debt being repaid from future developer contributions and capital receipts. The council also

---

<sup>13</sup>Edinburgh Tram – Business Case Update 2010, **tie** September 2010

considers there is scope to undertake future prudential borrowing.<sup>14</sup> CEC's funding strategy in respect of the tram project is reviewed on a six monthly basis and the results reported to its Internal Planning Group.

60. Following correspondence between the managing director of Bilfinger Berger and the CEC chief executive, senior council officials met with representatives of BBS in December 2010. This meeting was exploratory in nature and provided BBS with an opportunity to raise issues of concern. At the meeting, BBS confirmed its willingness to explore the resolution of outstanding matters with CEC and **tie** via formal talks involving an agreed mediator. The current situation between **tie** and BBS is, however, complex and the outcome of a further round of mediation talks planned for March 2011 will help inform the options for the trams project to be taken forward.

---

<sup>14</sup> Local authorities are able to borrow to invest in capital works and assets so long as the cost of that borrowing is affordable and in line with principles set out in a professional Prudential Code, endorsed by the Chartered Institute of Public Finance and Accountancy.



# Part 3. Project governance arrangements

## Key messages

- Elected members of the current ruling coalition at CEC hold differing views of the Edinburgh trams project and considerable debate is generated at council meetings when the subject is discussed. This has made it more difficult for CEC as a whole to present a unified commitment to the project.
- CEC's governance arrangements for the project are complex and are intended to allow the work of **tie** to be subject to scrutiny while keeping all elected members informed of the project's progress. Some members of the project's main governance body, the Tram Project Board, are also members of **tie**'s own board. CEC's Director of Finance and Director of City Development also exercise a number of different oversight roles in the project.
- Transport Scotland considers its need to be represented on the Tram Project Board ended in June 2007 when, following a Scottish Parliament debate and vote, Ministers announced that the Scottish Government's contribution should be capped at £500 million. Transport Scotland does not consider that it has the same oversight role for the trams project as it has for other Scottish Government transport projects because it is neither the promoter of the project or has a contractual relationship with any of the private sector bodies engaged in the project's construction and delivery. Transport Scotland does, however, hold quarterly meetings with CEC where the project's progress is reviewed.
- **tie** makes regular reports on the project's progress to the Tram Project Board and CEC also provides regular reports to elected members at full Council meetings. The commercially sensitive nature of the dispute with BBS and future financial projections, however, has meant that information presented to full Council meetings has been limited. Given the high profile of the project, the lack of detail which has been made available to some councillors on, for example, the project's likely costs has caused frustrations.

61. Corporate governance is about direction and control of organisations. Councils are large complex organisations so good governance and effective scrutiny are critically important. Governance arrangements for the Edinburgh trams project have had to take into account:

- the organisational structures of CEC's arm length bodies that will be responsible for delivering an integrated transport service once trams are operational.
- the need for effective scrutiny of Transport Edinburgh Limited (TEL) and **tie** in delivering the project.

- the high political and media profile of the project and the wish to keep elected members informed of its progress.

## **Transport Edinburgh Ltd is responsible for strategic and other material decisions affecting the project**

62. One of the objectives of the Edinburgh trams project was to reduce traffic congestion and environmental damage caused by traffic. The CEC considered that a key mechanism to deliver this objective was to develop an integrated public transport network which provided high-quality bus and tram services. When the trams project began, in addition to **tie**, CEC wholly, or substantially, owned two companies involved in public transport provision:

- **Transport Edinburgh Limited** – a wholly owned company established in 2004 to promote and develop the implementation of transport projects set out in CEC’s local transport strategy; and promote the integration of all modes of public transport in Edinburgh
- **Lothian Buses plc** – a company 91 per cent owned by CEC which runs bus services in the city region.<sup>15</sup> In 2009, Lothian Buses carried some 107 million passengers and generated profits of £5.8 million on a turnover of £112 million.

63. CEC established TEL at a time when it anticipated major investment in Edinburgh’s transport infrastructure. CEC considered that TEL would be central to a new company group structure and organisational framework for the delivery of a range of transport services. Since then, the envisaged role of TEL has changed. CEC is currently reviewing its plans but it originally intended that TEL would oversee the running of an integrated bus and tram service once trams come into operation.

64. As an interim step, in December 2009 the council agreed that ownership of **tie** should be transferred to TEL. Under this arrangement, day-to-day management, control and execution of the tram project remained with **tie**. CEC gave TEL responsibility for all other strategic and other material decisions affecting the project except for certain key matters, such as approving project costs exceeding £545 million, which remained with the elected members of the full Council ([Exhibit 10](#)).

---

<sup>15</sup>The remaining shares are owned by East Lothian, West Lothian and Midlothian Councils.

---

## Exhibit 10: CEC delegated limits as they apply to the trams project

TEL is responsible for strategic and other material changes affecting the project within delegated limits.

In December 2009, CEC agreed that ownership of **tie** should be transferred to TEL. **tie** remained responsible for the day-to-day management, control and execution of the tram project while TEL assumed responsibility for all strategic and other material decisions affecting the project. To formalise these arrangements, CEC and TEL signed an Operating Agreement setting out their respective obligations and responsibilities in relation to the delivery of the tram system. CEC, **tie** and TEL also signed a separate Memorandum of Understanding updating an earlier Operating Agreement between CEC and **tie** when **tie** was a separate company from TEL. These arrangements provided TEL with responsibility for all matters affecting the programme, cost and scope of the project except for the following matters whose approval was reserved to CEC:

- any actual or reasonably expected delay beyond three months after the 'baseline date' (the estimated date when trams were to be operational as determined by CEC's chief executive and intimated to TEL from time to time)
- any actual or reasonably expected increase in capital cost which would mean the 'baseline cost' (the estimated capital cost of the project as determined by CEC's chief executive and intimated to TEL from time to time) is exceeded by greater than £1 million
- any substantial change to the design, scope or service pattern set out in the Final Business Case.

In setting the baseline cost and baseline date, CEC's chief executive was also required to obtain elected members' approval to specify a baseline date beyond October 2012 and a baseline cost exceeding £545 million.

In addition, the CEC/TEL Agreement also formalised the council's decision first made in December 2007 that TEL should establish the Tram Project Board (TPB) as a formal committee of the TEL board with delegated responsibilities. The TPB was provided with full delegated responsibility for the delivery of an integrated Edinburgh tram and bus network on behalf of TEL and CEC. The TEL chief executive officer, as project senior responsible owner, was also provided with delegated responsibility for approving more minor changes to the project which resulted in:

- delays to key milestones of up to one month
- increases in capital costs of up to £1 million
- reductions in annual operational surplus of up to £0.1 million per annum
- reductions in the project's economic viability measured by a reduced benefit cost ratio of less than 0.1 i.e. a reduction in benefits of 10 pence per £1 of cost.

The arrangements require TEL to report to CEC on a four-weekly and annual basis with regard to the project's finances and progress. In particular, immediately that TEL becomes aware of the likelihood of a delay to, or overspend in, the project it is required to notify CEC's Tram Monitoring Officer providing reasons for the potential delay or overspend and detailing the steps to be taken to mitigate against this.

---

Source: Audit Scotland

65. In December 2009, CEC also agreed that **tie** should cancel its contract with Transdev as tram operator and allow TEL to take on full responsibility for planning the operational introduction of the trams service. To ensure construction and operational planning was kept in two separate and distinct entities, Edinburgh Trams Limited, a non-trading company then registered as owned by Lothian Buses, was transferred to TEL. Transdev's staff were also transferred to Edinburgh Trams Limited to undertake the necessary planning work.
66. In addition, in December 2009, CEC agreed a revised structure for the board of TEL intended to strengthen its ability to deliver integrated transport across the city. In deciding the membership of TEL, CEC sought to include council officials to provide an operational link with CEC, elected members to provide a political representation and non-executive directors with expertise in transport issues. The board, whose membership is subject to the approval of elected members, now includes:
- a chair
  - the chief executive of **tie** who also became TEL's chief executive when ownership of **tie** transferred to it
  - CEC representation in the form of six elected members, plus the Director of Finance and the Director of City Development to provide operational and political links with CEC
  - a director with specific responsibility for the integration of bus and tram operations
  - the managing director of Lothian Buses to support the establishment of the proposed group structure, particularly in relation to bus and trams operations
  - four non-executive directors with expertise in transport issues (who are also non-executive directors of **tie**).

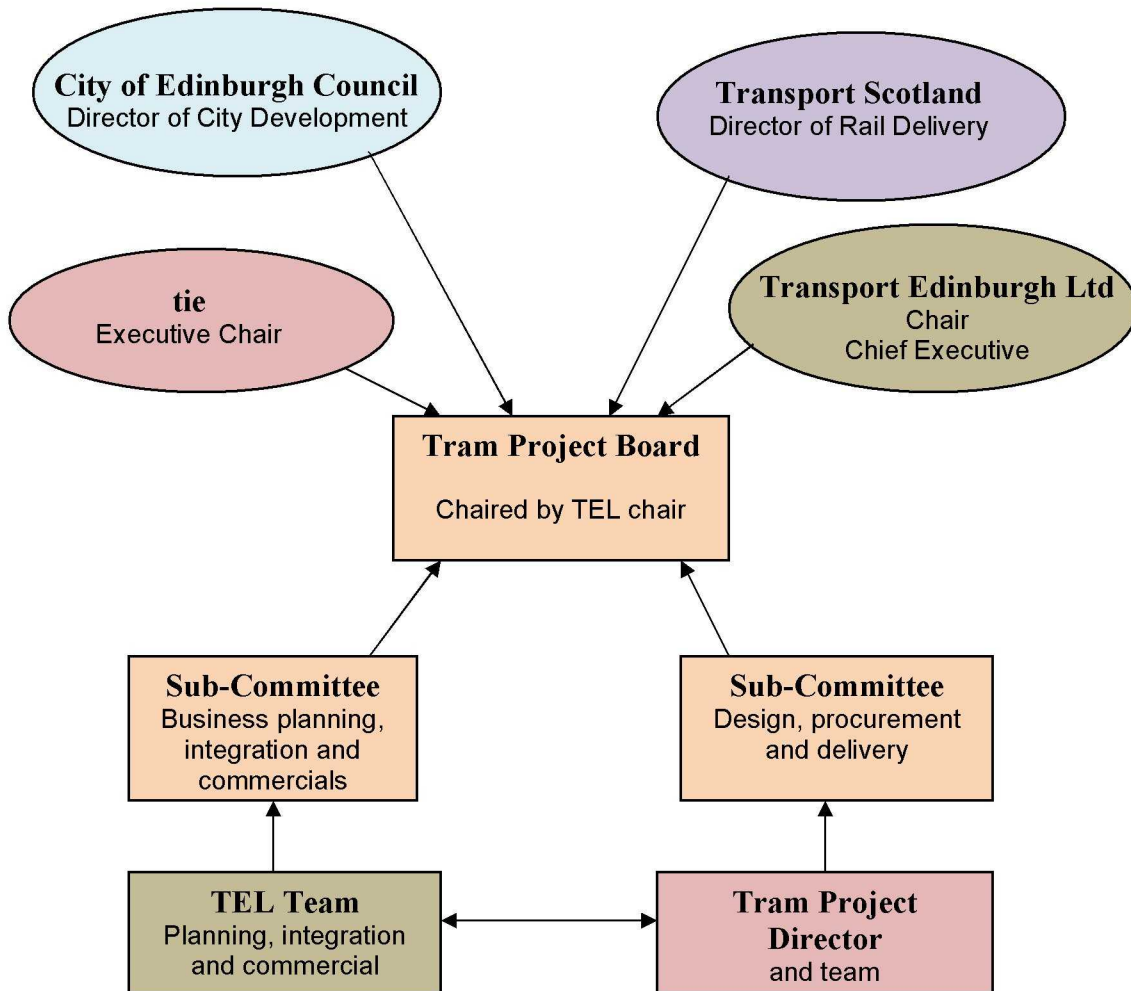
## **The Tram Project Board continues to be the project's main governance body responsible for overseeing the work of tie**

67. In the Auditor General's June 2007 report we recorded how the Tram Project Board (TPB) exercised overall governance of the project and included senior representatives from **tie**, Transport Scotland, CEC and TEL ([Exhibit 11](#)). At the time, the construction work on the project was at a relatively early stage and the TPB was a free-standing board with no direct reporting lines to other organisations. In December 2007, elected members agreed that TEL should establish the TPB as a committee of TEL with delegated responsibilities ([Exhibit 12 on page 34](#)). The TPB continues to be the project's main governance body. Its broad remit is to oversee the execution of all matters relevant to the delivery of an integrated Edinburgh bus and tram network.

---

**Exhibit 11: Original Tram Project Board governance structure**

The original Tram Project Board included senior representatives from **tie**, Transport Scotland, CEC and TEL.

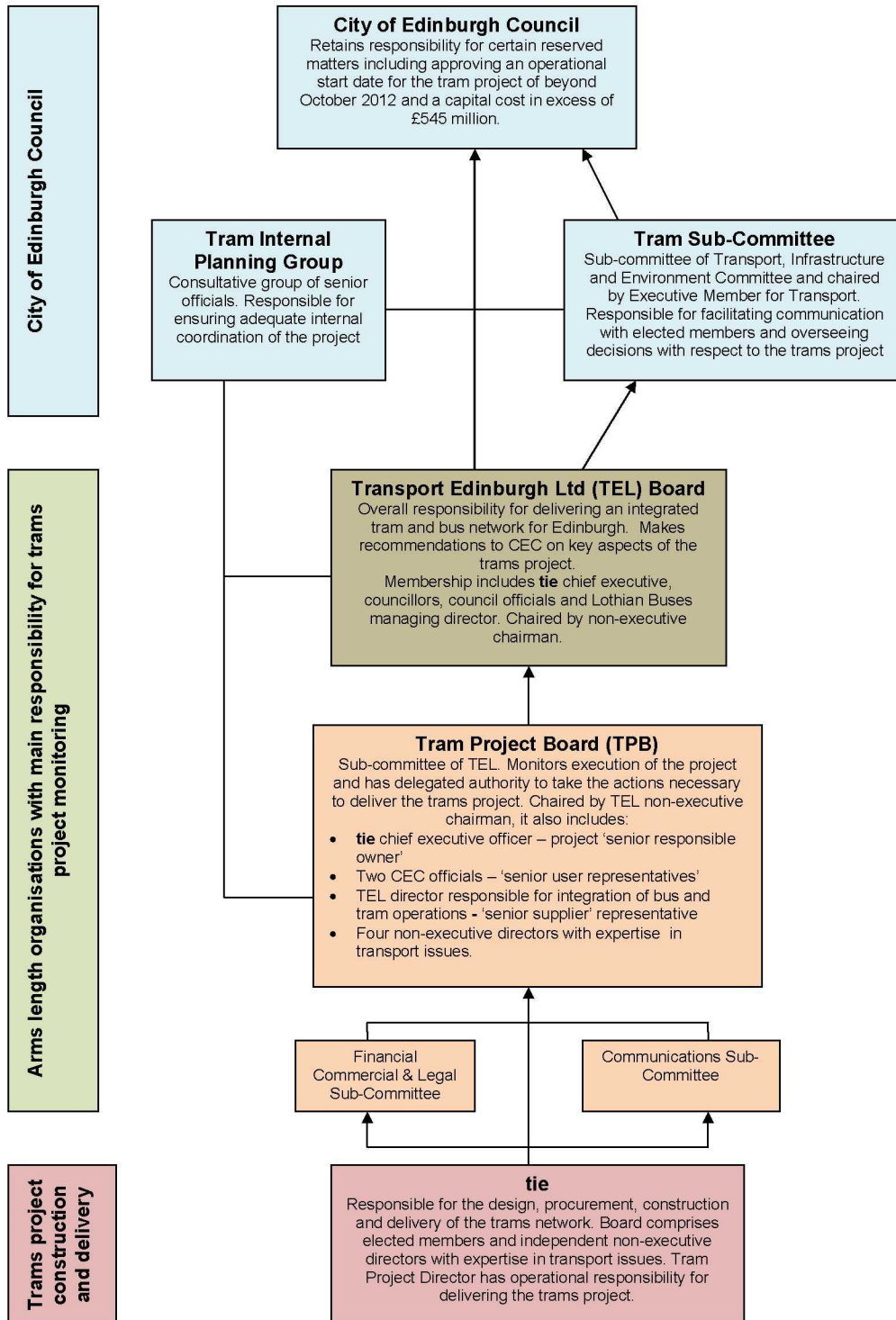


---

Source: Audit Scotland

## Exhibit 12: Current tram project governance arrangements

The current governance arrangements are designed to take into account the need to oversee the work of **tie**, the need to keep elected members informed of the project's progress and the planned future role of TEL in providing integrated tram and bus services.



Source: Audit Scotland

## Membership of the Tram Project Board includes key roles identified by the Office of Government Commerce

68. The Office of Government Commerce (OGC), amongst others, has published a range of guidance on managing successful projects including the role of project boards. There is significant variability in the way project boards are constructed and the composition of individual boards must suit the circumstances of the project. The OGC has, however, defined three roles which should be represented on project boards.<sup>16</sup> The current membership of the TPB includes these three roles (Exhibit 13).

### Exhibit 13: Current composition of the Tram Project Board

The composition of the Tram Project Board includes key roles identified by the OGC.

Membership of Tram Project Board	OGC classification	Role
TEL chair (chair of TPB)	Not classified	The chair provides overall leadership to the TPB.
Chief executive of TEL and <b>tie</b>	Senior responsible owner	The chief executive is responsible for ensuring that the tram project meets its objectives and delivers the expected benefits. He is personally accountable for the success of the project.
TEL director responsible for integration of bus and tram operations	Senior supplier representative	The director represents TEL from the perspective of the eventual supplier of operational tram services.
CEC Director of Finance	Senior user representatives	The two CEC officials represent the ultimate recipient of the trams project. They are there to ensure that the project deliverables are fit for purpose and to provide an operational link with CEC.
CEC Director of City Development		
Four non-executive directors (who are also non-executive directors of <b>tie</b> )	Not classified	The non-executive directors bring expertise in transport issues.

Source: Audit Scotland

69. A key role for the TEL board is to exercise adequate oversight over the project's progress and risk management arrangements. The TPB, as a formal sub-committee of TEL, is responsible for undertaking this role. The chief executive of **tie** and its four non-executive directors are also members of the TPB.

<sup>16</sup>Managing Successful Projects with PRINCE2, Office of Government Commerce, 2009

## **Transport Scotland is no longer represented on the Tram Project Board, despite its significant financial commitment**

70. As originally constituted and reported in the Auditor General's 2007 report, the TPB included representation from Transport Scotland. However, in June 2007, following a Scottish Parliament debate and vote, Ministers announced that the Scottish Government's financial contribution to the project should be capped at £500 million and Transport Scotland withdrew from the TPB. This changed the emphasis of its role in the project to managing the grant funding.
71. Under this regime, Transport Scotland considers that it does not have the same oversight role for the trams project as it has for other Scottish Government transport projects which it manages directly, for example, in relation to risk management.<sup>17</sup> Transport Scotland has, however continued to hold quarterly meetings with CEC to discuss progress with the project. There are also clear project monitoring processes, with grant claims or requests for payment checked and authorised prior to processing. Regular reporting to Transport Scotland's Rail Delivery Directorate board and its main board also takes place.
72. While **tie** considers that the whole of Phase 1a will not be delivered within the £545 million limit, Transport Scotland continues to make grant payments to CEC. There is no requirement in the grant offer that the Scottish Government's continued funding of the project should be withdrawn if it became clear that Phase 1a could not be delivered for £545 million. Transport Scotland therefore continues to make payments in respect of valid work undertaken while the project continues. In light of the project's current progress, Transport Scotland and CEC are reviewing the conditions contained in the grant offer letter. The auditor will continue to monitor developments on this as part of his 2010/11 audit of Transport Scotland.

## **Council officials exercise oversight of the project through an internal planning group**

73. The CEC established a Tram Internal Planning Group (IPG) in October 2006 to provide an oversight of the different strands of work required to advance the delivery of the trams projects. The IPG has met monthly since May 2008 when construction commenced. In May 2010, the IPG's remit was changed to focus more explicitly on:
- the provision of CEC management scrutiny and oversight of the tram project, including the monitoring of progress against the programme timetable and budget

---

<sup>17</sup> Transport Scotland is responsible for the delivery of most Scottish Government transport projects and has significant skills and experience in this area.



- the identification, management and mitigation of risks to CEC and Edinburgh resulting from the project failing to achieve its objectives
- ensuring that CEC co-ordinates its resources and activities to support the project's implementation
- ensuring that the interests of wider stakeholders, such as elected members, in the tram project are fully considered and communications with key stakeholders are properly managed
- monitoring and assisting with the integration of **tie**, Lothian Buses and TEL.

74. The core membership of the IPG includes the chief executive and the Directors of Finance and of City and Development who are also members of TEL and the TPB. Other members include the Director of Corporate Services, and the Heads of Transport, Communication, and Legal and Administrative Services. The Head of Transport in particular plays a key role as CEC's nominated Tram Monitoring Officer in providing direct operational liaison between CEC and TEL and in ensuring that CEC's interests are fully represented. Although not a member of TEL and the TPB, the Tram Monitoring Officer is expected to attend their meetings.

## **The project's progress and risks are reported regularly**

75. The TPB meets every four weeks to consider reports from **tie**'s Tram Project Director. Issues which the TPB consider include progress with the project, updates on the dispute with BBS, the financial position, reviews of **tie**'s risk register and health and safety matters.
76. Day-to-day responsibility for delivering the project rests with the Tram Project Director who is supported by five teams responsible for delivery and programme, engineering matters, procurement, finance, and operations and maintenance. The Tram Project Director exercises project control through four-weekly reviews of progress with project managers.

## **The commercially confidential nature of some of the issues reported has caused frustrations**

77. In May 2008, CEC formed a Tram Sub-Committee of the Transport, Infrastructure and Environment Committee to oversee decisions with respect to the trams project and to facilitate communication with elected members on its progress. As part of this, CEC expected that TEL, the TPB and **tie** would provide regular reports and recommendations to the sub-committee. In reality, the sub-committee has met only six times, and not since March 2010. Given the profile of the project, its cost

and the reputational risks involved, most reporting has been made directly to elected members at full meetings of the Council.

78. The full Council has received regular reports on the project's progress and on attempts to resolve the dispute with BBS. There have, however, been restrictions on details surrounding the dispute with BBS and the level of financial information included within council papers due to some of it being considered to be commercially confidential. In particular, in June 2010 the full Council asked officials to provide a refreshed business case for TEL detailing the capital and revenue implications of all the options being investigated by **tie** for taking the trams project forward. The paper considered by the council in October 2010 provided only limited financial detail as the TEL Business Plan contained information on patronage assumptions for buses and trams which were considered to be commercially sensitive.
79. The TEL Business Plan was subsequently provided to elected members at the December 2010 council meeting, although certain information on forecast passenger volumes and TEL profitability was redacted. However, officials gave full copies of the TEL Business Plan to members of each political group on request subject to written undertakings that they would not disclose commercially sensitive information to any other individual or organisation.
80. In addition, elected members who receive full information in their position as board members of TEL (although there are no councillors who are members of the TPB, councillors who are non-executive members of TEL can attend TPB meetings) are unable to share this information more widely with political group colleagues. The auditor of CEC recorded in her report on the 2008/09 audit that this continues to cause tensions and frustrations amongst elected members. This reflects more generally the potential conflicts of interest that can arise where councillors who serve as directors of bodies set up as commercial companies, become subject to the requirements of companies act legislation. These include for example, a responsibility to always act in the interests of the company and to abide by commercial confidentiality.
81. A key factor contributing to the tensions surrounding the project is that there are different views as to the need and value of the trams system. The project was developed and approved when the Labour Party held an overall majority in the council. The current ruling group consists of a Scottish Liberal Democrat/ Scottish National Party coalition. Members of the current administration hold differing views of the Edinburgh trams project and considerable debate is generated at council meetings when the subject is discussed. This has made it more difficult for CEC as a whole to present a unified commitment to the project.

# Appendix 1. Project timeline

June 2000	CEC publishes its Local Transport Strategy which sets out that the development of a tram network is central to its transport policy.
April 2001	CEC commission feasibility studies into Edinburgh tram system
May 2002	CEC establishes <b>tie</b> as an arms-length company to investigate how best to deliver its local transport strategy.
September 2002	<b>tie</b> submits its proposals to CEC, identifying three trams lines as the most promising in terms of economic viability and benefits to the city.
March 2003	Scottish Ministers announce £375 million available in principle for tram system.
January 2004	Two Bills submitted to the Scottish Parliament intended to enable the construction of the tram system.
September 2005	<b>tie</b> appoints Parsons Brinkerhoff to facilitate the early identification of utility diversion works and completion of design drawings.
March 2006	Bills receive Royal Assent.
October 2006	<b>tie</b> appoints Alfred McAlpine Infrastructure Services to be responsible for the diversion and protection of utilities along the tram route.
June 2007	Auditor General publishes his report ' <i>Edinburgh transport projects review</i> ' which includes the trams project. The report concluded that the arrangements in place to manage the trams project appeared sound although the final business case had yet to be approved. It said that a range of key tasks, such as the commencement of utilities diversion works and negotiations with bidders over the infrastructure construction contract, needed to be completed before the business case could be signed off. Unless work progressed to plan, cost and time targets may not be met.
June 2007	Following a debate and vote, the Scottish Parliament calls on the SNP administration to proceed with the Edinburgh trams project within the budget limit set by the previous administration. The Scottish Parliament notes that it is the responsibility of <b>tie</b> and CEC to meet the balance of the funding costs.
October 2007	<b>tie</b> signs pre-contract agreements for the supply and maintenance of 27 tram vehicles with Construcciones y Auxiliar de Ferrocarriles SA.
October 2007	<b>tie</b> announces the consortium Bilfinger Berger Siemens (BBS) as the preferred bidder for construction of the tram infrastructure, including rails, overhead power cables and a tram depot.
December 2007	<b>tie</b> signs a mobilisation and advance work agreement for infrastructure construction with BBS.
December 2007	<b>tie</b> publishes its final business case for the tram network. Phase 1a (Edinburgh airport to Newhaven) is expected to cost £498 million. Phase 1b (Roseburn to Leith) is expected to cost £87 million. Trams are expected to be open for revenue service by spring 2011.
December 2007	CEC approves the final business case.
January 2008	Scottish Ministers offer grant support for Phase 1a of 91.7 per cent of eligible capital costs subject to a maximum grant of £500 million. The Scottish Government's grant offer is conditional on project costs not exceeding £545 million, a positive benefit cost ratio and no requirement for an ongoing subsidy once trams are operational.

May 2008	BBS appointed as contractor for the construction of the tram infrastructure. On execution of this contract, the contracts for systems design and tram vehicle construction and maintenance are transferred to it.
February 2009	Major dispute arises between BBS and <b>tie</b> , one week before track-laying work was due to start in Princes Street, amid claims that BBS is seeking an additional £50-80 million funding.
April 2009	CEC announces that, in view of the economic downturn, Phase 1b of the project is not proceeding in the foreseeable future.
June 2009	A week of informal mediation is held between <b>tie</b> and BBS which examines, among other things, the interpretation of key clauses in the pricing schedule, risk allocation and the substantiation of changes and value engineering issues
July 2009	<b>tie</b> reports to the Tram Project Board that the mediation had not been successful. Tram project Board endorses <b>tie</b> 's strategy of adopting a more formal approach to managing the contract.
November 2009	Carillion (who bought over Alfred McAlpine in December 2007) completes its works package of diverting 40,000 metres of utility pipes and cables. <b>tie</b> appoints Clancy Docwra and Farrans to divert the remaining 10,000 metres
December 2009	Following further disputes with BBS, the Tram Project Board concurs with <b>tie</b> 's proposal that, in view of lack of progress, a fundamental review of the contractual position with BBS should be conducted. If required, formal legal processes should be started to bring the major issues to a head to allow the project to progress.
March 2010	<b>tie</b> informs CEC who tells Transport Scotland that it is unlikely that all of Phase 1a of the project can be delivered for £545 million. £348 million has been spent on the project up to that point.
March 2010	The Tram Project Board approves <b>tie</b> 's strategy for the future direction of the project including management of the infrastructure construction contract with BBS.
June 2010	CEC reports to full council meeting on progress of the project. Council requests a refreshed business case detailing the capital and revenue implications of all options being investigated by <b>tie</b> .
October 2010	CEC reports to full council meeting in response to its June 2010 request. The report provides an update on progress and outlines an incremental approach to the project which would see the opening of a line from Edinburgh Airport to St Andrew Square as the first phase. No cost or benefit figures are provided and the council requests a further report to be prepared for its December 2010 meeting.
October 2010	The Accounts Commission and the Auditor General for Scotland announce their intention to carry out a further review which will provide an independent commentary on the Edinburgh trams project's progress and costs to date and its governance arrangements.
December 2010	Refreshed trams business case is presented to full CEC council meeting. Report includes the consideration of the incremental delivery of Phase 1a, an update on the economic case for Phase 1a, expenditure to date and an assessment of funding and affordability. The council also notes that a report would be submitted within one year on the operational and governance arrangements necessary to secure the integration of bus and tram services.

## Appendix 2. Main parties involved in the project

<b>Funders</b>	
Transport Scotland	The Scottish Government, via Transport Scotland, has agreed to provide up to £500 million for the project subject to the conditions set out in the grant agreement being met. These include CEC approving a final business case for the project which shows that the total cost of the project should not exceed £545 million, that the project has positive a benefit cost ratio and that there is no requirement for ongoing subsidy once trams are operational.
City of Edinburgh Council (CEC)	Provides the balance of funding. The Council is currently looking at how to source additional funding up to a maximum project cost of £600 million.
<b>Delivery bodies</b>	
Transport Initiatives Edinburgh (tie)	An arms length company wholly owned by CEC. Responsible for the design, procurement, construction and delivery of the trams network.
Tram Project Board	A formal sub-committee of TEL. Monitors execution of the project and has delegated authority to take the actions necessary to deliver the trams project.
Transport Edinburgh Ltd (TEL)	An arms length company wholly owned by CEC. Has overall responsibility for delivering an integrated tram and bus network for Edinburgh. The original intention is that once the tram network is delivered, TEL will be responsible for delivering an integrated tram and bus service.
<b>Contractors</b>	
Transdev	Transdev was appointed as the tram operator in May 2004 to assist planning of an integrated service network with TEL. The contract with Transdev was later cancelled in December 2009 as a cost saving measure. CEC now intends that TEL will be responsible for operating an integrated tram and bus service.
Parsons Brinkerhoff/Halcrow	Appointed in September 2005 as SDS provider to facilitate the early identification of utility diversion works, land purchase requirements and traffic regulation requirements and the completion of design drawings.
Alfred McAlpine Infrastructure Services/ Carillion	Alfred McAlpine was appointed as the contractor responsible for utilities diversion work in October 2006. Responsibility passed to Carillion when it acquired Alfred McAlpine in December 2007. When Carillion completed its agreed work package in late November 2009, Clancy Docwra and Farrans were appointed to complete utilities diversion works.
Construcciones y Auxiliar de Ferrocarriles SA (CAF)	Responsible for tram vehicle construction. Appointed in May 2008.
Bilfinger Berger Siemens (BBS)	Responsible for infrastructure construction. Appointed in May 2008. At this point, responsibility for systems design and vehicle supply and maintenance passed to BBS, and Parson Brinkerhoff/Halcrow and CAF joint the consortium.

# Edinburgh trams

## Interim report

If you require this publication in an alternative format and/or language, please contact us to discuss your needs.

You can also download this document in PDF, black and white PDF or RTF at:  
[www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)



Audit Scotland, 110 George Street, Edinburgh EH2 4LH  
T: 0845 146 1010 E: [info@audit-scotland.gov.uk](mailto:info@audit-scotland.gov.uk)  
[www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk)

ISBN 978 1 907916 13 7 AGS/2011/2

Printed on Revive 100 Uncoated, a Forest Stewardship Council (FSC) certified recycled grade containing 100% post consumer waste and manufactured at a mill certified with ISO 14001 environmental management standard. The pulp used in this product is bleached using an Elemental Chlorine Free process (ECF).



ADS00046\_0044