



## Brian Farrington Limited Procurement and Supply Chain Specialists

*May 2005 Newsletter*

### **PQQ**

We had an excellent response to last month's newsletter in regard to our research on pre-qualification criteria and evaluation. Readers have asked for more of this. Our latest research, for a client, relates to Construction Management Agreements (CMA). Our starting point was a recent case in the High Court [2005] EWHC 181 (TLC) involving Great Eastern Hotel Company (GEH) and John Laing Construction Ltd and Laing Construction PLC. GEH claimed damages of over £17m in respect of Laing's various breaches of contract. The role of the Construction Manager was to manage the procurement of the construction process. They would operate under a Construction Management Contract. It is the obligation of a Construction Manager to plan, programme and organise the Project and Trade Contractors who actually carry out the work, so that the client's risks in relation to time and money are minimised. We suggest you read the last sentence very carefully, because that was the essence of the case. Clause 3.1 of the CMA includes: "The Construction Manager shall proceed regularly and diligently with the services.... and will continue to exercise in the performance of the services all the reasonable skill, care and diligence to be expected of a properly qualified and competent Construction Manager, experienced in carrying out services for a Project of a similar size, scope and complexity to the Project."

And of course, in many situations we would want the CV of key personnel, such as this appointment. The evidence presented and Judge David Wilcox's findings included:

"From November of 1997 Laing seriously unreported the delays on a monthly basis occurring to the Project, against the master programme"

"No satisfactory explanation has been given on behalf of Laing as to why this institutionalised misreporting occurred."

"I am satisfied that the logic of the electronic programme was tampered with...."

"Laing had a professional obligation under the CMA to protect their client, by giving objective advice based on known facts. They were in breach of that obligation and therefore encouraged their client to throw good money after bad."

The project was delayed 49 weeks. His Honour Judge David Wilcox found that GEH had wholly proved their case as to delay and causation. Reading of the Judgement is strongly recommended to all our readers. There are 67 pages and of course, our summary above fails to deal with the scope of the dispute.

### **Boardroom Briefing**

#### **2 June @ Mere Golf Club**

Our 4<sup>th</sup> Boardroom Briefing will take place on 2<sup>nd</sup> June 2005 at Mere Golf Club, Cheshire. There are now only three places available. If you are interested in further details, attending or nominating one of your directors please contact Stephen Ashcroft. The purpose of the Briefing is to explore, through real case studies, how to enhance procurement performance and to explain the benefits of our A la Carte service.

### **A la Carte**

The A la Carte service from Brian Farrington Ltd offers an innovative response to your service provision needs with all of the features that have characterised the growth of the formidable

reputation of Brian Farrington Ltd.

- **Integrity:** our independence is your assurance of the objectivity of our service
- **Client service and value:** our responses are defined and driven by the individual needs of our clients
- **Solution-focused service:** rigorous analysis, outstanding practical expertise and innovative responses
- **Proven methodologies:** bringing appreciable improvements in business performance

You can access our A la Carte service and select the expertise you need from our comprehensive range of procurement services. Details available from Stephen Ashcroft and at our website.....

### **Re-launched website**

We are delighted to announce the re-launch of our website:

[www.brianfarrington.com](http://www.brianfarrington.com).

The site includes a database of consultancy and training solutions, FAQs on the services we provide, and a range of other useful news and information – as well as photos of the team!

We welcome feedback on the website (good and bad!) and your recommendations for procurement / business related sites we should link to as a central resource point for you; our clients and contacts.

Please email your comments and/or helpful site addresses, and as a token of appreciation we will send you a complimentary copy of our latest e-procurement report. We hope you find our website useful and informative.

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