NATIONAL **PAEDIATRIC** HOSPITAL DEVELOPMENT **BOARD**

Ms. Sarah Cremin Committee of Public Accounts Leinster House Dublin 2 D02 XR20

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Date: 27th February 2023

Re: Response from the National Paediatric Hospital Development Board Ref S1193 PAC 33

Dear Ms. Cremin

Thank you for your recent correspondence, please find responses to the Committee's questions below:

1. an update regarding the completion date of the project and confirmation regarding the nine-month period for fitting out and for activation:

Everyone working on the new children's hospital project remain focused and committed to delivering this much needed hospital as quickly as possible and for the lowest possible cost. The build is now well advanced in all areas. Fit out is also at an advanced stage in all parts of the hospital and orders have been placed for all the specialist medical equipment that is integrated into the building.

The current programme from the Main Contractor states that the building will be substantially complete in March 2024, it will then be handed to Children's Health Ireland for a period of commissioning. By the end of February 2023, the Main Contractor is expected to submit an updated programme for substantial completion to the Employers Representative, in accordance with the Public Works Contract. Once received, this programme will be reviewed and evaluated by the Employers Representative.

2. details regarding when the moratorium on claims will end:

In 2021 a moratorium agreed between the NPHDB and the main contractor was applied on disputes including on Conciliations and Adjudications and High Court proceedings. This moratorium was designed to allow both parties to concentrate on delivering the project in the shortest possible timeframe. Progress on the construction of the new children's hospital has advanced significantly and the major focus in 2023 is the internal fit-out and commissioning of mechanical and electrical services.

As previously advised to the Committee (December 2022), the NPHDB and the Contractor agreed to engage in relation to lower value disputes (not delay related) to see if agreement can be reached. When the NPHDB and the Contractor cannot reach agreement, the disputes are referred to the Standing Conciliator.

The moratorium on high value delay related disputes ended on 13th January 2023. The Contractor has referred a high value delay related dispute to conciliation and the Contractor has referred two disputes to adjudication. The 'without prejudice engagement' between the NPHDB and the Contractor continues.

Board Members:

- Ms Fiona Ross (Chair) Mr John Cole
- Mr Tim Bouchier-Hayes
 Ms Anne Butler
 Mr Michael Shelly
- Ms Anne Butler
- Mr Michael Barry
- Mr Karl Kent Mr John McGowan
- Mr Brian Keogh
 Mr Derek Moran
- Mr Alex White



In line with the 'Update on the implementation of previous recommendations made by the Committee of Public Accounts to the National Paediatric Hospital Development Board following the Committee's engagements of 9 February and 13 July 2021' and Minute of the Minister for Public Expenditure & Reform dated April 2022. Please find below an update on the claims/adjustments and disputes as at the end of January 2023.

National Paediatric Hospital Development Board - Information on the Dispute Management Process

The processes for the determination of contractor claims and adjustments and for the resolution of disputes are set out in the Construction Contract. Clause 10.3 in the Public Works Contract is entitled 'Contractor Claims'. Contractor Claims include items such as:

- 1) Valid variations / adjustments to the Main Contractor that could not be foreseen at contract stage
- 2) Employer change orders / variations that could not be foreseen at contract stage
- 3) Expenditure of Provisional Sums against allowances in the contract that could not be fully determined at contract stage
- 4) Omissions of scope, savings, that were not included at contract stage
- 5) Value engineering and opportunities that were not included at contract stage
- 6) Contractor claims for delay, extensions of time and/or disruption due to employer delay and/or compensation events

Employers Representative	All claims and adjustments are independently assessed and determined by the Employers Representative (ER). This can include additional payments to the Contractor, savings for the Employer, or no costs awarded either way. This can also include an Extension of Time awarded to the Contractor. Once determinations are made the Contract Sum is adjusted up or down accordingly.
Project Board	Claims and adjustments determined by the ER can be disputed by either party by referring to the Project Board. The Contract facilitates that the Project Board may resolve disputes that cannot be addressed at the project level.
Conciliation	Under the Contract if the Project Board is unable to resolve the dispute it is referred to Conciliation. The Conciliator's recommendation is not legally binding and should either party disagree with the recommendation then High Court Proceedings can be initiated, two Conciliator's recommendations have been referred to the High Court.



Adjudication	This is a statutory payment dispute process that either party can avail of in parallel with the Contract.
High Court	Either Party has the option to issue a notice of dissatisfaction with the Conciliator's Recommendation. When this occurs either party may issue High Court Proceedings. An adjudication decision can also be referred to the High Court.

Disputes and 10.3 Claims/Adjustments on the NCH Project as at the end of January 2023:

NCH- 10.3's Notified to the ER as at end January 2023		Contractor	ER Determined		Provisional Sum		Contractor	ER Determined	Amount Referred	Amount Referred	Agreed 10.3
	10.3 Qty No.	10.3 Value Amount (Excluding Amending the	Savings & Client Claims €	Budget Exceeded Value as End of	Net Contract Sum Change €	Claimed Amount Referred to	Amount of 10.3's Referred to	to Dispute by Contractor €	to Dispute by NPHDB €	Amount Post Conciliation €	
10.3's Notified for ER Determination	1875										
Substantiated Claims Issued for Determination	1541	€ 646,899,360									
Claims Determined by ER	1323	€509,474,168	€ 11,295,327	-€5,478,595	€4,228,711	€ 10,045,443					
Contractor Only, ER Determined Claims that are disputed and											
referred to Project Board and Conciliation	1081						€ 336,147,433	€ 24,907,696	€ 311,239,737		
Contractor Only, ER Determined Claims that are disputed and											
referred to the High Court	1						€ 45,001,700	€0	€ 45,001,700		
NPHDB and Contractor, ER Determined Claims that are											
disputed and referred to the Project Board and to Conciliation	14						€125,095,582	€3,053,592	€ 122,041,990	€3,053,592	
NPHDB Only, ER Determined Claims that are disputed and											
referred the Project Board and to Conciliation	3						€ 186,755	€ 159,205		€ 159,205	
NPHDB Only, Dispute referred the High Court (Phase B											
Instruction)	1									€0	
Disputes agreed and no longer in Dispute Management	11					€1,570,522	€5,837,526	€1,568,192			€ 3,843,651
Totals						€ 11,615,965	€ 512,268,996	€ 29,688,685	€ 478,283,427	€3,212,797	€ 3,843,651

Yours sincerely

David Gunning Chief Officer

National Paediatric Hospital Development Board