
From: Dennis Murray
Sent: 25 April 2008 08:41
To: Eric Smith; Stewart McGarrity
Subject: FW: Schedule 4

FYI

From: Dennis Murray
Sent: 24 April 2008 18:08
To: 'Tom.Murray@bilfinger.co.uk'
Cc: Steven Bell
Subject: Schedule 4

Tom,

I acknowledge receipt of your mark up on Appendix G.

This is completely unacceptable for the following reasons.

Appendix G has been the subject of many meetings and discussions in recent times.

The chronology of events is as follows.

A Schedule of Rates was submitted by you and accepted by tie some time ago. The core contract and the process for valuing change was drafted on the basis of the application of your rates for measured work. The only matter of contention was that we required to agree a method of reimbursing you for site overheads for work that would be priced on the basis of Actual Cost in addition to the previously stated percentages for head office overheads that was agreed. We asked you to provide an explanation of relevant items in your prelims to allow us to complete this. This explanation of Prelims breakdown was provided and extensive debate was had regarding the operation of the constituent parts of the Prelims to cover site overheads in this regard. Our view was that it could not be done by applying an across the board percentage however we subsequently accepted that we could cover the Consortium Prelims part only as a percentage and ultimately accepted a 7.4% addition to cover this as per your last submission. Any further Prelims items would require to be assessed on its own merits. This was duly drafted as agreed.

You are now seeking to completely change matters by:

- (a) Introducing a set of predetermined rates for use in respect of Clause 80.6.3 as opposed to the fair rates and prices basis that is stated in the core contract and was acceptable previously.
- (b) Introducing a set of Daywork Rates to be applicable to a valuation in respect of Clause 80.6.4 as opposed to the Actual Cost basis that is stated in the core contract and was acceptable previously.
- (c) Introducing Contract Price Fluctuation Indices to previously agreed fixed price rates.

The Schedule of Rates including your Prelims build up was submitted to tie on 22nd February 2008 by email from Scott McFadzen. The rates offered were to determine the value of changes and tie accepted them on this basis. All rates are deemed to be complete and are deemed fixed for the contract duration. At no time was it ever requested or stated by you or inferred that these rates were to be the subject of Contract Price Fluctuations. It is therefore not now acceptable that you are seeking to apply Contract Price Fluctuations to previously agreed rates.

We therefore do not accept these wide scale proposed changes for the reasons noted above and request that you accept the draft that was amended by agreement with you.

Dennis

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