
From: Fitchie, Andrew [Andrew.Fitchie@dlapiper.com]
Sent: 08 March 2008 10:20
To: Susan Clark
Cc: Graeme Bissett
Subject: Close out

Susan

Hope this helps with clarity. Points on CEC multi coloured list. It will seem like a lot of "not us" but I need to be absolutely direct at this point about what DLA Piper has been/ is responsible for advising on. As you know we are preparing the close report section over this week end in draft so that we can review in the Limited time available before 13/03..

1.1 (b) what our report will confirm is that the SDS Nov Agt is competent to effect a novation on the commercial terms tie has been able to negotiate.

1.2 I am not certain what is being asked for. The Grant Letter provides funding to CEC on certain conditions. If what is meant is that the entry into the Infraco Contract by tie on behalf of CEC is consistent with the terms of the Grant letter, we can confirm this. But DLA Piper played no significant role in settling the terms of the GL on which Dundas and Wilson advised Transport Scotland. Could you send me a copy of the final GL?

1.4 Is there a known reason why CEC is still waiting to sign these? We have reported months ago that BBS have stated they would require to due diligence these documents. (Wiesbaden and Ireland will require a legal report on this)j just as CEC wants a report on BBS legal capacity to contract) If CEC leave this signature until close and there is an issue, there will be no time to fix the problem and close will be delayed inevitably.

1.5 DLA Piper cannot confirm that tie/CEC has the best deal possible. We have no means of making that measurement/judgement which is not a matter of legal evaluation. The report will point out unusual features/risk allocation of the contract suite

1.7 DLA Piper cannot report on the completeness/integrity of the scope of the Infraco Contract. This is contained in the ERs and Infracoi Proposals which are factual and technical documents- to be interpreted by tie and technical advisory support as to whether the Drs contain what CEC believes it has contracted for..

3 As previously stated, DLA Piper cannot confirm alignment of ERs with the Infraco Contract. This is a matter for tie or tie's technical advisers. The review we carried out was to improve the language of the ERs. We had a very short time to assess a 700 page document which has changed since we reviewed it.

4 If BBS explicitly accept (which they have not yet said) DLAP can report this.

5. TPAs - time permitting we will report on the content of TPAs and the Infracos position on them. This will not be complete by March13. We will report on the EAL position in due course once a minute of variation has been concluded to correct the position in the Lease.

Back to the homework. Note on status of Schedules/Schedules priority for 13/03 follows.

Kind regards
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Partner
DLA Piper Scotland LLP
T: +
M:
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