
From: Anthony Rush [rush_aj@██████████]
Sent: 08 September 2010 19:39
To: Fitchie, Andrew
Cc: david_mackay@██████████; Richard Jeffrey; Jim Molyneux
Subject: Carlisle

Andrew

Jim has spoken to EK who tells him that his figures against our £138.5 for BB work is £168.5 (allowing for risk) plus £8 million risk on contaminated material. I have suggested to Steven that we audit the latter as I think they are being shall we say over zealous.

Jim can get no sense out of EK on the £150k difference – seems to be motivated by others.

I am seeing the Chairman and Richard at 1030 in the morning (Jim will be available by phone) but in the meantime I have drafted a reply – more to illustrate the issues at this stage. For example we cannot give way on price certainty which is what most of our proposal is concerned with. I fear that any new proposal from them will attempt to take us back there and to mire us into trying to do this with the Consortium.

Tony

Draft starts

The relationship between Infraco Members is an important issue to us which in any event we do not regard as being usual, but the intention on this project was to achieve a higher than usual standard of relationship. We will be writing to you further on this subject, but thank you for acknowledging that problems do exist at Consortium level and not at higher levels within the Infraco Member companies.

Funding is not a stumbling block as you put it. Accountability in the public interest is and it requires price certainty to be an irrevocable condition of any truncation agreement. In this respect your assertion that there is a difference of £150 million between us makes it all the more difficult to explain why discussing a compromise between us is in the public interest.

Your offer dated 29 July 2010 was: a total sum of £433,290,156 plus €5,829,805 – say £438 million.

By comparison:

Infraco Offer	£438 million
The total value offered for Part A and Part B	£300.26 million
Align Scope	£21 million
Opening difference	£116.74million
Less BB Subcontractor Savings agreed Molyneux/Kitzman	-£12 million
Less OH reduction Kitzman/McKay	-£37 million
Sub-total difference	£67.74 million
Less SDS (to be agreed)	-£16.28 million
Less PSSA (to be agreed)	-£14.93 million
Actual difference after discussions with Mr. Kitzman	£36.53 million

The above figures are before Siemens make any adjustment to their price. Mr. Kitzman confirmed to Mr. Molyneux after I received your letter that he can get no response from them on pricing. He expresses frustration at this. He also confirmed values for Bilfinger Berger works which validate the above difference.

I would remind you that your price of £438 million is based on sub-contractor prices for what your Mr Darcy confirmed to be the final design solution and that our proposal represents an increase of some £130 million over the aligned Construction Works Price. Mr. Kitzman has impressed on Mr. Molyneux that you will be "back-to-back" with your sub-contractors. Consequently the only material element of additional risk the GMP Scope places on you, over and above your offer, is for disposing of contaminated material (Mr. Kitzman costs this at £8 million). To set aside that we have offered to allow you to keep the value engineering savings (we value this at £12 million) which can be made and any further savings you are currently negotiating with your sub-contractors (we value this at £7 million).

In short we believe that there is a platform on which a compromise could be achieved which will satisfy our stakeholders' requirement for price certainty.

Despite what you say we are concerned that the relationship at Consortium level between Infraco Members (and SDS) is not as it should be. Your letter compared with conversations not only between my colleagues and Mr. Kitzman, but also between Mr. Kitzman and me reinforces our concern. My letter was intended to make you aware that without making any firm commitment, we would be prepared to consider a restructuring of the Infraco. We also understand that CAF would prefer being novated back to us.

I would ask Infraco Members to respect my involvement as being reflective of my concern and our stakeholders' concern that if resolution of all of the issues and problems is to be achieved it will have to be at a higher level than with the Consortium Executive. There needs to be a broader view than we fear they are capable of taking.

The time is past for another proposal from Infraco. I would ask you to take a little longer than 24 hours to consider what is after all a complex and unusual proposal from us and then to arrange to meet as I proposed in my letter. We do not of course wish the matter to drag on indefinitely so I think you will appreciate that we have to make progress before the end of the month.

[Usual without prejudice paragraph]

Ends

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