



The Scottish Parliament
Pàrlamaid na h-Alba

Stephen Boyle
Auditor General for Scotland

Public Audit Committee
Room T3.60
The Scottish Parliament
EDINBURGH
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By email only

Email:
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10 November 2022

Dear Stephen,

New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802

Thank you for your letter of 6 October 2022, providing your response and potential scope and timing of audit work following the BBC Disclosure investigation that was broadcast on 27 September 2022.

As you will be aware, the Committee agreed to write to [Caledonian Maritime Assets Limited](#) (CMAL) at its meeting on 22 September to seek further information about sections 43 and 44 of the Pre-Qualification Questionnaire (PQQ). Specifically, the Committee asked whether CMAL—

- explored with all bidders who completed a PQQ, including Ferguson Marine Engineering Limited (FMEL), if they were willing to provide either a parent company guarantee or a bank guarantee, as per section 43, and how this was undertaken
- sought an evidentiary statement from any of the bidders, including FMEL, and, or their respective banks, confirming that a staged payment refund guarantee could be provided, as per section 44.

The [response received from the Chair of CMAL](#) on 21 October 2022 includes a point of clarification regarding section 44 as follows—

“...there appear two sentences which provided an explanation for the bidders of the importance of Refund Guarantees to the project as a whole. The first sentence prominently describes the issue of a Bank Guarantee for the project as a MANDATORY MINIMUM REQUIREMENT. The second sentence describes when such a guarantee shall be required to be provided, namely “before work starts”.”

The response goes on to state that—

“It is very important not to confuse the two deliverables identified in this question and, critically, their timing. Question 44 makes clear that the bidding yards should provide an evidentiary statement from their bank (at the time of submitting their response to the PQQ); and, if successful and awarded the contract, a Refund Guarantee from their bank (before work starts). The second, future, deliverable was expressed as a mandatory requirement. The first, PQQ phase, deliverable was not expressed as a mandatory requirement.”

The response also refers to your correspondence of 6 October 2022, where you confirm that FMEL was “unable to meet the mandatory requirements” at the pre-qualification stage of the procurement process. It is CMAL’s view that your correspondence appears to have mistakenly conflated the two deliverables as both being mandatory at the time of the PQQ response. It is CMAL’s position that the mandatory requirement “applied only later in time and if and when a candidate yard were awarded the contract and ready to commence work.”

The Committee notes your interpretation of the wording at section 44 in the PQQ differs from that of CMAL. It therefore seeks your response to CMAL’s interpretation as outlined in its correspondence of 21 October 2022.

The Committee would be grateful for a response by **30 November 2022**. Should this date present any difficulties, please contact the clerks as soon as possible.

Yours sincerely

Richard Leonard MSP,
Convener