

Public Audit Committee

19th Meeting, 2023 (Session 6), Thursday, 22 June 2023

Accountable Officer Written Authority: completion of vessel 802

Introduction

1. The Public Audit Committee will take evidence today from the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy on the provision of a Written Authority in relation to the completion of vessel 802 at Ferguson Marine Port Glasgow (FMPG), as part of its wider scrutiny of related Auditor General for Scotland (AGS) reports.

Background

2. Under the terms of [Section 15\(8\) of the Public Finance and Accountability \(Scotland\) Act 2000](#) (the Act), a Minister may authorise an Accountable Officer to take action in circumstances which, in the Accountable Officer's opinion, is "inconsistent with the proper performance of the functions" they carry out as Accountable Officer. This is known as Written Authority.
3. The Act sets out that the Accountable Officer is required to inform the AGS that such a Written Authority has been issued. The [memorandum to accountable officers for parts of the Scottish Administration](#), as set out in Annexe 1 of the Scottish Public Finance Manual, requires the Accountable Officer to send a copy of the Direction to the Clerk to the Audit Committee.
4. On 16 May 2023, the Committee [received notification of a Written Authority in relation to the completion of vessel 802 at FMPG](#) from the Director-General Economy, as the Accountable Officer for the Scottish Government's investment in FMPG. The letter also contained a copy of the Written Authority request to the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy, along with the Cabinet Secretary's response which provided the Written Authority. A copy of this correspondence can be found in the **Annexe**.

5. On 24 May 2023, the Committee received [further information from the Cabinet Secretary](#) in relation to the due diligence that had been undertaken to inform the Written Authority. This correspondence can also be found in the **Annexe**.

Current related audit work

6. The Committee [published a report](#) on its scrutiny of the AGS report on New vessels for the Clyde and Hebrides: Arrangements to deliver vessels 801 and 802 on 23 March 2023. Further information on this work can be found [here](#).
7. The Committee commenced its scrutiny of the AGS's report on the [2021/22 audit of Ferguson Marine Port Glasgow \(Holdings\) Limited](#) in April 2023. On 6 June 2023, the Committee wrote to the Director-General Economy to ask what information the Scottish Government could make publicly available, without compromising commercially confidential, in relation to—
 - the due diligence work that was commissioned by Teneo to make a value for money assessment on the completion of vessel 802 at FMPG
 - a report commissioned by First Marine International on the funding and future options for FMPG.
8. The Committee received a response from the Scottish Government on 15 June 2023 and can be found in the **Annexe**.

Next Steps

9. The Public Audit Committee will decide any further action it wishes to take after it has taken evidence from the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy.

**Clerks to the Committee,
19 June 2023**

Àrd-stiùiriche na h-Eaconomaidh
Director-General Economy
Gregor Irwin



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Richard Leonard
Scottish Parliament
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16 May 2023

Dear Convener

I enclose a copy of a Written Authority that I have provided to the Auditor General under the terms of Section 15(8) of the Public Finance and Accountability (Scotland) Act 2000 in relation to the completion of vessel 802 which I have received from the Cabinet Secretary for Wellbeing Economy, Fair Work and Energy on 14 May 2023.

I also enclose the Written Authority request I set out to the Cabinet Secretary on 13 May 2023.

Regards,

GREGOR IRWIN

Director-General Economy
Scottish Government

Cabinet Secretary for Wellbeing Economy,
Fair Work and Energy
Neil Gray MSP



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Gregor Irwin
Director General Economy
Scottish Government

14 May 2023

Dear Gregor

Thank you for the submission of 13th May 2023 on the costs to complete vessels 801 and 802 at Ferguson Marine Port Glasgow (FMPG). It is clear that there has been an extensive process of due diligence around these cost estimates and I would like to thank your team and their advisors for the quality of their work.

The Scottish Government's decision to take Fergusons Shipyard into public ownership back in 2019 was driven by three key objectives: the completion of vessels 801 and 802 in order to provide sustainable, high quality lifeline services to our island communities; to support a highly skilled and dedicated workforce; and to ensure a sustainable future for the shipyard given its importance to the local economy and the resilience of Scotland. I believe that this was the right thing for the Scottish Government to do and I continue to be impressed by the way in which the workforce in the yard have worked so hard and with such pride to deliver the vessels in often difficult circumstances.

Your Accountable Officer duties are set out in the Public Finance and Accountability (Scotland) Act 2000, in particular section 15, and are further covered in the Scottish Public Finance Manual. These duties require that any public expenditure should meet with the regularity and propriety principles and the value for money principles (that resources are used economically, efficiently and effectively). I am satisfied that you have scrutinised and interrogated the projected costs provided by FMPG and assessed these against alternative options.

Ministers have been very clear over a long period of time that every effort must be made by FMPG to deliver the vessels in the most cost-effective way possible. It is therefore very concerning that costs have increased and anticipated delivery dates for the vessels have slipped back.

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I do, of course, acknowledge that there are always risks around the delivery of first-in-class vessels and that FMPG continue to incur costs related to design decisions taken some time ago and under previous ownership. I am also conscious of the impact that inflationary pressures in the wider economy have had upon capital and operational costs.

I have considered the due diligence conducted very carefully and am satisfied that a comprehensive process has been carried out with the support of external advisors. I therefore accept your judgment around the narrow value for money case for continuing to build vessel 802 at FMPG. Having said that, in making a decision around the way forward I am, as your minute acknowledges, guided by a wider set of considerations relating to the policy objectives set out by Scottish Ministers and the impact that any decision might have on people, communities and national resilience.

From the very start, Scottish Ministers have been clear that our island communities deserve to be supported by two new, energy efficient vessels with the capacity and reliability required to support vibrant island economies. While I accept that the value for money assessment concludes that it would be cheaper to re-procure a new vessel, this work also shows that doing so would result in further delays. A new vessel could not be deployed until May 2027 at the earliest – four years from now. I do not consider that it is acceptable to ask our island communities to wait this further period. Vessel 802 will provide lifeline connectivity to the mainland, ensure that people on Arran are supported for day-to-day needs around health, education and commercial activity and provide a resilient service to support the tourist industry which contributes so much to the island's economy. Recent issues with the reliability of an ageing island fleet and the costs associated with hiring replacement vessels in order to maintain services have merely added to the compelling case for delivering additional capacity as quickly as possible.

While the value for money case takes account of the direct economic benefit of completing Vessel 802, under the Treasury Green Book rules it cannot consider wider economic considerations. I think it is imperative that Ministers consider the wider economic factors. I am committed to supporting the workforce at FMPG and recognise the importance for jobs, skills and the opportunities for future generations that the yard provides. We have set a clear policy objective of protecting commercial shipbuilding on the Clyde and, in particular, retaining skills that have both a long-term tradition in the area and a vital role to play in the future economy where significant investment is planned in offshore wind and other renewables. More immediately, of course, the continuing delivery of Vessel 802 through FMPG ensures that the local economy benefits from the company's spend on salaries, subcontractors and taxes which support the local labour market and wider businesses in the Inverclyde area and beyond, which would be lost if we did not proceed.

Finally, I remain committed to supporting a sustainable future for FMPG. I believe that cancelling the contract with the impact that this would have on the company's reputation and financial position and the concerns it would generate for the workforce mean that it would be extraordinarily difficult to see a route to such a future. I believe that confirming our intention to deliver Vessel 802 at the yard provides a platform upon which future success can be built.

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Delivery of Vessel 802 is in the clear interest of our island communities that the vessel will serve and the community of Inverclyde. It is also in our national economic interest to preserve, enhance and develop our shipbuilding industry.

As such, this letter provides you with the necessary written authority, under section 15(8)(a) of the Public Finance and Accountability (Scotland) Act 2000, to continue with the build of Vessel 802 at FMPG based on the current cost projections. In doing so, I ask you as Accountable Officer to ensure that you and FMPG do everything possible to improve productivity, maximise operational efficiency and ensure that there is a tight control on costs. I would expect FMPG to provide a detailed scrutiny of the forecast costs, the expenditure incurred and monthly progress on this and the anticipated delivery dates to Ministers.

The completion of Vessel 802 at FMPG is the best possible solution to moving the shipyard towards a sustainable future. We will continue to play whatever part we can to support the business, as both shareholder and government. It is now for FMPG to meet the justified expectations of the public and deliver this vessel as planned.

NEIL GRAY MSP
Cabinet Secretary for Wellbeing Economy, Fair Work and Energy

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Director-General Economy
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13 May 2023

Cabinet Secretary for Wellbeing Economy, Fair Work and Energy

Completion of Vessel 802

The contract for the delivery of vessels 801 and 802 was awarded by CMAL to Ferguson Marine Engineering Ltd (FMEL) in August 2015 and signed in October 2015. This was a key deliverable within Scotland's Vessel Replacement and Deployment Plan.

The shipyard was brought into public ownership in August 2019 as Ferguson Marine Port Glasgow Limited (FMPG). From the start, Scottish Ministers' objectives have been to complete the two vessels given their importance in providing lifeline services to island communities, to secure a future for the shipyard, and to retain jobs and skills in what is one of the last remaining commercial shipyards on the Clyde.

In line with the requirements of the Scottish Public Finance Manual (SPFM), which follow on from the requirements of the Public Finance and Accountability (Scotland) Act 2000 ('PFA Act'), due diligence has been undertaken on the revised estimated cost to complete each vessel approved by the Board of Ferguson Marine Port Glasgow (Holdings) Limited and submitted by the CEO to the Scottish Parliament and Ministers on 28 September 2022.

Given the increase in estimated costs from those previously set out by the CEO of FMPG in March 2022, the complexity of the build programme and the importance of a full and thorough assessment to support any approval of public expenditure, this due diligence process has been supported throughout by external commercial advisors.

As Accountable Officer I am required under the PFA Act to assess the regularity, propriety and value for money of policies and programmes.

I am satisfied of the regularity and propriety of completing vessel 802 in line with the existing contract but the value for money case, in which I am required to be satisfied that resources are used economically, efficiently and effectively, is more challenging. A comparison of the projected costs from now until vessel completion with the alternative options, allied to risks driven by inflationary pressures and supply chain issues and an uncertain economic outlook, combine to make it very difficult for me to gain sufficient assurance that value for money, as determined by the PFA Act which I must adhere to, can be achieved.

I am therefore required under section 15(8)(a) of the PFA Act to obtain written authority from Scottish Ministers should you wish to proceed with the completion of vessel 802 at FMPG.

While I am bound by the requirements of the PFA Act in relation to the financial judgements, policy decisions are the responsibility of Ministers. There are entirely legitimate and important factors that Ministers can take into account when arriving at a decision on the future of vessel 802. These include the potential impact of that decision on the policy objectives of supporting island communities and improving the resilience of Scotland's ageing ferry fleet, retaining jobs in Inverclyde, and supporting the future of commercial shipbuilding on the Clyde. In particular, you may wish to consider how under any scenario continuing work on vessel 802 could be an important step towards ensuring the shipyard's future and the additional implications for these policy objectives that would follow from that.

Should Scottish Ministers wish to progress with completion of vessel 802 on the basis of these wider considerations and benefits, I would be grateful for written authority (pursuant to

section 15(8)(a) of the PFA Act) to enable me to implement this. I would, of course, continue to be conscious of the need to scrutinise any and all expenditure incurred on an ongoing basis and will ensure that we maintain a robust approach to financial monitoring so that Ministers are fully sighted on progress, performance and actual costs incurred. I would propose to retain external advisors throughout this period to ensure that, where necessary, estimates and proposals from FMPG are interrogated to the highest independent standards.

In line with the PFA Act, the SPFM, and Cabinet procedures, this letter has been copied to the First Minister and the Deputy First Minister. A copy of this request and of the Written Authority will be shared as soon as possible with the Auditor General for Scotland and with the Clerk of the Public Audit Committee.

GREGOR IRWIN

Director-General Economy
Scottish Government

Cabinet Secretary for Wellbeing Economy, Fair Work
and Energy
Rùnaire a' Chaibneit airson Eaconamaidh do Mhath
Dhaoine, Obair Chothromach is Cumhachd
Neil Gray MSP
Niall Gray BPA

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Richard Leonard MSP
Convenor
Public Audit Committee

24 May 2023

Dear Richard

Further to my statement to Parliament on 16 May, I am writing to confirm that the Scottish Government's due diligence on the costs to complete vessels 801 and 802 at Ferguson Marine has concluded.

As you are aware, in September 2022, the Ferguson Marine CEO advised the Parliament that the forecast total costs to complete vessels 801 and 802 since the point of public ownership had increased to £202.6 million which included a £6.2 million contingency. This meant a forecast cost to complete of no more than £97.5 million for vessel 801 and no more than £105.1 million for vessel 802.

While our due diligence was ongoing, Ministers agreed two uplifts to the 2022-23 Ferguson Marine budget of £15 million in December 2022 and £6 million in March 2023 to ensure that work could continue on the vessels.

The due diligence assessment has concluded that the tests of regularity and propriety are met for completing vessels 801 and 802 under the existing contracts, as is the value for money case with respect to 801. For vessel 802, the narrow value for money case has not been made, particularly given inflationary, supply chain and other pressures. In making a decision on the funding of 802, I have considered a number of wider factors.

Key to that decision is the assessment that re-procuring a new vessel would result in significant further delays and a new vessel could not be deployed until at least May 2027. I do not consider that it is acceptable to ask our island communities to wait this further period, particularly noting recent issues with the reliability of an ageing vessel fleet.

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Similarly, I have been guided by consideration of the impact on Ferguson Marine. I remain committed to supporting a sustainable future for Ferguson Marine and believe that not delivering 802 at the shipyard would place that future, and the hundreds of jobs associated with it, in jeopardy.

On the balance of these considerations, I have provided written authority to the Scottish Government Accountable Officer to provide the funding requested by Ferguson Marine in September 2022 and secure the continued build of vessel 802. I have also reluctantly agreed to the revised delivery dates set out by the Ferguson Marine CEO on 16 March 2023. This means forecast delivery dates of autumn 2023 for vessel 801 and late summer 2024 for vessel 802. Please find a link to the [correspondence](#).

This decision was not taken lightly but is the correct decision to secure our objectives of delivering these vessels as quickly as possible while protecting the Ferguson Marine workforce and securing a future for the shipyard. The delays and cost increases remain extremely disappointing and we have formally asked Ferguson Marine to bear down on costs during the remainder of the build programme.

I also confirmed to the Parliament during the statement that Scottish Government has recently agreed to provide around £120,000 to Ferguson Marine for capital investment measures. This is broken down as £11,315 for cyber security enhancements, £60,000 to support the internal audit function for the current financial year, and £46,000 for a technical civil engineering report that will inform wider investment considerations in support of increased productivity.

NEIL GRAY

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Richard Leonard
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15 June 2023

Dear Convener

Thank you for inviting me to appear at the Public Audit Committee on 1 June 2023 and your subsequent letter of 6 June 2023, in which you ask the Scottish Government to consider what information it can make publicly available from the reports produced by First Marine International (FMI) and Teneo in relation to Ferguson Marine Port Glasgow (Holdings) Limited (FMPG).

During the committee session, I explained that Teneo carried out work to inform the Scottish Government's due diligence on the projected costs to complete vessels 801 and 802. This demonstrates the Scottish Government's commitment to taking decisions based on rigorous evidence and high-quality, independent, expert advice. I also confirmed that FMI had been commissioned to assess operations at FMPG as part of our wider work to evaluate the shipyard's productivity and to support our analysis of any proposals for continued investment arising out of FMPG's business planning process.

The Scottish Government has a proactive and transparent approach to making information available where possible, and I fully appreciate the committee's interest in having access to these reports. However, in this case, disclosure of the reports would impact on FMPG's ability to compete for and win new business and thereby jeopardise the commercial future of the yard. It would also potentially compromise the commercial interests and intellectual property of our advisors. In these circumstances, and having given full regard to the request made by the committee, the Scottish Government is not in a position to make the reports publicly available.

Whilst I recognise that the Committee will be disappointed by this response, I would like to reaffirm that the Scottish Government remains committed to being as open and transparent as possible in relation to decisions around FMPG and vessels 801 and 802.

I look forward to continuing engagement with the Committee on these issues.

Regards,

GREGOR IRWIN

Director-General Economy
Scottish Government