



Bridge Factors Factual Report Attachment 65 – FDOT's Attachment Submission

Miami, FL

HWY18MH009

(13 pages)

Email from Mr. Robert Robertson
of FDOT to Mr. Dan Walsh of
NTSB dated December 21, 2018.

Walsh Daniel

Subject: FW: Question on Louis Berger

From: Robertson, Robert [REDACTED]

Sent: Friday, December 21, 2018 7:20 AM

To: Walsh Daniel [REDACTED]; Andres, Tom [REDACTED]

Cc: Accetta Robert [REDACTED]; Johnson, Latasha [REDACTED]

Subject: RE: Question on Louis Berger

Dan, please find FDOT's responses, marked in red below, to each of your questions.

Robert V. Robertson, Jr., P.E.
State Structures Design Engineer
605 Suwannee St., MS 33
Tallahassee, Fl. 32399-0450
[REDACTED]

From: Walsh Daniel [REDACTED]

Sent: Monday, December 17, 2018 12:40 PM

To: Andres, Tom [REDACTED]

Cc: Robertson, Robert [REDACTED]; Accetta Robert [REDACTED]

Subject: RE: Question on Louis Berger

Hi Tom,

I need to be absolutely sure of the following details regarding qualification requirements for the independent peer review by Louis Berger.

In my factual report on page 120, lines 33 – 35, I indicate “*For the signature pedestrian bridge, FDOT would require the independent peer review firm be qualified under work type 4.2.1 Major Bridge Design – Concrete or 4.3.1 Complex Bridge Design – Concrete.*” I need to know if that is factually correct? Is it an and or an or statement? What would the FIU bridge be considered 4.2.1 Major Bridge Design – Concrete or 4.3.1 Complex Bridge Design – Concrete or both? What would the qualification requirements be necessary for Louis Berger to conduct the independent peer review? 4.2.1 Major Bridge Design – Concrete or 4.3.1 Complex Bridge Design – Concrete or both? **The DB firm must ensure that they have the qualifications for the bridge they propose. In this case, this was a complex truss bridge requiring unique analytical methods, so it would be classified as 4.3.1-Complex Bridge Design. Figg had this qualification, Louis Berger did not as the independent peer reviewer.**

You indicated to me below that Louis Berger was not qualified with FDOT to perform 4.3.1 Complex Bridge Design – Concrete prior to December 30, 2016. Can you please double check that to be absolutely sure. The attachment dated 2-11-16 indicates that Louis Berger was prequalified in 4.3.1? **Louis Berger never had 4.3.1-Complex Bridge Design according to our FDOT records. No qualification letter was issued to Louis Berger for 4.3.1.**

Also, please verify one more time that Louis Berger was qualified with FDOT to perform 4.2.1 Major Bridge Design – Concrete prior to December 30, 2016 but lost their qualification on December 30,

2016 due to several of the required qualifying staff no longer being with the firm. If Louis Berger retained their qualification for 4.2.1 Major Bridge Design – Concrete after December 30, 2016 would they have been in conformance with Rule 14-75 to conduct the independent peer review for the FIU bridge? No, 4.3.1-Complex Bridge Design was required.

You are correct that they lost their qualification on December 30, 2016 for 4.2.1-Major Bridge Design, but that qualification is not appropriate here.

Thanks.

Dan

<u>THE LOUIS BERGER GROUP, INC.</u>	725 PRIMERA BLVD LAKE MARY, FL 32746	DEAN HATFIELD	(919)302-1178
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Prequalified Types of Work: 2.0 3.1 3.2 3.3 4.1.1 4.1.2 4.2.1 4.2.2 4.3.1 4.3.2 5.4 6.1 6.2 7.1 7.2 7.3 10.1 10.3 10.4 11.0 13.3 13.4 13.5 13.6 FBE006202

Email from Mr. Robert Robertson
of FDOT to Mr. Dan Walsh of
NTSB dated February 22, 2019.

Walsh Daniel

Subject: FW: FDOT responses to comments made to the Chairman's Factual Report
Attachments: LB prequalification web issue.docx

From: Robertson, Robert [REDACTED]
Sent: Friday, February 22, 2019 8:40 AM
To: Walsh Daniel [REDACTED]
Cc: Johnson, Latasha [REDACTED]; Fenniman, Erik [REDACTED]; Drummond, Courtney [REDACTED]
Subject: RE: FDOT responses to comments made to the Chairman's Factual Report

Dan, attached is FDOT's comments as requested concerning prequalification of Louis Berger.

Robert V. Robertson, Jr., P.E.
State Structures Design Engineer
605 Suwannee St., MS 33
Tallahassee, Fl. 32399-0450
[REDACTED]

Was Louis Berger listed on FDOT's website as prequalified by FDOT for work type 4.3.1 – Complex Bridge Design Concrete as shown in "Attachment – FDOT Prequal Website Louis Berger 2.pdf"?

- The attached printout is not dated. The Department is unaware if FIGG relied on the attachment during this project. Pursuant to your request, the Department reviewed its website and confirmed that at some point prior to January 2016, it appears the Louis Berger Group, Inc. was listed on the Department's website-generated prequalification report for 4.3.1, Complex Bridge Design-Concrete due to a technical error processing the Department's physical records into the website generated report. The Department's physical records confirm Louis Berger Group, Inc. did not submit an application for Work Type 4.3.1 and the Department did not issue a prequalification letter to Louis Berger Group, Inc. for Work Type 4.3.1 during this period. Louis Berger at all times would have known what work type prequalification it had applied for and what the Department approved.

What is the purpose of the website and can it be used by consultants to determine the qualifications for procuring an Independent Peer Review as stated in FIGG's comments?

- The purpose of the website is informational, but it is not a substitute for due diligence in consultant teaming. The best source for a consultant to determine the qualifications for procuring an Independent Peer Review is the Department's prequalification letter. Further, prequalification in a particular Work Type by itself is not the only consideration for consultant teaming. Experience relative to the particular project and structure type should also be weighed when procuring an Independent Peer Review. The ultimate burden of identifying work type capabilities is with the firm performing the work.

Email from Ms. Latasha Johnson
of FDOT to Mr. Dan Walsh of
NTSB dated February 27, 2019.

Walsh Daniel

Subject: FW: FDOT responses to comments made to the Chairman's Factual Report

From: Johnson, Latasha [REDACTED]
Sent: Wednesday, February 27, 2019 5:41 PM
To: Walsh Daniel [REDACTED]
Cc: Robertson, Robert [REDACTED]; Drummond, Courtney [REDACTED]; Byron, Tom [REDACTED]; Fenniman, Erik [REDACTED]
Subject: FDOT responses to comments made to the Chairman's Factual Report

Mr. Walsh,

In response to your request, please see attached comments from the Department.

Kind regards,

Latasha N. Johnson
Special Counsel
Florida Department of Transportation
Office of the General Counsel
605 Suwannee Street, MS 58
Tallahassee, Florida 32399-0450

[REDACTED]



For the signature pedestrian bridge, FDOT would require the independent peer review firm be qualified under work type 4.3.1 Complex Bridge Design – Concrete. The signature pedestrian bridge was a complex truss bridge requiring unique analytical methods. According to FDOT records from 2013 through the present, neither Louis Berger U.S., Inc., nor its predecessor, Louis Berger Group, Inc., was ever qualified under 4.3.1 Complex Bridge Design – Concrete. FDOT’s physical records indicate that Louis Berger Group, Inc. applied for Work Type 4.3.1 in 2013, and the FDOT did not approve the application. Neither Louis Berger Group, Inc. nor Louis Berger U.S., Inc. submitted an application for Work Type 4.3.1 subsequent to 2013, and the firm did not receive a prequalification letter for Work Type 4.3.1 during this period.

At the time of procuring the Independent Peer Review (IPR), the FDOT website listed Louis Berger as prequalified by FDOT for work type 4.3.1 – Complex Bridge Design Concrete (See “Attachment - FDOT Prequal Website Louis Berger 1.pdf” and Attachment - FDOT Prequal Website Louis Berger 2.pdf”). Subsequently, Louis Berger confirmed to FIGG via email from Jamey Barbas to Dwight Dempsey on July 6, 2016 (see FCA 6.5-4 and 6.5-5) that they were prequalified by FDOT for work type 4.3.1 – Complex Bridge Design Concrete.

The “Attachment - FDOT Prequal Website Louis Berger 2.pdf” is undated, so it is unclear when the printout was downloaded from the FDOT website. At the request of NTSB investigators, FDOT reviewed its website and confirmed that it appeared the Louis Berger Group, Inc. was at one time listed on the Department’s website-generated prequalification report for 4.3.1, Complex Bridge Design-Concrete due to a technical error processing the Department’s physical records into the website generated report.

The purpose of the FDOT website was informational and should not have been used as a substitute for due diligence in consultant teaming. The best source for a consultant to determine the qualifications for procuring an Independent Peer Review is the Department’s prequalification letter. Further, prequalification in a particular Work Type is not the only consideration for consultant teaming. Experience relative to the specific project and structure type should also be weighed when procuring an Independent Peer Review. The ultimate burden of identifying work type capabilities is with the firm performing the work.

While a third-party may not have been aware of the actual prequalifications held by Louis Berger, the Louis Berger firm at all times would have known which Work Type prequalifications the firm held. Louis Berger lost their qualification for work type 4.2.1 Major Bridge Design – Concrete on December 30, 2016 due to several of the required qualifying staff no longer being with the firm. Prior to Louis Berger losing their qualification on December 30, 2016, the firm was qualified to perform work for FDOT under work type 4.2.1 Major Bridge Design – Concrete. According to FDOT, even though Louis Berger was qualified to perform work under 4.2.1 Major Bridge Design – Concrete prior to December 30, 2016, the qualification for 4.2.1 Major Bridge Design – Concrete was not appropriate for the signature pedestrian bridge.

Email from Mr. Robert Robertson
of FDOT to Mr. Dan Walsh of
NTSB dated March 13, 2019.

Walsh Daniel

Subject: FW: Final party member submissions received on 3-8-19

From: Robertson, Robert [REDACTED]
Sent: Wednesday, March 13, 2019 7:04 AM
To: Walsh Daniel [REDACTED]
Subject: RE: Final party member submissions received on 3-8-19

Dan we have rewritten the subject sentences and recommend the following:

The purpose of the FDOT website is informational and is not intended to be used as a substitute for due diligence in consultant teaming. The FDOT issues a prequalification letter to prequalified consultants detailing the specific work types for which prequalification has been approved. To verify the prequalification status of potential peer review firms, consultants may request the prequalification letter directly from the firm being considered for peer review services, or from the FDOT. Prequalification in a particular.....

As a side note concerning Figg's suggestions, the claim that the Technical Proposal deviated from the peer review requirements in the RFP and the proposal was accepted does not relieve the DB Team from meeting the requirements. This is true of any and all requirements unless specifically called out and specifically accepted by the owner.

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[REDACTED]