
From: Alan Squair
Sent: 29 November 2007 17:56
To: Gill Lindsay; Colin MacKenzie; Nick Smith
Subject: RE: Edinburgh Tram Network - Draft Contract Suite

Gill

Thanks. This does not on brief review appear to reflect what what was sought from DLA in terms of Colin's e mail to Sharon, which was based on your instructions to him.

By way of initial comment -

1. I note the reference in the first paragraph to DLA working under **tie**'s instruction. This is not unexpected but it does confirm what we have been advised by Duncan, i.e. that no specific instructions have been sought or obtained as to the Council's interests. I take it that commonality of interest between the Council and **tie** is again assumed.

2. The reference under "RISK" to the contractual allocation being broadly aligned with the market norm is perhaps too broadly expressed - that might suggest that it was different in some, possibly significant, respects to the market norm. There is however no indication of what these differences might be or the risks attached to them.

3. Para 1 in the risk section refers to paucity of technical information - presumably the delay in bringing forward the detailed design - and incomplete due diligence, which I take it reflects the fact that Consents and Third Party Agreements were apparently not given due attention by BBS during due diligence. I'm not aware of where the burden of disclosure lies in due diligence, but I understand the implication to be that it was for the bidders to make what they could of what was provided in the Data Room and not for **tie** to ensure that all relevant factors were taken into account in the bidding process.

The net effect, however, is that BBS wish to place the associated risks with **tie**/CEC and, as Sharon says, our desired risk allocation may not be achieved.

I'll discuss matters further with Colin on Monday and it may be that we would require to seek your guidance in advance of the LAC next Wednesday. However, if you were in a position to provide preliminary comments prior to your departure, that would be very helpful.

Alan

From: Gill Lindsay
Sent: 29 November 2007 16:32
To: Alan Squair; Colin MacKenzie; Nick Smith
Subject: FW: Edinburgh Tram Network - Draft Contract Suite
Importance: High

From: Tweedie, Lorna [mailto:lorna.tweedie@dlapiper.com] **On Behalf Of** Fitzgerald, Sharon
Sent: 29 November 2007 15:54
To: Gill Lindsay
Cc: Fitzgerald, Sharon; Susan Clark; geoff.gilbert@tie.uk.ltd; Matthew Crosse
Subject: Edinburgh Tram Network - Draft Contract Suite
Importance: High

Gill

Colin had sent me an e-mail yesterday for a response before close of business. Unfortunately, I was out of the office in Glasgow all day hence inability to response within that deadline. I was able, however, able to speak with Andrew who let me know that his intention was to release report today for LAC. So in some measure the attached draft letter serves two purposes. It would be our intention to update this letter for the report to the LAC on Wednesday next

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week. We remain engaged on a daily basis with the Consortium in order to drive out as many solutions to outstanding issues as possible.

Should you wish to discuss any aspect of this draft letter, please let me know. I am contactable tomorrow although may be in meetings for parts of the day. I know Andrew is also available subject to meetings with the Consortium. We will issue this tomorrow to you by e-mail and post.

Regards

Sharon

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