

FEDERATION OF PILING SPECIALISTS MINUTES OF A COMMERCIAL COMMITTEE MEETING

Date: Thursday 19th June 2018

Time: 10:00am

Location: Hamilton House, Mabledon Place, London, WC1H 9BD

Present:

Matt Rastall	Aarsleff
Nicholas Rogers	Bauer
Simon Lyons	Central Piling
Gemma Richardson	Expanded Geotechnical
Melissa Hooper	Franki Foundations
Roger Barratt	Keller Limited
Terry Martin	Murphy Ground Engineering
Shane Ryan	Murphy Ground Engineering
David Colven	Roger Bullivant Limited

Guest Attendees:

Alex Walsh	Balfour Beatty Ground Engineering
Hannah Warburton	Expanded Geotechnical

In the Chair:

Mark Sheridan	BAM Ritchies
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In Attendance:

Ciaran Jennings	FPS Secretariat
Grace Hawkins	FPS Secretariat

No	TOPIC	ACTION
1.	APOLOGIES FOR ABSENCE	
	Apologies had been received from Andy West (Bachy Soletanche), Steve Wood (Balfour Beatty Ground Engineering) Michael Parkes (Cementation Skanska), and Andy Goddard (Rock and Alluvium).	
2.	MINUTES OF THE LAST MEETING	
	The minutes of the meeting held on 28 th February 2018 were approved.	
3.	MATTERS ARISING	
a)	<p>The Liquidation of Carillion and Retention</p> <p>Following the liquidation of Carillion, Ciaran Jennings reported that Build UK are actively talking to Government about how the liquidation has been handled and managed.</p> <p>Ciaran advised he recently attended a meeting at Build UK with Mark Castle (Chair of Build UK), who is keen to reform the supply chain within construction over the next two years, with the aim of driving out retention. Build UK acknowledge quality is not getting respected in the tendering process. It was noted Mark Castle is keen to see reform in align with the FPS views.</p> <p>It was reported that Martin Blower has written letters sent to his MP explaining the issues around cash and retention in the supply chain, it was suggested members within the FPS committee do so too. It was suggested a brief is produced which can be sent to local MPs.</p> <p>Mark Sheridan advised he was meeting with Build UK following the Commercial Committee to discuss cash retention and shall put the view that retention is out dated and not necessary; he added there should be no alternative to retention other than to get rid of it. He reported that Build UK are looking at six different vehicles as alternatives.</p>	

	<p>Mark noted having retention suggests there is no trust in the industry and a change in mindset is needed. He noted there is a consensus in the FPS to refuse retention.</p> <p>Roger Barratt agreed, retention is outdated, he advised that Keller has been successful in eliminating them in favour of parent company guarantees.</p> <p>Terry Martin added he has had a different experience with clients accepting letters of indemnity, Murphy pay a percentage of the bonded sum.</p> <p>Mark advised he met with Arup who held 5% of retention in the ground investigation market, he requested zero retention, every job since has had zero retention.</p> <p>Ciaran reported at the last Trade Association Forum at Build UK, Suzie Nicholls stated that main contractors are arguing quality control is the driver for retention.</p> <p>Hannah Warburton advised they have seen less retention on jobs, she stated there is a need to get in early to change the mindset of a client.</p> <p>Terry Martin advised they have had retentions in the past which have been tied into the practical completion of the works and when problems arise the payment is held.</p> <p>Mark added when working abroad, money goes into escrow account and if the money is not there, the work will not begin.</p>	
b)	<p>Aldous Bill – BESA It was reported BESA (Building Engineering Services Association) have been lobbying heavily in support of the Aldous bill calling for retention deposit schemes to be Government backed and protected.</p> <p>BESA approached the FPS to support it, however Ciaran Jennings met with BESA following the last Commercial Committee meeting and rejected this proposal. He explained why the FPS feels it is a retrograde step and that the FPS would not support this as it would enshrine retention in legislation.</p> <p>Ciaran advised the bill is progressing through parliament but is unlikely to be passed owing to the lack of parliamentary time.</p> <p>It was also noted that Build UK is not backing the Aldous Bill as there is not a consensus among Members, it is unlikely to go anywhere, but is an initiative the FPS has contributed to rejecting on the basis it will make it harder to get rid of retention.</p>	
4.	<p>MARKET TRENDS: FPS 1st QUARTER STATISTICS</p>	
	<p>Ciaran Jennings presented the order statistics for the 1st quarter of 2018; he highlighted the scale has now been swapped to the opposite position on the bar graph. Ciaran reminded the group that FPS members submit their quarterly orders received which is kept anonymous and collated for review by the FPS committees.</p> <p>It was felt that there is still not much movement in the market, Nicholas Rogers noted it is currently a difficult market, Terry Martin agreed. David Colven added they have seen more jobs being put on hold and Terry noted under-cutting is an issue.</p> <p>However, Mark Sheridan noted the ground investigation market was starting to improve which is a good indicator for the whole market. He added the uncertainty around Brexit may be affecting the decisions of larger companies to wait until decisions on Brexit deals have been made.</p> <p>It was noted that Crossrail 2 is still waiting for parliamentary consent.</p>	

	<p>Nicholas added the margin has come down, Roger Barratt agreed there is currently a lot of pressure on price. Mark noted prolonging payments is ongoing, but this is not sustainable for the supply chain. David Colven added they have recently been successful on caps on liabilities.</p> <p>Mark concluded that overall total orders are up.</p>	
5.	PROMOTION OF THE FPS	
	<p>i. 'Why use an FPS Member?' Leaflet</p> <p>Ciaran Jennings advised he has asked Debbie Darling for a quote which will be approved at the FPS Executive in July. He added the Committee need to look at the content for the leaflet and content for the website.</p> <p>It was noted it will be a one-page PDF leaflet to send out with tenders, which highlights what an FPS member can provide. Nicholas Rogers stated the FPS is market leading on technical and safety issues; Simon Lyons agreed the FPS is pushing health and safety with knowledge sharing. Terry Martin added he has some clients who will only use FPS members as a health and safety commitment. It was agreed these messages needed to be conveyed.</p> <p>It was noted FPS Members are audited, with the pass mark being raised to continue improving standards.</p> <p>Mark Sheridan added the FPS needs to communicate that they are value for money rather than the cheapest. It was also noted that there should be a sense of a quality guarantee in using an FPS Member over a non-Member.</p>	<p>FPS Secretariat All</p>
6.	POSITION PAPERS	
	<p>i. Fair Certification</p> <p>Mark Sheridan stated the initial draft is still in progress, he has been struggling with the content with this position paper and how to present the issues and remedies; it was previously agreed to include the benefits of a positive cash flow.</p> <p>Ciaran Jennings reported from July, Build UK are publishing a table of good and bad payers in the industry; he added under certification should be captured by the table. The Chair was unsure how league tables will help as there is ambiguity about what is over and under certification depending on whether you are the client or supplier. Ciaran explained a lot of Contractors will find out they are considered a bad payer and it has been reported that some have realised that they are bad payers when they thought they were compliant with 30 day terms. Suzie Nicholls has invited Build UK Members to use the list to challenge principal contractors.</p> <p>Ciaran asked should the position paper initially set out what the problem is and continue on to highlight what the expectations should be for contractor and specialist. Mark stated fair payment is easy, the paper should include the benefits for the customer for paying fairly. He reflected that this needed to set out the value of a happy supply-chain in delivering the project.</p> <p>ii. Early Payment Funding Schemes</p> <p>It was noted the Commercial Committee have been discussing the issues surrounding Early Payment Schemes and producing a position paper. Ian Alcorn who sits on the FPS Quarterly put together a starting point for a position paper on Early Payment Schemes to highlight pitfalls and set out a position that the FPS does not want to engage.</p>	<p>Mark Sheridan</p>

	<p>It was felt by the Committee the organisations who can afford to pay early, tend not to do so. Mark Sheridan asked how everyone in the process can remain in a cash neutral position.</p> <p>Ciaran Jennings advised that the FPS Quarterly Committee have stated they want to resist the 120-day payment terms and the use of EPSs.</p> <p>Simon Lyons added that it is like a bank loan, companies who were paid via the Carillion Early Payment Funding Scheme have seen the Banks reclaim the money paid to them directly from their accounts before the liquidation. Nicholas Rogers replied that a lot of those companies were unaware it was a loan; he advised he agrees with the wording provided by Ian Alcorn.</p> <p>Matt Rastall asked can the FPS tackle withholding payment. Roger Barratt advised for small organisations, the cash flow is an aspect to consider. Mark asked how the supply chain can ensure it does not go bust. Mark added in Germany everyone is expected to pay in 28 days and in cases of non-payment after 28 days the VAT is doubled. if you do not pay in 28 days you pay double the VAT.</p> <p>Mark ask for comments on the wording by Ian Alcorn to be sent in, he concluded member guidance will be created which states the FPS position but does not enforce this position.</p> <p>Ciaran advised the FPS Executive may want to send the finished position paper to organisations who use Early Payment Schemes to start a conversation.</p>	All
7.	FPS WEBSITE	
	<p>Ciaran Jennings reported that it has been agreed to do an audit of the documents on the FPS website, so each committee can be informed of what is available and can look to periodically review document to ensure the content is kept current.</p> <p>David Colven noted a lot of the documents on the website feature the old logo; Ciaran advised they are in the process of updating these with the new logo, however noted some of the documents are in a PDF format with no original available.</p>	FPS Secretariat
8.	FUTURE TOPICS FOR THE FPS COMMERCIAL COMMITTEE	
	<p>The Commercial Committee asked why sustainability is included on the agenda, Ciaran Jennings advised that the EFFC are re-launching their sustainability group which was influenced by the FPS sustainability charter. Ciaran added sustainability is not always addressed; the Committee suggested the topic is placed below the line of the agenda.</p> <p>Mark Sheridan stated the Commercial Committee would like to keep the topic of equality and diversity, Shane Ryan asked if an improvement has been made, Mark confirmed there has improvement on the gender divide of the Committee in the last year.</p> <p>It was agreed to place topics Sustainability, EFFC, Legal Standards, and Future topics towards the end of the agenda as standing items noting these do not always require a discussion.</p>	FPS Secretariat
9.	CONTRACTS AND TERMS	
a)	Build UK	
i)	<p>Pre-Qualification</p> <p>Ciaran Jennings reported that Pre-Qualification reform group are looking to have something set up by the end of the year, to reform the current model where Achilles and Builders Profile etc charge subscriptions to supply PQQ information to clients.</p>	

	<p>Ciaran explained that under the scheme organisations such as Achilles will be the data collection/accreditation body and will put this into a central database for Tier 1s etc to access. There is an option for the FPS to become an accreditation body, so that the PQQ data registration is covered in the cost of Membership. However, how the FPS audit relates to the PQQ process needs to be addressed.</p> <p>Matt Rastall asked if this would be a benefit to promote on the <i>why use an FPS member</i> marketing material, Ciaran replied it would be a benefit toward being an FPS member, but probably not specifically a benefit to clients.</p>	
ii)	<p>Payment Group</p> <p>Nothing to report.</p>	
iii)	<p>League Table of main contractor good/bad payers</p> <p>Discussed under item 6i of the minutes.</p>	
b)	<p>JCT Report</p> <p>David Colven sent two notes on the last two meetings to the FPS Secretariat who circulated these to the Commercial Committee ahead of the meeting. David expressed a frustration with their lack of objective and outcome. He explained that there is no longer a Specialist Contractor meeting ahead of the JCT meetings and noted only two people attended the last meeting and queried if it was useful for them to attend.</p> <p>Ciaran Jennings advised there is dispute around Build UK main representation for main contractors. David added there used to be a pre-meeting which helped the direction of discussion; Ciaran agreed to feedback to Suzie Nicholls.</p>	C Jennings
10.	DIGITAL CONSTRUCTION	
i)	<p>FIEC project</p> <p>Previously it was reported the FPS had been approached by Sue Arundale at FIEC about the issues between contractors and plant manufacturers in relation to BIM. FIEC are interested in stopping technology companies taking over Digital construction and wants to ensure contractors and the supply-chain are driving development in the industry.</p> <p>Ciaran Jennings noted they no longer call it BIM, it is now called Digital Construction 4.0. He reported that FIEC have issued a draft position, which seems mostly trying to agree a common data platform.</p> <p>Mark Sheridan noted that digital construction is becoming more important.</p>	
11.	EQUALITY, DIVERSITY AND INCLUSIVITY	
a.)	<p>Career Profiles on the Website</p> <p>It was noted the Commercial Committee have been discussing how to improve the inclusivity and diversity of people in the commercial function of the industry. Mark Sheridan recognised the FPS Commercial Committee is becoming more diverse in terms of the gender divide, however he noted members are all from the UK and white, which needs to be diversified. He stated each member deserves their place in the committee and there is no tokenism.</p> <p>Mark added the committee needs to keep promoting the commercial aspects of the industry. He asked how the Committee should further work toward improving this.</p>	

	<p>It has been previously agreed that the Committee intend to place career profiles onto the website that explain what the role is, what progression is available and how to qualify for them. Members of the Commercial Committee agreed to request someone in their company writes an article based on either the theme "A day in the life" or an article in the format of a career profile.</p> <p>Ciaran Jennings discussed the career profiles at the FPS Executive, who were in support and happy to promote these. He added the Committee should look at how to promote these by Debbie Darling, who is currently working on series of articles on women in piling.</p> <p>It was reported Steve Wood sent two profiles across, one of which was by Alex Walsh; David Colven noted the last paragraph refers to fair certification.</p> <p>Hannah Warburton observed that the profiles should raise awareness of how the writer reached their position.</p> <p>Ciaran suggested the FPS could compile a list of courses and institutions offering the qualifications then send the campaign to them.</p> <p>Mark asked the Committee to send in more profiles.</p>	All
12.	EFFC	
	<p>It was reported that in June the 2nd edition of Tremie Concrete Guide was launched at the EFFC DFI Conference in Rome, Ciaran Jennings explained that a working group is being formed of technical and operational people are meeting to create a strategy for adoption of the Tremie Guide and to look at how the Guide should be implemented in the UK.</p> <p>It was noted concrete is more complex presently than previously and it is very sensitive to water content. The guide was created to provide a test that can be done on site, supported by R&D site tests. The FPS should look at promoting it to concrete suppliers.</p> <p>Ciaran also reported the EFFC have been looking at mutual recognition of rig qualifications, he explained the EFFC has decided to create their own driving license scheme, the regulatory bodies are different in each country which is causing problems.</p> <p>They aim to implement one standard across each country but recognising that each country has its own; it is recognition by harmonising standards. The UK equivalent would be CPCS recognising this qualification.</p>	
13.	SUSTAINABILITY	
	<p>Ciaran Jennings previously explained that the EFFC are creating a Sustainability Working Group, in which the FPS should feed into the group when it is established.</p> <p>Nicholas Rogers asked if the item on sustainability refers to environmental or business sustainability, replied it encompasses both. Nicholas added responsible cash flow could be considered under this item.</p>	
14.	LEGAL AND STANDARDS UPDATE	
	<p>It was noted there is nothing to report.</p> <p>Nicholas Rogers commented the EFFC Concrete Tremie Guide is a standard update, Ciaran Jennings replied the Guide sits under Sperwall specification.</p>	
15.	SOCIAL EVENTS	

	<p>FPS Summer ball 2018 The FPS Summer ball will be taking place at the MacDonald Berystede Hotel in Ascot on the 30th June 2018.</p> <p>FPS Golf Day 2018 The FPS Golf Day will be taking place at The Nottinghamshire & Country Club on the 12th September 2018</p> <p>FPS Annual Dinner 2018 The FPS Awards Dinner will be taking place on the 19th October 2018, with the venue to be confirmed.</p>	
16.	ANY OTHER BUSINESS	
	<p>Supplier Performance Roger Barratt asked the Committee for their recent experience with concrete suppliers; Shane Ryan stated supplier performance is impacting their margins. Roger explained he has had recent issues too in London and in Manchester with meeting delivery schedules and quality standards.</p> <p>Mark Sheridan asked if any of the FPS Associate Members are concrete suppliers, Ciaran Jennings advised there are currently no concrete suppliers on the membership, but the FPS would like to get some members on board. The feedback years ago was that they would not be interested however with the release of the second version of the EFFC Concrete Tremie Guide, this may have changed.</p> <p>Mark suggested a concrete supplier is invited to talk to the Commercial Committee, about commercially causing problems. Roger Barratt advised he has a contact at Cemex who may be able to talk.</p> <p>Service Strikes Mellissa Hooper asked about others experience with the main contractors coming back when a service is hit and protection when using the FPS attendances.</p> <p>David Colven advised that he recently successfully argued with a company, they felt strongly that they had not been negligent with a permit to dig, it took 3 months to set out what had been done as a responsible contractor.</p> <p>Ciaran Jennings reported that the Safety & Training Committee have been looking at service strikes, on average there are six strikes per quarter, all with permits. He recommended PAS128 as a good standard.</p> <p>Melissa added the legal advice received was that they still have a duty of care and need to undertake their own search for services, they were found partially liable.</p> <p>Alex Walsh advised he would rely on the clause in the contract rather than the attendance.</p> <p>RSS Assessment Gemma Richardson stated she will be sitting her RSS assessment in November and asked if anyone had done an assessment, Mark Sheridan agreed to send her some information which may help. Alex Walsh advised he started and found it was not relevant for him.</p> <p>Murphy Ground Engineering Terry Martin introduced Shane Ryan who will be attending Commercial Committee meetings in the future representing Murphy Ground Engineering.</p>	<p>Roger Barratt</p> <p>Mark Sheridan</p>

	<p>Commercial Queries</p> <p>Nicholas Rogers noted the FPS Secretariat circulated a query regarding the normal or recommended sequence of events relating to piling. The FPS Secretariat relayed the response from Committee members that the contact should be checked however the FPS can not get involved or advise further.</p>	
17.	DATES OF 2018 MEETINGS	
	<p>Next meeting dates held at Hamilton House (Mabledon Place, London, WC1H 9BD):</p> <p>20th September 2018</p> <p>29th November 2018</p>	