



## FINAL INTERNAL AUDIT REPORT

### CHIEF EXECUTIVES

#### PROCUREMENT PROCEDURES AUDIT FOR 2013-14

**Issued to:** Peter Turner, Director of Finance; Dave Starling, Head of Corporate Procurement; Mark Bowen Director of Corporate Services, Leslie Moore, Deputy Director of Finance; Claire Martin, Head of Finance, Environment & Community Services; David Bradshaw, Head of CYP Finance; Lorna Blackwood Assistant Director Commissioning , Paul Symonds Assistant Director Transport and Highways and Doug Patterson, Chief Executive (Final Report Only).

**Prepared by:** Senior Auditor (Wandsworth Council of behalf of LBB)

**Date of Issue:** 8th January 2015

**Report No.:** CX/055/01/2013

## REVIEW OF PROCUREMENT - AUDIT FOR 2013-14

### INTRODUCTION

1. This report sets out the results of our audit of Procurement. The audit was carried out in 4 as part of the programmed work specified in the 2013-14 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee.
2. The controls we expect to see in place are designed to minimise the Council's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.
3. The original scope of the audit was outlined in the Terms of Reference issued on 20<sup>th</sup> March 2014. The period covered by this report is April 2013 to March 2014.

### AUDIT SCOPE

4. The scope of the audit is detailed in the Terms of Reference.

### AUDIT OPINION

5. Overall, the conclusion of this audit was that substantial assurance can be placed on the effectiveness of the overall controls. Definitions of the audit opinions can be found in Appendix C.

### MANAGEMENT SUMMARY

6. This review examined eighteen suppliers across the three Council departments, of varying cumulative annual spend, to establish whether contracts are in place and whether spend is effectively monitored.
7. A further five, high-value contracts were reviewed to establish whether effective controls are in place to mitigate key risks with regards to the tender and contract award process. The key risks include payments outside of contractual arrangements;

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ineffective Gateway Reviews; strategic objectives not being achieved; benefits not being realised; non-compliance with legislation; and the imposition of financial penalties.

8. The audit also reviewed the 2012/13 Cumulative Spend Review audit findings to ensure that all recommendations have been satisfactorily implemented.
9. During the audit the following issues were identified:
  - Full Budgetary Monitoring reports had been viewed although not submitted by the main budget holder for 7 of 18 suppliers examined and a further 1 had been submitted but not viewed;
  - Cumulative spend to a contractor exceeded the contract value specified on the contracts register. Departments will need to evidence value for money in these cases; ECSH were unable to find an agreement for one supplier which had a cumulative spend of £113K.
  - There was a failure to place a Contract Award Notice for one of the 5 major contracts reviewed and a failure to meet the deadline for 2 of the remaining 4 contracts;
  - The tender receipt process is not sufficiently robust;
  - A signed copy of 1 of the 5 contracts could not be located;
  - In 3/5 contracts examined the contract was signed after the commencement date.
  - There was no evidence that ongoing financial health checks are being undertaken for 3 of the five contracts; and
  - The Head of Corporate Procurement does not have access to Part 2 Committee papers which inhibits the flow of key procurement information to the Corporate Procurement Team.

### **SIGNIFICANT FINDINGS (PRIORITY 1)**

10. None

**DETAILED FINDINGS / MANAGEMENT ACTION PLAN**

11. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised at Appendix B.

**ACKNOWLEDGEMENT**

12. Internal Audit would like to thank all staff contacted during this review for their help and co-operation.

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
1	<p>Of a review of cumulative spend of 18 suppliers, it was established that Full Budgetary Monitoring (FBM) reports had been viewed although not submitted by the main budget holder for 7 suppliers. This review identified the main budget holder by the service with the greatest percentage of spend. The check took place on 24/03/14 and related to FBM reports for January 2014. (Budget codes 606100, 807110, 819110, 834110 (two suppliers), 819111 and 819201). A further 1 had been submitted but not viewed (budget code 648003).</p>	<p>Where budgets are not monitored, effectively and in a timely manner, there is a risk of overspending against budget or exceeding contractual estimates.</p>	<p><b>Ensure that budget holders are reminded to regularly monitor budgets and supplier spend by reviewing and submitting the bi-monthly FBM reports.</b></p> <p>[Priority 2]</p>
2	<p>For a sample of 18 suppliers the cumulative spend for 2013-14 was compared to the annual contract value. The following areas/suppliers were identified to be examined to ensure that the authority is achieving the best value for money:-</p> <ul style="list-style-type: none"> <li>• Supplier A – estimated annual contract spend £291K, actual 2013/14 spend £405K. The spend is all allocated to 606100 Highways. The service accountant confirmed that an additional £85K was spent in 2013/14 for a trial project, now included in the main contract with the supplier. £25K was identified in budget monitoring as performance payments for 2012/13.</li> <li>• Supplier B – 2013/14 spend to 21/03/14 £208K, with no tendered contract (for a Part A service). This is a trial for a service which</li> </ul>	<p>Where actual spend is over the contracted value and where appropriate contracts are not in place, there is a risk that the Authority is not achieving value for money and/or the Authority may be in breach of EU regulations.</p>	<p><b>Review the specified contracts/suppliers to establish whether value for money is being achieved.</b></p> <p>[Priority 2]</p>

**Priority 1**  
**Required to address major weaknesses and should be implemented as soon as possible**

**Priority 2**  
**Required to address issues which do not represent good practice**

**Priority 3**  
**Identification of suggested areas for improvement**

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No.	Findings	Risk	Recommendation
	<p>began in September 2012 and has been extended, most recently until 31/08/14. Responsibility for the service transferred to a new provider in January 2014, under a fixed price arrangement, a committee paper states that the further extension will enable the development of a 'robust procurement strategy'. It should be noted that a second committee paper in January 2013 also discussed a competitive tender process for 2013 which was not undertaken. This contract is subject to an internal audit investigation, the results of which will be reported in due course.</p> <ul style="list-style-type: none"> <li>• Supplier C – 2013/14 spend to 21/03/14 £537K. No contract as spend is reportedly on residential care placements, although budget breakdown has £430K under domiciliary care budget codes and £102K under Supported Living.</li> </ul>		
2 Ct'd	<ul style="list-style-type: none"> <li>• Supplier D – 2013/14 spend to 21/03/14 £375K. £113K of this spend is with the Department of Education, Care and Health and whilst the supplier is on the department's contracts register, the department are unable to find an agreement.</li> <li>• Supplier E – estimated annual contract spend £298K, actual 2013/14 spend to 21/03/14 £1.29m. The departmental contracts register reports that this contract expired on 31/03/13 and that a waiver is not currently in place.</li> </ul>		

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3	<p>There was a failure to place a Contract Award Notice for one of the 5 major contracts reviewed and a further 2 were placed after the 48 day deadline:-</p> <ul style="list-style-type: none"> <li>• There was no evidence that an Contract Award Notice was placed for contract A.</li> <li>• The Contract Award Notice for contract B was dispatched on 01/11/10 and included confirmation of the contract award decision date of 04/03/10. This period equates to 242 days.</li> <li>• The Contract Award Notice for contract C had not been issued until identified by the 2011-12 Review of Contract Management Audit. The Contract Award Notice was subsequently dispatched on 14/03/11 and included confirmation of the contract award decision date of 06/10/10. This period equates to 159 days.</li> </ul>	<p>Failure to comply with directives and regulations, in particular The Public Contracts Regulations 2006.</p>	<p><b>Ensure that Contract Award Notices are placed in line with directives and regulations.</b></p> <p><b>[Priority 2]</b></p>

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4	<p>The tender receipt process was reviewed to establish whether controls were sufficiently robust, with the following identified:</p> <ul style="list-style-type: none"> <li>• The 'Record of Tenders Received' document does not include the requirement for times of receipt or opening.</li> <li>• Printed names and a notation for the signature of an independent officer are also not included on this document.</li> <li>• The tender receipt form used for a contract sourced from a partner Authority. This did not include times of receipt or opening, although did include printed names. One signatory was the LBB contract lead officer and it could not be established whether the second non LBB officer was independent of the process.</li> <li>• The tender receipt records for contract A had the closing date amended from 06/09/12 to 12/09/12, with no signatures or initials on these amendments, or supporting documentation to evidence authorisation for the change.</li> </ul>	<p>Where times and dates are not recorded on tender packets and tender receipt records, there is an increased risk that challenges to award decisions could not be successfully defended.</p>	<p><b>Review tender receipt processes, to ensure that controls include documenting the dates and times of tender receipt and opening, printed officer names and evidence of authorised extensions.</b></p> <p><b>[Priority 2]</b></p>

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5	<p>Of a sample of five major contracts, a signed copy for contract D could not be located.</p> <p>The sample included the addendum A to the existing contract D. This file and deed packet for the whole contract could not be located, although it was confirmed that all initial procedures had been carried out and it had been entered onto the sealed contracts register. The deed packet had been signed out in February 2012 by an officer who has since retired.</p>	<p>Where signed contracts are not retained, there is an increased risk that the contractor cannot be held liable for any irregularities provided in their service.</p>	<p><b>Ensure that a signed copy of the contract for D is securely retained.</b>  <b>[Priority 2]</b></p>

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6	<p>Of 4 contracts that were available to review for party signatures and signing dates, it was established that 3 were signed after the contract start date.</p> <p>Contract B with supplier F started on 01/07/10 and was signed on 18/08/10. This equates to 48 days.</p> <p>The contract for supplier G started on 27/08/12 and was signed on 09/07/13. This equates to 316 days. It should also be noted that the year had been manually altered from 2012 to 2013 on the contract, but not initialled.</p> <p>Contract A with supplier H started on 29/03/12 and signed on 26/06/12. This equates to 89 days.</p>	<p>Where contracts are not signed prior to commencement date, there is an increased risk that the contractor cannot be held liable for any irregularities provided in their service, or that the service is provided to the contract standard.</p>	<p><b>Ensure that contracts are signed prior to the commencement of service and that any amendments are initialled.</b>  <b>[Priority 2]</b></p>

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7	<p>Of the 5 main contracts reviewed, there was no evidence that 3 contractors have been subject to on-going financial health checks. These contracts were supplier F for contract B; supplier I for contract C; and supplier H for contract A.</p> <p>The remaining two contractors, G and J, both have contracts with the Department of Education, Care and Health Services, overseen by the Department's Commissioning Division. This team uses an IT credit check tool to for Domiciliary Care Framework Agreement providers, care home providers and other suppliers where spend exceeded £100K.</p>	<p>Where the financial status of major contractors is not monitored, there is a risk that services may suddenly cease or performance weaken due to financial difficulties.</p>	<p><b>Consider regular financial health checks for all of the Authority's major contractors.</b></p> <p><b>[Priority 3]</b></p>

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8	<p>Part 2 Committee reports are not for publication as they contain exempt information in the form of financial and/or business affairs of a person or body. This is by virtue of Part 1 of Schedule 12A of the Local Government Act. Access to Part 2 papers is therefore restricted.</p> <p>The Head of Corporate Procurement does not have access to Part 2 Committee papers, which often report on procurement activities. This inhibits the flow of key procurement information to the Corporate Procurement Team to use for monitoring purposes.</p>	<p>Where the key officer responsible for the oversight of procurement does not have access to key procurement information, there is a risk that the knowledge gap may affect monitoring and decisions.</p>	<p><b>Review the Part 2 access rights of the Head of Corporate Procurement.</b></p> <p><b>[Priority 3]</b></p>

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MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1	Ensure that budget holders are reminded to regularly monitor budgets and supplier spend by reviewing and submitting the bi-monthly FBM reports.	2	Internal Audit comment that bi monthly reports are to be reviewed. Audit Sub Committee in June 2014 had requested that Chief Officers remind their staff that FBM reports are to be reviewed and submitted, a target of 85% was achieved for September 2014.	All budget holders	Immediate
2	Review the specified contracts/suppliers to establish whether value for money is being achieved.	2	<p>-Placements with supplier C were made on a spot contract basis for specialist and relate to long term clients. All placements have individual contracts but we have now put in place an overarching contract as well.</p> <p>-There are two ECHS contracts with supplier D – one for public health and one for clients with LD. The arrangement for clients with LD is block booking for admissions to leisure centres and was previously covered by I-Proc orders. In April 2014 this service transferred to ECHS</p>	<p>ECSH contract team</p> <p>ECSH contract team</p>	Immediate

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			<p>Commissioning and a contract has been put in place for 2014/15.</p> <p>-Supplier E referred to a contract which ceased on 31.3.14; clients transferred to direct payments</p> <p>-Supplier B was subject to an Internal Audit investigation November 2014.</p> <p>-For Supplier A the additional expenditure was undertaken as a variation to the existing contract with B&amp;J Enterprises</p>	<p>ECSH contract team</p> <p>Head of Highways</p>	

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Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
3	Ensure that Contract Award Notices are placed in line with directives and regulations.	2	<p>This recommendation will also need to accommodate the “tightening” of this requirement in the new EU Regulations; aided by access to the reports identified in Rec. 8.</p> <p>In the absence of access to the reports there is no formal requirement either to consult or inform Procurement of the award or agreement obtained. So I’ll be seeking to place some wording around this The rewriting Contract Procedure Rule to reflect the requirements of the new EU Regulations and the Transparency Regulations, will also include a the need to update Procurement in a timely manner.</p>	Head of Corporate Procurement	<p>July 2015</p> <p>This date is subject to the information required by the procurement regulations and the timetable set by Govt.</p>

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Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
			In the short term a note to remind Heads of Service and others that they need to Inform Procurement at the conclusion of any tender process we haven't been formally involved in will be issued.		
4	Review tender receipt processes, to ensure that controls include documenting the dates and times of tender receipt and opening, printed officer names and evidence of authorised extensions.	2	All appropriate officers should have undertaken the CPR training and therefore be aware of these requirements	Head of Corporate Procurement	Ongoing
5	Ensure that a signed copy of contract D is securely retained.	2	The contract has been located and is being stored securely	Director of Corporate Services	Completed

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Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
6	Ensure that contracts are signed prior to the commencement of service and that any amendments are initialled.	2	The recommendation is partially agreed. Whereas the best position is to have a signed contract in place before works or services commence this is not always possible. Securing documents out of the other party is out of our control, and not commencing the service/works on the due date often presents a far higher risk than the one they suggest of not being able to hold a contractor liable. On balance that particular risk is fairly low since a contract does not have to be writing – if there is offer, acceptance and consideration then the contract exists, so the contractor is almost certain to be liable if it starts work on agreed terms whether or not the documentation has been formally signed	Director of Corporate Services	Completed

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Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
7	Consider regular financial health checks for all of the Authority's major contractors.	3	Finance do a financial health check at the tender stage for contracts over £50K and review on an ad hoc basis. For any regular checks to be instigated a budget would need to be identified.	Head of Corporate Procurement	Completed
8	Review the Part 2 access rights of the Head of Corporate Procurement.	3	This will be followed up with Legal. The importance of this recommendation has increased given the request from Directors to review monitoring reports on all contracts over £500K.	Head of Corporate Procurement	Completed

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## OPINION DEFINITIONS

## APPENDIX C

As a result of their audit work auditors should form an overall opinion on the extent that actual controls in existence provide assurance that significant risks are being managed. They grade the control system accordingly. Absolute assurance cannot be given as internal control systems, no matter how sophisticated, cannot prevent or detect all errors or irregularities.

### **Assurance Level**

### **Definition**

Full Assurance

There is a sound system of control designed to achieve all the objectives tested.

Substantial Assurance

While there is a basically sound systems and procedures in place, there are weaknesses, which put some of these objectives at risk. It is possible to give substantial assurance even in circumstances where there may be a priority one recommendation that is not considered to be a fundamental control system weakness. Fundamental control systems are considered to be crucial to the overall integrity of the system under review. Examples would include no regular bank reconciliation, non-compliance with legislation, substantial lack of documentation to support expenditure, inaccurate and untimely reporting to management, material income losses and material inaccurate data collection or recording.

Limited Assurance

Weaknesses in the system of controls and procedures are such as to put the objectives at risk. This opinion is given in circumstances where there are priority one recommendations considered to be fundamental control system weaknesses and/or several priority two recommendations relating to control and procedural weaknesses.

No Assurance

Control is generally weak leaving the systems and procedures open to significant error or abuse. There will be a number of fundamental control weaknesses highlighted.