

Chief Executive's Office

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Richard Leonard
Convener
Public Audit Committee
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

28 October 2022

Copy to: Cabinet Secretary for Net Zero, Energy and Transport and Minister for Transport

Dear Mr Leonard

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

Thank you for your letter of 30 September 2022 regarding the on-going work by the Public Audit Committee on the delivery of vessels 801 and 802.

In line with our commitment to absolute transparency, I enclose a copy of an exchange between Mr McMillan and the former Minister from Transport and the Islands.

You have requested detail on the occasions when CMAL accepted alternatives to Builder's Refund Guarantees (BRG). Three contracts for vessel construction have been awarded by CMAL to Fergusons without a Builder's Refund Guarantee being in place. On each occasion, alternative forms of security were provided.

Two contracts were awarded by CMAL to Fergusons Shipbuilders Ltd on 9 November 2011 for a Hybrid Ro-Ro PAX Ferry for £10,829,217.00 and Hybrid Ro-Ro PAX Ferry for £9,983,821.00. In security of performance, CMAL took ownership of the vessel and constituent parts as they were delivered.

On 26 September 2014, CMAL awarded FMEL a contract for a Hybrid Ro-Ro PAX Ferry for £12,265,933.00. Performance was secured by way of a Parent Company Guarantee.

I hope this is helpful.

I am copying this reply to the Cabinet Secretary for Net Zero, Energy and Transport and to the Minister for Transport.

MICHELLE QUINN

From: [redacted]
Sent: 23 December 2014 15:07:19
To: [redacted]
Subject: Ferguson Marine Engineering Ltd

Cabinet Secretary for Finance, Constitution and Economy

Dear John,

Re: Ferguson Marine Engineering Ltd (FMEL)

I write to you in connection with the above subject after recently meeting with representatives of Ferguson Marine Engineering Ltd (FMEL).

A number of issues were discussed during the meeting and I wanted to highlight some of these issues with the Scottish Government.

Firstly, the issue of 'Bonding' was mentioned. I was informed of how the bonding works for industry. It was explained to me how the Bonding can actually be a hindrance to the cash flow for business particularly in an industry which involved large upfront costs which Ferguson Marine Engineering Ltd face. I was asked to contact you regarding the bonding issue and whether the Scottish Government would be in a position to introduce a more flexible bonding arrangement.

Secondly, I am led to believe that discussions are currently underway between FMEL and Scottish Enterprise regarding the payment terms for the third Hybrid ferry. I am led to believe that the current payment arrangements are 20% at the beginning of the contract with 80% at the end. It was highlighted to me that this ratio can also have a negative effect upon the cashflow situation of the business. FMEL would be grateful if a quick resolution, either way, can be reached between Scottish Enterprise and FMEL so that FMEL can progress with their activities.

Finally, I was delighted to attend the recent steel cutting ceremony officiated by the First Minister for the third hybrid vessel and believe FMEL now have the potential for a positive future. As you are aware, I have been a huge supporter of shipbuilding on the Clyde and particularly in Port Glasgow. I appreciate that the Scottish Government are required to place tenders into the European Journal but I would hope that FMEL will be considered to win future Scottish Government orders. This would provide security of work allowing the new owners the opportunity to invest significantly in the fabric of the yard. As you will know, the yard needs this investment to allow it to compete on the international stage.

Finally, I would like to put on record my sincere thanks to you and the Scottish Government for your efforts in securing the future of FMEL. Without these efforts, shipbuilding on the Lower Clyde would have all but vanished. I know the Port Glasgow, and wider Inverclyde communities are appreciative of everything you have done.

Yours sincerely
[Stuarts signature]
Stuart McMillan MSP
Member of the Scottish Parliament for West Scotland
(Scottish National Party)

Minister for Transport and Islands
Derek Mackay MSP

T : [redacted]
E : [redacted]

The Scottish
Government
Riaghaltas na h-Alba

Mr. Stuart McMillan
MSP The Scottish
Parliament
EDINBURGH
EH99 1SP

Your ref:
Our ref: [redacted]

2 February 2015

Dear Stuart

Thank you for your email of 23 December, 2014 to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy, following your recent meeting with representatives of Ferguson Marine Engineering Ltd (FMEL). I am replying given my transport responsibilities.

Regarding the question of refund guarantees or "bonds", I would like to clarify the position relating to standard construction projects and why a different approach may be required for shipbuilding contracts.

For standard construction projects, if a contractor goes out of business part way through the contract, or if it fails to perform, there is a physical asset left on site which the purchaser can access, even if it is only partially completed. However, in the case of shipbuilding the vessel is being built on the contractor's site (i.e. the ship yard) rather than the buyer's site. As such, in the case of default by the yard, or where the yard goes into liquidation, the purchaser is in a much less advantageous position regarding work that has already been completed.

Also, as in the case of high value construction contracts, contracts to build ships usually require staged payments as the build progresses. In effect, it is in theory possible to take ownership of the parts of the ship that have been built at the point at which the staged payment is made. However, ship owners are usually reluctant to take ownership of parts of a vessel which is not yet complete as this would have implications for the builder's responsibility and liability for satisfactory completion of the contract. Therefore, it is fairly common for buyers of ships to insist that each staged payment is protected by a refund guarantee, provided by a bank, which runs to the delivery date for the ship.

With regard to frequency of payments during the construction phases of the new vessel, the breakdown of the payment schedule for the third hybrid vessel is as follows:

- 10% Contract commencement-paid on 19 November 2014
- 20% Steel Cutting - paid on 16 December 2014
- 20% Fabrication - half complete
- 20% Fabrication -fully complete
- **20% Launch**
- 10% Delivery

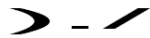
This payment schedule will assist with the cash flow position of FMEL during the early stages of **construction of the vessel.**

On 15 October 2014, my predecessor Keith Brown MSP, Cabinet Secretary for Infrastructure, Investment and Cities, announced the start of the procurement process for two new 100 meter ferries by CMAL on behalf of the Scottish Ministers. Ferguson Marine Engineering Limited and other shipyards have had the opportunity to participate in this procurement process.

FMEL, and Jim McColl personally, have publicly stated their ambition with regard to these orders, and I am sure they will be seeking to put this ambition into effect.

I hope this reassures you that, in line with the 2012 Ferries Plan, the Scottish Government is continuing in its commitment to vessel replacement and providing potential work for the shipbuilding industry in Scotland.

Kind regards



DEREK MACKAY