
From: Richard Jeffrey
Sent: 07 April 2011 11:16
To: VRE - MobileMe
Cc: Susan Clark; Steven Bell
Subject: Feedback on Colin's report

Vic, I have now had Colin Smith's report for just 24 hrs, but I think you should be aware of my initial views prior to your meeting with the consortium tomorrow.

Payment schedule

Colin's report refers to a payment schedule totalling £49m. The tie team believe a more reasonable and supportable, but still generous number is £19m. In addition the profile of this payment means that, prior to any deal becoming unconditional on 1st September, the gap between value of work done, and payments made will be much larger than it is now. This obviously creates risks if the deal is not done.

Commitment to progress

Colin's report highlights that BBS feel that the depot and mini test track cannot be completed by 15th October. It is the tie team's view that 15th October is reasonable and achievable if BBS assume productivity rates consistent with average industry standards. I understand BBS agree that 15th October is achievable, but that they say did not price for this in the Mar Hall Fixed Price. One possible consequence of this is that BBS could hold back progress on these works until after the deal becomes unconditional on 1st September, but still meet their proposed completion dates. This does not reflect the idea that 'time is of the essence'.

Draft Minute of Variation

The draft MOV included in Colin's report is the latest mark-up from BBS. The tie team believe that this shows a very one sided approach and I have raised a number of significant concerns with Alastair Maclean, Colin and McGrigors in our meeting yesterday. For example,(not exhaustive)

- it includes time based payments for preliminaries unconnected with progress and without substantiation required.
- It is unnecessarily complicated
- it is written on the basis that CAF have already left the consortium, clearly this MoV will be signed before CAF leave the consortium, and we need to consider what happens if this MoV is signed, but MoV2 never gets signed.
- it removes many of the controls, checks and balances that we currently have under the contract. Whilst I understand this in relation to design, the broad nature of these removals means that tie may not be able to meet its obligations to CEC (easily resolved by amending the tie/CEC operating agreement), but more importantly obligations we hold on behalf of CEC to 3rd parties, or obligations under the Tram Act.
- It introduces the role of 'Certifier', assumed for the moment to be Colin. We need to be clear on the role and responsibilities of the certifier, and how that impacts on the role and responsibilities of tie.

I await an amended draft of the MoV to see to what extent these (and other issues) have been incorporated.

Project Governance and structures

Colin's report contains (at appendix 5) a project governance document which is not consistent with our discussions. Section 5 of Colin's report contains a proposal to have site works inspected by Engineer's Inspectors. This contradicts the idea that BBS will be self certifying as per the MoV. Additionally, we would need to be clear on roles, responsibilities and reporting lines for these posts. If they are CEC staff, does that relieve tie and/or BBS of obligations in relation to quality control. If, as I understand from conversations with Colin, tie are still required to evaluate BBS applications for payment the site supervision staff need to collect information on progress to allow this. Would the new proposed Engineer's Inspector role fulfil this task or be additional to the role tie currently undertakes?

Princes Street

I believe that BBS proposals for Princes Street are designed around what is most cost effective and lowest risk for BBS, not around minimising the disruption to the city. I would point out that, despite agreement to the contrary, their proposed payment schedule mentioned above appears to include £550k for Princes Street traffic management, and this is confirmed in appendix 11, page 3 of 9, 2nd paragraph after the bullet points. I believe that an alternative, less disruptive approach is possible, accepting that this would be more inconvenient and costly for the contractor. Additionally, Colin's report suggests that trackform for Princes St is agreed. Whilst trackform might be agreed, what has failed on Princes Street is the integration of trackform into the road infrastructure and I understand that this is not yet approved.

tie management engagement in the process

Colin was keen to stress his independence in producing his report, and I respect and reinforce this point. Whilst tie has been represented at some of the meetings which have been held, our involvement has been limited and only as and when invited by Colin. Examples of this include, but are not limited to, the review of meeting structure – tie has provided a list of existing meetings but has not been asked for further input. Similarly one session on risk was held and we were expecting to be engaged in a process to create a "project" risk register but to date no further involvement on this has been sought.

Behaviours

I remain concerned that the progress and documentation since Mar hall do not illustrate that behaviours have changed to reflect the spirit of what I think was agreed.

Happy to discuss

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