
From: Geoff Gilbert [Geoff.Gilbert@tie.ltd.uk]
Sent: 09 October 2007 08:26
To: Gill Lindsay; Colin.Mackenzie@edinburgh.gov.uk
Cc: Susan Clark; Fitchie, Andrew
Subject: RE: Bidder negotiations

Dear all

Please note that it was a condition laid down by both bidders at the outset that such guarantees are provided by CEC and Transport Scotland at that time. This issue and requirement has been flagged in the TPB minutes since last year.

I agree with the points that Andrew makes on this issue.

Regards

Geoff Gilbert - Project Commercial Director TRAM Project

tie Limited
Citypoint
65 Haymarket Terrace
Edinburgh EH12 5HD

tel [REDACTED]
mob [REDACTED]

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

From: Gill Lindsay [mailto:Gill.Lindsay@edinburgh.gov.uk]
Sent: 08 October 2007 22:46
To: Fitchie, Andrew; Gill Lindsay; Colin.Mackenzie@edinburgh.gov.uk
Cc: Susan Clark; Geoff Gilbert
Subject: RE: Bidder negotiations

Andrew thanks for this advice. Finance will be able to comment on their awareness. In purely practical terms would CEC be guaranteeing to step in and perform TIE,s obligations. If so do they have the necessary resources and contractual relationships with Tie,s contractors to facilitate this. Does this not increase the risk exposure for CEC and reduce that of the bidder. If not what is the bidders reasons for seeking and what do they gain. Presumably CEC and TIE,s relationship would also require to facilitate this. It also mitigates against the purpose of Tie as an entity. Appreciate project delivery reasoning.

Look forward to meeting . Gill

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

From: "Fitchie, Andrew" <Andrew.Fitchie@dlapiper.com>
To: "Gill Lindsay" <Gill.Lindsay@edinburgh.gov.uk>; "Colin.Mackenzie@edinburgh.gov.uk" <Colin.Mackenzie@edinburgh.gov.uk>
Cc: "susan.clark@tie.ltd.uk" <susan.clark@tie.ltd.uk>; "Geoff Gilbert" <Geoff.Gilbert@tie.ltd.uk>
Sent: 08/10/07 22:11
Subject: RE: Bidder negotiations

Gill

We can perhaps elaborate at the LAC meeting tomorrow on this. In the meantime my view would be:

1. I believe that Level 1, 2 and 3 draft letters were exposed to CEC Finance a while back and there is already an understanding that a full performance and financial guarantee from CEC might be required by the Infraco provider - given the size of the contract. This is the case with one bidder.

2. The risk profile for CEC is not altered by this requirement, unless it were the case that tie's covenant is not fully supported by its owner. Tie has no balance sheet of its own and the project grant funding commitment is provided to CEC.

3. Though administratively the issue of a financial and performance guarantee by CEC is different from the approach accepted by the other bidder (who is content with sight of the Ministers' funding commitment (if permitted) and the provision of the Level 2 comfort letter, I do not consider that this is a significant evaluation issue since under both situations CEC (as tie's Client) will be underwriting the public sector side risks (subject to insurance, PI and mitigation).

4. In strictly financial terms then, I do not consider that the provision of the formal guarantee by CEC, provided it is drafted in the correct terms, creates any greater liability than that established by tie letting the Infraco Contract, supported by the letter of comfort Level 3. In legal terms, it does create a more formal direct contractual nexus between the Infraco and CEC but that is all.

Kind regards

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

From: Gill Lindsay [mailto:Gill.Lindsay@edinburgh.gov.uk]
Sent: 08 October 2007 10:16
To: Fitchie, Andrew; Gill Lindsay; Colin.Mackenzie@edinburgh.gov.uk
Cc: susan.clark@tie.ltd.uk; Geoff Gilbert
Subject: RE: Bidder negotiations

Andrew this is a significant issue for us. Both Directors of Finance and City Dev were aware that level 2 was likely to be required from our last meeting and I updated them on this. Much more info on risks costs and deliverability of this will be required. Can you consider how this can be presented and if indeed this is a cost issue in bidder negotiations and how it is being dealt with in evaluation. 1 option is to provide both letters to Finance consultants and include in their costings of risk. Can you please provide any updated info including any analysis you have of if and how CEC could provide this and what contingency would require to be in place even to consider. Presumably this would also require to be reflected in the business case and OGC review Finance are completing. Gill

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

From: "Fitchie, Andrew" <Andrew.Fitchie@dlapiper.com>
To: "Gill Lindsay" <Gill.Lindsay@edinburgh.gov.uk>; "Colin.Mackenzie@edinburgh.gov.uk" <Colin.Mackenzie@edinburgh.gov.uk>
Cc: "susan.clark@tie.ltd.uk" <susan.clark@tie.ltd.uk>; "Geoff Gilbert" <Geoff.Gilbert@tie.ltd.uk>
Sent: 05/10/07 17:44
Subject: Bidder negotiations

Gill
Colin

tie Covenant: to keep you informed - one bidder is content with the so called level two letter- a qualified form of guarantee of tie's payment obligations. The other bidder will require a formal guarantee from CEC -full financial and performance undertaking. I have explained to them that this will require approval at full Council level, not forthcoming

until much later and that, in return, I expect that CEC would wish to be a direct beneficiary of the corporate holding companies' PCGs taken by tie.

Kind regards

Andrew Fitchie
Partner, Finance & Projects
DLA Piper Scotland LLP

T: +44 [REDACTED]
M: +44 [REDACTED]
F: +44 [REDACTED]

P Please consider the environment before printing my email

This email is from DLA Piper Scotland LLP.

The contents of this email and any attachments are confidential to the intended recipient. They may not be disclosed to or used by or copied in any way by anyone other than the intended recipient. If this e mail is received in error, please contact DLA Piper Scotland LLP on +44 (0) 8700 11111 quoting the name of the sender and the email address to which it has been sent and then delete it.

Please note that neither DLA Piper Scotland LLP nor the sender accepts any responsibility for viruses and it is your responsibility to scan or otherwise check this email and any attachments.

DLA Piper Scotland LLP is a limited liability partnership registered in Scotland (registered number S0300365), which provides services from offices in Scotland. A list of members is open for inspection at its registered office and principal place of business Rutland Square, Edinburgh, EH1 2AA. Partner denotes member of a limited liability partnership.

DLA Piper Scotland LLP is regulated by the Law Society of Scotland and is a member of DLA Piper, a global legal services organisation, the members of which are separate and distinct legal entities. For further information, please refer to www.dlapiper.com.

GLOBAL ENVIRONMENT WEEK AT DLA PIPER - 29 January to 2 February 2007
www.dlapiper.com/sustainability

Please consider the environment before printing this email

This email and files transmitted with it are confidential and are intended for the sole use of the individual or organisation to whom they are addressed.
If you have received this eMail in error please notify the sender immediately and delete it without using, copying, storing, forwarding or disclosing its contents to any other person.
The Council has endeavoured to scan this eMail message and attachments for computer viruses and will not be liable for any losses incurred by the recipient.

This email is from DLA Piper Scotland LLP.

The contents of this email and any attachments are confidential to the intended recipient. They may not be disclosed to or used by or copied in any way by anyone other than the intended recipient. If this e mail is received in error, please contact DLA Piper Scotland LLP on +44 (0) 8700 111111 quoting the name of the sender and the email address to which it has been sent and then delete it.

Please note that neither DLA Piper Scotland LLP nor the sender accepts any responsibility for viruses and it is your responsibility to scan or otherwise check this email and any attachments.

DLA Piper Scotland LLP is a limited liability partnership registered in Scotland (registered number SO300365), which provides services from offices in Scotland. A list of members is open for inspection at its registered office and principal place of business Rutland Square, Edinburgh, EH1 2AA. Partner denotes member of a limited liability partnership.

DLA Piper Scotland LLP is regulated by the Law Society of Scotland and is a member of DLA Piper, a global legal services organisation, the members of which are separate and distinct legal entities. For further information, please refer to www.dlapiper.com.

The information transmitted is intended only for the person to whom it is addressed and may contain confidential and/or privileged material. If you are not the intended recipient of this e-mail please notify the sender immediately at the email address above, and then delete it.

E-mails sent to and by our staff are monitored for operational and lawful business purposes including assessing compliance with our company rules and system performance. TIE reserves the right to monitor emails sent to or from addresses under its control.

No liability is accepted for any harm that may be caused to your systems or data by this e-mail. It is the recipient's responsibility to scan this e-mail and any attachments for computer viruses.

Senders and recipients of e-mail should be aware that under Scottish Freedom of Information legislation and the Data Protection legislation these contents may have to be disclosed to third parties in response to a request.

tie Limited registered in Scotland No. SC230949. Registered office - City Chambers, High Street, Edinburgh, EH1 1YT.
