
From: Martin Foerder - BB Civil UK
Sent: 26 June 2012 18:46
To: Kevin Russell - BB Civil UK
Subject: Fw: Certifier's Certificate - Application for Payment No. 57

FYI

Regards,

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----- Forwarded by Martin Foerder/Project Management/Civil/Bberger on 26/06/2012 18:45 -----

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Date: 26/06/2012 16:55
Subject: Certifier's Certificate - Application for Payment No. 57

Mike

Further to receiving your advice on payment on Wednesday 20th June and subsequently receiving a note from Mark on Thursday, I appreciate that we are all trying to process as efficiently and swiftly as possible sums that are due and proper for the Client to pay.

Notwithstanding, I write this note to record my dismay at what appears to be an emerging pattern. The pattern that I refer to is that matters are being discussed at the application meetings, and in some cases I believe understandings are being reached; however, when I receive the follow up paperwork, positions without further explanation appear to have moved.

As you know, my approach has been that where the parties have engaged in discussion and acknowledged failure to agree, I have taken separate papers from each side to confirm their position and then come to a view which I have expressed as Independent Certifier. That I am content to do. In my view, that approach is superior to the present position which would leave me with no choice other than to arrive at a value of the particular items, whilst only having heard a work in progress point of view from either or both sides and not their final position, which I would then take into account in arriving at my own opinion.

In this regard, and given the time that has been left available to me before the payment date for valuation number 57, I will be issuing a certificate in the sums of £8,194,310.23 (Bilfinger Berger) and £1,443,233.98 (Siemens) but would ask you to note that this is not my final position as to my assessment of value.

I would request, in order to reset our behaviours, that a meeting with Julian and Gary, together with Martin and Mark, Alfred and Axel is called within the next week to review recent behaviours and actions in order to take us back in line, by common agreement, to that which was envisaged when we came out of mediation.

I trust that you will support this initiative to ensure that we maintain our fair and reasonable approach on all matters, but particularly with regard to the commercial discussions.

Regards

Colin

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