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**From:** Richard.Walker@bilfinger.co.uk  
**Sent:** 01 February 2008 16:05  
**To:** Geoff Gilbert; Scott.McFadzen@bilfinger.de  
**Cc:** Flynn, Michael (Siemens TS); Matthew Crosse; Steven Bell; Scott.McFadzen@bilfinger.de  
**Subject:** Re: 'Big Banana' Issues

Geoff,  
Thank you for your e mail following our telecon on Wednesday. It was very useful in highlighting the current difficulties and focussing all of us on the steps for resolution. For the clear avoidance of doubt and to enable clarity on authority levels etc. I detail below our position with regard to the current status and the way forward.

Bilfinger Berger's business model does not permit the liability for risks that do not belong in our Industry or risks which are unable to be assessed and quantified.  
The pricing assumptions have been based on the information given that tie would deliver the Design in accordance with their Procurement Strategy. ie. Complete at Novation. (See Willie Gallagher presentation to Senior BB&S Executives on 15th. November 2007 - ie. Post Preferred Bidder.)  
Tie have not delivered the Issued for Construction Detailed Design in accordance with the Procurement Strategy and therefore the Risk Profile has changed for BBS, Tramco and SDS. It is this which is giving rise to the current difficulties and apparent shifting of position.  
We reaffirm our commitment to you to work with your team to drive this phase of the bid to conclusion and are intending to meet you on Tuesday next week with relevant parties to resolve as many of the issues as possible.

With regard to who holds authority to agree commercial and legal issues on behalf of BBS, we have provided you with a copy of the Consortium Agreement. We refer to Clause 8.1 and 9.3 of the Agreement. The Consortium Board has the Authority to agree decisions and bind the parties.

The members of the Consortium Board are:

- Richard Walker
- Gary Dalton
- Michael Flynn
- Herbert Fettig

The Lead Contractor (BB) leads the negotiations and has appointed Scott McFadzen to represent the Consortium and negotiate with you (he is able to delegate to workstream leaders as appropriate). However, no individual is authorised to make legally binding statements on behalf of the Consortium unless he/she has prior written consent.  
The process is: negotiate with S McFadzen or delegated work stream leader and the outcome of negotiations will be decided upon by the Consortium Board.  
We reiterate our commitment to work with you but this is the process we must follow. It will help if full circulation of negotiation outcomes is made, in particular, please ensure S McFadzen and the Consortium Board are copied in. For example, I have only received your mail of the 23rd January by attachment to your e mail to me yesterday 31st January.

We look forward to next week and making significant progress towards Financial Close.

Regards,

Richard Walker B.Tech.(Hons.) C.Eng. MICE  
Managing Director  
Bilfinger Berger UK Ltd  
Tel: +44 (0) [REDACTED]  
Fax: +44 (0) [REDACTED]  
Mob: +44 (0) [REDACTED]

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