

2008/75

Gill Lindsay

From: Gill Lindsay
Sent: 17 March 2008 15:10
To: Jim Inch
Subject: TRAMS

Jim

I am pleased to update on this project following our discussion on 13 March, as follows:-

Following a detailed meeting with all relevant officers on Friday am, all issues which were known by CEC then were closed and completed by Friday 3pm, in preparation for signing by CEC officers recommending Tom exercise his authority to permit Tie to lodge the Intention to Award Notice around 4.15 Friday, as agreed. Donald and I met with Tom around 1pm Friday to update.

Around 3.30pm Tie advised that there was a shift in BBS position around liability and indemnity and that they were/had negotiated an alternative position. This was advised to me at a meeting but it was clear that there was not an agreed final worked through position on what were crucial provisions for the Council in such a high value contract. There was a lack of clarity of changed position in respect of breach of contract and loss which may or may not have been "foreseeable" arising from such a breach and the impact on the indemnity provisions. Despite discussing with all available Tie resources, it was also unclear what gaps would or would not be covered by the OCIP project insurance and what gaps may remain and the impact of the risk contingency and the Council guarantee. I liaised with both Donald and Andrew on the telephone and both were fully supportive of requiring to analyse this change before we could recommend the position to Tom, despite Tie's wish to complete by Friday pm for lodging of the Notice. Essentially we (and the project) were presented with an unclear changed position on crucial provisions with no resources or time to analyse or consider the impact. Andrew and I then met with Tom as agreed though advised that we were unable to yet sign off despite all issues visible on Friday am being closed.

Both Tie, the various parts of the consortium and ourselves have continued consideration of these matters through the weekend and further clarity is emerging, though initially a more extreme position was then adopted by the Consortium, and there may be a different position presented today from the Consortium. Additional insurances may be negotiated. Crucially, we also require to consider when an accommodation can be reached, whether the risk of procurement challenge remains low, depending on the shift of position from bidding which may be reached. There is still extreme urgency to close as there requires to be a 10 day period between lodging and award, both before the 31 March.

WG has updated me again today and we are meeting at 5pm. Intensive consideration of matters has been undertaken in acute timescales to meet the needs of this project. I will ensure you are kept updated.

Kind regards
Gill

23/03/2008

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