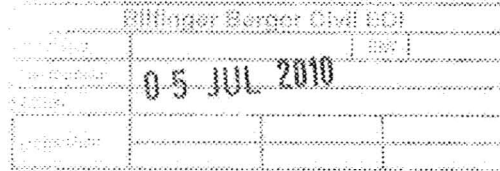


Bilfinger Berger-Siemens- CAF Consortium

Our ref: **ETN(BSC)TIESQ&ABC#051041**
Your ref: **INF CORR 5464**

BSC Consortium Office
9 Lochside Avenue
Edinburgh Park
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5 July 2010



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Phone: +44 (0) [REDACTED]
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For the attention of Steven Bell, Tram Project Director

Dear Sirs,

**Edinburgh Tram Network Infraco
Information and Audit Access – Management of Design**

We are surprised by the contents of your letter ref INF CORR 5464/RB dated 30 June 2010 and the allegations of a lack of co-operation contained therein. Notwithstanding the lack of a clear audit objective, we have met you on three occasions with a significant number of senior Infraco representatives present and have expended considerable time and expense in providing you with relevant information.

Please note that gathering the requested information within the timeframe you have in mind, and participation at the meetings themselves, will hinder the Infraco in fulfilling its contractual obligations, including the delivery of the design, which is critical to the project. This will only be exacerbated by continuing what are purported to be "audits" in the existing manner.

1. Clause 10.4 requires the Infraco to establish and maintain an extranet. Notwithstanding the absence of any timeframe within the Contract, we have sought to establish the required extranet. This will not, however, be available on the date requested in your letter.
2. It was made clear to tie that Pinsent Masons was only acting for Bilfinger Berger. Pinsent Masons advised tie that information relating to CEs should be channelled through Clause 65, which provides an explicit process for doing so. Therefore your request under CI 104 is not reasonable. To the best of our recollection, we did not agree to revert with Infraco's contractual position.
3. We have provided information pertaining to tie's request. To the best of our knowledge, there are no further relevant emails, correspondence or instructions. There are, to date, in excess of 160 ATRs, which are being checked in order to comply with your request. So far we have identified 3 ATRs relating to this issue and these will be provided once the related timesheets have also been identified. Please explain why you require handwritten notes of the minutes we have already provided to you and the purpose of this request in the context of the audit. Please also explain as to why our response is inadequate.
4. Further to your allegations in this item, we note that for your own purposes you chose not to include the entirety of our response. Our response was as follows:

"There are no minutes of meetings relating to commercial issues. Meetings and discussions associated with commercial issues are related to SDS periodic applications, ECS and DS payment applications and payment application and changes. The outcome is reflected in the application and estimates if there is a change."

Please explain the reasons why you consider the response to be unsatisfactory and inadequate.

5. We dispute your statement at No 5. tie repeatedly made bland, generic requests for documents without a proper scope and objective. Search criteria requested by tie were very wide and non-specific. Since the first meeting, Infraco repeatedly requested a clear scope and objective and this was not forthcoming. In an audit the normal procedure is for the auditor to make specific requests for evidence, not for the auditee to decide which evidence is sufficient.
6. Your schedule represents the evidence that processes regarding design management are in place. It is also self evident from your spreadsheet that you have both received and examined the documents you allege have not been provided.
7. We would refer you to the discussion held at the General Issues Meeting and have no further comment.
8. Infraco does not consider that SDS requires an instruction to complete the original scope of its design, as stated in letter ref 25.1.201.CBr.2707 dated 24 June 2009. tie is wholly aware of the instructions that have been issued to SDS to complete the design pursuant to 4.7 and 4.8 of the SDS Novation Agreement.

Audit Completion

There is no clear scope of the audit despite our repeated requests, so Infraco is unaware of what is meant by the remainder of the audit.

The instruction for the continual engagement of our personnel for a period of 8 working days is wholly excessive and is tantamount to interference with the rights of the Infraco in performing its obligations under the Infraco Contract. You are reminded of your obligations pursuant to Clause 6.3.4 and 118 of the Infraco Contract. Furthermore, we consider that, contrary to Clause 104.2, the number and frequency of audits and inspections pursuant to Clause 104.2 is unreasonable. We would respectfully remind you that the Infraco is incurring a significant cost in facilitating you pursuant to Clause 104 and the inappropriate use of the provisions of Clause 104 are disrupting the Infraco in its internal arrangements.

The notice you have given for the audit completion meetings is inadequate and does not recognise the prior commitments of the senior Infraco personnel involved, particularly during the summer holiday season.

Finally, please advise under which clause of the Infraco Contract you believe you are entitled to gain access to our Document Control Room.

Yours faithfully,



Martin Förder
Project Director
Bilfinger Berger Siemens CAF Consortium
MFO/FWA/SDE

cc: Shabu Dedhar Siemens
Kevin Russell Bilfinger Berger
Alejandro Urriza CAF
Ineke van Klaveren Siemens