

Report to the Audit and Governance Committee 22nd January 2021 on actions taken in relation to key recommendations made in the audit report relating to the audit of Direct Awards (Sole Source Approvals)

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Summary of Audit Area

The purchase of goods and services within Gloucestershire County Council (GCC) are required to comply with the Council's Contract Standing Orders, Financial Regulations, Accounting Instructions, and the European Union (EU) and UK procurement regulations to ensure value for money, fair competition and transparency. The Contract Standing Orders confirm that a direct award (sole source approval) should only be considered as a last resort when all other procurement strategies have been excluded and only in accordance with EU legislation and under specific detailed circumstances, specifically:

- The services are only capable of being provided by one particular provider (e.g. for technical or economic reasons);
- Where there is urgent need; or
- To protect intellectual property rights that the provider holds.

Summary Terms of Reference of the Audit

To review the decision making process in relation to direct awards for contracts, specifically looking to ensure that:

- A direct award is necessary based on the specific circumstances identified within the Council's Contract Standing Orders and in accordance with the Procurement Contract Regulations;
- Adequate justification has been provided to support the decision making process;
- The award is considered as only an interim solution; and
- Appropriate approval in authorising a direct award contract has been received and suitable supporting evidence has been retained.

The scope of this Internal Audit will include all identifiable direct award contracts entered into from April 2018 to August 2019 which will be the basis of the audit testing.

Risks

- Inappropriate expenditure;
- The loss of commercial integrity;
- Financial irregularities;
- Reputational damage; and
- Non-achievement of value for money.

Key Findings

Internal Audit reviewed the process and guidance available to service area managers for completing a direct award contract. It was found that the Commissioning Board is no longer active and therefore the mandatory step of approval by the Commissioning Board as stated in the guidance for contracts over £75,000 cannot be completed, therefore the guidance on staffnet should be updated to reflect this. Internal Audit also noted that the awarding process for direct award contracts valued from £15,000 to £75,000 does not require input from Strategic Procurement prior to completion of a direct award contract.

Alongside this, currently there is a weakness within the purchasing system that allows for service area managers to approve and complete purchases regardless of whether Contract Standing Order requirements have been met or not. In order to mitigate this risk of circumvention, Internal Audit recommends that the purchasing system is reviewed and redesigned where necessary and monitoring of contracts by Strategic Procurement takes place to ensure that direct awards are completed in a compliant manner.

The total number of direct awards contracts that have been completed across GCC from 1st April 2018 to 31st August 2019 could not be established as direct award contracts cannot currently be identified in SAP (the Council's Financial Management System), Pro-Contract or the contracts register. During the audit, Pro-Contract has been updated so that registering a contract as a direct award can now take place and the functionality to include unique contract numbers (Due North numbers) when raising purchase orders has also now been added into SAP.

Internal Audit selected a sample of eight direct awards contracts (totalling £700,491) across the organisation, identified through the contracts register, Pro-Contract and Strategic Procurement where possible. Testing checked that adequate justification for a direct award was apparent, the award was an interim solution and appropriate authorisation has been received prior to awarding the contract. Sample testing found that three out of eight (37.5%) direct award contracts had followed the process as intended. The remaining five contracts were not compliant as four did not have suitable justification to support the use of a direct award contract and one could not evidence appropriate authorisation by a Head of Service as required by the Contract Standing Orders.

Two of the contracts that did not have suitable justification for the use of a

direct award, have subsequently been given their notice for cancellation and are in the process of being procured compliantly. This is part of a wider project undertaken by the Contract Compliance Lead Officer and Information Assurance Support Officers within the Integrated Transport Unit. A new process has also been implemented within the Integrated Transport Unit for direct award contracts to ensure that justification of a direct award is completed as required. In circumstances that meet the requirements of a direct award, contracts are for a maximum interim period of four months to allow for adequate time for the service to be reviewed and then procured through a compliant process to ensure transparency and demonstrate value for money.

Disaggregation Spend (Contract Splitting)

From the sample testing Internal Audit found that two of the contracts had requests for a quote within Pro-Contract completed simultaneously for the same products. By procuring these separately each element totalled under £75,000 and therefore a full tendering exercise was avoided.

In both cases, Internal Audit found that the quick quote function within pro-contract had been used to complete the procurement. Internal Audit found for both contracts only one quote was received, from the same supplier, and that the only other suppliers invited to quote were inappropriate as they do not supply the goods/services required. Therefore the contract was awarded based on only one quote for the goods/services and was awarded in contravention of the Council's Contract Standing Orders. Details of this procurement were passed to the Counter Fraud team within ARA for further investigation.

Action taken as at January 2021 and/or proposed

The Internal Audit report raised five recommendations as follows:

Recommendation 1

Audit recommendation (High Priority):

Review the process for completing direct award contracts to ensure that it is in line with Contract Standing Order requirements.

Original management response:

The process for completing direct award contracts will be reviewed as part of the on-going Procurement Transformation Plan (PTP) that is due to design a replacement for the Contract Standing Order requirements.

Management update as at January 2021:

Strategic Procurement now monitor all prospective Direct Awards in conjunction with Legal and the Monitoring Officer. A Direct Award form is required to be completed before a Direct Award can be made. Changes are proposed for Contract Standing Orders to require Direct Awards to require independent approval.

Recommendation 2

Audit recommendation (Medium Priority):

Strategic Procurement to monitor the unique contract reference (Due North Number) within SAP to ensure that procurement requirements as stated in the Contract Standing Orders are taking place.

Original management response:

Following the implementation of mandatory inclusion of unique contract references (Due North Number) within SAP purchase orders, monitoring of on-contract and off-contract spend will be completed per the replacement of the Contract Standing Order requirements.

Management update as at January 2021:

We are proposing to submit a business case to implement the Contract system in SAP to allow purchase orders to be allocated to contracts. This will be done with a view to either switching on the Contract module in SAP or implementing the same within a SAP ERM successor.

Recommendation 3

Audit recommendation (High Priority):

The process for completing direct award contracts to be reviewed and updated where necessary, ensuring that there is appropriate oversight from Strategic Procurement is in place for all direct awards prior to the award of a direct award contract.

Original management response:

The process for completing direct award contracts will be reviewed as part of the on-going Procurement Transformation Plan (PTP) that is due to design a replacement for the Contract Standing Order requirements. The PTP will consider, amongst other things:

- Financial procurement limits and requirements;
- Monitoring of on-contract versus off-contract expenditure;
- The role of Strategic Procurement; and
- The role of Sourcing pools and the BSC in the procurement process.

Management update as at January 2021:

Please see the response to Recommendation 1

Recommendation 4

Audit recommendation (Medium Priority):

Disaggregated spend analysis to be completed by Strategic Procurement on all contracts across GCC, collating spend data against each supplier over the course of a financial year and comparing this information within the contracts register(s) to identify potential contract splitting.

Original management response:

Following the implementation of mandatory inclusion of unique contract references (Due North Number) within SAP purchase orders, monitoring of on-contract and off-contract spend will be completed enabling disaggregated spend to be identified.

Management update as at January 2021:

Please see the response to recommendation 2

Recommendation 5

Audit recommendation (High Priority):

The quick quotes function within Pro-Contract to be configured to remove the option of selecting random suppliers. Thus to ensure that only appropriate

suppliers can be invited to quote on goods/services.

Original management response:

The option to select random suppliers within Pro-Contract quick quote function will be removed.

Management update as at January 2021:

We are in discussions with the provider of the software however we are only one user of many and this may not be feasible. We will remind staff of the need to comply with their obligations in accordance with clause 4.1 of Contract Standing Orders.