CASE STUDY #482



CASE STUDY: "WATER INFRASTRUCTURE CONTRACTING"

"The expert report and analysis data made it clear that the client's terms and conditions applied, which means there was limited liability for liquidated damages. This effectively won the case." -- Client



ABOUT THE CLIENT	
Industry	Water Treatment
Revenues	$450 billion
Employees	180,000
Location	Germany
BSI Service or Solution	Contracting Advisory

Key Challenges

- Plant failure, including a major destructive fire.
- Lawsuit from customer and partner in the construction project.
- Conflicting terms and conditions in numerous contracts between the parties.
- Unclear the extent to which certain established and known company policies, procedures and communications were considered part of the contract.
- Unclear whether a link to terms and conditions had the same weight as printed terms and conditions.

Why Boston Strategies was Selected

- Extensive history of working with clients in all aspects of the water treatment industry.
- Expertise and reputation for negotiating long-term and complex contracts.
- Academic and professional experience on which to judge disputed gray areas that are not explicit.

Project Scope

- Belt Dryer
- Sludge Storage Bin
- Odor Control System
- Extruder
- Installation
- Maintenance

Project Approach

- Boston Strategies analyzed and provided an expert opinion, based on our background and experience in procurement and supply chain management, as to which terms and conditions should apply to the transaction between the client, its related companies that supplied key components, the EPC firm, and the municipality.
- The analysis considered the nature of the relationships between the parties, the validity of the contracts themselves, and clauses especially as relates to payment terms, liquidated damages, and liability.

Operational Benefits Realized

- Clarity around contracting terms for the future, given that the parties were related and needed to continue to do ongoing business together.

Financial Benefits Realized

- $2 million original purchase price at stake
- $3 million of remediation fees
- $1-2 million of legal fees