

AUDIT REPORT 20'011**PPP & DBFM CONTRACTS****Executive Summary**

The annual audit plan for 2019/20 provided for a review to be undertaken of the contractual arrangements for the operation and management of the school buildings at Elgin Academy, Keith Primary School and Elgin High School.

The construction of Elgin Academy and Keith Primary School was funded through a Public Private Partnership (PPP) scheme, whilst Elgin High School was delivered through a Design, Build, Finance and Maintain (DBFM) type of contract. These reflect the preferred contract delivery models for major capital works supported by Scottish Government at the time the projects were taken forward. The contracts differ in regard to the scope of facilities management, Elgin Academy and Keith Primary School having a full facilities management service provided by an external contractor, whilst Elgin High School has an external contractor for the management of the fabric of the building, and employs council officers for janitorial and cleaning services.

The construction of Elgin Academy and Keith Primary School was completed in early 2012. The construction costs amounted to approximately £26.7 million and £8.4 million respectively, with the contract running for a 30 year period. Elgin High was completed more recently in 2018 at a cost of £28.8 million. The contract agreement for this school runs for 25 years.

For the duration of each contract, the council is required to pay a monthly unitary charge that covers repayment of the capital sum, financing costs, and the cost of providing the agreed facilities management for the buildings. The charge increases annually in line with each agreement and, in part, has regard to inflationary indices (RPI). In addition, payments are made for any additional works or services requested by the Council; these payments are based on agreed costs, and can incur a related lifecycle charge where there are potential future repair or maintenance needs within the remaining period of the contract. Deductions from the monthly unitary charge can also be made if an agreed contract specification standard has not been achieved (e.g. non-availability of classrooms or heating failures). While these additions / deductions are of low value relative to the monthly recharges, it is important they are administered correctly to maintain the integrity of the contract.

The audit review highlighted no major issues to report at this stage with payments made in accordance with contract and sound processes in place to support the relationship the council has with the facilities providers. A number of recommendations have been made that should supplement current procedures and ensure good practice in contract administration continues, relative to the findings outlined below:

- Where additional works are sought that will also incur a lifecycle charge as outlined above, evidence should be obtained to demonstrate that the costs to be incurred are not excessive when compared to the costs of procuring work or services by traditional means. The impact on the overall costs of such works on the original contract costs should also be recorded more clearly to enable early identification of trends, where costs may be likely to increase significantly over time as the risk of buildings and resources deteriorating increases.
- In similar vein, it was noted that only one instance had been recorded in 2018/19 where Keith Primary School had claimed a deduction on costs where the Facilities Management contractor had not achieved the contract specification requirement. This may reflect high standards in facilities management, however 'failures' are more likely in the later years of a contract, and project management should liaise with the school management and ensure there is an awareness of all circumstances in which the council can claim any eligible deductions as per the Contract Specification.
- Both contracts contain detailed Schedules of Maintenance and Servicing Requirements, and while it is the responsibility of the contractors to ensure these requirements are met, consideration should be given to Council officers undertaking separate monitoring to ensure compliance.

The audit was carried out in accordance with Public Sector Internal Audit Standards (PSIAS).

Recommendations: PPP & DBFM Contracts

Risk Ratings for Recommendations						
High	Key controls absent, not being operated as designed or could be improved. Urgent attention required.	Medium	Less critically important controls absent, not being operated as designed or could be improved.		Low	Lower level controls absent, not being operated as designed or could be improved.
No.	Audit Recommendation	Priority	Accepted (Yes/ No)	Comments	Responsible Officer	Timescale for Implementation
Key Control: Appropriate contract monitoring procedures are being followed to ensure compliance with the agreed contract specification.						
5.1	Financial Monitoring Records should record all expenditure to ensure more effective budget monitoring of the contracts.	Medium	Yes	Overviews of each contract year for both contracts are kept and checked against FMS on a regular basis. Copies of each year are available for scrutiny if required.	Property Asset Manager	Implemented
5.2	Regular reconciliations should be undertaken between the Financial Monitoring Records maintained by the Service and the Council's Financial Management System. (Further	High	Yes	Overviews of each contract year for both contracts are kept and checked	Property Asset Manager	Implemented

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No.	Audit Recommendation	Priority	Accepted (Yes/ No)	Comments	Responsible Officer	Timescale for Implementation
	training of the Council's Financial Management System can be obtained from the Accountancy Section.)			regularly against FMS. Copies of invoices are available if required for scrutiny.		
5.3	Regular reviews should be undertaken to ensure actual expenditure is in accordance with financial projections detailed within the Final Business Case for funding. Any variance should be highlighted and reported to Committee.	High	Yes	There is currently no reporting done by the Property Team on the PPP contracts. Agreed in principle. However, due to the current requirement for additional resources to deal with pandemic related issues, recommendation will be reviewed again for implementation by the 31/3/22. This recommendation	Property Asset Manager	31/3/2022

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				will require support from the Accountancy Section to progress.		
5.4	Confirmation should be obtained from the Accountancy Section every year and a review undertaken every 6 months to verify the accuracy of the unitary charge.	Medium	Yes	When the Indexation calculation is presented annually the AAR requests that Accountancy check the figures to ensure they are accurate. The indexation is applied from the 1 st of April annually.	Property Asset Manager	Implemented
5.5	Consideration should be given	Medium	Yes	A user guide	Property	Implemented.

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	to providing further training and guidance to officers of Keith Primary School regarding the procedures for recording incidents where the Facilities Management Contractor has not achieved the required contract specification.			has been prepared for distribution on both contracts. The Acting Authority Representative (AAR) will also deliver a presentation to each school when the current situation permits.	Asset Manager	Presentations will take place when the current situation changes permits.
5.6	Consideration should be given to undertaking a benchmarking exercise regarding additional work charges including lifecycle costs provide value for money to the Council.	Medium		The contracts have now moved to the Property Asset Management Team and the resources to check all works are now	Property Asset Manager	Implemented

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				readily available to the AAR within their role in the property team.		
5.7	All additional work or services issued to the Facilities Management Contractors should be supported by an Authorised Notice of Change Order.	Medium		Agreed	Property Asset Manager	Implemented
5.8	A reminder should be issued to the Facilities Management Contractors of the requirement to maintain Disaster Recovery Plans and monitoring undertaken to ensure these are received within agreed timescales.	Medium		Deductions have been taken for a failure of the contractor to submit the plan.	Property Asset Manager	Implemented. Both plans have now been received and are updated annually

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5.9	In consultation with Property Services, consideration should be given to undertaking further monitoring of the contractors' responsibility to ensure servicing and maintenance requirements for the buildings are carried out in accordance with the agreed contract specification.	Medium	Yes	Staffing restructure have included additional responsibility for undertaking condition surveys to ensure compliance with contract conditions	Property Asset Manager	Implemented
5.10	Confirmation should be obtained at regular intervals during the period of both contracts that employees of the Facilities Management Contractors have been subject to a satisfactory disclosure check.	Low	Yes	Agreed	Property Asset Manager	Implemented Included as reporting requirement within monthly contractor reports.