
From: Dolan, Alan
Sent: 27 July 2007 14:22
To: Reynolds, Steve
Cc: Chandler, Jason
Subject: RE: SDS Commercial Issues Resolution

No problem Steve on utilities.

Gents,

As an aside on utilities. David Pluse called me on Wednesday to advise me that as from Monday 30th he will no longer be working on the project. He mentioned this has been arranged/agreed with Chris Cluett. I have no intention of entering into any sword fencing with Chris and assume discussions were with u or Jason. Need to discuss this on Monday as we need to secure the Delivery Design Team input from Newcastle (Lee Thornton/Utility Designers and CAD resource). After that for the DTL, we should use the resource of Tom Kelly and drop any cost of David from the Project.

It is obvious he is doing the absolute minimum and wants to be away, so let him go but not the Utilities Input Team in Newcastle.

We need to get the team costs down and Tom is doing a good job in the DTL role, so it make sense to me to move in this direction. The lad should get recognition for wading in and covering Pluse's role. He is also good at badgering Halcrow into providing the deliverables.

It does p me off that people feel they can just disassociate themselves from the project when the difficult bit starts to kick in, leaving others to pick up the short straws. This is obviously a problem between the PB Divisions (Rail versus Roads etc) but have to leave this to u Steve to sort.

Just my thoughts but a decision to be made such that we do not loose momentum. I have not lost sight of the fact that at present Pluse's water designer (Contractor Bob Potts) has yet to put pen to paper. Pluse verbally confirmed that Bob is still in place to do the design. We are lucky that tie and SW are in commercial conflict in Section 6 and we are on hold at present. This will soon be resolved and we will be expected to perform immediately.

If you agree that Pluse can leave the project I will visit Pluse in Newcastle to get introduced to the designers and Bob Potts and try to get an association with the Design Team. I will use Lee Thornton as the conduit for the design to continue there. We need to be assured that Lee is not to disappear as well as Pluse. Again, will leave this to u Steve/Jason to discuss with Cluett if necessary.

Many thanks and see u Monday.

Alan

Regards

Alan Dolan
Deputy Project Manager
Edinburgh Tram Project

From: Reynolds, Steve
Sent: 27 July 2007 07:29
To: Dolan, Alan
Cc: Hutchison, David
Subject: RE: SDS Commercial Issues Resolution

Thanks Alan. Perhaps best if we run a short conference call on this on Monday - I know David's back then but not sure where you'll be David? If you could be in Edinburgh, say, Monday afternoon that would be useful

(On Utilities - yes we did, but there was no counter from tie on that and right now Utilities doesn't seem to be our strong suit due to Halcrow performance?)

Steve

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From: Dolan, Alan
Sent: 26 July 2007 18:45
To: Reynolds, Steve
Cc: Hutchison, David
Subject: RE: SDS Commercial Issues Resolution

Steve,

There is no reference to utilities in the below. Did we not include within the EOT for utilities?

Do we have any written response or basis from tie why they believe the dates for RD and PD are earlier than ours? Can u fill me in any better. I will start looking back into the early programme dates.

By copy, David, is the suggested dates by tie for RD/PD based on the award of July 2005, when in fact we were awarded 19th September 2005. I seem to remember that we had to re-programme by some 12 weeks due to late appointment.

I believe the difference between us and tie on this is the re-programming of dates to suit the September award and not the July award (the basis of our bid.)

Regards

Alan Dolan
Deputy Project Manager
Edinburgh Tram Project

From: Reynolds, Steve
Sent: 26 July 2007 17:13
To: Jenkins, Mike; Hutchison, David; Chandler, Jason; Dolan, Alan; Dorrington, Kim (Edinburgh Tram)
Cc: Ayres, Greg
Subject: SDS Commercial Issues Resolution

Mike, David, Jason, Alan, Kim,

The Introductory Meeting on commercial resolution with tie took place yesterday. The agenda covered a number of items, with actions arising in relation to the claims submitted by PB for additional costs due to the provision of additional management and supervision services for the period 03 July 2006 through 22 June 2007. The meeting was conducted as an exploratory session, with a key objective from my point of view to understand precisely where tie is positioned with regard to the claims.

The following summarises the key points of the tie response

Tie Response

- tie confirmed the amount claimed as the sum of the claim dated 09 April plus the supplementary claim dated 28 June - a sum total of £2.857m.

On the substance of the submissions:-

- Tie sees merit in the claim arising from delays in reviewing the preliminary design
- Tie sees merit in the claim arising from the impact of the Critical Issues

tie's view with regard to Charrettes is that:-

- PB has already been paid for the impact of the Charrettes up to November 2006. The sum of £600k paid cleared all issues arising from the Charrettes to that date.
- With reference to the Structures Charrettes all matters arising subsequent to November 2006 have been (or are to be) addressed through the Critical Issues initiatives

With reference to the claim for additional services relating to Consents:-

- Tie sees no merit in this claim arguing that PB has a contractual obligation to secure Consents and that whilst that may be an onerous obligation that is the contract requirement.

With reference to the claim arising from tie's failure to provide programme management consistent with the responsibility to manage the maser programme:-

- Tie sees little merit in this argument. I developed the conversation along the lines of the disruption caused to PB due to lack of co-ordinated management by tie of the various strands of the project (MUDFA, SDS, Procurement etc), and suggested that as a direct consequence of this PB had become involved in providing Delivery Partner services in addition to those contracted for detailed design. Tie's response to this was that PB had been employed as a "World-leading Infrastructure Design Company" (cf PB Bid Documents), and that tie had every right to expect more innovative input from PB. tie developed the argument to cover Value Engineering and tabled the Value Engineering Report submitted to tie on 23 August 2006. tie suggested this report had been weaker than it should have been and used the specific example of PB's failure at that point to push harder on the subject of depot levels: a topic that has since been subject to extensive investigation and is at the cornerstone of tie's current VE initiative. tie added to his argument by again referring to the PB Bid Document with the reference to the need for control of costs and management of affordability issues.

Turning to tie's counter argument:-

- Tie's view is that the Preliminary Design submitted on 30 June 2006 should have been submitted under the requirements of the contract on 28 February 2006. tie is adamant that the PD was late, therefore, by some four months. I referred tie to the supporting appendix contained within the claim but tie is refusing to budge and we have some further work to do here. Tie's view is that whilst we may have felt we had agreement to a slipped PD submission date no agreement existed under contract.
- tie also suggested that the PD had been incomplete, an allegation which can be discounted by reference to the TSS (Scott Wilson) "Preliminary Design Review Report" submitted by TSS to tie on 06 December 2006.
- On the basis of late delivery of the PD tie developed the argument that tie had incurred substantial additional costs. Tie backed up this position with reference to late delivery of the Requirements Definition Report which tie suggested was due 30 November 2005 plus an agreed extension of three weeks. tie stated that the Report was finally submitted on 20 December 2005 and on review was found to be incomplete - "inadequate" in tie's terms. tie went on to say that the 80% complete Report was not received until 30 April 2006 and that the Trackform definition was delayed further until December 2006, the rumour being that we had been unable to deliver the Trackform Requirements as part of the Report due to lack of resources.
- tie tabled in support of the assertion of poor performance through the Requirements Definition and Preliminary design phases a letter sent to tie by PB dated 15 March 2006 and entitled "SDS Action Plan" This letter outlined an action plan which referred amongst other things to "Strengthening the PB Management Team" tie's clear inference was that this letter together with the delayed delivery dates amounted to proof of the tie case.

tie went on to table two other areas of PB /SDS poor performance, namely:-

- late provision of Survey information with Ground Investigation data particularly poor, to the extent that tie has been unable to transfer ground risk to the Infracore contractor.
- Poor performance on project risk management, a duty allocated to PB but which has not been delivered effectively in tie's view.

Next Steps

Tie has asked me to review the claim submissions with a view to revising the amount claimed in light of the above.

Clearly we have some work to do to review the key points as outlined above and I aim to have a response drafted by close of business next Wednesday. Hence, please could you review each of the key points and advise your views to me:-

- Late submission of the Requirements Definition Report
- Poor quality of the Requirements Definition Report
- The specific assertion on Trackform Requirements
- Late submission of the Preliminary Design
- Poor quality of the Value Engineering Report
- Poor execution of the Project Risk Management function
- Poor execution of Surveys

In closing, it's worth pointing out that the meeting was held in a professional and constructive atmosphere and some significant progress has been made. Tie has declared an intent to arrive at a mutually acceptable sum for settlement. However, it's important we set the record straight where tie has been wrongly advised so that we can optimise our position ahead of any final settlement. I won't get many chances to do this - tie is proposing final settlement during w/c 20 August - so one more push to make sure we have all views assembled is clearly important.

Thanks - Steve

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Director

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