

FINANCE URGENT KEY DECISION



DECISION OF: SECTION 151 OFFICER
WITH ADVICE FROM: KAM BHAKERD
DIRECTORATE: FINANCE (PROCUREMENT & CONTRACT MANAGEMENT SERVICE)
DECISION NO: 028
SUBJECT: PFI EDUCATION CONTRACTS (BSL – BAM)
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 (BAM FM), is responsible for the periodic procurement.

The BSL portfolio

There are four academy school locations. These are;

1. Bedminster Down School
2. Oasis Academy Brightstowe (& Kingsweston School SEND),
3. Blaise High School (& Henbury Leisure Centre),
4. Orchard School Bristol.

DECISION

A decision is required to authorise the increase to the Authority of planned annual expenditure on the Bristol Schools Limited (BSL) PFI contract portfolio for financial year (FY) 2022/23 of £524,412, 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 £524,412 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

BSL (BAM) PFI	2022/23			Notes
	Original Budget Assumption	Forecast Position	Variance	
Contract Base Cost	£9,548,578	£9,548,578	£0	1 The forecast cost of the main portfolio has not changed.
Utilities Contract	£269,613	£1,069,471	-£799,858	2 Utilities costs have increased substantially due to volatile market forces and economic conditions.
Variations	£0	£210,100	-£210,100	3 Contract variations backlog payment due
GEDS (credit)	£0	-£287,242	£287,242	4 Government Energy Discount Forecast
Utilities reconciliation	£0	-£257,838	£257,838	5 Credit carried forward during FY 2022/23 to offset commitments
Contingency reserve	£0	£59,534	-£59,534	6 Contingency credit reserve
Cost of PFI Contract	£9,818,191	£10,342,603	-£524,412	

Funding Source

The additional one-off pressure of £524,412 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 this cost may not be fully recovered in a timely manner, and alternatively, recovered over time within 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
June 2022	Annual Insurance reconciliation	£103,945.30	Held within the PFI suspense account
		£103,945.30	

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 and previously agreed third party efficiency programmes. 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 being explored at the beginning of quarter 4 and the discount expected to be applied by the supplier. This aspect has been confirmed as an estimate by the supplier, and the contractor is currently waiting for further updates from their supplier. This is expected to be identified after the contract year end in accordance with

the Annual Reconciliation exercise performed at each contract year end as per the Project Agreement – Pay Mechanism Schedule 6.

Forecast provided for FY 2023/24

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 £1,520,518.

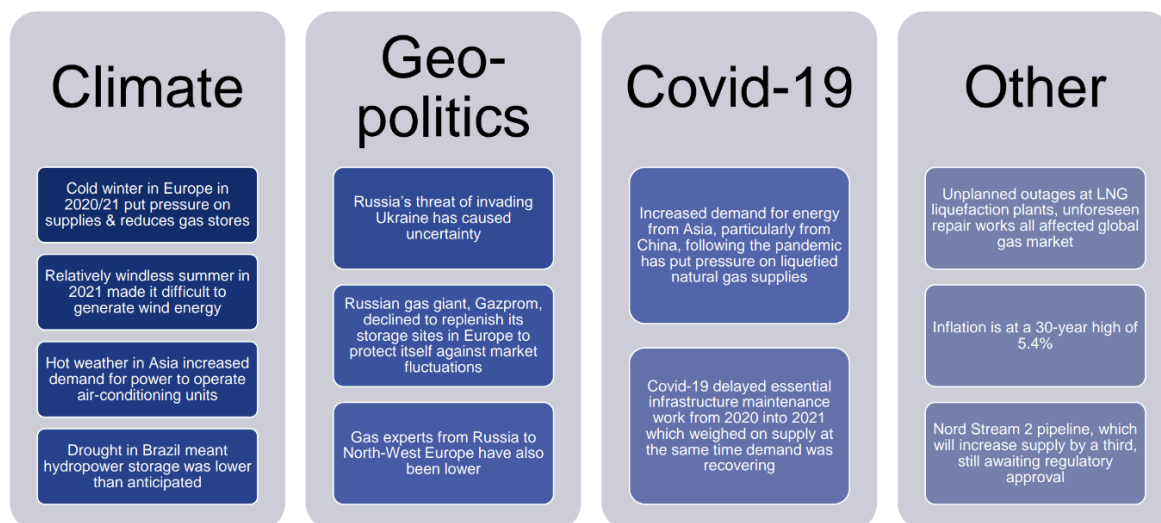
LEGAL POWERS AND IMPLICATIONS

1. The Authority is obligated through the contract Project Agreement – Pay Mechanism Schedule 6, to ensure payment of the BSL (BAM 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, Pay Mechanism specification in line with the contract specification:
 - Project Agreement (PA)
 - Schedule 6 Payment Mechanism
 - Annual Utility Adjustment 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 from the Contractor below:

Why are energy prices so high?



CONSULTATION

Various stakeholders have been consulted, as summarised below:

1. The Contractor (BAM) has received a request from the Authority to review the Increase and enquire upon any estimates from the Supplier 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 & 2023/24.
3. The Procurement & Contract Management Head of Service and Contract Management Lead are aware of the Increase of utilities cost and 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.

RISK MANAGEMENT

The PFI quarterly report for 'quarter two' (July-Sept) delivered in October 2022, 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 Governments 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