
From: Reeve W (Bill)
Sent: 18 July 2007 17:42
To: PS/Transport Scotland; Sharp DP (Damian)
Cc: Spence M (Matthew); Morrissey J (Jerry); Davis L (Lorna); Ramsay J (John); Savage N (Nadia); Briody D (Damian)
Subject: Re: FOR ACTION - Feedback from Tram Project Board - Restricted - Commercial

The clarity of John Swinney's advice is helpful.

I remain concerned about the risk arising from withdrawing from governance arrangements that Audit Scotland have found satisfactory. Compliance with the SPFM must be seen in this context. We must have a well recorded reason for making these changes.

Is there any worth in considering a direction from the Cabinet Secretary that normal governance processes (Gateway reviews, Board attendance, reserved powers, etc.) should not be followed in this instance. I recognise this may be a bit of a nuclear option, but it would provide clarity and cover.

Alternatively, is there any clean funding transfer arrangement that would supplant the need to follow many of the SPFM requirements ? Perhaps a one-off transfer of funds ?

Regards,

Bill Reeve

Director, Rail Delivery
Transport Scotland

-----Original Message-----

From: PS/Transport Scotland
To: Sharp DP (Damian); PS/Transport Scotland; Reeve W (Bill)
CC: Spence M (Matthew); Morrissey J (Jerry); Davis L (Lorna); Ramsay J (John); Savage N (Nadia); Briody D (Damian)
Sent: Wed Jul 18 14:31:04 2007
Subject: RE: FOR ACTION - Feedback from Tram Project Board - Restricted - Commercial

Damian

I am getting very strong signals from the Cabinet Secretary that TS should not be on the project board - he reiterated this at the Portfolio Meeting on Tuesday morning. Of course we need to fulfil any obligations under the SPFM, but we need to withdraw from active engagement in the delivery of this project and - crucially - in any decision-making processes that could compromise the new arrangements for allocation of financial risk for this project.

Malcolm

-----Original Message-----

From: Sharp DP (Damian)
Sent: 17 July 2007 17:41
To: PS/Transport Scotland; Reeve W (Bill)
Cc: Spence M (Matthew); Morrissey J (Jerry); Davis L (Lorna); Ramsay J (John); Savage N (Nadia); Briody D (Damian)
Subject: FOR ACTION - Feedback from Tram Project Board - Restricted - Commercial

Commercial

Importance: High

Malcolm
Bill

Purpose

1. To provide feedback from Thursday's Tram Project Board.

Timing

2. Urgent. I would welcome any comments before I am due to meet tie again on 20 July.

General

3. The TPB continued with a relatively small cast list which definitely helped discussion. The decision to provide £500m and transfer the risk to the Council also produced a very positive atmosphere. Everyone seemed very clear about the task ahead and the focus on getting on with delivery.
4. There are important questions to answer quickly to allow this positive mood to continue - principally around the role of Transport Scotland and the timetable to financial close. See below for more details.
5. I was very impressed with the non-executive role played by James Stewart. He asked challenging questions that addressed key issues and would not let Matthew Crosse or Geoff Gilbert skate over the issues.

Transport Scotland role

6. David MacKay, James Stewart and Neil Renilson all expressed strong support for Bill continuing to be a member of the TPB and for TS to be actively engaged with the project: Willie Gallagher was silent on this but we know he doesn't quite share that view. I said that we would need rapidly to conclude our consideration of our role and that we would need to ensure that future arrangements were consistent with the Scottish Public Finance Manual given the scale of Scottish Executive funding being invested. I stressed that we would at least require full compliance with the 4-weekly reporting but said we should be able to reduce the amount of ad hoc requests and meetings once the new arrangements were in place.
7. Matthew is preparing a separate paper on what "scaling back our involvement" means in practice and we need to reach conclusions urgently. I have agreed to meet Graeme Bissett on Friday to move forward. It would be good to provide something in writing beforehand that sets out some of our principles at least. We also need to look carefully at the programme - especially to look at the period before financial close to set out clearly what is required from tie by when. We need therefore to focus on our key acceptance criteria for the Final Business Case.

Programme

8. A programme was presented for the period to financial close on 10 January 2008 together with outline for the period to scheme opening in early 2011. TPB was told that recent delay would not lead to an extension of the completion date provided a pre-mobilisation of the Infracore contractor was allowed together with tree removal work. I have arranged for Damian Briody to go to tie today to look at the programme in more detail because we were only presented with the high level information.
9. We need to be clear that our scope of programme review is more limited than previously. We should now be concerned with establishing whether the programme is likely to be delivered in the first half of 2011. We also need to ensure that we understand the likely cash flow of the tram project. Finally, we need to recalculate the indexation of the £375m as set out in the exchange last week with Mr Swinney.

10. The programme to financial close is tight and relies on clarity of expectation, progressive approval, CEC co-operation and completion of critical design elements (but not the whole of the design). Key dates set out are:

- * Nomination of preferred bidders for Tramco and Infraco - 25 September
- * Agreement to conditional award of contracts by CEC and TS - 13 November
- * Award confirmation recommendation by Tram Project Board - 17 December
- * Approval of confirmed contractual award - 10 January 2008

11. It was reported that SDS was 6 weeks in delay and that therefore could not be fully made up before selection of preferred bidder. The focus is therefore on price-critical design being completed by then. A prolongation claim of £2.8m has been submitted by SDS and tie is preparing its counter claim.

12. It is not yet clear when the Final Business Case will be ready for submission and indeed we need to decide when we need to see it.

13. To underpin the new procurement timetable TEL, CEC, SDS and tie have all signed a programme cooperation protocol that sets out clear expectations of and obligations on each party.

14. There was an attempt by Matthew Crosse to restrict discussion of the programme on grounds that the TPB was getting into "too much detail". To his credit, David MacKay came back immediately with "this is not detail, this is fundamental to the success of the project".

Value engineering (VE)

15. After a long period of very limited progress with value engineering (only £4.9m savings realised), there has been a sudden and very positive change in approach. Jim McEwan has been put in charge of VE and instead of monthly meetings to discuss VE he has now started weekly meetings and any opportunity owner that comes to 2 consecutive weekly meetings without meaningful progress is in for a hard time - this is just as well since the VE exercise must conclude by 28 August to allow final bids to reflect opportunities realised. As a result specific VE opportunities were presented to the TPB and agreed in principle:

- * permanent way - reduction in thickness of slab track where possible - potential to save £3.6m - approval conditional on technical analysis being carried out by Steven Bell to demonstrate that the design life of the thinner slab will be adequate
- * reduced excavation - if the slab need not be as thick then there is less excavation and less need for utility diversions - potential to save a further £2.4m - depends on the P-Way saving being realised
- * MUDFA - interim reinstatement only of road surface where Infraco will need to dig up the road again - £180k
- * Murrayfield flood protection - tram-specific flood relief measures no longer required as CEC flood protection scheme at Murrayfield now agreed by Scottish Executive and will be in place before tram opens - £3m+

16. Other VE opportunities were discussed and a way forward agreed

- * structures - review agreed structure by structure - to be undertaken by tie, SDS and CEC together to identify whether structures are over specified in size, strength or aesthetic value - maximum saving £9m
- * simplification of delta junction at Roseburn - this would be consistent with 1a only followed by 1b - potential saving of £350k - subject to technical evaluation
- * tramstops - there are a number of opportunities to save small sums (which nevertheless add up) by some tram stop measures - eg omitting the 2 that have least patronage at least initially, more functional/less aesthetic design away from the World

Heritage Site - further review by TEL but TEL/CEC view that this is very much a measure of last resort

OGC Gateway Review 3

17. The timing of the Gateway Review was discussed. We need to decide when to require the Gateway Review and who commissions it. tie has proposed to conduct it in 2 parts but this is really neither necessary nor attractive. It should be undertaken at a point shortly before CEC seeks formal release of funding from us.

18. I did not raise - and there was therefore no discussion of - the question of who should commission the Gateway Review. If this is "City of Edinburgh Council's project not ours" then arguably CEC should commission the Gateway Review and receive the report (which they would agree to share with us in order to secure funding). On the other hand we can exert better control over the remit and team selection if we commission the review and that would be consistent with our approach to other projects.

More advance works

19. It was agreed that the second phase of depot works should go ahead as the quote received is within budget.

20. tie argued that to maintain the programme they would need to start tree removal and piling alongside the A8. We will need to look into the programme dependencies as part of the review and understand how much additional cash on top of the current £60m grant will be required to undertake this work before Financial Close.

MUDFA progress

21. There had been 2 recent problems with MUDFA progress but one (lack of signed legal agreements) had now been rectified - the other is a problem with Halcrow who are acting as sub consultants and this is being tackled.

Design closure

22. There was a productive discussion of the process to design closure and it is clear that CEC see themselves in the spotlight to devote the necessary resources to closing out design issues promptly where their approval is needed. This has been helped by the additional Citypoint accommodation that allows CEC staff to sit with tie and SDS staff and discuss issues together.

Budget

23. No change was reported to budget (other than to highlight a possible pressure of £4.6m) although the sunk costs reported by tie are lower than ours. This is because we are more actively accruing expenditure - the biggest element of which is that we have accrued for the land acquisition whereas tie will not count that until cash goes out of the door.

24. In the slide pack for the meeting, slide 28 shows a series of gradual steps to get the costs back from £545m to £500m for phase 1a. According to this the consolidated bids should have led to a reduction in the cost. When I asked about this I was told that the consolidated bids had delivered reductions in line with expectations but Matthew Crosse avoided the question of when the Tram Project Board would see evidence of this.

Phase

25. Despite the funding shortfall, tie are keen to talk to bidders about a price for Phase 2 (Granton - Newhaven along the shore) believing that they might get an offer they can't refuse at £5-10m. I find this deeply implausible given that (a) bidders have no detail on which to price phase 2 and (b) tie's own estimate for phase 2 was at over £50m

since there is significant sea wall reconstruction to be achieved and an existing road to move!

Impact of no EARL on Tram

26. The paper on this was not considered in any detail by TPB and no conclusion was reached. Following a discussion with Malcolm earlier in the week I held the line that none of the issues in the paper were yet agreed with TS. It did not help that it became clear that separate issues had been run together in the paper.

27. Firstly, we must decide whether Tram must make passive provision for EARL – the estimated cost of this is £1.76m but we don't know what the potential cost to EARL would be if it came along later and no provision had been made. There is also the credibility question of continuing to make provision for EARL when the current administration is demonstrably opposed. However, the EARL powers remain extant until at least 2012 unless repealed and we need to be sure of our legal footing here. If we did insist on such passive provision then I think we might be morally liable for the cost and I would certainly expect tie/CEC to press us to provide the additional funding.

28. Secondly, there is a claim that there is a cost of £1.9m due to loss of efficiencies in undertaking some work jointly with EARL. No evidence has yet been presented for this cost nor has any breakdown of the £1.9m been given. tie are pressing for this to be included in the EARL wind up costs but I find it hard to see how this could be done without breaching the deal reached between tie and Mr Swinney of “£500m – not a penny more, not a penny less”.

29. I propose that the outcome should be that we do not protect the EARL alignment but equally do not fund the £1.9m. Are you content?

30. Finally, the TPB agreed that the proposed temporary car park extension at Ingliston Park & Ride should be made permanent now that there was no early prospect of it being dug up again by EARL. This should not matter to the capital cost of the tram as Ingliston Park & Ride is to be funded by SESTRAN but it gives significant operating benefits. If necessary, the car park can be dug up for EARL at limited additional cost later.

Immunisation

31. There was no discussion of immunisation at TPB but Steven Bell and I spoke briefly afterwards about the need to clarify the future arrangements. Matthew is covering this in his paper.

Tram stop names

32. As a final matter the names of some of the tram stops have been changed – this means that we will need a new map – could John or Lorna sort this out please. The name changes reflect stop catchments better. As an observation, at least this change of name cost nothing which is more than can be said for changing the name of a railway station that is not yet built – changing Dawsholm Park to Kelvindale cost us some tens of thousands on Larkhall – Milngavie!

Recommendations to the TPB

33. Matthew Crosse made 11 recommendations to the TPB – not all of which were accepted but most were:

1. More focused role of TS – all agreed in principle but we now need to agree and document this
2. CEC funding proposals to be presented – Andrew Holmes reported that a multi-disciplinary group within the Council was looking at raising at least £45m and would report back

3. Commitment to development & closure of funding agreement - goes hand in hand with more focused role of TS - issue for us to watch will be attempts to make us liable for delays or costs caused by the Scottish Executive
4. Agreement to discuss 1b and phase 2 with bidders - this was not entirely conclusive as some were clearly keen to pursue phase 2 but David MacKay was on message that all effort needed to go into 1a
5. Acceptance of new procurement baseline programme - accepted subject to detailed discussions on approvals (see below)
6. Commitment to achievement of programme approval milestones - since these weren't completely clear they need to be thrashed out before commitment can be given
7. Support for early start of Infracore in principle - I stated we could not give this at this point but we would take the issue off line. I think we will need Ministerial cover for this.
8. Commitment to drive through design approvals - agreed.
9. Commitment to joint working with CEC legal support - agreed.
10. Recognition and commitment to support VE savings target - agreed.
11. Commitment to minimising change requests - agreed.