
From: Steven Bell
Sent: 09 May 2008 10:34
To: Richard.Walker@bilfinger.co.uk
Cc: Flynn, Michael (Siemens TS); Scott.McFadzen@bilfinger.co.uk; Axel.Metzger@bilfinger.de; Suzanne.Moir@pinsentmasons.com; Willie Gallagher; Fitchie, Andrew; Graeme Bissett (external contact); Dennis Murray; Jim McEwan; Geoff Gilbert
Subject: RE: BBS Consortium Letter
Importance: High

Richard

The conditions 1 to 7 are **tie's** requirements.

I have noted in the covering email to Herr Enenkel and Herr Hofsaess that BBS have not yet agreed Condition 3 and Condition 4 although an agreed way forward has been laid out based on our discussions yesterday. I have already made the same point to Michael this morning.

I note your comment on Condition 1 but have laid out Conditions 1 to 7 based on the £3m defined in Condition 1. If any change is suggested by BBS the package must be reviewed in its entirety. That was the position I laid out on Wednesday and we have not changed from that.

With regard to the 8 pages of comments you put on the table at 1900 last night, we have already confirmed the items DLA had picked up as part of their finalisation of the contract document quality control and you have been provided with a number of completed schedules as a result. This was sent last night.

It took some time for you to prioritise your issues within that list and I undertook to respond to those with tie's position this morning. This will sent to you and we can discuss it at our meeting later this morning.

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From: Richard.Walker@bilfinger.co.uk [mailto:Richard.Walker@bilfinger.co.uk]
Sent: 09 May 2008 10:11
To: Steven Bell
Cc: Flynn, Michael (Siemens TS); Scott.McFadzen@bilfinger.co.uk; Axel.Metzger@bilfinger.de; Suzanne.Moir@pinsentmasons.com
Subject: Re: FW: BBS Consortium Letter

Steven,

Please find for the record our comments on your attached letter:

Condition 1: This does not acknowledge that as of the present time BBS do not accept the £3m incentivisation bonus amount and negotiations are still to be undertaken Enenkel/Gallagher.

Condition 2: OK

Condition 3: First paragraph; this is not our position, there is no reflection of the discussions and 8 page document submitted to you yesterday evening.

3.1 We do not accept withdrawing all outstanding points on the SDS Novation raised in w/c 28th April. We have just spent the last 2 days in negotiation and your wording does not reflect the outcome of these negotiations.

3.2 As above. we do not accept your wording and this does not reflect the outcome of our negotiations.

3.3 OK

Condition 4: As above; This wording does not reflect the outcome of our negotiations.

Condition 5&6 OK.

Condition 7: OK

Please advise us of your position reference the above comments.

Regards,

Richard Walker B.Tech.(Hons.) C.Eng. MICE Managing Director
Bilfinger Berger UK Ltd
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"Steven Bell" <Steven.Bell@tie.ltd.uk>

To <Richard.Walker@bilfinger.co.uk>, "Flynn, Michael (Siemens TS)"
<Flynn.Michael@siemens.com>, <Scott.McFadzen@bilfinger.co.uk>
cc

08/05/2008 21:06

Subject FW: BBS Consortium Letter

For your information

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From: Steven Bell
Sent: 08 May 2008 21:06
To: Joachim Enenkel (joachim.enenkel@bilfinger.de); stefan.hofsaess@siemens.com
Cc: Willie Gallagher
Subject: BBS Consortium Letter
Importance: High
Sensitivity: Confidential

SENT ON BEHALF OF WILLIE GALLAGHER

Please find attached an updated set of Conditions 1 to 7 following my letter of 6 May 2008.

This revised set of conditions lays out the product of extensive discussions with Richard Walker, Scott McFadzen and Michael Flynn over the last 24 hours.

Your representatives have advised **tie** that they have not yet accepted the general comments regarding closing out the Contract Conditions suite as noted in the first paragraph of Condition Three. The three specific items highlighted in this Condition have been resolved with an agreed approach in all cases.

Michael Flynn has also advised that Herbert Fettig is arriving in Edinburgh at 1100 on Friday morning to conclude an approach to address the indemnity requirements in Condition Four.

For clarification, the costs referred to in Condition Seven do not include **tie** or CEC costs.

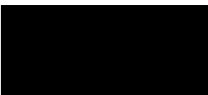
Your representatives have also advised that final two paragraphs to the Conditions are not yet agreed.

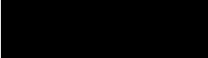
In making this updated proposal, **tie** must receive value for money and the full set of conditions 1 to 7 are a package, are not separable and are integral to the Infracore Contract itself.

It is essential that tie receive a response to this updated set of conditions by 1200 on Friday 9 May as I am required to brief the First Minister's Office on the expected conclusion of the ETN Procurement.

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