
From: Fitchie, Andrew [Andrew.Fitchie@dlapiper.com]
Sent: 03 March 2010 15:23
To: rush_aj@[REDACTED]; Steven Bell; Dennis Murray
Cc: Richard Jeffrey; Graeme Bissett (external contact); Stewart McGarrity; Glover, Joanne; David_Mackay; brandon.nolan@mcgrigors.com
Subject: Clause 80 and other
Attachments: Scan001.PDF; 21711684_1_UKMATTERS(tie briefing re CI 80.20_change mech 06.11.08).DOC

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Gents
All

Please find attached:

1. One element of our advice (of which there is more) given in **November 2008 on Clause 80.13** in the context of **tie's** considerable efforts to see if the log jam over BSC's approach could be broken. I believe this note contains a practical and succinct explanation of **tie's** position.

2. The BSC letter which stated their view (Apologies for the copy). This letter is instructive since it was drafted by Pinsent Masons (Ian Laing). Dennis will have **tie's** contemporary responses.

I will review our other previous advice and see how (if needed) best to summarise this - Tony's fresh opinion on this is very important, as is Brandon's.


What struck me on the call this morning was the reference to DLA by Richard Walker in the context of Clause 80. He is dead right. It may not be elegant - because it was heavily negotiated - but we did insist on the final words in Clause 80.13 (bear in mind that there had been various attempts by BB to entirely recast Clause 80) and there was a heated argument about this at the time - precisely, I imagine, because BB recognised it could be used to unpick their desired approach.

3. I have spoken to Steven in relation to the statement by Richard Walker yesterday about **tie** delaying approval of subcontracts and tie have our advice on what has been sent to tie by BSC and what tie may wish to say about this. In short: there are gaps in the information they have sent and there are explanations overdue to **tie** about why the subcontracts have been drafted the way they have and why certain information has not been provided. It does not sit at all well for BB to assert that they are delayed in appointing subcontractors when they had made no move to do so 21 months into the Contract and their move to appoint subcontractors has more to do with not being in breach than wishing to progress the works.

kind regards

Andrew Fitchie
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