
From: Richard Jeffrey
Sent: 29 October 2010 10:46
To: rush_aj@cqm.co.uk
Cc: Andrew Fitchie
Subject: RE: The next month

You think you have problems, I am trying to fix a leaking bath tap at the same time and trying to avoid having to rip the whole bath out, so I am not in a good mood either!

R

From: Anthony Rush [mailto:rush_aj@██████████]
Sent: 29 October 2010 10:42
To: Richard Jeffrey
Cc: Andrew Fitchie
Subject: Re: The next month

That's good because I have three cars and all three are now off the road and I am not in a good mood.

How about the Ferrari next week Andrew - I take it you won't be needing it?

Tony

Sent using my BlackBerry® from Orange

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From: Richard Jeffrey <Richard.Jeffrey@tie.ltd.uk>
Date: Fri, 29 Oct 2010 10:14:21 +0100
To: Anthony Rush <rush_aj@██████████>
Cc: 'Fitchie, Andrew' <Andrew.Fitchie@dlapiper.com>
Subject: RE: The next month

Thanks Tony, helpful and not at all pompous.

R

From: Anthony Rush [mailto:rush_aj@██████████]
Sent: 29 October 2010 09:49
To: Richard Jeffrey
Cc: 'Fitchie, Andrew'
Subject: RE: The next month

Richard

Kind that you should think I have devised a strategy, if I have, I intend to develop it today for you. I will take account of your six bullet points.

With regards to your earlier email – I intend to outline how I propose 536 and the other issues should be dealt with including Brandon’s brief – they are of essence to the success of termination. I assume that by all those involved in agreeing to this we may get the harmony you seek. As for the six items you list I don’t know whether I disagree with Steven or not on what he thinks. It was late last night that I received a copy of 536 (in random page order which Torquill is sorting) and I have asked Steven to do a one pager on what he has instigated. On the 99 INTC’s- having spoken to Dennis on Monday and Mike yesterday I am in agreement with what’s been done to-date – what Andrew and I are advising is that tie should consider instigating DRP’s to avoid prejudicing their case. Mike tells me that there are 15 being processed and I got a programme for them yesterday. Mike is producing a factual matrix (and doing a good job) as I outlined in an earlier email to him. This will inform not only the decision making process for DRP’s but also Brandon.

I don’t think we do disagree on value of work done/entitlement – they are two different figures which Dennis and I broadly agree on. I don’t think there is a disagreement on the workshop and I am not certain about resources – which will come out in considering the paper I will draft for Monday.

I am minded that any strategy will have to have an “eye” on the post termination outcome – if only to establish key dates and milestones – and that as you articulated yesterday it should be lead by a body experienced in such a matter.

I thought it clear that I have no wish or mandate to “administer the contract” but I obviously agree that there needs to be coordination. As we agreed yesterday I cannot undertake to speak with Steven everyday – but as I am sure that you are all aware I am never far from a means of communicating by way of my blackberry if something comes up (and do). You may also see that I use email rather than telephone - I find it more efficient for me to do so. But, unless I am with you in Edinburgh on the days I shall devote to tie on November I will be at my desk in BoW. I am always as pleased to receive a call from Steven as I am from anybody.

I have to confess to having some disquiet about CEC and Sheppard & Wedderburn – I am minded that we should have an early meeting with CEC to outline what we are doing and why.

I will keep stressing the workload involved in producing the factual record or matrix – if I may I suggest that Susan should take control of that.

I hope this doesn’t sound as pompous to you as it does to me.

Tony

From: Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]
Sent: 29 October 2010 08:43
To: Anthony Rush
Cc: Fitchie, Andrew
Subject: RE: The next month

Tony, my thoughts are as follows

I see 3 distinct tasks going forward.

The first, most important, and one I want you to focus on is preparing for **termination of the contract and closing the infraco contract** in the best possible way for us. I am content with (and grateful for) the strategy you have devised, and now we need to focus on compiling the factual matrix which supports our grounds for termination. The test of this will be the strength of legal opinion and the level of risk expressed by Brandon, Richard Keen, DLA and Sheppard and Wedderburn who are working for CEC. It is on the basis of this legal opinion I will be basing my recommendation to the Board on whether to terminate or not. In particular,

- What are our chances of success? What are our strengths and weaknesses?
- How much might it cost if we lose? (I am happy that Jim/Bill do this)
- What might we recover if we win?
- What are the chances of an 'out of court' settlement and what might it look like?
- How long might the whole process cost?
- How long might the whole process take?

I suggest **you** are the leader of this work.

Clearly the evidence gathering will rely heavily on being supplied with info from the commercial team and project managers

Secondly, and obviously connected is the **continuing administration of the contract**, which needs to be carefully coordinated with the first item above. Here I suggest **daily contact** between you and Steven so that both you and he are fully aware of what each other are doing/thinking etc, in advance. The objective here is of course that everything we do in administering the contract supports and does not undermine our case for termination. I agree that we need a script to govern our interactions with BSC.

I suggest **Steven** leads this item of work.

Thirdly is **planning for how the project proceeds post-Infraco**. This work is lower priority and I will not be taking any final decision on how this is resourced until we have terminated the Infraco contract. We are working closely with CEC and we will be appointing a QS firm in the next couple of days to advise on this. We have agreed with CEC that there will be an 'interim period' between terminating Infraco contract and 'full speed' proceeding with the project. During this time we will fully establish the way forward with the project, including the best way to manage the project (e.g. Balfour Beatty), procurement strategy etc The biggest links between this and workstream 1 are;

- CAF and the trams
- Design
- Siemens, if indeed there is an ongoing role for them, which is by no means certain
- If we are to continue with any interim work on site (Subcontractors)

I suggest Susan will lead this piece of work

Discussion on resources needs others input, so I suggest we do this together on Monday pm.

On the various issues of things like the workshop, the response to INTC 536, the 'we should have DRPd 50 of the cessation INTCs' etc, please can you discuss any of these concerns with Steven before coming to a settled view on what has or should have happened, again this leads me to there needing to be daily contact between the two of you.

I agree with your (amended by me) words;

it is important to have everybody "on-message" not informed. We should decide what we want said in any interaction with BSC, nothing is said off-message without explicit approval from the top. If we need to list anything - it is planned formal and informal meetings other than routine contact. There should be a blanket instruction - "no taking initiative".

I had planned to have such a session Monday pm at 4.30.

R

From: Anthony Rush [mailto:rush_aj@██████████]
Sent: 28 October 2010 20:42
To: Richard Jeffrey
Cc: Fitchie, Andrew
Subject: The next month

Richard

I am giving thought to our earlier conversation and will let you have more detailed thoughts tomorrow.

In the meantime it may help me if you set-out what you think is expected by the end of the month.

I also need a copy of the Scope given to Scott Wilson.

On resources:

Andrew has agreed that Jo can be full-time for the month – this will help me - you may have noticed apart from Bill we all live in the West (I couldn't face the journey every day). Also Jo and the DLA Litigation team know the difficulties in determining the factual matrix on this project and it makes them the best team to manage obtaining it for Brandon, Robin and Nigel. But they will need either the authority, or "on-tap" access to the authority to obtain it.

I suggest that Jim and Bill take on the task of commenting on the hypothesis that Infracore are entitled to payment of additional costs what their entitlement in principle and fact would be. This is a discreet but important piece of work which as PQS's they are both well qualified to determine.

Before I give too much thought to what other resources we may need, can you tell me what resources we have please?

Have you thought any more about the Balfour Beatty idea? (By the way I have no idea of the detail of what you asked Jim to tender for or what is intended now with the successful bidder)

Are we up for or do we need a change in approach? Take the workshop I started to talk about and you introduced Steven into the conversation. My method of working would be to prepare and coach those who attend meetings and discussions. In my world it is important to have everybody "on-message" not informed. We would have decided what we wanted said at the workshop as part of the strategy. Nothing is said off-message without explicit approval from the top. If we need to list anything - it is planned formal and informal meetings other than routine contact. There should be a blanket instruction - "no taking initiative".

Unless it's raining I plan to be out of contact in the morning.

But let's plan for a Tuesday morning briefing for key managers – first one 2 November

Tony

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