

EAST RENFREWSHIRE COUNCIL
AUDIT AND SCRUTINY COMMITTEE

10 August 2023

Report by Clerk

INTERNAL AUDIT REPORT ON EXTERNAL WALL INSULATION
AND ROOFING CONTRACT

PURPOSE OF REPORT

1. To submit for consideration the Internal Audit report prepared on the External Wall Insulation and Roofing Contract and associated management response.

RECOMMENDATION

2. It is recommended that the Committee considers the report.

BACKGROUND

3. When the [Internal Audit Progress Report for January to March 2023](#) was submitted to the Committee on 11 May 2023, the Chief Auditor highlighted reference within it to Internal Audit work carried out on a significant contract overspend in relation to the External Wall Insulation and Roofing Contract. At the meeting it was confirmed that, as recommended by Internal Audit, a report on the [External Wall Insulation and Roofing Contract Variation](#) had been submitted to the Cabinet earlier that day. That recommendation was one of thirteen made in the Internal Audit report, seven of which were classified as high risk, four as medium risk and two as low risk. As reflected in the Internal Audit Progress Report, all of the recommendations made were accepted by management for implementation.

4. Following discussion on the report at the Audit and Scrutiny Committee meeting in May as reflected in the [Minute](#) of that meeting, it was agreed that the Internal Audit report be circulated to members of the Committee for their review at that stage, with a view to them determining if any further action required to be taken on contract related issues raised within it. It was also noted then that time had already been allocated within the 2023/24 Internal Audit Plan to consider some other contract issues and also for contingency work if required.

5. Following circulation of the Internal Audit report, feedback received reflected that there was a wish to discuss it further at a formal meeting of the Committee. Accordingly, a copy of the report is attached for consideration (see Appendix 1). The Head of Housing, Property and Climate Change has been invited to attend the meeting.

RECOMMENDATION

6. It is recommended that the Committee considers the report.

Local Government Access to Information Act 1985

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Background Papers:-

1. Audit and Scrutiny Committee - 11 May 2023 - Internal Audit Plan Progress Report 2022/23 - Quarter 4
2. Cabinet - 11 May 2023 – Report on External Wall Insulation and Roofing Contract Variation

**REPORT ON REVIEW OF EXTERNAL WALL INSULATION
AND ROOFING CONTRACT**

<u>Contents</u>	<u>Page No</u>
Introduction	1
Scope	1
Background	1
General Conclusion	1
Findings & Recommendations	2-7
Action Plan	8-10

Chief Auditor
CC119MB
3 February 2023

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REPORT ON REVIEW OF EXTERNAL WALL INSULATION AND ROOFING CONTRACT

1. INTRODUCTION

On 25 October 2022, the Chief Executive contacted Internal Audit to notify concerns over significant overspend on the External Wall Insulation and Roofing Contract. Audit agreed to carry out an initial investigation and analysis of the information provided to them. At that point it was thought the overspend was in the region of £620k against a contract value of £1.8 million. As at 17 January 2023, the overspend is £217k with total gross value of certified spend of £2 million. There was also concern that contract standing orders had not been complied with.

2. SCOPE

The scope of the audit investigation included reviewing the following areas:

- Reporting of variations and compliance with Contract Standing Orders
- Valuation certificates and the supporting documentation
- Financial monitoring of the contract

3. BACKGROUND

- 3.1 The contract was lead by PATS on behalf of the client (Housing) to enable external wall insulation and roofing works to be carried out on a number of council owned properties. A list of 126 properties was included in the tender pack.

A new standard PAS 2035 for retrofitting dwellings for improved energy efficiency was published on 27 January 2022 following a public consultation which started in August 2021 and ended in November 2021. The contract was awarded in December 2021. The tender documentation included references to PAS 2035 additions. It should be noted that at the point of awarding the contract, it was known that compliance with PAS 2035 would likely be more onerous and costly to implement than previous similar contracts.

The assistance and co-operation provided by Environment staff during the investigation is gratefully acknowledged.

4. GENERAL CONCLUSION

Key points are as follows:

- Breach of Contract Standing Orders
- Inadequate financial monitoring of the contract
- Unrealistic quantities used in tender document
- Key items omitted from tender document resulting in variations

Whilst there is scope for improvement in a number of areas relating to the management of this contract, PATS have already acknowledged some of these and have started taking steps to improve future tenders.

5. FINDINGS AND RECOMMENDATIONS**5.1 Compliance with Contract Standing Orders**

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 4 January 2023, work certified totals £2,007,305 (valuation certificate 13) which is £216,954 (12% of contract value) overspent.

Contract standing orders 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.

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.

In this instance, contract standing orders have not been complied with.

In addition, senior management and members of CMT were not informed of the potential and actual overspends until the end of October 2022 even though concerns regarding the contract were apparent earlier than this within the Environment Department.

Recommendation

5.1.1 A report should be submitted to Cabinet as soon as possible advising of the breach in contract standing orders and requesting that the variation can be approved retrospectively.

5.1.2 It is essential that senior management are informed immediately of any concerns regarding contracts so that adequate monitoring of the situation is put in place and appropriate remedial action can be taken promptly if required.

5.2 Tender Specification Document

The contract was tendered on the basis of Design and Build with approximate bills of quantities split over the following categories:

- Bill 1 Preliminaries
- Bill 2 Scaffolding
- Bill 3 Roofing
- Bill 4 Render
- Bill 5 EWI render
- Bill 6 Ventilation
- Bill 7 Extract & refill
- Bill 8 Sundries
- Bill 9 Provisional sums

For each bill, all expected components relating to the bill were listed with quantities in the tender document. The contractors bidding for the contract entered values for each component which was then multiplied by the quantity and totalled to provide

a total value. The sum of total values for each bill represented the contract sum. In this case, the winning tender was for a contract sum of £1.79 million.

Quantities were included within the tender document however these were not at realistic levels expected for even a bare minimum number of properties to be covered by the contract.

It is of concern that the quantities within the tender document are unrealistic given this forms the basis of the contract sum and is used to evaluate bidders. An example of this is in bill 7 where a total quantity of 200m² was included for extraction and 200m² for refill but quantities certified exceeded 9,000m² for each of these items. The average number of square metres per property (based on billed amounts) is for 108m² (84 properties). The quantities in the tender document would therefore only have allowed 2 houses to be completed on this basis.

A further example is within bill 5 for EWI. The highest value component within this bill is (page 5, item E) insulation with rendered finish (contractor designed portion) where the tender document estimates a quantity of 3,250 m² priced at £171,948. As at certificate 11, the contractor has charged for 5,970m² at a cost of £315,872.

Recommendation

5.2.1 If a bill of quantities based contract is to be used, realistic quantities must be entered in the bid documentation as this is a key element of the tender evaluation process and unrealistic quantities could impact on which contractor is selected.

5.3 Tender Specification Document – Number of properties

There is some confusion over how many properties were expected to be covered within the contract. A list of 126 properties was provided to bidders as part of the tender document and whilst both Housing and Property and Technical Services (PATS) both indicate that they did not expect this number of properties to be completed within the budgeted contract sum of £1.79 million, they are unwilling or unable to indicate to Audit how many properties they expected to be completed. Based on the tender documents issued, it is not unreasonable for a prospective bidder to have thought the contract was for 126 properties even though the quantities within the bills would not have supported this as explained in the point above.

In the contract strategy document (dated September 2021), section 1, it is indicated that a full list of addresses will be made available with the tender documents. It is further noted within section 2.9 under lessons learned from previous procurement exercises, it is stated “*ensure correct number of property provided upfront to save duplicating procurement exercises*”. The list made available with tender documents is 126 properties per note above.

PATS provided Audit with a document that indicated previous works for EWI had an average property cost of £14,634. On this basis, 123 properties could have been completed within the £1.79 million contract sum.

The same document indicates that at tender stage, the anticipated cost per property would rise to £19-23k due to additional PAS 2035 requirements. On this basis, at tender stage it was anticipated that between 78 and 94 properties could have been completed within the £1.79 million contract sum but there was nothing included in

the tender documentation to indicate that this number of properties were anticipated to be completed.

There is a suggestion within email correspondence between PATS and housing that the list of 126 properties was issued even though it was known to be unrealistic due to running out of time to get tender issued.

The contracted sum was exceeded and spend per evaluation certificate (number 11) is £1.9 million, £115k over the contract value and only 54 properties have been completed based on analysis by PATS with a total of 89 properties being worked on or complete as at this point. Valuation certificate 12 is for £2 million, £200k over the contract value but at time of audit, detailed analysis of this was not available.

Recommendation

5.3.1 Bidders should be provided with a clear indication of which properties are to be included within the contract or in the absence of this, details of numbers and types of property expected to be completed.

5.3.2 Tender documents must be accurate and provide realistic information for tenderers and time pressures must not allow this requirement to be overridden.

5.4 Financial Monitoring of Spend against Contract Sum

The contractor submits a detailed excel spreadsheet to support the amounts being claimed for each valuation certificate. This information is provided by individual property and in total and is also detailed by individual lines in each bill of quantity. Property and Technical officers stated that they were unaware of the level of the likely overspend until valuation certificate 5 which was approved on 9 May 22.

Audit disagrees with this because even by certificate 4 in April 2022, 11 properties had spend exceeding £20k (average £26k per property for these) and work had not even been completed on them. At this point, if these amounts were representative, it would have indicated that only about 69 properties or less would be able to have the full scope of work carried out. If detailed financial monitoring had been carried out throughout the contract, by this point, the number of properties should have been reviewed and some removed to ensure budget was not exceeded.

Email correspondence suggests that the client (housing) repeatedly asked for price information and there were unreasonable delays in providing this to them by PATS, even though detailed price information was provided by the contractor with each valuation certificate.

The contract was awarded on 6 December 2021. The contract commencement date was 13 December 21 and the contract was to run for 36 weeks with all works to be completed by 19 August 2022.

PATS has acknowledged that as completed addresses became available, a monthly cost report should have been prepared showing spend in relation to contract sum and in relation to predicted outturn cost and that this was not done.

Recommendation

5.4.1 Regular monitoring of contract spend against budget should be carried out to keep client department fully informed and to ensure that prompt appropriate action is taken to identify potential overspends and prevent them occurring.

5.5 Preliminaries

In the winning tender, the prelims of £343,877 were itemised as individual items and as the contract progressed, a percentage completion was applied to the items on the list. Whilst it is accepted that some of the items would be 100% complete regardless of the number of properties that were completed (for example site accommodation and compound security), there are other items which Audit had assumed would be linked to the number of properties completed and based on the original tender document being issued with a list of 126 properties, would have expected some of the items on the prelims scheduled to be much lower than 100% due to low number of properties which were actually completed under the contract (for example items under the headings of skips and rates and permits) yet many of these have been valued and paid at 100%.

Recommendation

5.5.1 Details should be provided by PATS which shows the evidence obtained to justify the percentage of prelims being applied for items covered under the headings of skips and rates and permits.

5.6 Variations

In total, variations of £105k are included in certificate 12. The bulk of this additional cost was £93k for extending out rafter ends to accommodate the EWI system. This appears to be an additional item required to comply with the new PAS2035 standards. PATS provided a document to Audit which indicated that it was expected at tender stage that the eaves were expected to be extended where required to form the required connection and drip detail between the EWI system and the roof however despite this, it was not included within the tender document within bill 5 for the EWI works.

Emails between Housing and PATS in October 2022 make reference to this omission in the tender document.

In addition, PATS confirmed that variations were verbally agreed on site to be homologated later in official form by Architects Instruction. Variations should be supported by an Employers Agent Instruction (or equivalent) however at the time of the audit, the variations had not been approved formally by the Council.

Recommendation

5.6.1 All tender documents should be reviewed and evidenced as such to ensure that all expected items are included within the bill of quantities to avoid unnecessary contract variations.

5.6.2 All variations in future contracts should be supported by formal Instructions from the Council which are available within a reasonable timescale of the work being carried out.

5.6.3 Architects instructions for variations relating to this contract should be provided to Audit.

5.7 Quantities Charged Against Individual Properties

An analysis was carried out on amounts charged by property by certificate. This showed numerous cases where the amounts allocated against a property and certified and paid were in subsequent certificates reduced in quantity and value. An example of this is property A which has quantities of 110m for each of the

following: roof sarking, roof sloping and pitched covering. In the final bill these quantities were all reduced to 94m. If bills submitted by the contractor are being routinely verified for accuracy and reasonableness, it is not clear why certified amounts would subsequently be reduced by the contractor. There is no evidence that this has been identified by PATS.

Another example is property B where the certified total value at certificate 6 was £28,764 but by valuation certificate 11 the cost had reduced to £22,052. Within individual bills for this property, quantities for individual lines reduced significantly (for example within bills 5 and 7 quantities certified reduced from 139 to 84)

Recommendation

5.7.1 PATS should be able to demonstrate that the quantities certified at each stage of valuation are reasonable and accurate.

5.8 Contractor Remit

To achieve PAS2035 three states of retrofit require to be carried out, namely that of assessor, co-ordinator and designer. The remit of the contractor encompassed all three of these elements in addition to carrying out the work.

In an early pre-tender meeting in July 2021 attended by Housing and PATS, the issue was raised by Housing whether or not it was appropriate for the contractor to be delivering both the retrofit roles and delivery of works and commented that for transparency and compliance it would be more advantageous to have the retrofit roles carried out independently of the main contractor..

There appears to have been little management or monitoring of this contract by the Council and essentially the contractor lead where work was carried out and how many properties were started or in progress at any time. This lack of control by Council staff limited how much the contract costs could be controlled and kept within budget.

It was acknowledged at the initial meeting between Audit and PATS that the ideal way to deliver PAS2035 in future contracts is to employ a retrofit assessor, co-ordinator and designer who will produce a design for each identified house type then tender for the works to be carried out on the basis of these designs.

Recommendation

5.8.1 In future EWI contracts the retrofit roles associated with PAS2035 should be tendered separately from the works contract.

5.9 Form of Contract Used

A Scottish Building Contracts Committee (SBCC) form of contract was used in this instance. There is however a Scotland Excel based contract in place which the council could potentially use to have this work carried out. Lot 1 (NEC based) within the Scotland Excel contract covers energy efficiency retrofit project roles of designer, co-ordinator and assessor and managing agent. Lot 2 covers building fabric measures including external wall insulation and finishes. The successful contractor who carried out the work for the Council is also listed as one of 17 contractors within the Scotland Excel contract for lot 2. The two unsuccessful bidders are also included within this lot in the contract. It should be noted that various forms of contract are available for use under lot 2, namely:

- NEC4 Engineering and Construction Short Contract June 2017 (as amended January 2019 and October 2020)
- SBCC Minor Works Building Contract for use in Scotland 2016 edition

- NEC4 Term Service Short Contract June 2017 (as amended January 2019 and October 2020) and
- SBCC Standard Building Contract with quantities for use in Scotland 2016 Edition.

Procurement have confirmed that training on NEC contracts was provided to PATS staff on two separate occasions since July 2021. Relevant staff did not all attend this training despite being invited. Prior to this, training was delivered in 2015. Despite this, PATS are of the view that they have only had introductory training on NEC contracts and that it was not detailed enough and will now be out of date.

Recommendation

5.9.1 The Scotland Excel contract should be considered for use for future EWl, roof and render works.

Chief Auditor
3 February 2023

ACTION PLAN

Risk Ratings for Recommendations	
High	<ul style="list-style-type: none"> • Key controls absent, not being operated as designed or could be improved and could impact on the organisation as a whole. • Corrective action must be taken and should start immediately.
Medium	<ul style="list-style-type: none"> • There are areas of control weakness which may be individually significant controls but unlikely to affect the organisation as a whole. • Corrective action should be taken within a reasonable timescale.
Low	<ul style="list-style-type: none"> • Area is generally well controlled or minor control improvements needed. • Lower level controls absent, not being operated as designed or could be improved
Efficiency	<ul style="list-style-type: none"> • These recommendations are made for the purposes of improving efficiency, digitalisation or reducing duplication of effort to separately identify them from recommendations which are more compliance based or good practice.

Ref.	Recommendation	Risk Rating	Accepted Yes/No	Comments (if appropriate)	Officer Responsible	Timescale for completion
5.1.1	A report should be submitted to Cabinet as soon as possible advising of the breach in contract standing orders and requesting that the variation can be approved retrospectively.	High	Yes	Report to be submitted to 11 May 2023 Cabinet.	Phil Daws/Jim Murray	11.5.23
5.1.2	It is essential that senior management are informed immediately of any concerns regarding contracts so that adequate monitoring of the situation is put in place and appropriate remedial action can be taken promptly if required.	High	Yes	Written management reports will be provided to the Head of Service at the end of each financial period.	Alan Hook	April 2023
5.2.1	If a bill of quantities based contract is to be used, realistic quantities must be entered in the bid documentation as this is a key element of the tender evaluation process and unrealistic quantities could impact on which contractor is selected.	High	Yes	When using a bill of quantities, realistic quantities will be used for the tender evaluation process.	Alan Hook	April 2023
5.3.1	Bidders should be provided with a clear indication of which properties are to be included within the contract or in the absence of this, details of numbers and types of property expected to be completed.	High	Yes	All clients will agree the list of properties to be included in the contract	Alan Hook	April 2023

APPENDIX 1

Ref.	Recommendation	Risk Rating	Accepted Yes/No	Comments (if appropriate)	Officer Responsible	Timescale for completion
5.3.2	Tender documents must be accurate and provide realistic information for tenderers and time pressures must not allow this requirement to be over-ridden.	High	Yes	Written management reports will highlight the required project length and completion time. Conversations will take place with clients to ensure timescales are realistic.	Jim Murray	April 2023
5.4.1	Regular monitoring of contract spend against budget should be carried out to keep client department fully informed and to ensure that prompt appropriate action is taken to identify potential overspends and prevent them occurring.	High	Yes	Written management reports will be provided to the Head of Service at the end of each financial period.	Jim Murray	April 2023
5.5.1	Details should be provided by PATS which shows the evidence obtained to justify the percentage of prelims being applied for items covered under the headings of skips and rates and permits.	Low	Yes	Technical Services will provide evidence to audit by end March 2023	Jim Murray	March 2023
5.6.1	All tender documents should be reviewed and evidenced as such to ensure that all expected items are included within the bill of quantities to avoid unnecessary contract variations.	High	Yes	Tender documents will be reviewed prior to tendering by a person not involved in the drawing up of the tender documentation.	Jim Murray	April 2023
5.6.2	All variations in future contracts should be supported by formal Instructions from the Council which are available within a reasonable timescale of the work being carried out.	Medium	Yes		Jim Murray	Complete

APPENDIX 1

Ref.	Recommendation	Risk Rating	Accepted Yes/No	Comments (if appropriate)	Officer Responsible	Timescale for completion
5.6.3	Architects instructions for variations relating to this contract should be provided to Audit.	Low	Yes	Technical Services will provide evidence to audit by end March 2023	Jim Murray	March 2023
5.7.1	PATS should be able to demonstrate that the quantities certified at each stage of valuation are reasonable and accurate.	Medium	Yes		Jim Murray	Complete
5.8.1	In future EWI contracts the retrofit roles associated with PAS2035 should be tendered separately from the works contract	Medium	Yes	The next EWI contract will use the SXL contract.	Jim Murray	Complete
5.9.1	The Scotland Excel contract should be considered for use for future EWI, roof and render works.	Medium	Yes	SXL will be considered in the future.	Jim Murray	Complete