

Stefan Hoffsäss

Q & A

General introductory

1. By way of introduction:

(a) What were your qualifications and experience in major infrastructure projects, including trams and light rail systems, prior to your involvement with the Edinburgh Tram Project (ETP)?

(b) Can you please provide an up to date CV?

Pls refer to attachment

(c) Between what dates did you have responsibilities in relation to the ETP? What were your main duties and responsibilities?

Since October 2015 I was President of the respective division of Siemens AG, overseeing the activities worldwide. I had no direct involvement in the ETP bidding process, except when the respective subdivision and Siemens plc presented the project according to the procedures to myself and as far as I remember to the board of Siemens Transportation. As far as I remember the bid was presented to the board and the preparation of the offer as well as the submission was approved.

(d) How did your experience of the ETP compare with other projects you have worked on, both previously and subsequently?

The project structure represented an interesting risk profile, as the rolling stock was under a different contract. From a risk assessment point of view the selection of Bilfinger and Berger as Civil work partner was important as the company was known to Siemens and there was less concern about joint and several liabilities.

(e) What were the main reasons for the failure to deliver the ETP in the time, within the budget, and to the extent originally projected?

I have left Siemens in 2008 and I have no knowledge about the time period shortly after the coming into force of the Contract.

Procurement process and strategy

2. The following questions relate to the procurement process for the ETP.

(a) Why did Siemens decide to tender for the contract?

The project represented a good opportunity to establish ourselves in the UK market as a turnkey contractor, after several attempts to enter the market through PPP schemes, such as LRT Croydon, LRT Nottingham. And there was no requirement to invest as shareholder as per earlier projects in the UK, which were based on PFI schemes.

- (b) Did TIE ask Siemens to form a consortium with Bilfinger Berger (BB)? What reasons did they give for this request? Did you have any views on forming a consortium with BB? Was it common in projects such as ETI to be asked to form a consortium?

I am not aware if TIE asked Siemens to form a Consortium with Bilfinger and Berger. The forming of the Consortium was – as far as I remember – handled by Siemens plc.

- (c) Did you have any views on the advantages or disadvantages of working in a consortium with BB in particular or with another company or companies in general?

I remember that in the decision to give green light for submission of the proposal I considered the consortium with BB as an advantage from a corporate risk point of view. That judgement I had made based on previous experiences in the UK market with companies like Taylor Woodrow or Balfour Beatty.

- (d) Did these views change as a consequence of working on ETI?

Yes. I became involved prior to the Wiesbaden talks, as Bilfinger was threatening us and TIE to withdraw from the proposal, arguing that steel prices had increased. Bilfinger turned out to be a very unreliable consortium partner at that stage. We considered a withdrawal from Bilfinger as a risk with regard to our reputation in the UK market.

3. The following questions relate to the procurement strategy employed by TIE for the ETP.

- (a) Did you have any views on TIE's procurement strategy whereby design and utility works were to be carried out in advance of the infrastructure works, with possible novation of the design contract to the infrastructure contractor?

During the risk evaluation I considered the procurement strategy as a balanced allocation of risks as compared to previous PFI schemes such as Nottingham LRT or London Underground.

- (b) Did you have any concerns while bidding on whether TIE's procurement programme was achievable? If so:

- (i) did you discuss these concerns with TIE or BB?

I was only involved in direct discussions with TIE and BB during the final negotiations.

(ii) if applicable, what was the content and outcome of those discussions?

(c) In hindsight, what are your views on the procurement strategy; in particular:

(i) did it fail?

I have no knowledge of the time after the Contract execution started.

(ii) if it did fail, was the failure due to the strategy or in its execution?

(iii) what would have been required for it to have been a success?

Meeting in Wiesbaden – Thursday 13 and Friday 14 December 2007

4. We understand that you were present at meetings between the Bilfinger Siemens Consortium (BSC) and TIE which took place at BB offices in Wiesbaden, Germany on 13 and 14 December 2007. Following these meetings an agreement (“the Wiesbaden agreement”) (CEC01502881) was signed.

(a) Who was present at these meetings and what was discussed on each day?

As far as I remember Willy Gallager (TIE), Michael Flynn (Siemens plc), one board member of Bilfinger and myself were present. As far as I remember discussions also took place in a hotel in Wiesbaden with the same group. I cannot remember if anybody else was present in the meetings.

(b) What was agreed in relation to price, design and other matters, and how and when over the 2 days was agreement reached on each? Was the agreement reached at Wiesbaden subject to review / approval from other parties within either TIE or BSC? If so, what was the purpose of the review and who was to conduct it? Did both parties understand that there would be such a review?

I was in discussion with my board, making sure that the outcome would be agreeable and in line with the given approval of the Siemens Transportation board. The problem within Siemens was that at the same time the board of Siemens Transportation was replaced.

(c) Was there a separate meeting or meetings held over the course of the 2 days involving only the principals from TIE, BB and Siemens; if so,

who was present at that meeting or meetings and what was agreed there?

The main reason for my direct involvement was that before the Wiesbaden meetings Bilfinger indicated that they would withdraw from the proposal, as in the period between submission of the offer and December 2008 steel prices had significantly increased. In addition to the unclear risk areas (status of design and utility diversion), Bilfinger cost had therefore increased.

Before the Wiesbaden meeting I remember I had one meeting with Bilfinger to convince them not to withdraw from the proposal.

- (d) What was your understanding of the extent to which the price in the Wiesbaden Agreement was fixed and the extent to which the price was subject to exclusions, provisional sums, assumptions and other conditions?

The main outcome of the Wiesbaden meetings was to agree on a those areas, for which the responsibilities were not clearly defined. As far as I remember all parties were satisfied with the outcome of the negotiations and the agreement being drafted.

- (e) Did TIE indicate to you that there was a requirement to record a fixed price in the contract in order to satisfy the City of Edinburgh Council and ensure their continued support for the ETP?

I have very little memory on these events back 10 years ago, but I think, yes they have indicated this to us.

Expectations of events after contract close

I was not involved after the contract closure.

5. In relation to the Pricing Assumptions contained in Part 4 of the Schedule to the Contract (**USB00000032**). Prior to contract close:

- (a) What was your understanding of the likely number of Notified Departures or changes that were expected, and the total value of those changes or departures?
- (b) Are you aware whether the likely number and total value of the Notified Departures were discussed with any person from TIE; if so, with whom and when were these discussions and what was said?

After Contract Close

6. Following contract close a major dispute arose between TIE and BSC in relation to the infrastructure contract:

I had no more involvement in the project after contract closure.

- (a) What were the main difficulties that arose?
- (b) What problems did this cause for Siemens?
- (c) What discussions took place between BB and Siemens in determining the strategy adopted by BSC in dealing with the dispute?
- (d) What were Siemens' views on the strategy adopted by BSC, did Siemens have any concerns?

7. Are there any other comments you wish to make in respect of matters falling within the Inquiry's Terms of Reference that are not included in your answers to the above questions?

No