

**Meeting between Steven Bell, Tie and Jerry Morrissey and John Ramsay,
Transport Scotland.
16 July 2009, Glasgow**

Key Points Note:

Purpose:

To update on previous advice, particularly following recent mediation sessions with Infraco and last week's Tram Board Meeting.

Meeting took place between Keysberg, Schleppendahl and Richard Jeffrey following the mediation sessions.

Richard Jeffrey's high level aims in seeking overall resolution is to get;

- Better relationships with Infraco (esp Bilfinger)
- Better working
- Fair price / cost resolution to disputes
- Reduction in uncertainty
- Right level of information to substantiate claims.

Strategic Options being closed down now to reduce as much uncertainty as possible on time, money and performance have been on;

- Programme
- Contractual Disagreements mostly on additional costs
- Specific mechanisms on works pricing
- Supplemental Agreement (how well its been working as a practical solution)

On the Programme, tie advised that they had focussed on an economic evaluation of Time 1 (Tie's recovery programme against Time 2 (Infraco's version). Tie's analysis indicates unmitigated slippage to Sept/Oct 2012 = 4-5 months more but Infraco are arguing for time beyond = proof ito culpability for delay.

On specific pricing etc, the Schedule Pt 4 sessions focussed on the application and mechanics, Design Development and Changes to Design.

Outcomes of Mediation Sessions:

- a) Part 4 discussions saw surprisingly general agreement and now see no problems in principle.
- b) Evaluation of changes to schedules and rates seemed agreeable to 3rd party surveyors
- c) On-street Supplemental Agreement received no practical response so this was just parked.
- d) IFC and base state design changes issues were constructive and partially admitted but with no substantiation
- e) Value Engineering. From overall value of £12.2m various deductions were offered but with no firm detail or conviction.

- f) on extension of time2 this is the difference between tie's view of an additional 4-5 months whereas Infracore cite 12 months. On time2 costs, tie are estimating around + £430k/week whereas contractors cite £700k/week
- g) tie's view from these mediations also very different to contractors claims for addition costs of up to £100m. tie's view is that there could be another £30m or so on direct cost variations between parties with further programme delay costs of around £30m – all offset by credits and missed milestone penalties etc.

In summary

Overall not as constructive as had been hoped there was insufficient movement and too big a gap overall still remains so no real progress. but no real surprises. Tie did however get good visibility about the contractors key strategies. particularly as they also admitted that they would prefer to reach an overall global commercial decision.

- EOT1 could be resolved;
- EOT2 miles apart
- Supplemental costs (on street working) no movement and
- Programme delay no movement

Strategic Options going forward considered by TPB:

1. Continue negotiations and work through PMP and mediation (current strategy)
2. Reduce Scope – rephrase or delay some works (not a strong way forward)
3. Termination via fundamental breach of contract (again not favoured)
4. Pursue all practical avenues through DRP, Audit etc to increase item by item certainty whilst analysing probable sensitivities of contractors

TPB agreed Option 4 for work up for next TPB on 29 July ahead of full Council on 20 August.

John Ramsay
17 July 2009