
From: Hudson Steve [Steve.Hudson@carillionplc.com]
Sent: 16 July 2008 20:12
To: Steven Bell
Subject: FW: A150 - MUDFA: Risk
Attachments: DOC040708.pdf; tie letter 20June08.pdf

Steven,

Thank you for the telecon today - i think we covered some useful ground.

I'm waiting to hear from Dave about this afternoon but trust that that went well also.

I confirm our commitment to achieve closure on areas prior to embargo, where feasible, and to expediting the A8 Sewer commencement. Enabling works are progressing to ensure we start Utilities at Haymarket in line with revised date.

In general we are pushing hard in all areas and responding to an ever changing environment which is challenging for both teams.

The Rev 07 programme discussions need re-invigorating to provide a new baseline and i hope that our workshop activities will bear some fruit. I will speak with dave to pursue this discussion asap - particularly as we have 'manned up' and now need the continuity.

I believe that we both appreciate the need for 'programme adherence' and 'commercial protection' in respect of how it applies to both organisations and I agree that we should consider both evolution and revolution as potential solutions. There is a real risk that 'if we do what we always did , then we get what we always got'. If we can find a way of focussing all on the task in hand, whilst providing a contractual framework to support this rather than compound it, then we should. Currently we operate a hybrid and this is not going to deliver the result that we need, moreover we are both at risk.

In this respect I attach a recent e-mail i received from the Contract which I believe outlines a number of our challenges with current proceedings and also covers the A8 sewer matter we discussed. I make no apologies for forwarding the whole e-mail as i believe it captures the dilemma we have in respect of programme delivery versus contract compliance.

I will pick up programme and structure issues with Dave and would ask that you reflect on the contractual framework.

Finally, I reiterate my request for an 'on account ' payment in respect of disputed items (circa £2.7m) and thank you in advance for your consideration in this respect. Pls discuss with Dave or Keith in my absence.

I will try you tomorrow pm and look forward to meeting up when we are both refreshed after our holidays.

Regards

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From: Gourlay Keith
Sent: Sunday, July 06, 2008 2:24 PM
To: Hudson Steve
Subject: A150 - MUDFA: Risk

Steve,

Please find attached a variety of documentation relating to your question about the level of risk currently prevailing on MUDFA. This is not an exhaustive list, just the current key & critical issues. There are others where I remain very concerned at the level of risk the Project is operating under, like TQ's, Work Ordering, Delegated Authority levels etc;

1. The ongoing EoT/Revised Longstop Entitlement under Rev.06;
2. The re-execution of Schedule Four which has been pending since November 06;.
3. Circa £1M of work being undertaken(800mm Gogar water main diversion) without appropriate Work Order documentation or agreed rates; and
4. The ongoing late release of Interim Certificates (last one circa 2 weeks late)and had £200k of adjustments where no explanation has been provided.

Turing to the issues set out in the pdf they fall into two areas:-

i. Design & Build - Section 7B; the issue of design responsibility under MUDFA now remains outstanding for over a year; **tie** Limited have sought to introduce global "Design" as a Change, with no definition of design, demarcation of roles and responsibilities, or acknowledgement we have entered into an NEC Contract with Grontmij Limited in advance of this Work Order Confirmation Notice with full disclosure and liaison with **tie** Limited; after all this there is an express exclusion of our relationship with Grontmij Limited, which is not what we agreed at Contract level.

Grontmij Limited have another three weeks of Stage One, Data Collection and Utility Validation, if this issue isn't resolved before then I will strongly recommend we stand the designer down; we cannot issue designs without the most fundamental aspects defined and agreed.

ii. 1500mm diameter Sewer Diversion, A8 to Gogar; please see letter in the main pdf, enclosing the front 2 pages on NEC, not sure if it's the 2nd and 3rd Edition. Then look at **tie** Limited letter of 20th June 2008, following a meeting held on the 18th June 08. Each and every Carillion representative at that meeting expected, on the 24th June 08 a draft NEC Option C proposal, with Z Clauses, proposed Contract data etc. What we got on the 26th June 08 fell well short of expectations. Furthermore no adequate SI Information has been provided. We are now in a position where a £200K CVI has been issued to buy advance materials, not to set up Subcontracts for a section of the works, pipe jacking under the A8, which **tie** Limited wish to commence in late July/Early August.

We have nothing of any substance, except a CVI which we understand is above Graeme Barclay's delegated authority level of £50K. Given the inherent risk, the reliance on specialist subcontractor plant etc which won't be available without a firm Subcontract commitment, the risk associated with negotiating a Target Cost and agree a Risk Register for this element of work is extensive...and what do we have to work on? Frankly, next to nothing, with no likelihood of progress over the next two weeks due to annual leave commitments.

Overall I maintain my view that MUDFA continues to operate under a *lastminute.com* ethos, which introduces risk to all parties, which is unacceptable and fully outside what the parties agreed under MUDFA. Also, in consideration of my new role as Commercial Director of Carillion Civils in Scotland and the 1500mm diameter Sewer Diversion being undertaken by my new operating Division, Civils will NOT be proceeding until they are 100% happy with the form of Contract, the pain:gain share, the Z Clauses, Insurance and the level of risk owned by the parties under the Risk Register.

In the past AMIS and latterly CUS have proceeded at risk, an approach I was never entirely comfortable with. However in the case of the A8 Sewer Diversion I will not be supporting a commencement on site without all the I's being dotted and the T's crossed.

Finally I expect a lot of these issues will be uncovered in the PLC Audit, which starts tomorrow, particularly the application of Clause 8 and 46 which is fully non compliant by tie Limited.

I'm off to watch the tennis now.....

Regards.....Keith

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