

FINANCE URGENT KEY DECISION



DECISION OF: SECTION 151 OFFICER

WITH ADVICE FROM: KAM BHAKERD

DIRECTORATE: FINANCE
PROCUREMENT & CONTRACT MANAGEMENT SERVICE

DECISION NO: 027

SUBJECT: PFI EDUCATION CONTRACTS (BSF – SKANSKA)

KEY DECISION: YES/NO

REASON UTILITIES PRICE INCREASE IN 2022/23 & FORECAST FOR 2023/24

BACKGROUND

During the financial year 2022/23, the contract cost of utilities (specifically, gas and electricity) to the PFI portfolio of schools has increased. This is the direct result of several impacts within the worldwide economy, namely Brexit, Covid 19 and the Russian war with Ukraine as the main contributors. Bristol City Council (the Authority) are solely responsible through the contract Project Agreement (PA) for fully funding the utilities for the contract portfolio, and the Contractor (Skanska), is responsible for the periodic procurement.

The BSF portfolio

There are four academy school locations. These are:

1. Bristol Brunel Academy,
2. Bristol Metropolitan Academy (& Briarwood SEND),
3. Bridge Learning Campus (& New Fosseway School & SEND),
4. Oasis Academy Brislington.

DECISION

A decision is required to authorise the increase to the Authority of planned annual expenditure on the Bristol Schools for The Future (BSF) PFI contract portfolio for financial year 2022/23 of £1.128m attributed to additional annual utilities costs and facilitate the payment of the March 2023 Invoice.

FINANCIAL IMPLICATIONS

The administration of payment of the utilities is included within the monthly Unitary Charge (UC). This is received from the Specialist Purpose Vehicle (SPV) along with all other service charges from the Contractor. The inclusion of utilities is specific to this contract. The final forecasted figures have been received for 2022/23 and due to the increase in utilities market pricing the anticipated budget has been exceeded by £1.128m as outlined in the summary table below. The Authority will need to provide a supplementary purchase order to cover the difference in cost, which is subsequently used to pay the final UC invoice for the financial year 2022/23. This was received on the 1st March 2023, with 14 days to pay it. Whilst this urgent decision will take us marginally beyond this timescale we will manage to safely remain within standard 30 days payment terms, following which interest will be charged.

Summary Table

The contract cost has increased due to a rise in utilities costs. This was not known at the budget setting stage, and recent forecast received from the contractor has resulted in the below change.

BSF (Skanska) PFI	2022/23			Notes
	Original Budget Assumption	Forecast Position	Variance	
Contract UC Base Cost	£18,826,463	£18,867,199	-£40,736	1 The forecast cost of the main portfolio has changed by £40,736 and represents other cost increases.
Utilities	£1,196,000	£2,283,000	-£1,087,000	2 The utilities have increased by £1,087,000 due to volatile market forces and economic conditions during FY 2022/23.
Cost of PFI Contract	£20,022,463	£21,150,199	-£1,127,736	

Funding Source

The additional one-off pressure of £1.128m for FY 2022/23 will be funded from the Council's General Fund PFI Earmarked Reserve in the first instance and where appropriate under the arrangements for addressing the PFI affordability gap, reimbursement from within the Dedicated Schools Grants considered to prevent the sinking fund for the contract being depleted over the longer term. Due to the current PFI contracting arrangements and timing of allocation of schools' budget shares there is a risk that these cost may not be fully recovered in a timely manner and alternatively recovered over time in the sinking fund from annual efficiencies generated.

Cost Efficiencies

The efficiencies below have been achieved through the contract management function and applied to the BSF contract portfolio during FY 2022/23, shown below:

Date	Type	Benefit Value	Note
April 2022	Annual water reconciliation	£11,470.13	Held within the PFI suspense account
Sept 2022	Annual gas & electric reconciliation	£50,487.23	Held within the PFI suspense account
		£61,957.36	

These cost efficiencies will be applied to the sinking fund and partially utilised to offset the administrative cost of Contract Managing the PFI contract portfolio. Further efficiencies are in commercial negotiations and will be applied to the fund, contributing in reducing excess liabilities where relevant.

Assumptions and Dependencies

The increase in utilities was not fully informed until late 2022. Further a Government Energy Discount Scheme (GEDS) was also announced and to be confirmed by the Supplier, routed through to the Contractor, which in turn was to be applied to the portfolio. The utility price increase was being explored at the beginning of quarter 4 and the discount expected to be applied by the supplier. This

aspect has been confirmed in that the current prices applicable to the portfolio are below the threshold applicable to a GEDS. The GEDS therefore does not apply to this portfolio.

A forecast based on current utilities pricing and volumes has also been provided for the FY 2023/24. This has been advised by the contractor as £1,771,581.

LEGAL POWERS AND IMPLICATIONS

1. The Authority is obligated through the contract Project Agreement – Pay Mechanism Schedule 6, to ensure payment of the BSF (Skanska contract) UC by the end of the month, following receipt of the UC invoice.
2. The Authority aims to pay the UC Invoice within 14 days of receipt to achieve payment and align to the Authority’s payment programme cycle. This is set to ensure a breach of payment and interest charges are avoided.
3. The contractor is entitled to increase the utilities charge within the monthly UC as per the Project Agreement, Payment Mechanism specification in line with the contract specification:
 - Project Agreement (PA),
 - Schedule 6 Payment Mechanism,
 - Annual Utility Adjustment Clause 8.4.3,
 - Item F – Standing Charges,
 - Item G – Unit rates.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The increase has been directly impacted by worldwide events as described above. Please also see extract note below from the Contractor:

Why are energy prices so high?



CONSULTATION

Various stakeholders have been consulted, as summarised below:

1. The Contractor (Skanska) has received a request from the Authority to review the Increase and enquire upon any estimates from the Supplier (British Gas) relating to the Government Energy Discount Scheme.

2. The Authority's finance department responsible for the PFI portfolio, are aware of the increase of utilities cost and associated impact for 2022/23 & indicative 2023/24.
3. The Procurement & Contract Management, Head of Service , Contract Management Lead are both aware of the increase of utilities cost and its associated impact for 2022/23 & 2023/24.
4. Highlighted the risk to Finance Director, Education Director and Cabinet Member.
5. The provision of PFI quarterly reporting has also informed (since October 2022) to the Authority's Portfolio Cabinet Member of this current and future utility cost increase.
6. The PFI team have requested a review with our Internal Energy team, however it is to be noted the procurement of utilities on behalf of the Authority is managed through a competitive tendering process.
7. The forthcoming tendering process has allowed the Authority to recalibrate the time of year of the tendering exercise, renewal dates and therefore secure prices during the summer months for the next period.

RISK MANAGEMENT

The PFI quarterly report for 'quarter two' (July-Sept) was delivered in October 2022, which had included a risk notification of the utilities increase and cost risk to the Authority. Due diligence has subsequently been undertaken including assessment of the contractor's qualification for the Government's energy scheme and engagement with the ESFA. Due to the current contracting arrangements there is a risk that this cost may not be fully recovered in a timely manner and due to the current economic climate this will remain on the Risk Register within the quarterly report throughout 2023/24.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes / No

No - N/A -The tendering of utilities is carried out by the Contractor and BCC's obligations are contractual.

CORPORATE IMPLICATIONS

N/A financial implications are outlined above.

SIGNATORIES

DECISION MAKER

S151 Officer

Name: Denise Murray
Title: **Director of Finance/s151 Officer**

Signed: 

Date: **18/03/23**

Cabinet Member

Name: Councillor Craig Cheney
Title: **Deputy Mayor Finance, Governance and Performance**

Signed: 

Date: **23/3/23**

Note: If electronic signature used email from Director confirming decision and allowing use of electronic signature must be attached