
From: Dave Anderson
Sent: 02 June 2010 20:13
To: Donald McGougan; Marshall Poulton; Nick Smith
Cc: Sheena Raeburn
Subject: FW: issuing of 90.1.2 letter - STRICTLY PRIVATE AND CONFIDENTIAL AND FOISA EXEMPT, MAY BE USED IN LITIGATION

Please note response from Bill Reeve. Dave

From: Bill.Reeve@transportscotland.gsi.gov.uk [mailto:Bill.Reeve@transportscotland.gsi.gov.uk]
Sent: 02 June 2010 12:41
To: Richard.Jeffrey@tie.ltd.uk
Cc: Ainslie.McLaughlin@transportscotland.gsi.gov.uk; Dave Anderson
Subject: RE: issuing of 90.1.2 letter - STRICTLY PRIVATE AND CONFIDENTIAL AND FOISA EXEMPT, MAY BE USED IN LITIGATION

Dear Richard,

Thank-you for advising TS of your intentions. We have reflected on your note, and the issues raised appear to be straightforward.

The management of tie's contract with its construction contractor is wholly a matter for tie, working on behalf of CEC, mindful of the need for CEC and tie to observe the terms of the grant letter from Scottish Ministers to CEC.

Therefore we note tie's intention to write in the terms described.

Regards,

Bill Reeve

From: Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]
Sent: 31 May 2010 16:43
To: Reeve W (Bill)
Cc: McLaughlin AC (Ainslie)
Subject: FW: issuing of 90.1.2 letter - STRICTLY PRIVATE AND CONFIDENTIAL AND FOISA EXEMPT, MAY BE USED IN LITIGATION

Bill, I don't seem to have had a response on this yet, just chasing up.

Regards

Richard

From: Dave Anderson [mailto:Dave.Anderson@edinburgh.gov.uk]
Sent: 18 May 2010 17:33
To: Richard Jeffrey; Bill.Reeve@transportscotland.gsi.gov.uk
Cc: Marshall Poulton; Donald McGougan; Nick Smith; Sheena Raeburn
Subject: RE: issuing of 90.1.2 letter - STRICTLY PRIVATE AND CONFIDENTIAL AND FOISA EXEMPT, MAY BE USED IN LITIGATION

Richard Thank you for this. I would like to confirm my view, as expressed at our update meeting today, that this communication falls squarely into the realm of **tie's** responsibilities, as client organisation, for advising the contractor consortium about those serious, unsatisfactory aspects of their performance in which they appear to be in breach of their contractual obligations and which, if left unremedied, could ultimately lead to contract termination.

I do not believe that you need the Council's approval to send this letter. Clearly, if the breaches remain unremedied the matter would need to be escalated for consideration 'in extremis' of contract termination and clearly the Council and TS & SG would wish formally to be consulted on such a step and to approve any related strategy for taking the project forward.

Let us hope that the present pressures being exerted on the consortium to ensure proper compliance with the terms of the contract achieve the required results and the necessary changes to the behaviour of the contractor. Best wishes. Dave

Dave Anderson | Director of City Development | The City of Edinburgh Council | G1 Waverley Court | 4 East Market Street | Edinburgh EH8 8BG | [REDACTED] dave.anderson@edinburgh.gov.uk

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From: Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]

Sent: 17 May 2010 15:57

To: Bill.Reeve@transportscotland.gsi.gov.uk; Dave Anderson

Cc: Marshall Poulton

Subject: issuing of 90.1.2 letter - STRICTLY PRIVATE AND CONFIDENTIAL AND FOISA EXEMPT, MAY BE USED IN LITIGATION

Dear Bill and Dave,

As I have discussed with you in the past, project 'Notice' involves the issuing of a 'remedial breach letter' under clause 90.1.2. This is not a termination notice, but it is the first step in a sequence of events that may lead to termination of the contract. As you know project 'Notice' is being run in parallel with project 'Carlisle'.

We now have the (almost) final draft of this letter and expect to issue it before the next TPB, probably in the next week to 10 days. Of course things may change, but that is the current plan.

The issuing of this letter requests a remediation plan from BSC in 30 days. There are a number of possible scenarios that can develop, but in the event that BSC do not dispute the letter, and do not issue an acceptable remediation plan, then from the end of the 30 day period, we may, at our choice, choose to terminate the contract.

Of course I suspect BSC will muddy the waters and so in reality we are unlikely to be in a clear cut position at the end of 30 days.

When we have separately discussed this, you have both said that you do not believe I need shareholder approval to send such a letter as it is within my powers (of itself it has no financial value and it does not change the scope of the project or the status of the contract), and is part of the normal administration of the contract.

Can I just confirm that you do not wish to approve the sending of this letter, and are happy to be informed 48 hours (if practicable) before it is sent. I would expect the issuing of the letter to be treated as confidential by all parties, but as we know, that is not always a guarantee that things stay confidential.

I have copied Marshall in on this in his role as TMO, and indeed you may wish to communicate back to me formally through Marshall.

Please treat this strictly on a need to know basis, as this leaking before it is ready and timely to send it might adversely affect our commercial discussions and our legal position.

Once I have confirmation of your position I will consider the process for informing the board, although I stress that the proposed action is entirely consistent with the directions given to me by the board.

Regards

Richard

Richard Jeffrey
Chief Executive

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Edinburgh
EH12 5HD

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