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**From:** McLaughlin AC (Ainslie)  
**Sent:** 18 March 2009 14:12  
**To:** Middleton DF (David); PS/Transport Scotland; Reeve W (Bill)  
**Subject:** RE: Trams

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

David

TIE are really the only people at this stage able to make this sort of informed judgement. They know the strength of their contractual position and whether or not they have sufficient contingency tucked away in the event of costs overruns.

That said, looking in at it from the outside I think the Cab Sec is right to be worried. TIE may, or may not, be successful in getting the contractor to start work on Princes Street by the weekend but that strikes me as more symbolic than anything else. The fact that David McKay admits problems on the TIE side means that the scope for further contractual disputes remains. From the look of the city streets the utility contract seems to be taking a lot longer to do than people were led to believe and that on the face of it does not bode well for time or costs.

It would be difficult for TS in isolation to put a number on the cost of abandoning the contract. TIE and their legal and financial teams are really the only people who could make an informed estimate. Informally I have heard from CEC that the figure to walk away might be as high as £100m. It would be messy and more than likely end up in prolonged litigation.

Ainslie

-----Original Message-----

**From:** Middleton DF (David)  
**Sent:** 17 March 2009 21:50  
**To:** Reeve, Bill; McLaughlin AC (Ainslie); PS/Transport Scotland  
**Subject:** Trams

John Swinney and Stewart Stevenson met David McKay of TIE today. It had been arranged as a private meeting. I found out because JS told me at our 1 : 1 chat. I offered to join them and was readily accepted. JS had assumed an official was coming and it was his PO who said it was private. No matter. We got there.

If time permits I may do a fuller note. The main thrust was that DMcK felt things were getting better. He doesn't rate the MD (?) Richard Walker but has established a relationship with Kreisberg in Germany. There was an unhelpful press story last Fri. When DMcK spoke to K, the line put out got disowned. Emails and calls have thawed. DMcK thinks a restart is possible even as early as this weekend.

Time will tell. DMcK said he would be speaking to you and others on Thu. JS wants a swift readout. If things aren't resolved this week then next Thu becomes a crucial date although my scribbles don't remind me precisely why. It was useful I cd say that I was seeing DMcK myself next Friday.

JS listened carefully and afterwards said he felt reasonably reassured by DMcK. In discussion he emphasised to DMcK how much he felt the project was in a bad place and that there is an urgent need to restore public confidence if at all possible. DMcK said that is

what he is working towards. He also said CEC/TIE had not been whiter than white. Asked to elaborate he outlined some of the design issues you mentioned to me earlier (eg Picardy Place, St James Centre, Gogar).

DMcK did say that it could still be brought in on time and budget if there is a restart soon. But B'ger needs to get committed and understand that they are not going to get the cost + contract they yearn for.

In the course of the morning JS had asked how much had been spent. We told him 236 m pounds. He had also asked about consequences of walking away. Ainslie talked through the contractual realities. We don't fully need to bottom that out formally but I would think it through pretty swiftly if the DMcK - relative-optimism proves ill founded. Even if it resumes I think JS is worried about the budget as such a large proprtion of the 545m seems to have been spent. Is he right to be worried?

David