

PERFORMANCE AND AUDIT SCRUTINY COMMITTEE

3 March 2009

Report of the Director of Governance & Procurement

ITEM 10 CONTRACT MANAGEMENT: FOLLOW-UP

Purpose of the Report

To provide the Committee with information on the follow-up of the recommendations which were made in the Internal Audit report on the Council's contract management arrangements, as previously circulated to the Committee.

Background

Internal Audit issued a report on a review of the Council's contract management arrangements in February 2008, with an overall conclusion of 'Unsatisfactory'. Details of the findings of the Internal Audit were considered by this Committee at its meeting on 16 June 2008, at which time the Committee requested that they receive a supplementary report when the follow-up review by Internal Audit had been completed.

The Internal Audit report detailing the findings from the follow-up review is attached as Appendix I to this report. The Committee will note that the report concludes that only limited assurance can be given, and that:

- Although progress had been made towards implementing two of the three recommendations and associated actions, further work is still required to ensure all major spending with suppliers is in full compliance with the Council's procurement and contract management requirements. This was evidenced by instances of further non-compliances which were noted during the follow-up review,
- Of the six instances of significant spending with suppliers which did not appear to be in compliance with the Council's procurement requirements noted in the original audit report, spending with the suppliers has continued in two instances without satisfactory remedial action being taken, resulting in further non-compliances. Further information supplied to Internal Audit since the issue of the report indicates that no further orders have been placed with Rhino Advertising since 1 September 2008, and that recruitment advertising work is now being procured from a supplier selected under ESPO arrangements. This non-compliance was therefore rectified as from 1 September 2008. Additionally, further clarification of the position in relation to Joe Rose mentioned in the report has clarified that because the expenditure is now being incurred by Charnwood Neighbourhood Housing, this no longer represents a non-compliance for the Council.

- The E-Contract Register on the Council's website has not been fully brought up to date as agreed, and still does not include details of all the Council's current contracts, planned contracts and contracts currently out to competition.

Internal Audit did note that significant progress has been made towards training staff on procurement requirements, including introducing a system of removing access to requisitioning and ordering facilities for those who have repeatedly failed to attend the training.

The Council's Senior Management Team have now considered how best to move forward to ensure that the issues and concerns noted during the follow-up review are fully addressed. They have agreed that:

- Formal disciplinary / competence procedures will be followed by Directors for all non-compliances with contract procedure rules within their Directorates,
- The Central Purchasing team will monitor aggregated expenditure every 6 months to determine non-compliance and opportunities for value for money improvements,
- A comprehensive set of reports will be developed on contract expenditure to find further opportunities for value for money.

The Director of Governance & Procurement, in his role as the Contract Compliance Officer will be monitoring the situation closely in future, and considering further procedural improvements where necessary.

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Charnwood

Leading in Leicestershire

Internal Audit Services

Contract Management 2007/08

Follow-up Internal Audit Report

LIMITED ASSURANCE

December 2008

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Circulation:

Officer	Final Report
Geoff Parker (Deputy Chief Executive)	Y
Ian Geary (Head of Financial Services)	Y
Simon Jackson (Chief Financial Officer)	Y
Brian Hayes (Chief Executive)	Y
Keith Ireland (Director of Governance & Procurement)	Y
David Howkins (Purchasing Manager)	Y
Brian Hayes (Chief Executive)	Y

I. Introduction

I.1 Background

The purpose of this review was to follow-up on the implementation of the recommendations and agreed actions made in the Contract Management audit report issued in February 2008.

Three recommendations were made by Internal Audit and management actions were agreed.

I.2 Scope

To ascertain the extent to which the agreed actions have been implemented.

I.3 Approach

Our approach to this review was to hold discussions with key members of staff and to seek evidence that the agreed actions have been implemented.

I.4 Acknowledgement

We would like to thank all members of staff for their assistance and co-operation during the course of this review.

2. Executive Summary

LIMITED ASSURANCE

- 2.1 Internal Audit can only give limited assurance to those charged with governance. There are significant weaknesses in the internal control environment within the areas reviewed, and further action is required to manage risks to an acceptable level.

A summary of progress against the agreed recommendations and actions is included in the following table in Section 3. The main concerns arising from the follow-up review are summarised below:

- Although progress has been made towards implementing two of the three recommendations and associated actions, further work is still required to ensure all major spending with suppliers is in full compliance with the Council's procurement and contract management requirements. This is evidenced by instances of further non-compliances which have been noted during this review,
- Of the six instances of significant spending with suppliers which did not appear to be in compliance with the Council's procurement requirements noted in the original audit report, spending with the suppliers has continued in three instances without satisfactory remedial action being taken, resulting in further non-compliances,
- The E-Contract Register on the Council's website has not been fully brought up to date as agreed, and still does not include details of all the Council's current contracts, planned contracts and contracts currently out to competition.

It is pleasing to note that significant progress has been made towards training staff on procurement requirements, including introducing a system of removing access to requisitioning and ordering facilities for those who have repeatedly failed to attend the training.

At the time of the original audit, the Head of Financial Services was the designated Contract Compliance Officer. This responsibility passed to the Director of Governance & Procurement in August 2008.

3. Implementation Progress Report

No.	Recommendation	Priority	Response/Agreed Action	Status	Comments
1.1	A thorough review of procurement processes to enforce compliance with legislation and the Council's procedures, including training for officers responsible for procurement in service departments.	H	<ul style="list-style-type: none"> • Procurement will provide monthly training sessions on the procurement procedures. • Procurement will maintain a register of who has received training. • All those authorised as requisitioners or approvers in Agresso will receive training. <p>Agreed Action Date: April 2008</p>	Substantially Implemented	A number of training sessions have been held, including a specific session for SMT. The initial sessions have been targeted towards Heads of Service and Team Leaders, as these are considered to be the officers most likely to be entering into contracts. However, of the 50 CBC budget holders listed in the annual budget book, 6 have not received training to date. A system has been introduced whereby if officers have not attended following 3 invitations, their access rights will be removed until they have completed the training.
1.2	A strengthening of the role of the Corporate Procurement Team to monitor compliance and provide guidance and advice.	H	<ul style="list-style-type: none"> • Suppliers will be monitored and where the value/cost of each activity is such that it suggests the goods/services should be supplied under contract then Procurement will contact the service with a standard email and 	Partially Implemented	Although a report has been developed to identify the total spend with suppliers over a period of time, it is not set up on an exception basis, and requires manual interrogation to view the total amounts paid to individual

No.	Recommendation	Priority	Response/Agreed Action	Status	Comments
			<p>request that they remedy the situation forthwith. The service would then need to comply with the Contract Procedure Rules and it would mean that where the value is above the relevant threshold that a separate Cabinet report seeking authority to go to tender would be required from the service if the activity is not identified in the annual procurement plan. The relevant consultations set out in the Contract Procedure Rules must also be followed.</p> <ul style="list-style-type: none"> • If the service does not respond within 4 weeks Procurement will send a follow up with a copy to the Director. This email to remind services that non-compliance with the Contract Procedure Rules may lead to disciplinary action. <p>If there has still been no action after a further 4 weeks this will be included in a list of potentially non-compliant contracts reported to the next SMT meeting within the monthly Revenue Monitoring report. SMT will then be asked to determine the action to be taken.</p> <p>Agreed Action Date: March 2008</p>		<p>suppliers. This report has been run in May and July 2008, to cover the period since January 2008 on both occasions (ie. not a 12 month period as reported to SMT on 16th July 08)).</p> <p>A review of follow-up work undertaken in respect of these reports indicated that only a relatively small number of suppliers had been identified for further investigation.</p> <p>The previous Contract Compliance Officer indicated in discussions that follow-up and further investigations have been limited due to a lack of resources, and the expectation that it will take time for officers to become accustomed to applying the correct procurement procedures.</p>

No.	Recommendation	Priority	Response/Agreed Action	Status	Comments
2	The Contracts Register is brought up to date to include all Council contracts, and checks made to ensure that the data held is accurate and complete.	M	<p>The web site data relating to the contract register will be updated manually by Procurement each month where the service has not done so using the electronic contract register.</p> <p>Agreed Action Date: Monthly</p>	Not Implemented	<p>The E-Contracts Register has not been brought up to date. The list of current contracts remains incomplete and does not include some of the larger contracts that the Council has awarded (eg. to Veolia for waste management, and to Serco for leisure management). The planned contracts section still has not been brought fully up to date, and appears incomplete in that, for example, it makes no reference to the re-letting of the waste management contract. The contracts for tender list includes two contracts which have passed the recorded start dates, ie disposal of scrap metal and replacement back up systems for ICS; and has not been updated to reflect any changes in circumstances.</p>

4. Detailed Findings

4.1 Training (Recommendation 1.1)

Several training sessions have been held by the Purchasing Manager between April and November 2008, including a specific session for SMT at the request of the Chief Executive.

Records of each session have been kept, and attendees are required to sign to confirm their attendance.

Officers who have failed to attend on three occasions have their access rights to raise requisitions and purchase orders removed until they do attend.

The training sessions have been targeted towards Head of Service and Team Leaders, and as at 24 November 2008, 88 officers had attended. However, it was noted that of the 50 officers listed as budget holders in the annual budget book, 6 have yet to be trained.

4.2 Strengthening the Role of the Procurement Team to Monitor Compliance with Procurement Requirements (Recommendation 1.2)

In order to undertake the monitoring specified in the agreed actions in respect of this recommendation, reports have been obtained and reviewed on two occasions (May and July 2008), and a total of 10 suppliers were highlighted where the Purchasing Manager identified that further investigations were required. A review of the process indicated that only a very limited number of suppliers had been reviewed on these two occasions. The Head of Financial Services explained that there are insufficient resources to check all suppliers.

It is pleasing to note that a further 27 items were added to the revised annual procurement plan submitted to Cabinet on 4 September 2008.

In respect of the six suppliers highlighted in the original audit report where non-compliances with the Council's procurement requirements were identified, these had been followed-up by the Deputy Chief Executive by a number of emails sent to the relevant services and Directors. However, a review by Internal Audit during this follow-up identified the following ongoing concerns:

Charnwood Tree Services

Following the concerns noted in the original audit report, Tree Surgery works were added to the supplementary annual procurement plan, with an anticipated contract start date of 1 December 2008. However, it is understood that Melton Borough Council were to lead on a joint procurement exercise for these works, but this stalled following the fire at their offices. No further action has been taken to let a contract since that

time, other than obtaining quotes for emergency tree works, and so therefore the non-compliance has not been fully corrected. A further £10,000 has been spent with this supplier so far during 2008/09.

Rhino Advertising

The Deputy Chief Executive queried the use of this supplier with Human Resources, and an exchange of emails ends with a statement from the Head of Financial Services on 14 May 2008 that the ESPO contract for recruitment advertising, which does not include Rhino, should be used. However, Rhino continue to be used, and the spend to date during 2008/09 with them is £61.5k, with the latest payment having been made in October 2008. The non-compliance has therefore not been corrected.

Joe Rose

The Deputy Chief Executive queried the use of this supplier with the Director of Housing & Health, who stated that the service in question was now being managed by CNH, and therefore the Council would not be engaging the supplier in future. However, the supplier continues to be used by CNH for the clearance of housing properties on the Council's behalf, and the management agreement with CNH clearly specifies that CHN must follow the Council's procurement processes when appointing suppliers. CNH have spent a further £16k with this supplier on the Council's behalf thus far during 2008/09, and the non-compliance has not been corrected.

It is therefore apparent that corrective action has not been taken to ensure that the proper procurement processes are being followed for three of the six suppliers which were raised as concerns in the original audit report, and that further amounts have continued to be spent with them which are not in accordance with the Council's procurement requirements.

In order to identify the potential scale of other potential non-compliances with procurement requirements, a report was obtained during the follow-up review from Agresso listing all creditors who had received payments exceeding £15,000 in the 12 months ended 31 October 2008.

Of the 226 creditors on the report, the Purchasing Manager identified 32 cases where it could not be confirmed that correct procurement processes had been followed, and that a valid contract was in place. The total spend with these 32 suppliers during the 12 month period was £830,000. The Purchasing Manager is continuing to investigate these.

Internal Audit selected a further sample of 10 from the remaining 194 suppliers, and identified concerns in respect of 3 of these 10 as follow:

Bridgeway Security (total spend £47,199)

This spend is in respect of street marshal services. No contract has been signed, although a service level agreement is in place which deals with the responsibilities of the marshals rather than contractual matters. The supplier was selected by 'piggy-backing' on a formal procurement process arranged by Leicester City Council. This was approved by a waiver of the Council's

contract procedure rules authorised by the Contract Compliance Officer (Head of Financial Services). It therefore appears that although an acceptable procurement process was followed, there is no formal contract in place.

Pickfords Removals (total spend £73,956)

This spend is largely in respect of office moves. There is no contract in place, only individual orders for separate pieces of work. No formal tender or quotation exercise has been followed as would be required for this overall value of work. It appears that at some point in the past, Pickfords had provided the cheapest quote for one piece of removal work, and they have continued to be used since that time without undergoing any further procurement process. This therefore represents a non-compliance with the Council's procurement requirements.

Quadrant Security (total spend £68,567)

The largest part of this spend (£48k) was for CCTV works, for which no competitive prices from other suppliers can be located, and which is not recorded in the Council's tender book. This therefore represents a non-compliance with the Council's procurement requirements. Competitive quotations were located for a smaller job (£18k), which had been opened by the CCO and Deputy CCO in accordance with requirements.

Overall therefore, although some monitoring has been undertaken by the Purchasing Manager, and a number of additional items have been added to the annual procurement plan, it still appears that there are significant numbers of ongoing instances of non-compliance with the Council's procurement and contract management requirements.

4.3 Updating the Contracts Register (Recommendation 2)

Examination of the E-Contracts Register indicated that it has not been brought up to date:

- The list of current contracts remains incomplete and does not include details of some of the larger Council contracts (eg. waste management, and leisure centre management),
- The majority of additional items added to the amended annual procurement plan in September 2008 are not included,
- Some of the list of planned contracts are out of date and the list appears incomplete (eg, it does not refer to the impending re-letting of the waste management contract)
- The contracts for tender section is out of date; two of the contracts recorded have passed the stated start date.

The Purchasing Manager stated that it is largely the responsibility of the relevant services to update the contracts register, and they do not always respond to his prompts and reminders when he notifies them of required updates.