

**WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY  
THE DEPUTY OF ST. MARY  
ANSWER TO BE TABLED ON TUESDAY 24TH FEBRUARY 2009**

**Question**

Would the Minister inform members whether there is mention of the possibility of unforeseen circumstances (such as extra hard granite causing additional costs to be met by the purchaser) in the contract for the Energy from Waste plant, and, if so, would he advise the exact wording of the contract in this regard, including the maximum additional potential cost to which the purchaser is exposed and the exact reference within the contract?

**Answer**

When tender documents were issued, the tenderers were supplied with ground investigation reports prepared by the department giving the below ground formation and strata.

The “preferred bidder” was also provided access to the site to undertake their own ground investigation to ascertain the exact nature of the ground conditions to validate the information contained in the tender documents prior to contract signature. If there were any discrepancies between the two sets of information, the preferred bidder had the opportunity to vary their tender price prior to the contract being signed in November 2008. The Contractor advised that, due to the need for a slight adjustment to the footprint of the plant there would be a £75,000 adjustment to the cost of excavation which was included in the final contract price. There were no other variations resulting from the process. The risk therefore is with the contractor to remove the material found on site.

In terms of unforeseen circumstances, it is for the contractor to prove that he has encountered these circumstances whatever form they might be and under the contract, they are dealt with as a claim. Under Clause17 - Contractors Variation and Clause18 - Contractors Claim, of the Institution of Chemical Engineers Red Book Contract, the methodology for dealing with claims is clearly dealt with, a copy of which has already been supplied to the Deputy.