

FINAL INTERNAL AUDIT REPORT
CHIEF EXECUTIVE'S DEPARTMENT

REVIEW OF CONTRACT MONITORING FOR 2017-18

Issued to: Doug Patterson, Chief Executive
Ade Adetosoye, Executive Director of ECHS
Mark Bowen, Director of Corporate Services
Lesley Moore, Director of Commissioning
Peter Turner, Director of Finance
Nigel Davies, Executive Director of ECS
Charles Obazuaye, Director of HR

Cc: Dave Starling, Head of Corporate Procurement
Susan Fraser, Senior Solicitor

Prepared by: Senior Auditor (Audit Contractor on behalf of LB of Bromley)
Principal Auditor

Date of Issue: 26 October 2017

Report No: CEX/019/2017/AU

REVIEW OF CONTRACT MONITORING FOR 2017-18

INTRODUCTION

1. This report sets out the results of our systems based audit of Contract Monitoring for 2017/18. The audit was carried out in quarter 2 as part of the programmed work specified in the 2017-18 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 department'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 1st March 2017.

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 Limited 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. We initially selected a sample of 15 contracts from the Contracts Database across the Council's Directorates. Testing was carried out to confirm that all contracts had been signed, sealed and were available. We looked to confirm that they were supported by Public Liability Insurance, Variations and Performance bonds/Parent Company Guarantees documentation. Two of the original signed and sealed contracts in our sample could not be found when we visited the strong room within

REVIEW OF CONTRACT MONITORING FOR 2017-18

Legal Services but these were subsequently found and seen. One had been recorded on the Legal Services records as a Miscellaneous Agreement rather than a contract and was then located. For the other contract, whilst it could not be found at the time of our initial visit, on re-checking the Legal Services records we identified that it had been booked out to and was being held by an officer several months previously. We were therefore able to see it.

7. We would like to bring to management's attention the following issues:

- Key supporting documentation was not held with the contracts for all the contracts selected in our sample. There was no single source record where Public Liability Insurance, Performance Bond/Parent Company Guarantee and variation documentation was held for all the contracts selected.
- In one case, we saw a deed of guarantee and indemnity dated 2008 but more recent documentation was not seen. In one case, Performance Bond/Parent Guarantee documentation was not readily available and in one case neither a pension bond nor a Parent Company Guarantee was held. In four cases, Public Liability Insurance documentation was not readily available. In one case, a Public Liability Insurance document dated 2009 was evidenced. More recent documentation was not available.
- There is no formal process in place in Legal Services for chasing officers who have borrowed contracts from the strong room but have not returned them;
- There is no formal contract in place with Supplier 'A'. Instead there is an annual arrangement for the purchase of licences and maintenance from Supplier 'A'. However, this information has not been included on the Contracts Database. Similar arrangements with other suppliers may be in place across the Council without the information being recorded on the Contracts Database.

REVIEW OF CONTRACT MONITORING FOR 2017-18

SIGNIFICANT FINDINGS (PRIORITY 1)

8. The following significant findings were identified:
- Key supporting documentation including all signed variations to the contract, Performance Bonds or Parent Company Guarantees and Public Liability Insurance documents is not held with the signed and sealed contracts. There is no single source record to identify where key supporting documentation for contracts is held.
 - Public Liability insurance was not available for five contracts in our sample. In one case, Public Liability Insurance dated 2009 was seen. However, more recent documentation was not provided. It is unclear, therefore, whether or not those contractors have sufficient Public Liability Insurance in place.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

9. 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

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

REVIEW OF CONTRACT MONITORING FOR 2017-18

DETAILED FINDINGS

APPENDIX A

No.	Findings	Risk	Recommendation
1	<p>A sample of 15 contracts was tested to confirm that up to date Performance Bond/Parent Company Guarantee documentation and that the most recent Public Liability Insurance documentation had been retained with the contracts. The following was identified:</p> <ul style="list-style-type: none"> • Grounds Maintenance (Supplier B): We saw a deed of guarantee and indemnity dated 2008 however more recent documentation was not seen; • Library Book and AV Materials Supply Contract with Central Buying Consortium (CBC) Framework (Supplier C) and Education - Provision of Full Time Education for Permanently Excluded Pupils and Pupils at Risk of Permanent Exclusion (Supplier D): Documentation was requested, but no information was provided; • Total Facilities Management (Supplier E): Neither a pension bond nor a Parent Company Guarantee was held. At the time of the audit, Legal Services were chasing the contractor for these documents; 	<p>The Council is unable to account for the location of key contractual documentation.</p> <p>Delays in proceedings should such documentation need to be referred to.</p>	<p>Chief Officers in liaison with Legal Services should ensure that key supporting documentation is obtained and retained with contracts. This should include all signed variations to the contract, Performance Bonds or Parent Company Guarantees and Public Liability Insurance documents.</p> <p>(Priority 1)</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

REVIEW OF CONTRACT MONITORING FOR 2017-18

DETAILED FINDINGS

APPENDIX A

No.	Findings	Risk	Recommendation
	<ul style="list-style-type: none"> • Highway Maintenance Contract Major Works (Supplier F) and Older People - Nursing Beds (PF & EMI) (Supplier G): Public Liability Insurance documentation was not held by contract managers. Copies were sought from these contractors, but not provided at the time of the audit report. • Education - Framework for Passenger Transport Services - Lot 1 - SEN and Non-SEN Children Transport Services (Various – framework agreement): Public Liability Insurance documentation was not provided; and • Provision of Exchequer Services (Consolidated Summary) (Supplier H) : A Public Liability Insurance document dated 2009 was seen. However, more recent documentation was not provided. <p>Although documentation for variations, Public Liability Insurance and Performance Bonds were seen for some contracts there was no single source record where this information was held for all the contracts selected.</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

REVIEW OF CONTRACT MONITORING FOR 2017-18

DETAILED FINDINGS

APPENDIX A

No.	Findings	Risk	Recommendation
2	From the sample of contracts selected for testing, in five cases the latest Public Liability Insurance documents could not be evidenced at the time of the audit (see recommendation 1 above). It is unclear, therefore, whether or not those contractors have sufficient Public Liability Insurance in place.	The service provided by the contractor is not sufficiently covered by up to date Public Liability Insurance.	Chief Officers should ensure that contract managers check and evidence on an annual basis that sufficient Public Liability Insurance is in place for contracts held. (Priority 1)
3	A deeds register is maintained within Legal Services which details individuals who have borrowed deeds, the dates they were borrowed and the dates they have been returned. However, gaps were identified where contracts had been borrowed, but there was no date of return recorded. We established that there is currently no formal monitoring mechanism in place to track the locations of borrowed contracts.	The location of contracts within the Council is not known.	Legal Services should introduce a formal chase up procedure for contracts which have been borrowed from the strong room. (Priority 2)

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

REVIEW OF CONTRACT MONITORING FOR 2017-18

DETAILED FINDINGS

APPENDIX A

No.	Findings	Risk	Recommendation
4	<p>We identified that there is no formal contract in place with Supplier 'A'. Instead there is an annual arrangement for the purchase of licences and maintenance from Supplier A'. However, this information has not been included on the Contracts Database. A total of £36,932.79 has been paid to 'Supplier A' for licences and software support for 2017/18. There may be other similar licensing and maintenance agreements with suppliers in place across the Council and which have not been identified and recorded.</p>	<p>Inability to account for agreements in place with suppliers, resulting in a lack of openness and transparency of information.</p>	<p>Chief Officers should review the Contracts Database to ensure that all licensing and maintenance agreements are recorded on the Database as required.</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

REVIEW OF CONTRACT MONITORING FOR 2017-18

APPENDIX B

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1	Chief Officers in liaison with Legal Services should ensure that key supporting documentation is obtained and retained with contracts. This should include all signed variations to the contract, Performance Bonds or Parent Company Guarantees and Public Liability Insurance documents.	1	From individual responses collated by Internal Audit, all Chief Officers have agreed to do this.	All Chief Officers	30 November 2017
2	Chief Officers should ensure that contract managers check and evidence on an annual basis that sufficient Public Liability Insurance is in place for contracts held.	1	From individual responses collated by Internal Audit, all Chief Officers have agreed to do this.	All Chief Officers	30 November 2017

Project Code: CEX/019/2017/AU

Page 8 of 10

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

REVIEW OF CONTRACT MONITORING FOR 2017-18

APPENDIX B

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
3	Legal Services should introduce a formal chase up procedure for contracts which have been borrowed from the strong room.	2	Agreed. Contracts which have been borrowed from the strong room will be reviewed on a weekly basis and reminders will be sent to the person holding the document and if necessary the document will be retrieved. Only exceptionally will an individual outside of Legal Services be permitted to hold original contract documents for more than 1 week.	Director of Corporate Services	30 November 2017
4	Chief Officers should review the Contracts Database to ensure that all licensing and maintenance agreements are recorded on the Database as required.	2	From individual responses collated by Internal Audit, all Chief Officers have agreed to do this.	All Chief Officers	30 November 2017

Project Code: CEX/019/2017/AU

Page 9 of 10

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

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.