
From: Richard Jeffrey
Sent: 27 October 2010 17:34
To: Susan Clark
Subject: RE: Contract Review- Request for Information

Yes, we need to nail this once and for all. We need Mandy's input too, it needs to be accurate transparent and positive.

R

Sent from my Windows Mobile® phone.

From: Susan Clark <Susan.Clark@tie.ltd.uk>
Sent: 27 October 2010 17:31
To: Richard Jeffrey <Richard.Jeffrey@tie.ltd.uk>
Subject: RE: Contract Review- Request for Information

Yes –tomorrow?

Susan

Susan Clark
Deputy Project Director

Edinburgh Trams
Citypoint
65 Haymarket Terrace
Edinburgh
EH12 5HD

Tel: [REDACTED]
Mobile [REDACTED]
Email: susan.clark@tie.ltd.uk

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From: Richard Jeffrey
Sent: 27 October 2010 17:31
To: Susan Clark
Subject: RE: Contract Review- Request for Information

Susan, can we discuss please, thanks.
R

Sent from my Windows Mobile® phone.

From: Nick Smith <Nick.Smith@edinburgh.gov.uk>
Sent: 27 October 2010 11:35
To: Susan Clark <Susan.Clark@tie.ltd.uk>; Carol Campbell <Carol.Campbell@edinburgh.gov.uk>

CEC00137970_0001

Cc: Richard Jeffrey <Richard.Jeffrey@tie.ltd.uk>
Subject: RE: Contract Review- Request for Information

Thanks Susan

One of the request from Tom at this morning's IPG was for a summary of the win/lose position regarding DRPs. I think this follows on from discussions he has had with Donald Anderson. In order for me to be able to revert to Tom with a view could I please ask tie (or most likely DLA) to compile a summary of each DRP, the issues involved, the actual decision and whether any other observations are relevant.

I am absolutely clear that a "loss" may not actually be a loss eg if a decision found against tie on design development on a specific issue, but found in tie's favour on the view of contractual interpretation. However, Tom clearly wants the facts and views verified. I am also aware that DRP outcomes may be largely irrelevant in terms of current work products. Nevertheless, Tom has given me this instruction and I should be grateful if you could assist.

Happy to discuss.

Kind regards

Nick

Nick Smith
Principal Solicitor - Commercial, Procurement & Finance
Legal Services Division
City of Edinburgh Council
Level 3, Waverley Court
East Market Street
Edinburgh EH8 8BG

(t) [REDACTED]

Please note that I am not in the office on a Monday

From: Susan Clark [mailto:Susan.Clark@tie.ltd.uk]
Sent: 27 October 2010 10:11
To: Nick Smith; Carol Campbell
Cc: Richard Jeffrey
Subject: RE: Contract Review- Request for Information

Ok

From: Nick Smith [mailto:Nick.Smith@edinburgh.gov.uk]
Sent: 26 October 2010 13:44
To: Susan Clark; Carol Campbell
Subject: RE: Contract Review- Request for Information

Thanks Susan

We had already considered that this would be a good idea. However, S&W are still at an early stage of review and at this time we would prefer them to take a "cold" look at the documentation and come back with any questions. At that stage we anticipate that further clarification may be required and a meeting may be useful. I suggest we get back in touch to arrange once we S&W have a better understanding of the documents etc.

We agree that raising queries at the last minute would not be ideal for either tie or CEC so we'll try to ensure early dialogue as necessary. Leave it with us.

CEC00137970_0002

Kind regards

Nick

Nick Smith
Principal Solicitor - Commercial, Procurement & Finance
Legal Services Division
City of Edinburgh Council
Level 3, Waverley Court
East Market Street
Edinburgh EH8 8BG

(t) [REDACTED]

Please note that I am not in the office on a Monday

From: Susan Clark [mailto:Susan.Clark@tie.ltd.uk]
Sent: 25 October 2010 19:09
To: Carol Campbell
Cc: Nick Smith
Subject: RE: Contract Review- Request for Information

Carol

Thanks – we will get onto this tomorrow.

I also though it may be useful if tie/DLA were to meet with CEC/S&W on an ongoing basis to explain the context and fill any gaps that you have from the information we have sent. I'd rather we were dealing with this early on as opposed to leaving it all towards the end of this process.

Please let me know if this would be helpful and i will get it organised.

Regards

Susan

Susan Clark
Deputy Project Director

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Email: susan.clark@tie.ltd.uk

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From: Carol Campbell [mailto:Carol.Campbell@edinburgh.gov.uk]
Sent: 25 October 2010 09:38
To: Susan Clark

CEC00137970_0003

Cc: Mack, Ian; Julie Smith
Subject: FW: Contract Review- Request for Information

Susan,

Further to your emails of 20 October, I attach Shepherd + Wedderburn's response to your points of clarification. Hope this will assist.

Kind regards,

Carol

Carol Campbell | Solicitor | Legal and Administrative Services | The City of Edinburgh Council | Waverley Court Business Centre 3.1 | 4 East Market St | Edinburgh | EH8 8BG | **Tel** [REDACTED] | **Fax** 0131 529 3603 | LP 6 Edinburgh 8

From: Mack, Ian [mailto:Ian.Mack@shepwedd.co.uk]
Sent: 25 October 2010 09:14
To: Carol Campbell
Subject: Contract Review- Request for Information

Carol,

I refer to your e-mail on Wednesday 20 October, and Susan Clark's earlier e-mail to you.

By way of clarification,

Dispute Resolution Procedures 7.3:

The Dispute Resolution Procedures we referred to are in the context of tie's paragraph 2.2.10 of the "**Termination Notice in terms of Clause 80-tie Change**", issued on 29 September 2010. In this paragraph, tie refer to numerous inflated estimates for 'Infraco Notices of tie Changes' ("INTC's") provided by the Infraco. Tie submit that several of these estimates have been challenged and settled through the Dispute Resolution Procedure and that all were consequently substantially reduced in value. We should be grateful if tie would provide a form of table, showing the sums claimed against the sums awarded following the resolution procedure.

Design Failure at Gogarburn Wall 9.2:

Depending on the evidence submitted by tie in terms of clause 9.1 of our item list, specifically any advice or reports which supported the contention that the Infraco fell below the reasonable standard in respect of their management of the design at Gogarburn retaining wall W14C and W14D, then 9.2 may not be necessary. However, in addition, letter from the Infraco to tie, dated 21 January 2010 (ref: 25.1.201/OH/4446) is requested.

Infraco Over-Valuations 7.1

A summary document with examples would be sufficient, on the assumption that these examples illustrate what is submitted by tie in para 2.2.11 of tie's termination notice to the Infraco in terms of clause 80, on 29 September 2010. Specifically, examples that show a reduction on the estimates, further demonstrating repeat over-valuations by the Infraco.

Building Warrant 6.1

The building warrant referred to was in respect of the demolition works at plots 97 and 102 Russell Road, as submitted by tie in their notice in that regard on 21 September 2010. Specifically requested are copies of INTC 117, tie Notice of Change ("TNC") 042, INTC 368 and a copy of letter dated 31 May 2010 from the Infraco (ref: 25.1.201/JMD/5531). These are necessary in the context of tie's submission in para 2.4 of their Notice that the Infraco significantly delayed in obtaining the Building Warrant.

If you have any further queries in relation to the above, please do not hesitate to contact me.

Kind regards,

CEC00137970_0004

Ian

Ian Mack
Trainee, Commercial Disputes and Regulation
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