



INTERNAL AUDIT REPORT



Procurement Compliance 2016/17

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Author:	Trevor Croote Milda Cufi		Jonathan Ward-Langman – Commissioning Manager
			Beverley Jolly, Corporate Director (final draft)
			Simon Riley – Head of Finance (s151 Officer) (final report only)
			Cllr Michael Rook, Chair of Governance and Audit Committee (final report only)



PROCUREMENT COMPLIANCE 2016/17

EXECUTIVE SUMMARY

1. INTRODUCTION & OVERALL OPINION

The Council’s Contract Procedure Rules (CPRs) and Statement of Required Practice for Procurement (SORP) are designed to ensure probity and value for money when procuring goods, works or services that meet the needs of local residents and comply with legal and regulatory requirements in respect of competition and transparency. This audit was carried out to provide assurance that officers are complying with the approved rules and practices.

A sample of contracts was selected for testing from various records. It was noted that the contracts register published on the Council’s website is out of date, although officers stated that work is currently underway to update and re-publish the register.

All contracts tested by Internal Audit complied with advertising requirements, where applicable. All bids were evaluated based on pre-determined award criteria and bidders were simultaneously notified of the outcome. The evaluation process was found to be clearly documented and evidenced in all cases. All contracts were found to have been signed and sealed where applicable. However, there is scope to improve documentation and evidence of compliance with certain aspects of the SORP and contract procedure rules. In addition, there was one case where a supplier was selected based on an approved framework agreement but the contract was awarded outside of the framework. In Internal Audit’s view, whilst there is no evidence that the Council failed to achieve value for money, this does not comply with the Council’s rules and may increase the risk of legal challenge.

Based on these findings, the framework of controls currently in place provide **Sufficient Assurance** that the identified risks have been appropriately mitigated. Detailed findings are set out in section 2 below. The audit was carried out in line with the scope set out in the approved audit planning record (APR). The assurance opinion is based upon testing of the design of controls to manage the identified risks and testing to confirm the extent of compliance with those controls, as summarised in Table 1 below.

Table 1: Assurance Opinion

Internal Audit Assurance Opinion	Direction of Travel				
Sufficient Assurance	N/A				
Risk	Design	Comply	Recommendations		
			H	M	L
01 - Failure to secure value for money and comply with Council policy and legislation	N/A	Sufficient Assurance	0	2	1
Total Number of Recommendations			0	2	1



2. SUMMARY OF FINDINGS

The Audit sample included seven contracts procured in the last financial year. Five contracts were selected from the 'Delta' e-tendering system and the other two contracts were selected from expenditure reports published on the Council's website under the transparency section.

Use of the Delta e-tendering system provides a sound basis for managing and recording the procurement process. The system ensures transparency and consistency as well as a clear audit trail of the procurement process.

Risk 1: Failure to secure value for money and comply with Council policy and legislation.

At the time of the audit it was found that the SORP document published on the Council's website and Intranet page was out of date. For example, it did not reflect the current practice relating to use of the Delta e-tendering system. The Service Manager confirmed that the SORP was updated in July 2016 although the version on the website and intranet is dated August 2013 (**recommendation 1**).

Based on detailed testing, there was evidence of compliance with most aspects of the SORP and CPRs in the majority of cases, although there is scope to improve documentation and evidencing in some areas. In particular, in cases where a formal tender process is applied the SORP requires the evaluation methodology to be agreed in advance by the relevant member of Corporate Management Team (CMT). No formal evidence of this could be provided for any of the four cases that were subject to a formal tender. Officers explained that this was because the evaluation criteria are usually set by the relevant service manager in consultation with the Commissioning Manager. Nevertheless, the SORP requires CMT approval but there is no evidence that this is being complied with in practice (**recommendation 2**).

In addition, there was a lack of formal evidence to demonstrate compliance with the SORP requirements in respect of approval to award a contract. For contracts over £50k, approval of the Executive or Council is required, unless the contract is a direct replacement of an existing contract in which case the award can be approved by a Corporate Director. In cases of contracts below £50k the authorisation of the Head of Service, Head of Finance and Head of Legal Services is required. Currently there is no evidence that formal approvals of this nature are being obtained prior to award of the contract (**recommendation 2**).

One contract in the sample was procured using an approved framework agreement with SCAPE. There was only one provider within the framework meaning no additional competitive process or evaluation was necessary under the Council's procedures. Officers stated that an alternative supplier within a different framework agreement was also considered, although this was not formally recorded. For contracts over £50k the SORP allows the use of approved framework contracts subject to the agreement of the Lead Officer and relevant member of CMT in consultation with the Commissioning Manager. In these circumstances it is good practice to document the approval together with the reasons why a framework agreement is to be used and how it will ensure value for money is achieved (**recommendation 2**).

In one case a number of service providers were initially evaluated using an approved ESPO framework agreement and a preferred provider was selected based on the framework prices. However, the preferred provider was unwilling to agree to the framework terms and conditions and was therefore appointed outside of the framework agreement without further competition. Officers stated that the assessment within the framework agreement was regarded as a proxy quotations process and ensured value for money. In Internal Audit's opinion, whilst the framework agreement provides some evidence of price competitiveness this contract has not been procured in



accordance with the SORP or Contract Procedure Rules and there is an increased risk of legal challenge as alternative providers were not given the opportunity to quote outside of the framework agreement. It should be noted that the Commissioning Manager does not agree with this view and is of the opinion that the approach adopted is fully compliant with the SORP requirements and principles.

It is critical that all staff involved in the procurement of goods and services take personal responsibility to ensure they fully understand, apply and clearly record compliance with CPRs and that managers ensure this is consistently enforced (**recommendation 3**).

In one case that was procured using the quotations process the Procurement Plan recorded the decision to receive quotations via standard email. At the time of procurement of this contract the relevant procedure rules did not specify a preferred method of receiving quotes. The Commissioning Manager explained that the e-tendering system was in the early stages of implementation and it was not clear at the time whether its use would be economically viable in cases where a large number of bids were expected. Nevertheless, the use of standard email systems to receive formal quotations is inherently weak as there is no means of ensuring that all quotes are opened at the same time. This unnecessarily exposes officers to the risk of allegations of fraud and corruption. It is Internal Audit's understanding that all quotations are now managed through the Delta system which ensures all bids are locked until the specified opening day.

3. Action Plan

The Action Plan at Appendix 1 provides a number of recommendations to address the findings identified by the audit. If accepted and implemented, these should positively improve the control environment and aid the Council in effectively managing its risks.

4. Limitations to the scope of the audit

This is an assurance piece of work and an opinion is provided on the effectiveness of arrangements for managing only the risks specified in the Audit Planning Record.

The Auditor's work does not provide any guarantee against material errors, loss or fraud. It does not provide absolute assurance that material error, loss or fraud does not exist.



APPENDIX 1

ACTION PLAN

Rec No.	ISSUE	RECOMMENDATION	Management Comments	Priority	Officer Responsible	Due date
1	At the time of the audit it was found that the Procurement SORP published on the Council's website and intranet page was out of date. This increases the risk that officers will not be aware of or comply with the correct version.	The out of date SORP needs to be removed from the Council's website and the Intranet, and replaced with the current up to date version of the SORP.	Commissioning Manager: Action completed.	L	Commissioning Manager	Completed
2	Testing found several instances where evidence of compliance with some aspects of the SORP and contract procedure rules was not clearly documented. This increases the risk of fraud, error and legal challenge.	Review standard procurement documentation and introduce additional templates and/or guidance to assist staff in ensuring all stages of the procurement process are clearly and accurately documented. This could include additional templates or documentation within the Delta system to evidence key processes such as: <ul style="list-style-type: none"> ■ approval to use a framework contract and explanation of how this achieves VFM; ■ approval of the contract award criteria; and ■ authorisation to award the contract. 	Head of Legal & Democratic Services: Agreed. We will review the SORP to clarify the requirements for Senior Officer authorisation of evaluation criteria to be applied to contract awards and adapt the existing Contract Sign Off Form. Training will be provided to officers engaged in procurement as set out in recommendation 3 below.	M	Commissioning Manager	31 October 2017



Rec No.	ISSUE	RECOMMENDATION	Management Comments	Priority	Officer Responsible	Due date
3	In one case the contractor was selected from a framework agreement but appointed outside of the agreement without further competition. This increases the risk of legal challenge and exposes officers to an increased risk of allegations of fraud or corruption.	Remind all staff involved in procurement of their individual responsibility to ensure they fully understand and comply with all aspects of contract procedure rules and the procurement SORP, including use of frameworks.	Head of Legal & Democratic Services: I agree with the recommendation. A training session on the use of the Council's SORP is arranged for all officers engaged with the procurement process.	M	Head of Legal & Democratic Services	31 October 2017



Appendix 2

GLOSSARY

The Auditor's Opinion

The Auditor's Opinion for the assignment is based on the fieldwork carried out to evaluate the design of the controls upon which management rely and to establish the extent to which controls are being complied with. The table below explains what the opinions mean.

Level	Design of Control Framework	Compliance with Controls
SUBSTANTIAL	There is a robust framework of controls making it likely that service objectives will be delivered.	Controls are applied continuously and consistently with only infrequent minor lapses.
SUFFICIENT	The control framework includes key controls that promote the delivery of service objectives.	Controls are applied but there are lapses and/or inconsistencies.
LIMITED	There is a risk that objectives will not be achieved due to the absence of key internal controls.	There have been significant and extensive breakdowns in the application of key controls.
NO	There is an absence of basic controls which results in inability to deliver service objectives.	The fundamental controls are not being operated or complied with.

Category of Recommendations

The Auditor prioritises recommendations to give management an indication of their importance and how urgent it is that they be implemented. By implementing recommendations made managers can mitigate risks to the achievement of service objectives for the area(s) covered by the assignment.

Priority	Impact & Timescale
HIGH	Management action is imperative to ensure that the objectives for the area under review are met.
MEDIUM	Management action is required to avoid significant risks to the achievement of objectives.
LOW	Management action will enhance controls or improve operational efficiency.