



City of Westminster

# Cabinet Member Report

**Meeting or Decision Maker:**

Councillor David Boothroyd - Cabinet Member for Finance and Council Reform

**Date:**

5 November 2024

**Classification:**

General Release

**Title:**

Energy Efficiency Programme Retrofit Accelerator (REFIT) – Workplaces Contract Variation

**Wards Affected:**

All

**Policy Context:**

In September 2019 Westminster City Council declared a climate emergency. The local authority has pledged that the City Council's activities will be carbon neutral by 2030, with the wider City following suit by 2040. The Council has since published a Climate Emergency Action Plan which sets out comprehensive actions for reducing carbon emissions across the City by working in partnership with businesses, communities and residents.

The action plan for the Council's operational buildings is to maximise the retrofitting of buildings to cut their energy demand.

**Key Decision:**

Yes, due to the expenditure.

**Financial Summary:**

This report is seeking approval to vary the Energy Efficiency Programme Retrofit (RE:FIT) – Workplaces works

contract to Vital Energi Utilities Ltd (04050190) from £20m to £30m.

This variation seeks to increase the value of the contract by £10million with no change to the contract end date.

To date just over £19.04 million has been spent on the contract, with a further £2.38m committed to, through Investment Grade Proposals (IGPs). Much of this has been financed from central government grant funding, awarded through the Public Sector Decarbonisation Scheme (PSDS). WCC has achieved carbon reduction savings much earlier than anticipated, and this has meant that the contract value originally proposed will soon be exceeded, so a variation to the contract value is required to allow works to continue.

**Report of:**

Gerald Almeroth, Executive Director of Finance and Resources

## 1. Executive Summary

- 1.1. This report is seeking approval to vary the Energy Efficiency Programme Retrofit (RE:FIT) – Workplaces works contract to Vital Energi Utilities Ltd (04050190) from £20m to £30m, the increase of £10m represents a 50% increase, which is the maximum change allowable under regulation 72 of the procurement contract regulations.
- 1.2. The Re:Fit Workplaces contract was designed to achieve carbon reduction savings for the council via multiple works across the portfolio of properties and therefore work towards the net zero targets of 2030 and 2040. The portfolio of properties forms the basis of the contract along with scope of potential works to be undertaken rather than a financial value.
- 1.3. On 23 February 2021 Commercial Gateway Review Board (CGRB) endorsed a value of £20 million to be spent on this contract and on 16 March 2021, Cabinet member approval was given for this value. To date just over £21.42 million has been committed to through Investment Grade Proposals (IGPs). Much of this has come from central government Public Sector Decarbonisation Scheme (PSDS) grant funding and the Council has been able to achieve carbon reduction savings much earlier than anticipated, but also this has meant that the contract value that had not been expected to be spent between 2021 - 2024 has been reached and therefore the variation is required.
- 1.4. As of 2 August 2024, retrofit works carried out on the operational portfolio has the following breakdown of spend and commitment:

<b>Vitali Energi Utilities Ltd</b>	<b>£m</b>
Spend to date (02/08/24)	19.041
Commitments	2.382
<b>Total</b>	<b>21.423</b>

## 2. Recommendations

- 2.1. That the Cabinet Member for Finance and Council Reform:
  - 2.1.1. Approves the contract variation for the delivery of Energy Efficiency Programme Retrofit (RE:FIT) – Workplaces works to Vital Energi Utilities Ltd (04050190). The total sum is for £30,000,000 exclusive of VAT, £36,000,000 inclusive of VAT with a contract end date of 31 March 2031.
  - 2.1.2. Approves the associated spend of £10,000,000 as a result of the contract variation.

## 3. Reasons for Decision

- 3.1. If a variation to the current contract is not actioned by March 2025, works will halt and the ambitious target of net zero by 2030–2040 for scope 1 and 2 emissions would be put at risk. The Council will not be able to instruct further works with Vital Energi beyond the current expenditure cap of £20m until the capacity is increased.

- 3.2. The total expected spend to retrofit both the operational and commercial estate is likely to exceed £30million but for the immediate future it is important to vary this contract to enable the continuation of works.
- 3.3. Granting the £10m variation enables the carbon management programme to continue to be delivered over the next 18 months, ensuring delivery of the associated savings. Vital Energi also have a process to ensure value for money on all projects. All proposals are also reviewed by the programme board and, where grant funded, by Salix.

#### **4. Background, including Policy Context**

- 4.1. The 2030 climate action plan for the Council's operational buildings is to maximise the retrofitting of buildings to cut their energy demand.
- 4.2. When the procurement was first undertaken in 2021 a further competition was completed via the Greater London Authority's National Energy Performance Contract Framework (RE:FIT) with four bids received. Evaluation was based on most economically advantageous tender with 90% quality and 10% price.
- 4.3. Vital Energi Utilities Limited were the most economically advantageous tender provider at 81%.
- 4.4. The Re:Fit Workplaces contract was designed to achieve carbon reduction savings for the Council via multiple works across the portfolio of properties and therefore work towards the net zero targets of 2030 and 2040. The portfolio of properties forms the basis of the contract, along with the scope of potential works to be undertaken rather than a financial value.
- 4.5. CGRB endorsed a value of £20 million to be spent on this contract on 23 February 2021, a Cabinet member approval was given for this value on 16 March 2021.
- 4.6. Currently just over £19.04 million has been spent on the contract with a further £2.38m committed to through IGPs. The delivery of our works to date has been accelerated through our successful PSDS grant funding applications (see table below). At the time of the initial funding approval, it was unknown if we would be able to secure any grant funding for this programme of work.

<b>Date of Application</b>	<b>Funding Scheme</b>	<b>Date of Grant Award</b>	<b>Amount of Grant</b>
11/12/2020	Public Sector Decarbonisation Scheme (Phase 1)	25/02/2021	£12,999,218
12/10/2022	Public Sector Decarbonisation Scheme (Phase 3b)	24/02/2023	£3,829,522

07/11/2023	Public Sector Decarbonisation Scheme (Phase 3c)	29/02/2024	£2,169,725
		<b>Total</b>	<b>£18,998,465</b>

- 4.7. There are three elements that are driving this variation request:
- 4.8. The Re:fit Call-off contract requires the Council to agree IGPs with Vital Energi, through the use of the Works/Optimisation Services agreement. In effect, each incremental IGP becomes a contract value variation and the Council has used the JCT Design & Build Contract (DB) 2016 to document this. Appendix 1 of the original invitation to tender set out the full extent of the building portfolio where high level appraisal surveys could be carried out, to determine which energy conservation measures may be feasible to implement. There is no contract value in the fully executed Call-off contract for the reasons stated above.
- 4.9. The value of £20m stated by the Council in the contract award notice publication (Contract Finder) is now in the public domain. To increase the overall value of what has been stated, the Council is required to approve a 50% increase in the value which was included in the award notice publication. A contract notice with a defined value was not required to be published, as this was a compliant framework award.
- 4.10. In advance of the contract award, a value of £20m was not stated in the tender documents. This value was not given through any clarifications to potential bidders and was not included in the fully executed contract. CapitalESourcing refers to an internal estimated contract value based on available capital programme budget at the time of contract award. This estimate was set for the purpose of budget control, monitoring and reporting of the programme.
- 4.11. If a variation is not implemented it is anticipated that works will halt and the ambitious target of net zero by 2030 – 2040 for scope 1 and 2 emissions would be put at risk. The Council would not be able to instruct further works with Vital Energi beyond the current expenditure cap of £20m until the capacity is increased.
- 4.12. On 18 January 2023 the Council were informed by the Greater London Authority's (GLA) National Energy Performance Contract Framework (RE:FIT) that the total spend under the 4th Re:Fit framework since its creation was £83,600,411, well below the £500m framework limit which gives scope for the Council to spend further on the framework.
- 4.13. Whilst this variation will provide the capacity for the Council to legally spend an extra £10m worth of works through the contract, the true cost of completing the retrofit is likely to exceed £30million, as more IGPs are identified and suggested by Vital and the opportunity for carbon reduction to assist with WCC hitting their carbon net zero target.

4.14. A re-procurement must be actioned before the £30m spend limit is reached. A compliant way forward will be identified at an early stage, before the use of this additional £10m spend. The extra capacity of spend for carbon reduction works is likely to be spent within approximately 18 months. This is a significant timeline to re-procure and whilst the previously used framework from the Greater London Authority National Energy Performance will expire in the near future and is unlikely to be viable, there are several other frameworks that offer both direct awards and further competition options to try and maintain continuity of supply through Vital if required.

## 5. Financial Implications

5.1. The total approved budget for this programme, including spend on HRA assets is £40.324m. This exceeds the recommended £30m variation in the contract. The breakdown is as set out below.

	Actual		23/24						Total
	21/22	22/23	Outturn	24/25	25/26	26/27	27/28	28/29	
Phase 1 - grant	11.675	1.324							12.999
Phase 1 council funded	0.600								0.600
Phase 2 plus - grant			3.083	2.887					5.970
Phase 2 plus - council		0.598	2.348	7.309	3.500	3.000	3.000	3.000	22.755
S106 funded agreed at committee		0.677	0.323						1.000
<b>Total</b>	<b>12.275</b>	<b>2.599</b>	<b>5.754</b>	<b>10.196</b>	<b>3.500</b>	<b>3.000</b>	<b>3.000</b>		<b>40.324</b>

5.2. The carbon management capital investment should reduce energy usage. The Medium-Term Financial Plan includes carbon reduction savings totalling £514k between 2024/25 and 2026/27. A further £100k saving has been proposed for 2027/28.

## 6. Legal and Governance Implications

6.1. The report is seeking approval from the Cabinet Member to vary the existing contract between the Council and Vital Energi Utilities Ltd (the Contract) to increase the spend under the Contract.

6.2. The value of the original contract was advertised as and approved at £20million. The Council is in receipt of additional funding to undertake retrofit works to its buildings and seeks to extend the Contract. The requirements of the Public Contract Regulations 2015 (“PCR”) apply to the variation.

6.3. Regulation 72(1)(b) may apply where additional services by the original contractor have become necessary, and a change in contractor cannot be made for economic or technical reasons, and it would cause significant inconvenience or substantial duplication of cost for the Council. The value of any modification under this Regulation is capped at 50% of the original contract value.

6.4. Officers have confirmed that:

6.4.1. The additional services are necessary due to the award of further grant funding.

6.4.2. Appointing a new supplier at this stage would impact on the uniformity and consistency of plant and equipment installations due to the use of a different supply chain.

6.4.3. A change in supplier would increase the cost of planned and preventative maintenance across the portfolio.

6.4.4. A change in supplier would lead to a duplication of design and survey costs with a new supplier having to re-survey the portfolio to identify possible IGPs. This work has already been undertaken by the existing supplier.

6.4.5. The grounds for relying on Regulation 72(1)(b) will have to be published in a modification notice. See Part B for further legal comments.

6.5. The Council's Procurement Code provides that contract variation valued at £1,500,000 or more, requires endorsement by CGRB and approval by appropriate Cabinet Member in accordance with their Terms of Reference.

6.6. The variation will need to be formally documented and a modification notice published. Officers will consult Legal Services to draft the variation.

#### 6.7. **Climate Impact**

The Council declared a climate emergency in 2019 and developed a [Climate Emergency Action Plan](#).

6.8. The action plan for the Council's operational buildings is to maximise the retrofitting of buildings to cut their energy demand.

6.9. Building on the achievements of our phase 1 programme of works, for the operational portfolio which generated 1600 tCO<sub>2</sub> / 17% carbon emissions savings from our baseline. Our current phase 2 programme of works is targeting a further 708 tCO<sub>2</sub> / 7.6% reduction in emissions. We are in the final stage of delivering air source heat pump installs in this phase which will complete in the autumn of 2024. Design works are under way for phase 3 of the carbon management programme which is targeting an additional carbon emissions reduction of 334 tCO<sub>2</sub> / 3.6%.

6.10. Works have been delivered across a wide variety of energy conservation measures such as pipework insulation, BEMS (Building Energy Management System) optimisation, draught proofing, EC fan replacements, cooling improvements, pool covers, air source heat pumps, solar PV and LED lighting upgrades, delivered through 135 projects. A further 131 projects will be delivered across phases 2 and 3 of our programme.

6.11. 20 solar PV installations have now been completed across the corporate property portfolio, with a total peak output of 808.56 kWp. The lifetime generation from these installations since October 2022 totals 878 MWh.

## 7. **Equalities Implications**

7.1. An EQIA template form has been completed. The supply of Energy and Ancillary Services contract delivery does not disproportionately impact any one or more of the 'protected characteristic groups' under the Equalities Act 2010.

## 8. Consultation

8.1. N/A.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

John Hamilton, Head of Sustainability & Data Insight

**[jhamilton@westminster.gov.uk](mailto:jhamilton@westminster.gov.uk)**

## APPROVED BY

<b>Name and Title</b>	<b>Date sent</b>	<b>Date approved</b>
Executive Director for Finance & Resources	01/10/2024	04/10/2024
Finance Manager, Finance	13/09/2024	27/09/2024
Senior Major Legal Manager, Legal	13/09/2024	23/09/2024
Portfolio Advisor, Governance	04/10/2024	25/10/2024

## APPENDICES

- Appendix 1: Part B Exempt Appendix

## LIST APPENDICES ABOVE BACKGROUND PAPERS

## BACKGROUND PAPERS

- None



*NB: For individual Cabinet Member reports only*

For completion by the Cabinet Member for Finance & Council Reform

**Declaration of Interest**

I have no interest to declare in respect of this report

Signed:  Date: 5 November 2024  
NAME: Cllr David Boothroyd

State nature of interest if any:

*(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled **Energy Efficiency Programme Retrofit Accelerator (REFIT) – Workplaces Contract Variation** and reject any alternative options which are referred to but not recommended.

Signed: 

Cabinet Member for Finance & Council Reform  
5 November 2024

Date: \_\_\_\_\_

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Monitoring Officer and Section 151 Officer (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.