

INTERNAL AUDIT REPORT



CONTRACT PROCEDURE RULES COMPLIANCE 2018/19

Issue Date:	26 th February 2019	Issued to:	Sav Della Rocca – Strategic Director Resources
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CONTRACT PROCEDURE RULES COMPLIANCE 2018/19 EXECUTIVE SUMMARY

1. INTRODUCTION & OVERALL OPINION

The Council's Contract Procedure Rules (CPRs) 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. At the time of audit testing, CPRs were undergoing a review and are scheduled for approval on the 11th March 2019. This audit was carried out to provide assurance over compliance with the current CPRs to ensure contracts are procured in a fair and transparent manner and achieve value for money.

Testing of a sample of procurements over the last 12 months confirmed that competition controls had been properly applied with at least three quotations or tenders obtained to achieve value for money. There was evidence of compliance with other CPR requirements in the majority of cases; those managed by the People commissioning team were 100% compliant. However, in other directorates there remains a lack of evidence for compliance with some aspects of CPRs, such as recording the receipt and opening of quotes/tenders; use of forms to demonstrate authorisation to award the contract; and ensuring that procurement documentation includes clear instructions to bidders on the return of bids. Once the newly revised CPRs are approved and communicated to all staff, management should consider providing training to all those involved in the procurement process to improve understanding and compliance with the new CPRs.

Contract registers are published quarterly on the Council's website for each directorate in accordance with the Local Government Transparency Code. Two contracts in the audit sample could not be found on the latest contract registers. Moreover, review of expenditure reports for 2018/19 identified a further six suppliers with a spend of over £50k that could not be found on the contracts register. Officers may want to investigate these instances and update the contract registers accordingly.

The audit was carried out in accordance with the agreed Audit Planning Record (APR), which outlined the scope, terms and limitations to the audit. The Auditor's Opinion is summarised below:

Internal Audit Assurance Opinion			
Control Environment	Good ●		
Compliance	Good ●		
Organisational Impact	Minor ●		
Risk	High	Medium	Low
Risk 1: Failure to secure value for money and comply with Council policy and legislation.	0	1	0
Total Number of Recommendations	0	1	0

2. SUMMARY OF FINDINGS

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

To ensure compliance with good procurement practice the Council has developed a set of Contract Procedure Rules which were last updated in July 2016. Internal Audit reported last year that CPRs were being re-drafted together with a revised version of the procurement toolkit and associated templates. However, at the time of audit testing the revised CPRs had not been finalised so this year's audit testing focused on compliance with the July 2016 version. Officers confirmed that the revised CPRs are scheduled for approval at Full Council on 11th March 2019.

Contract registers are published quarterly on the Council's website for each directorate in accordance with the Local Government Transparency Code and testing confirmed that the latest registers (quarter three) had been published at the time of audit. Also under the Local Government Transparency Code the Council publishes expenditure over £500 on a quarterly basis. Expenditure reports for 2018/19 were reviewed to establish whether all contracts were recorded on the contracts register. Eight instances were noted where payments to individual suppliers exceeded £50k in 2018/19 but with no entry on the contracts register.

- Perfect Circle JV Ltd @ £150k
- Civica UK Ltd @ £135k
- Marks Specialist Transport @ £127k
- Cambian Group @ £108k
- L Jones Surveying Ltd @ £69k
- Mace Ltd @ £63k
- Prodec Builders Ltd @ £54k
- Bechtle Direct Ltd @ £51k

It is possible that some of these omissions are simply timing differences between entering into contracts and updating the contract registers. However, six of the suppliers received payments in the previous financial year meaning that contracts are likely to have been in place for some time. Officers should investigate these instances and update the contract registers where necessary.

A sample of eight contracts was selected to review compliance with CPRs and assess whether they are consistently applied across different service areas. The audit sample included cases within each of the major thresholds:

- Two contracts within £10k - £50k threshold;
- Four contracts within £50 – EU threshold; and,
- Two contracts over the EU threshold.

Audit testing was carried out in line with CPR requirements and confirmed that the correct procurement method had been chosen and, where applicable, at least three quotations or tenders were obtained. Consequently, there is good assurance that the risk of poor value for money or fraud and corruption is suitably mitigated. Testing also confirmed that:

- In all cases contract opportunities were advertised on relevant media platforms providing all necessary procurement information i.e. contract specification, award criteria, instructions for submission of the tenders etc.;
- In all cases, where applicable, prior approval of the contract award criteria was obtained from the relevant officer or Cabinet (for contracts over £50k);

- In all cases the evaluation of bids was conducted in line with the approved award criteria specified within the procurement documentation;
- In all cases evidence of a signed and sealed contract, where applicable, were available.

However some exceptions were noted. In particular:

- In two cases there was no formal record of the receipt or the opening of quotes/tenders to meet CPRs requirements.
- In one case no award notice was published following the award of the contract.
- In one case the requirement to notify the bidders of the outcome simultaneously was not met.
- In one case instructions on the submissions and return of bids within the Invitation to Tender (ITT) document were inadequate. This resulted in tender envelopes being accidentally opened before the specified date as envelopes had no indication of it being a tender. To protect tenders until the official opening date these need to be in sealed envelopes marked with the word 'tender' or contain a return label provided by the Council to mark the envelope/package containing a completed tender.
- In one case the Request for Quotation (RFQ) template shared with bidders included contradicting information in relation to the return of the bid. Officers must ensure that procurement documentation includes clear instructions on the return of the tenders.
- In one case no evidence of authorisation of the award was provided.

Two contracts in the audit sample were procured via framework agreements, using the direct award method. Evidence of a signed framework access agreement was provided in both cases as well as a signed call off agreement. CPRs state that where an officer wishes to use a framework agreement offered by another public sector body, he or she must demonstrate (to a Chief Officer) that value for money will be achieved using a 'Framework call-off and award authorisation' form. However, no evidence of this form being completed could be provided in one of the cases. Also, in both instances no award notice was published. Although not explicitly stated in CPRs, the procurement toolkit states that award notices must be completed in respect of any call-off from a framework agreement, where the value of the call-off is £25,000 or above.

Based on this year's review, there remains scope to improve evidence of compliance with the above mentioned aspects of CPRs. Once the newly reviewed CPRs are approved and shared with all staff, management should consider providing training to all those involved in the procurement process to improve understanding and compliance with the new CPRs. In addition, Welland Procurement has developed a client specific procurement section on their website which includes guidance on the procurement process and contains all the relevant templates. To make the best use of this officers should provide a direct link to the Welland Procurement site on the Council's intranet and periodically signpost all procurement resources within the staff newsletter (**see recommendation 1**).

Based on the above findings, the overall assurance rating for the design and compliance with controls is **Good Assurance**.

3. 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.

4. ACTION PLAN

The following action plan provides 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.

ACTION PLAN

Rec No.	ISSUE	RECOMMENDATION	Management Comments	Priority	Officer Responsible	Due date
1	<p>Based on this year's review, there remains a lack of evidence for compliance with some aspects of the CPRs.</p> <p>Lack of guidance or formal training may lead to members of staff misapplying the CPRs requirements leading to non-compliance.</p>	<p>Once the revised CPRs have been finalised and formally approved, management should provide refresher training to all those involved in the procurement process to ensure a full understanding of and improve compliance with the new CPRs. A link to the Welland Procurement website should be provided on the intranet and all procurement resources periodically referenced within the staff newsletter.</p>	<p>We have held off updating the intranet and delivering the training until the new CPRs are ready to roll out after they are approved in March.</p> <p>The Monitoring Officer will also be provided training to the Leadership Team.</p> <p>An updated set of documents with guidance should clarify and make it easier for officers to follow. Adherence will also be supported by both the Commissioning Managers roles.</p>	<p>Medium</p> <p style="text-align: center;">●</p>	<p>Head of Commissioning</p>	<p>End June 2019</p>

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 tables below explain what the opinions mean.

Compliance Assurances		
Level	Control environment assurance	Compliance assurance
Substantial ●	There are minimal control weaknesses that present very low risk to the control environment.	The control environment has substantially operated as intended although some minor errors have been detected.
Good ●	There are minor control weaknesses that present low risk to the control environment.	The control environment has largely operated as intended although some errors have been detected.
Satisfactory ●	There are some control weaknesses that present a medium risk to the control environment.	The control environment has mainly operated as intended although errors have been detected.
Limited ●	There are significant control weaknesses that present a high risk to the control environment.	The control environment has not operated as intended. Significant errors have been detected.
No ●	There are fundamental control weaknesses that present an unacceptable level of risk to the control environment.	The control environment has fundamentally broken down and is open to significant error or abuse.

Organisational Impact		
Level	Definition	
Major ●	The weaknesses identified during the review have left the Council open to significant risk. If the risk materialises it would have a major impact upon the organisation as a whole.	
Moderate ●	The weaknesses identified during the review have left the Council open to medium risk. If the risk materialises it would have a moderate impact upon the organisation as a whole.	
Minor ●	The weaknesses identified during the review have left the Council open to low risk. This could have a minor impact on the organisation as a whole.	

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 ●	Action is imperative to ensure that the objectives for the area under review are met.
Medium ●	Requires actions to avoid exposure to significant risks in achieving objectives for the area.
Low ●	Action recommended to enhance control or improve operational efficiency.