



Minutes of Meeting

Meeting: Bidder's Meeting (Commercial & Legal)
Bidder: BBS
Contract: Infraco
Venue: MacAdam Room
Date: 22nd November 2007 (10.00 to 13.30)

Present:	Bob Dawson – tie, Gary Easton – TSS, Toby Kliskey – TSS, Val Clementson – tie, Richard Walker - Bilfinger Berger, Scott McFadzen – Bilfinger Berger, Tom Murray – Bilfinger Berger, Tim Hunter – Siemens, Stephen Wright – Siemens
CC	Geoff Gilbert – tie

Item	Minute	
1.0	Matters arising	
1.1	Bond <ul style="list-style-type: none"> • BBS said that they would forward their proposed bond working forthwith including a review of step down arrangement 	BBS
1.2	Retention <ul style="list-style-type: none"> • BBS proposed using an 'on demand' retention bond. tie acknowledged the benefits, in respect of the final release that is over a particularly long period. However tie commented that 85% + milestone was a feature that stakeholders liked. BBS acknowledged tie's position and agreed to look at in relation to their cash profile and consider what they would be prepared to accommodate. • BBS were to get back to tie with proposal, will be proposing a retention bond of 5% of total contract sum. Bond to be kept if problem not rectified within agreed time, however BBS consider that it should be reviewed after 12 months and if problem is solved the bond is returned. 	BBS
1.3	Building Fixings <ul style="list-style-type: none"> • tie advised that there was no further clarity, other than the intention for this to be in place prior to Award but acknowledged that this could not be guaranteed. tie to consider SDS programme further. 	tie
1.4	Caps on Liability <ul style="list-style-type: none"> • BBS consortia members had not agreed their position and would take away and revert to tie. 	BBS

1.5	Liquidated Damages <ul style="list-style-type: none"> BBS acknowledged that they needed to make proposals in respect of caps and look at Relief Events. 	BBS
1.6	Operator Contract <ul style="list-style-type: none"> tie had forwarded the 'sanitized' contract but BBS had not had the opportunity to review. tie offered BBS the opportunity to discuss any areas of uncertainty with TEL. BBS to consider and advise. 	BBS
1.7	Payment Arrangements <ul style="list-style-type: none"> matter had not progressed and tie said that it would consider in re-draft of the contract. 	tie
1.8	Bid Timetable <ul style="list-style-type: none"> BBS reiterated their concerns and said that due to holiday periods at their German parent companies they could not get the bid signed off for submission by 9th January 2007 as it was only their second day back. Geoff Gilbert joined the meeting for this item and agreed to propose to Transport Scotland to extend to Friday 12th January 2007. <p>POST MEETING NOTE: agreed and confirmed 24/11/2006</p> <ul style="list-style-type: none"> tie agreed to confirm required bid deliverables 	Noted tie
2.0	Legal submissions <ul style="list-style-type: none"> BBS had not progressed their 'mark-up' and were reluctant to incur further costs. BBS said that they were content for tie to incorporate the items that tie had accepted in a revised draft contract. tie understood BBS's reluctance but requested a further commentary, at least on the Definitions to enable it to understand BBS's position prior to instructing DLA Piper. 	BBS/tie
3.0	Bid Cost Indemnity and Tender Bond <ul style="list-style-type: none"> BBS had not responded. tie commented that given BBS's previous insistence it had expected this to be followed up more promptly. BBS confirmed that they would get back next week. 	BBS
4.0	Letter of Comfort from CEC <ul style="list-style-type: none"> BBS asked that tie progress this further and tie agreed to propose something next week. 	tie

5.0	<p>SDS</p> <ul style="list-style-type: none"> General discussions took place; tie confirmed that BBS should allow a post Novation figure of £2 million. <p>POST MEETING NOTE: confirmed by TQ on 24/11/2006</p>	Noted
6.0	<p>Tramco</p> <ul style="list-style-type: none"> BBS queried the Tramco's willingness to work with a competitor. tie stated that there was no categorical refusal from other Tramco's but there was a request to address 'Client Inspection' powers for when Infraco became the Client. Siemens acknowledged that would be their concern but also that they had successfully worked with two of the other Bidders. 	Noted
7.0	<p>Infrastructure Maintenance Agreement</p> <ul style="list-style-type: none"> BBS had not considered further and tie offered the opportunity to discuss with TEL if they required. 	BBS
8.0	<p>Tender Documentation</p> <ul style="list-style-type: none"> BBS commented that they now understood the numbering system sufficiently. tie agreed to send the Employer's Requirements. <p>POST MEETING NOTE: confirmed by TQ on 23/11/2006</p>	tie
9.0	<p>Land Acquisition</p> <ul style="list-style-type: none"> tie explained the timing to BBS's satisfaction. 	
10.0	<p>AOB</p> <ul style="list-style-type: none"> BBS asked tie to consider tree removal as advanced works to avoid timing problems with nesting birds. tie to consider if this could be added to MUDFA. Possibility of closing Roseburn Corridor discussed <p>POST MEETING NOTE: confirmed by TQ on 24/11/2006</p> <ul style="list-style-type: none"> BBS expressed concern as to the liability for any claims. tie to consider in relation to OCIP. 	<p>tie</p> <p>tie</p>