

**Submission  
No 103**

## **INQUIRY INTO THE BUILDING THE EDUCATION REVOLUTION PROGRAM**

**Organisation:** F.E. Marsh & Co Pty Ltd

**Name:** Mr Allen Marsh

**Date received:** 9/06/2010

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# F.E. MARSH & CO PTY LTD

ABN 30 000 914 741

MASTER BUILDERS - GENERAL CONTRACTORS



ADDRESS ALL MAIL TO:

BUILDERS LICENCE NO. 7572  
A.L. MARSH LICENCE NO. Q4282

TELEPHONES:

OFFICE:

FAX:  
EMAIL: 1

2nd June 2010

The Director,  
General Purpose Standing Committee No.2,  
Legislative Council,  
Parliament House,  
Macquarie St.,  
SYDNEY, NSW 2000

Dear Sir,

RE: B.E.R. Program

We advise that we have been dissatisfied with the implementation of this scheme on the North Coast and enclose all correspondence on the matters we have raised.

Yours faithfully,  
F. E. MARSH & CO. PTY. LTD.

  
A. L. MARSH

Copy to : Thomas George



# F.E. MARSH & CO PTY LTD

ABN 30 000 914 741

MASTER BUILDERS - GENERAL CONTRACTORS



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BUILDERS LICENCE NO. 7572  
A.L. MARSH LICENCE NO. Q4282

TELEPHONES:

PHONE NO:  
OFFICE:

FAX: (02) 6632 2155

1<sup>st</sup> June 2010 EMAIL: fe\_marshall@bigpond.net.au

FAXED  
2.6.10

N.S.W. Integrated Program Office,  
Level 10, 151 Clarence Street,  
SYDNEY, N.S.W. 2000

COPY

Attention Mr. Angus Dawson

Dear Sir,

RE: B.E.R. Program

We refer to your letter of 4.5.2019 concerning the above program and respond as follows.

Regarding the pre-purchase of frames and trusses, your conclusion that this strategy did not reflect a breach of the tendering process is noted, however we strongly disagree with this view. It is clear that the Reed Group never intended to proceed with the award of a lump sum tender notwithstanding this was the basis on which tenders were called. They stated this in their letter of 26.11.2009, third last paragraph that says, "these costs were then deducted from all successful tenderer's prices". This information should have been available to us at the time of tendering, as it would have influenced our decision to either proceed with tendering or concentrate our resources on other projects.

The N.S.W. Government "Code of Practice for Procurement" under clause 4, Standards of Behaviour states that parties will conduct procurement with honesty and fairness and that parties shall not seek tenders without a firm intention and capacity to proceed with a contract. It is plainly obvious that we were wasting our time pricing items such as windows, trusses, frames, cladding, air-conditioning and furniture as these were going to be supplied by the managing contractor. We should have been notified of this proposal at time of tender.

We remain of the view there has been a breach of clause 4.

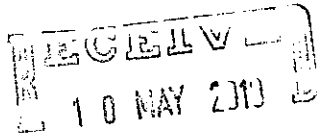
Regarding notification of tender result. We totally reject Reed's assertion that we were notified of the tender result by phone. If this were the case they should be able to produce evidence of the notification, such as phone records.

Please contact me if you require any further clarification.

Yours faithfully,  
F. E. MARSH & CO. PTY. LTD.

  
A. L. MARSH

F E Marsh & Co Pty Ltd



BY:-----

DOC:10/65366

Dear Mr Marsh

We confirm that a copy of your correspondence to the Federal Member for Page, Ms Janelle Saffin has been received by this office.

We have conducted independent enquiries into the matters raised by you for projects NC-CAS-5166 and NC-GW-BDR4 managed by the Reed Group.

The most serious aspect of your complaint from our perspective was that there were indications that the integrity of the tendering process could have been compromised.

From our enquiries, we are satisfied that the order for the timber frames that you refer to in your letter was made by The Reed Group as part of a pre-purchase strategy. It did not reflect any breach in tendering guidelines or the Code of Practice for Procurement.

With respect to the lack of notification of the tender outcomes, The Reed Group could not provide the BER IPO with evidence that it had formally notified you of the outcome, but have indicated that this was undertaken by phone. *NO,*

Following our enquiries, The Reed Group has given us written assurance that they will take steps to improve their process for providing advice to unsuccessful tenderers.

Regardless of these results, I have now directed the Governance Unit of the BER IPO to conduct a specific review of the projects for which you raised concerns. This will be a detailed audit into the integrity of the tendering process and the results achieved.

We appreciate the time and effort involved with preparing a tender for the BER works, and hope this incident does not deter you in participating in further rounds of pricing.

Yours sincerely

A handwritten signature in black ink, appearing to be "Angus Dawson", written over a horizontal line.

Angus Dawson  
BER Program Director

4 May 2010



# F.E. MARSH & Co PTY LTD

ABN 30 000 914 741

MASTER BUILDERS - GENERAL CONTRACTORS

BUILDERS LICENCE NO. 7572  
A.L. MARSH LICENCE NO. Q4282



OFFICE:

TELEPHONE:

(02)

FAX: 1

EMAIL:

DATE: 4.3.10

**FAXED**

NO. OF PAGES: 6

RE.: BER. PROGRAM  
~~XXXXXXXXXXXXXXXXXXXX~~

TO: ANGUS DAWSON, I.P.O. PH. ....

FROM: ALLAN MARSH

MESSAGE: *In response to your request I hereby enclose all correspondence relating to our complaint.*

*Regards,  
A. Marsh.*



# F.E. MARSH & Co PTY LTD

ABN 30 000 914 741

MASTER BUILDERS - GENERAL CONTRACTORS

BUILDERS LICENCE NO. 7572  
A.L. MARSH LICENCE NO. Q4282



PO BOX 4

OFFICE:

TELEPHONE:

(02)

FAX:

EMAIL:

DATE: 7.12.09

NO. OF PAGES: 2

**FAXED**  
7.12.09

RE.: GOVERNMENT BER. PROGRAM  
[REDACTED]

TO: JANELLE SAFFIN, THOMAS GEORGE, BRIAN SEIDLER

FROM: ALLAN MARSH

MESSAGE: We enclose our response to the  
LEED GROUP'S letter of 26.11.09.  
Unfortunately there has been a very  
poor outcome for us with regard to  
this scheme.

Regards,

A. Marsh.



# F.E. MARSH & CO PTY LTD

ABN 30 000 914 741

MASTER BUILDERS - GENERAL CONTRACTORS



ADDRESS ALL MAIL TO:

BUILDERS LICENCE NO. 7572  
A.L. MARSH LICENCE NO. Q4282

TELEPHONES:

OFFICE:

FAX: 1

4<sup>th</sup> December 2009

**FAXED**  
7.12.09

The Reed Group,  
PO Box 6396,  
NORTH SYDNEY, NSW 2060

Attention Mr. C. Andrews

Dear Sir,

WE have received your letter of 26.11.09 and respond as follows.

1. Your assurance that you are following the Code of Practice is noted however the facts, and your own admission, contradict this statement. In our view the following breaches have occurred:
  - a. **Clause 5.2**, final paragraph states, "clients should advise tenderers they have been unsuccessful". We only received belated formal notification on 4.12.09, nine weeks after the submission of the tender.
  - b. **Clause 4**, "Standards of Behaviour" refers to 'honesty & fairness' and 'intention to proceed'. With regard to the Rukenvale, Collins Creek, Wiangaree, Urbenville and The Risk schools we were requested to submit a lump sum price for each school and were unaware that you intended to deduct major material items from the contract. Had we known of your intention we would not have wasted both our sub-contractors and our own time in pricing the projects. The preparation and submission of this tender in a very short time frame involved a lot of people traveling to five separate locations from as far away as Casino, Lismore and Ballina. Your firm is clearly in breach of Clause 4.
2. Your statement that James Burson contacted us to discuss the outcomes of the tenders is incorrect. In both cases I contacted your office to obtain a result of our tender.
3. Your wish that we persist with pricing these school projects is noted however, in view of the shoddy treatment we have received our interests would be better served pricing alternative work.

Yours faithfully,  
F. E. MARSH & CO. PTY. LTD

  
A. L. MARSH

c.c. Janelle Saffin, Thomas George, Brian Seidler



The Reed Group  
Level 3, 41 McLaren Street,  
North Sydney NSW 2060  
PO Box 6395, North Sydney NSW 2060

T 02 9965 0399  
F 02 9955 8812  
info@reedgroup.com.au  
www.reedgroup.com.au

04 December 2009

F.E. Marsh & Co Pty Ltd

Attention: Allen Marsh

Dear Allen,

**SUBJECT: CASINO WEST PUBLIC SCHOOL**

Thank you for your tender in regards to the "Building the Education Revolution" Project, in particular Casino West Public School. We appreciate your considerable time and effort compiling your submission.

We regretfully advise, that on this occasion, your bid has been unsuccessful.

We look forward to retaining your details for any future projects and trust in your willingness to assist in the securing of further works in the region.

Again, thank you for your efforts and we look forward to any future working relationships.

If you have any queries, please do not hesitate to contact us.

Yours Sincerely  
**Reed Constructions Australia Pty Ltd**

James Burson  
Contracts Manager





The Reed Group  
Level 3, 41 McLaren Street,  
North Sydney NSW 2060  
PO Box 6395, North Sydney NSW 2060

T 02 9965 0399  
F 02 9955 8812  
info@reedgroup.com.au  
www.reedgroup.com.au

04 December 2009

F.E. Marsh & Co Pty Ltd

Attention: Allen Marsh

Dear Allen,

**SUBJECT: UNSUCCESSFUL TENDER  
Rukenvale, Collins Creek, Wiangaree, Urbanville and The Risk**

Thank you for your tender in regards to the "Building the Education Revolution" Project, in particular Rukenvale, Collins Creek, Wiangaree, Urbanville and The Risk Public School. We appreciate your considerable time and effort compiling your submission.

We regretfully advise, that on this occasion, your bid has been unsuccessful.

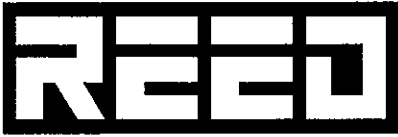
We look forward to retaining your details for any future projects and trust in your willingness to assist in the securing of further works in the region.

Again, thank you for your efforts and we look forward to any future working relationships.

If you have any queries, please do not hesitate to contact us.

Yours Sincerely  
Reed Constructions Australia Pty Ltd

James Burson  
Contracts Manager



The Reed Group  
Level 3, 41 McLaren Street,  
North Sydney NSW 2060  
PO Box 6395, North Sydney NSW 2060

T 02 9965 0399  
F 02 9955 8812  
info@reedgroup.com.au  
www.reedgroup.com.au

26 November 2009

Mr Allen Marsh  
F.E Marsh & Co Pty Ltd

RECEIVED  
30 NOV 2009  
BY: \_\_\_\_\_

CC: Ms Janelle Saffin, Federal Member for Page  
Mr Thomas George, State Member for Lismore  
Mr Brian Seidler, Executive Director of the MBA NSW

Dear Sir,

I am writing in response to your letter of the 16<sup>th</sup> of November concerning The Reed Group's implementation of the tendering process.

The Reed Group was appointed in April this year as Managing Contractor for the North Coast and New England for Building The Education Revolution program works. In our role as MC, we are responsible for delivering new facilities to 336 schools.

As Program Director I want to assure you personally that at all times we are following the NSW Government code of practice for procurement and have been audited by ICAC to confirm The Reed Group's processes are in accordance with these guidelines.

With the speed and sheer volume of correspondence required to deliver this project, we have experienced some minor glitches and after speaking with my Contracts Manager James Burson, it would appear in this instance that we have omitted to send you the letters to confirm that you were unsuccessful in the tender process on the two packages you identified in your letter.

On behalf of The Reed Group and my team you have my unreserved apology for this oversight.

James did however indicate that in respect of both tenders he had called you to discuss the outcomes and go through the details of your submissions for both.


I can confirm that Rukenvale, Collins Creek, Wiangaree, Urbenville and the Risk schools were very small in scale and scope and it became apparent from the tendering process that only very small companies could achieve tenders low enough with minimal preliminaries and overhead to allow these schools to proceed within the Commonwealth budget allocations.

All BDR tenders were issued on the basis of being priced on a labour, plant and materials basis however the Federal Government has directed that all Managing Contractors must complete all Round 2 BDR's by the end of February 2010. Following this direction, as Program Director I made the decision to pre-purchase selected items of materials that could possibly delay the finish times due to a restriction in supply like windows, trusses and frames, colorbond cladding, air-conditioning units and furniture. These costs were then deducted from all successful tenderers prices.

Many of the contractors who were successful on the first and second round of tenders are now fully engaged and busy constructing works and I would therefore sincerely hope that you persist with pricing some of the schools that are now being issued to the market.

Should you have any further queries I welcome a discussion with you to give some feedback on your previously submitted tenders at any time.

Yours sincerely



**Christopher Andrews**  
**Program Director NSW BER Works**  
**The Reed Group**

**Boud**

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**From:** Duncan, Lee (J. Saffin, MP) [I  
**Sent:** Monday, 23 November 2009 3:24 PM  
**To:** marshandco.  
**Subject:** BER tender process

Dear A.L Marsh,

Further to our conversation last week regarding your faxed complaint about the BER tender process, Janelle has asked me to pass on to you that she takes your concerns very very seriously. The matter has been referred to state and federal ministers and to Reeds.

Warm regards,

*Lee Duncan*

*Media Adviser*

*Office of Janelle Saffin MP*

*Member for Page*



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ABN 30 000 914 741

MASTER BUILDERS - GENERAL CONTRACTORS

BUILDERS LICENCE NO. 7572  
A.L. MARSH LICENCE NO. 04282



TELEPHONE:  
(02) 1  
FAX:  
EMAIL:

OFFICE:

16.11.09  
Ms. Janelle Saffin  
Federal Member for Page  
63 Molesworth Street  
Lismore NSW 2480

FAXED

Dear Madam,

Re.: Federal Government B.E.R. Scheme

We wish to express our serious concern with the method of implementation of this scheme in the North Coast Region.

By way of background our company has been involved in the local building industry for 55 years, specialising in commercial work such as schools, hospitals, nursing homes etc.

During this time we have trained well over 100 apprentices, many of whom have gone on to form their own business.

It is our understanding that the B.E.R. scheme was designed to stimulate the economy and support local building contractors.

Our areas of concern are as follows:

1. Project NC-CAS-5166, Casino West Public School: We received a "request to tender" from the managing contractor and submitted our tender on 30.9.09. We have not, as yet, received formal notification of the result of our tender. Our initial verbal enquiries indicated that we may be in the running for the job, however we observed a Queensland based company delivering materials to the site. Subsequent verbal inquiries indicated that we were unsuccessful.

2. Project NC-GW-BDR4, Rukenvale, Collins Creek, Wiangaree, Urbenville and The Risk Public Schools.

Our firm submitted a tender for these projects on 3.11.09. Again we have not, as yet, received any formal response however verbal enquiries indicate that we were unsuccessful. Advice from one of the major local suppliers indicated that an order for timber frames and trusses had been placed by the managing contractor prior to the submission of our tender.

This raises questions about the integrity of the tendering process and whether we are just providing a "check price" for the project.

It is our understanding that the tendering process was to be conducted generally in accordance with the NSW Government code of practice for Procurement. We do not believe this has been the case for the above projects.

It is an expensive exercise to prepare a competitive tender and we will therefore review our involvement in the scheme in the light of the above issues.

Yours faithfully,  
F.E. MARSH & CO. PTY. LTD.

A.L. Marsh

c.c. Mr. Thomas George, member for Lismore  
c.c. Mr. Brian Seidler, Executive Director M.B.A. of N.S.W.