

EAST RENFREWSHIRE COUNCILCabinet11 May 2023Report by Director of EnvironmentEXTERNAL WALL INSULATION CONTRACT VARIATION**PURPOSE OF REPORT**

1. The purpose of this report is to advise of a breach in Contract Standing Orders and request that the required variation be approved by Cabinet retrospectively.

RECOMMENDATIONS

2. The Cabinet is asked to note a breach in Contract Standing Orders and approve that the required variation be approved by Cabinet retrospectively.

BACKGROUND

3. As Social landlords local authorities require to ensure their housing stock meet the Scottish Housing Quality Standard (SHQS) and Energy Efficiency Standard for Social Housing (EESH) targets.

4. The Roof and Render Renewal programme are part of the Council's investment plan to meet SHQS and EESH.

5. The Council procured a one-year contract via a tender exercise for External Wall Insulation (EWI) and Roof Installation. The contract was tendered on Public Contracts Scotland in September 2021 and awarded in December 2021. In previous years, the tender has been issued with a request for contractors to provide a cost per property. However, in 2021/22, the project was tendered using a Bill of Quantities. This is a methodology that is new to the service. This methodology was adopted as the new PAS 2035 standard (see paragraph 8) was forthcoming but given that the detail of the standards was partially unknown to the service and a lack of in-house expertise it was felt that a bill of quantities approach was a better approach.

6. A Bill of Quantities is a document that incorporates details of materials, labour and other work requirements, with estimated quantities for each. These materials, labour and work requirements are itemised alongside estimated quantities. The contractor then prices the bill for tendering purposes.

7. The contract was led by Property and Technical Services (PATS) on behalf of the client (Housing Services).

8. A new standard PAS 2035 for retrofitting dwellings for improved energy efficiency was subsequently published by the Scottish Government on 27 January 2022.

9. The new standard contains additional requirements:
- the need to carry out air leakage testing;
 - additional works to external meters and pipework to prevent coldspots or thermal loss;
 - introduction of mandatory mechanical ventilation (i.e. extractor fans);
 - SWIGA Guarantee (Solid Wall Insulation Guarantee Agency) - Independent body required to provide guarantee to social landlords; and
 - Trustmark Certification.
10. The new standard comes with significant benefits to homes and their occupants as it provides improved air tightness in the homes, which makes them more energy efficient, especially at this crucial time where energy costs are rising. The Housing Service was aware of these forthcoming standards and many of the elements were incorporated into the contract.
11. The contract was awarded to Procast Building Contractors Limited on 6 December 2021 with a contract value of £1,790,350. The contract was expected to run for 36 weeks from commencement date and be completed by August 2022.
12. This contract, out of the three tenders returned, provided the most economically advantageous tender after the technical and commercial evaluation.

REPORT

13. As noted at para 11 the contract value was for £1,790,350. However as at 23 March 2023, the work certified totalled £2,063,700. The final account is still to be settled and is estimated to be a total of £2.2m, this is an overspend of £409,650 (23% of contract value). Budgetary provision was made and this was reported to Cabinet on 1st December 2022 in the Housing Capital Programme update.
14. Contract Standing Orders 14 states that the contract value may, if necessary, be routinely extended by a sum no more than 15% (in the case of contracts for works), provided the appropriate authorisation route as outlined below is complied with.
15. It further states that all variations greater than £100,000 must be reported to Cabinet for approval prior to the variation being instructed. If the variation is urgently required, approval may be given by two members of Cabinet. In that case, the variation should be reported to full Cabinet as soon as practicable after such approval.
16. In this instance, Contract Standing Orders were not complied with as the required approval to vary the contract was not sought and obtained in advance from Cabinet.
17. A number of errors occurred with the management of this contract in particular in relation to the financial monitoring of spend against contract sum. The unit costs per property were unknown at the beginning of the contract and should have been established as soon as possible. The number of properties passed to the contractor could have been more closely monitored until the costs were known. The number of properties the contractor was working on determined the final contract sum. As such an over commitment occurred before the probable outturn was established. This meant that the value of the contract was exceeded without the necessary permissions to exceed spend being obtained. The fact that this was a bill of quantities contract and a new methodology exacerbated these difficulties.

18. As a consequence of this error, a review of procedures and working practices has been undertaken. In particular, more regular monitoring of contract spend against budget will be carried out from hereon to ensure that prompt appropriate action is taken to identify potential overspends and prevent them occurring. In addition, a range of other control checks have been implemented.

19. Furthermore additional staffing resources are being sought to increase capacity for additional contract scrutiny and monitoring. In addition, training on Contract Standing Orders has been delivered to staff.

20. When the contract overspend was identified, the Chief Executive referred the matter to the Chief Auditor for review. A report has been prepared with several recommendations.

FINANCE AND EFFICIENCY

21. As noted at paragraph 19 a senior Quantity Surveyor will be recruited to provide additional resources for scrutiny and contract monitoring in the future. This will be funded via the PATS fee that is charged for the delivery of capital projects. An existing post is vacant in the structure.

22. It is important to note that the Procurement team carried out a best value comparison with other Councils to establish the contractor's costs for similar projects and these costs were still found to be comparable.

CONSULTATION

23. No consultation has been required for the preparation of this report.

PARTNERSHIP WORKING

24. Assistance from the Council's Procurement team has been provided in the preparation of this report.

IMPLICATIONS OF THE PROPOSALS

25. There are no climate change, equality or sustainability implications associated with this report.

CONCLUSIONS

26. The contract value for Roofing and External Wall Insulation (EWI) was for £1,790,350 and was awarded on 6 December 2021 to commence on 13 December 2021. As at 23 March 2023, the work certified totalled £2,063,700. The final account still to be settled is estimated to be a total of £2.2m, this is an overspend of £409,650 (23% of contract value). Despite this, the contract still represented best value.

27. Regrettably in this instance the appropriate mechanisms to approve overspend of the contract value were not adhered to and therefore retrospective permission for the overspend is sought. Procedures have been reviewed to ensure that this error is not repeated.

RECOMMENDATIONS

28. The Cabinet is asked to note of a breach in Contract Standing Orders and approve that the required variation be approved by Cabinet retrospectively.

Director of Environment

Further information can be obtained from Phil Daws, Head of Environment (Strategic Services) 0141 577 3186 or phil.daws@eastrenfrewshire.gov.uk

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