

Paper to: TPB
Subject: Project Pitchfork 2
Preparer: Susan Clark

Meeting date: 28th July 2010

Summary

This paper seeks to update the TPB on Project Pitchfork and the 2 main workstreams which arose from project Pitchfork – ‘Carlisle’ and ‘Notice’. The paper also makes a recommendation on the next steps.

Update since June TPB

- Since the June TPB there have been 2 senior level interactions with **tie**/BSC – 5th July telephone conference and a meeting on 26th July 2010 .
- Although progress remains frustrating, the tone of these interactions has been positive with BSC appearing to be fully committed to the Carlisle option. Although not successfully concluded yet, we are making progress and are a long way from the point where we could describe negotiations as having irrevocably broken down.
- BSC have been undertaking the pricing exercise for the Carlisle GMP. **tie**'s consultants (GH Partnership) have been involved in this exercise and this has involved open book discussions with GHP present. The final GMP is due to be with **tie** by 29th July 2010 and there is a strong commitment from BSC that a price will be delivered by 29th July.
- A fully assured integrated design was promised by BSC by 16th July 2010. This was not received and is now currently being targeted for delivery by mid August at the latest. However BSC have confirmed that any changes between the price on 29th July and achieving design assurance will be at BSC's risk.
- It is also clear that the first price for Carlisle will be the maximum BSC think they can get away with and, following delivery of the GMP and programme, **tie** will require to undertake a period of review and negotiation with BSC before a final GMP, scope and programme can be recommended to TPB.
- On Notice, **tie** had a consultation with Senior Queens Counsel on 8th July 2010. This was a useful discussion with the conclusion being that there were several areas where BSC were evidenced to be in breach of the Infracore Contract. If BSC did not remediate these breaches according to the contract, **tie** have a strong case for issuing remedial termination notices in accordance with the contract which could ultimately lead to Termination. The risk of BSC contesting this action in court by BSC was deemed to be low.
- **tie** has been putting contingency plans in place for a potential Termination should the issue of such remedial termination notices not result in suitable

rectification plans from BSC. This plan includes the detail around re-procurement, resources and contract types.

- Our next meeting is scheduled for 11th August

Recommendations

1. **tie** recommends that the current negotiations on Carlisle continue for another 4 weeks to allow for review of all the variables (GMP, programme, scope and risk) and a negotiation to take place once these are all available. Following this a recommendation will be made to the next TPB.
2. **tie** recommends that it continues work on preparing evidence and planning on breaches for use in Clause 90.1.2 letters as a contingency should Carlisle negotiations break down.

Decision(s) / support required

The TPB is requested to:

1. Approve the recommendation to proceed with the ongoing negotiations in respect of Project Carlisle and report back to the August 2010 TPB with a recommendation to proceed with Carlisle or follow a strategy of issuing Clause 90.1.2 notices.

Proposed

Name: Susan Clark

Date: 28 July 2010

Title: Deputy Project Director

Recommended

Name: Richard Jeffrey

Date: 28 July 2010

Title: CEO

Approved

..... Date:
David Mackay on behalf of the Tram Project Board