

**Kirsty-Louise Campbell**

**From:** Gill Lindsay  
**Sent:** 29 January 2008 17:11  
**To:** Nick Smith  
**Cc:** Colin MacKenzie  
**Subject:** RE: Third Party Agreements

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Thanks for copy and for progressing this. Can you develop to appropriate concln through LAG if necessary pl. Should also now be added if needed to table re delegated authority deliverables , ref meeting Alan is setting up with SC.

**From:** Nick Smith  
**ent:** 29 January 2008 17:05  
**To:** Susan Clark  
**c:** 'Willie Gallagher'; Gill Lindsay; Colin MacKenzie  
**subject:** Third Party Agreements

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Gill has asked me to contact you with regard to the third party agreements entered into at the parliamentary process stage. We understand that BBS are accepting full liability for non-compliance with the terms of the so called "Schedule 13" agreements (ie the key ones). However, we further understand that all the required agreements were not (for whatever reason) available in the data room at bidder stage. Accordingly, BBS did not have full prior visibility of all such agreements and consequently BBS will now only accept liability under these remaining agreements where the liability is deemed to be within the normal range of matters which could reasonably be expected by a contractor in a similar project (or wording to that effect).

Unfortunately this now allows for the possibility, however unlikely, that there may be something in these remaining agreements which could lead to further unexpected costs for the Council where BBS successfully argue that the obligation is not within the ordinary and expected course.

Gill has therefore asked that as part of the recommendation of the project to the Council, tie provide written confirmation that the tie team have reviewed all relevant contracts and formally confirm (i) that the contracts contain only terms which are within the ordinary course in relation to the type of works being carried out; and (ii) that tie do not consider that there are any terms in any of these contracts which would allow BBS to make a claim against CEC in this regard.

Whilst we understand that the risk is likely to be small, can we assume that it is currently reflected in the appropriate risk registers? If not, can it please be assessed, quantified and added asap . Gill advised that this was one of the caveated matters in the DLA confirmation letter and that the issue and associated risks need to be managed out.

ind regards

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