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**ADDITIONAL CIRCULATION**

**ABERDEEN**
**CITY COUNCIL**

To: Councillor Flynn, <u>Convener</u>; Councillor Yuill, <u>Vice Convener</u>; and Councillors Cameron, Cooney, Crockett, Dickson, Donnelly, Jackie Dunbar, Graham, Greig, Lawrence, Malik, Jean Morrison MBE, Nathan Morrison, Reynolds, Samarai and Townson.

Town House,
ABERDEEN 20 February 2017

## AUDIT, RISK AND SCRUTINY COMMITTEE

The undernoted items are circulated in connection with the meeting of the **AUDIT, RISK AND SCRUTINY COMMITTEE** to be held here in the Town House on **THURSDAY, 23 FEBRUARY 2017 at 2.00 pm**.

FRASER BELL
HEAD OF LEGAL AND DEMOCRATIC SERVICES

### B U S I N E S S

7.7 <u>3rd Don Crossing Action Plan - Report by the Interim Director of Corporate Governance</u>  (Pages 3 - 12)

7.8 <u>Aberdeen Treasure Hub - Report by the Director of Education and Children's Services</u>  (Pages 13 - 18)

Due to an administrative error, this report was not circulated with the original agenda papers, apologies.

7.9 <u>Compliance with Procurement Related Legislation - Report by the Internal Auditor</u>  (Pages 19 - 26)

Due to an administrative error, this report was not circulated with the original agenda papers, apologies.

Should you require any further information about this agenda, please contact Karen Rennie, tel 01224 522723 or email karrennie@aberdeencity.gov.uk

**SUBMISSION OF LATE REPORT**

**NAME OF COMMITTEE**   :   Audit Risk & Scrutiny

**DATE OF COMMITTEE**   :   23rd February 2017

**TITLE OF REPORT**   :   3rd Don Crossing-Action Plan Update

**Reason for late submission of report (to be completed by report author)**

The author was awaiting important updates and comments from key Officers to be inputted into the action plan.

**Reason why Convener is requested to consider accepting report as a matter of urgency / why the matter cannot wait for a future meeting (to be completed by report author)**

The Convenor is asked to consider the updated action plan as the Committee decided to receive an update on the plan at this meeting. The next meeting or committee cycle will not be until June of this year, therefore presenting the action plan to this meeting of the Committee enables the members to consider the updates at the earliest opportunity.

**Reason why Convener / Vice Convener has agreed to accept the report (to be completed by Convener / Vice Convener)**

The Committee requested that the report be submitted to this meeting.

| | | |
|---|---|---|
| **Convener/Vice-Convener** | : | Councillor Stephen Flynn |
| **Date** | : | 20/02/2017 |
| **Director/Representative** | : | Richard Ellis |
| **Date** | : | 20/02/2017 |

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ABERDEEN CITY COUNCIL

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|---|---|
| COMMITTEE | Audit, Risk and Scrutiny |
| DATE | 23rd of February, 2017 |
| DIRECTOR | Richard Ellis, Interim Depute Chief Executive (Director of Corporate Governance) |
| TITLE OF REPORT | 3rd Don Crossing-Action Plan Update |
| REPORT NUMBER | CG/17/006 |
| CHECKLIST COMPLETED | Yes |

1. PURPOSE OF REPORT

This report provides Members with an update on the action plan developed by Officers resulting from the report submitted to this Committee in September, 2016 on the contractual arrangements that were put in place to construct the Third Don Crossing, known as the Diamond Bridge.

2. RECOMMENDATION(S)

The Committee are asked to note the updates provided in the appendix to the report.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

4. OTHER IMPLICATIONS

There are none arising directly from this report.

5. BACKGROUND/MAIN ISSUES

The 3rd Don Crossing is Aberdeen's biggest major new bridge infrastructure for 30 years since Queen Elizabeth II Bridge. Opening in June 2016, the Crossing was the culmination of many years of discussion, consultation, planning and decision making. This was a complex and challenging project involving the construction of two new bridge structures, three large retaining walls, 1.5 miles of connecting

roads on both sides of the River Don, with re-alignment and widening of existing roads carrying live traffic, the creation of cycle paths and pavements and landscaping works. The project also required extensive interaction with existing underground utility apparatus that called for significant diversionary works.

The Committee at its meeting on 27th September, 2016 had before it a report by the Interim Director of Corporate Governance which (1) provided an external view of the contractual arrangements that were put in place to construct the Third Don Crossing, known as the Diamond Bridge; and (2) explained that the remit of the review was to establish why the overall project was delivered late and over budget and to identify key lessons learned that the council should consider in relation to similar contracts in the future.

The report recommended that the Committee –
(a)    refer the report to the Strategic Asset Capital Board to develop an Action Plan based on the conclusions contained in the report; and
(b)    request that officers submit a report on the Action Plan to this Committee in six months time.

The Committee resolved:-(i) in response to various concerns raised by members relating to the contract and decision making process, to request the Internal Auditor to undertake an audit to ascertain where the responsibilities and accountability sat in relation to the 3$^{rd}$ Don Crossing and whether the appropriate level of scrutiny and records were in place throughout the project; and
(ii)    to otherwise approve the recommendations contained in the report.

Officers have been working on the recommendations contained in the Action Plan. Appended to the report is the updated action plan. It contains information and updates on actions from the Third Don Crossing Review- Sept 2016 Audit Report, Procurement in Construction - May 2015 Audit Report and Managing Capital Projects Audit.

6.    IMPACT

Implementing and monitoring the recommendations of this report will lead to Improving the Customer Experience, the Staff Experience and our use of Resources, whilst providing the Council with guidance on the future approach that the Council takes in developing and managing contracts and contractual relationships. The crossing is included in the Strategic Infrastructure Plan which is reflected in Aberdeen-The Smarter City.

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7.    MANAGEMENT OF RISK

Implementing and monitoring the recommendations of this report will provide the Council with guidance on the future approach that the Council takes in developing and managing contracts and contractual relationships and the associated risks therein. The specific risks for this project and others contained in the Strategic Infrastructure Plan are monitored by CMT.

8.  BACKGROUND PAPERS

None.

9.    REPORT AUTHOR DETAILS

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# AUDIT AND RISK RECOMMENDATIONS ACTION PLAN

**Last Updated: 28/10/2016**

| Recommendation/Conclusion | Action(s) | Lead Officer | Started | End Date | RAG | Latest Update |
|---|---|---|---|---|---|---|
| **Third Don Crossing Review- Sept 2016 Audit Report** | | | | | | |
| The Council should ensure that it identifies a broad range of procurement options and sets out a more balanced approach to the analysis and reporting of procurement options appraised and their risks to committees. Benchmarking and/or active networking with others who have similar requirements should also be considered for all major construction projects of this nature. | UIG - user intelligence group - bring together the stakeholders (technical, commercial, legal and financial)<br>Proposal, business case and gateway process | Craig Innes | ✓ | ongoing | G | Gateway proposals drafted.  New proposal and business case being developed. |
| The Council should also continue to support the category management model and mandate its use to ensure that future proposals reflect best practice across a range of technical, legal and commercial specialisms and that robust procurement strategies and risk registers are developed for all major contracts. | Deliver category management model<br>Align contract registers to budget<br>Procurement strategy/risk register - as above | Craig Innes | ✓ | 30th April 2017 | G | The Commercial and Procurement Service is being restructured to align resources as appropriate to address this. A programme of training will be set up in relation to strategy, process and governance with colleagues. |
| The Council should also continue to develop, support and promote the PMO approach that has been implemented to ensure that projects are developed in a consistent, robust and well documented manner. The allocation of clear roles and responsibilities is key requirement in delivering successful contracts. | Review, develop further and implement a consistent programme management approach | David Leslie | ✓ | ongoing | G | The programme management approach continues to be endorsed by the organisation.  Appropriate stage gate process is in place along with supporting documentation through the Programme Management Office (PMO) along with a robust monitoring and control through the Strategic Asset and capital Board.  The expectations and remits of key project roles are documented as part of the PMO toolkit and this is evidenced more in our new internal project management training delivered by the PMO. |
| The Council should continue to support and endorse the expanded role of the C&PS team and ensure that it is structured and resourced to support projects of this nature. | Continue to review current structure and align to demand.<br>Develop business case and workforce plan | Craig Innes | ✓ | 30th April 2017 | G | Commercial and Procurement Services is represented at Senior level on all Boards as appropriate. Workforce planning to be in place to ensure the pipeline of forthcoming contracts is effectively resourced. |
| As part of the new C&PS structure, consideration should be given to a review and refresh of the existing terms and conditions available across the Council and the development of a central suite of terms and conditions that are "held " by the C&PS team rather than by individual Service Depts. Experience would suggest that this type of consolidation makes it easier and more efficient to: review and refresh conditions of contract on a periodic basis; ensure a consistent approach to how the council does its business is applied; enable lessons learned are shared across the Council with ease; and avoid duplication of effort and inconsistent commercial approaches to develop and deliver appropriate training for Service Departments. | C&PS at the start of the process (see above action)<br>Review and standardise terms and conditions for work, services and goods (use to go out to tender).  A boiler plate set of terms and conditions that are against risk and value with specialist terms and conditions underpinning that depending on project outcomes.<br>New Lessons Learned process built into process | Craig Innes<br>Alison Watson | ✓ | 30th June 2017 | G | Work has started by C&PS Legal Team reviewing existing T&Cs available across the Council with a view to compiling a central suite of T&Cs to be held by the C&PS Legal Team. Training has been arranged for solicitors in the C&PS Legal Team regarding industry standard construction T&Cs and how to adapt them to particular situations by way of Schedule of Amendments which properly incorporate performance measures and milestones within the contract. |
| Continue to support the category management model and ensure that roles and responsibilities are clearly defined and communicated. Working in this more corporate, "cross functional" way will ensure that a consistent strategic sourcing approach is followed and that a broader range of critical factors other than just price are assessed during the evaluation process. To support this, the Council should ensure that these roles and responsibilities are adequately reflected in job profiles and in the identification of training needs for staff involved in such projects. | See above<br>Implement agreed C&PS structure | Craig Innes | ✓ | 31st March 2017 | G | Work on structure refresh has started. |
| Consider a review of key relationships and develop an action plan to improve them along the lines outlined above. Encourage and support key staff to be actively involved in national groups to ensure that market developments, new and innovative ways of working are being routinely considered and a culture of continuous improvement is embedded in how the Council does business with third parties. | Head of Commercial and Procurement to link up with Scottish Government and Scotland Excel and Regional Chamber of Commerce | Craig Innes | ✓ | ongoing | G | Engagement channels are already in place. |
| Consider carrying out a refreshed training needs analysis and developing an appropriate training plan and ensure that key personnel are aware of the Scottish Government's Construction Procurement Manual. | Head of Commercial and Procurement to engage with the Scottish Gov on proposed training programme and how this will be rolled out. | Craig Innes | ✓ | 30th June 2017 | G | Manual still in development |
| Officers ensure that all the outstanding recommendations of the audit have been fully implemented (see below) | | | | | G | |
| **Procurement in Construction - May 2015 Audit Report** | | | | | | |
| **Scottish Government Recommendation**<br>Each public body should publish annually a rolling pipeline plan of anticipated spending on construction, setting out detailed known information on timescales for pre and post-contract award including any planned phasing, the anticipated approach to market, the status of required consents, the funding model being used and whether formally approved by their governing body. These pipeline plans should be collated and held centrally, and should initially contain all anticipated work above a value of £4 million over the next two years, with a clear plan put in place to extend this to cover at least work worth £2 million or more, and a timeframe of at least three years.<br><br>**PWC Findings**<br>Departments within the Council have their own five year rolling construction budgets where possible; currently, play and green areas are only given a yearly budget and therefore cannot provide a rolling pipeline; however, they do keep a wish list for future projects. Whilst each department keeps track of their budgets, there is not presently a centralised plan covering all construction projects within the Council, whether in progress or future. Management would be happy to share such a collated plan with any Local Authority for collaboration opportunities more frequently than once annually. Each Department should collaborate internally and feed up all their current and intended projects to the Head of Procurement. The centrally held collated plan should be updated regularly and visible to any person involved in the procurement in construction process. | Capital Plan and Contracts Register | John Quinn | ✓ | | G | This area is being worked on and updates will be provided to Committee at the next meeting. |
| **Scottish Government Recommendation**<br>Public sector bodies involved in construction projects should be able to demonstrate that sufficient linkages are made between them. This should include consideration of appropriate opportunities for collaboration and for synergies with other programmes of work in the planning phase of all infrastructures spend; and Regional co-ordination of infrastructure spend should be considered by councils across Scotland.<br><br>**PWC Findings**<br>Whilst some departments have the opportunity to use collaborative systems such as Nestrans or Scotland-Excel, not all are finding information on projects occurring within other Local Authorities as easy to come by and, as such, make one-departmental decisions more often.  Each Department should collaborate internally with each other first and foremost so that the Council is fully aware of its internal Procurement in Construction opportunities. Then, the Council should implement guidance, that is easily available, that sets out various means of sharing information amongst public sector bodies in order to promote collaboration and / or synergies wherever possible. | See above actions | John Quinn | ✓ | | G | This area is being worked on and updates will be provided to Committee at the next meeting. |

| Recommendation/Conclusion | Action(s) | Lead Officer | Started | End Date | RAG | Latest Update |
|---|---|---|---|---|---|---|
| Scottish Government Recommendation<br>The existing PCA framework should be developed to ensure that it adequately assesses, reports on and helps to improve organisations' ability to procure publicly funded construction. Those carrying out the assessments should be suitably qualified to do so and all organisations procuring construction projects with public funding should undergo procurement capability assessments.<br><br>PWC Findings<br>It was noted that none of the persons interviewed were aware of a PCA framework or indeed what it should consist of. The Council should consider implementing a PCA framework as a matter of priority. | The Council is to undergo the refreshed PCA - procurement capability improvement programme - during March 2017<br><br>A programme of work to meet this assessment will start in Jan 2017 facilitated by C&PS | Craig Innes | ✓ | 30th June 2017 | G | The Council will undertake the refreshed external Capability Audit on the 15th of March, 2017. An improvement plan will be generated from this and will be reported with findings from the Audit to Committee during June, 2017 |
| Scottish Government Recommendation<br>If not already established, public sector procuring authorities should work together to develop forums with locally-operating construction firms which would meet on a regular basis and include economic development teams and construction procurement staff to discuss the pipeline of work, issues and opportunities, with a view to building greater understanding, transparency and improved processes and practice.<br><br>PWC Findings<br>At present there are no such forums made available to construction firms by the Council. Once set up, the Council should ensure that locally operating construction firms are aware of all future dates and times, and know that they are welcome and encouraged to attend. Measurement of these should be built into Procurement Capability Assessments. | Look to publish this as part of the budget setting process in February<br><br>Lead into bespoke supplier development seminars and industry days | Craig Innes | ✓ | 30th April 2017 | G | We have a supplier development programme at the moment. Supply chain will receive visibility of Capital Plan and Contract Register on a dedicated interactive website at the start of April, 2017 |
| Scottish Government Recommendation<br>The use of Public Contracts Scotland (PCS) Tender should be mandatory for creating ITTs, using standard question sets as the basis, and submitting tender returns – whether individual contracts or frameworks.<br><br>PWC Findings<br>None of the persons interviewed were aware of PCS Tender; if it is currently being used for the tender process, there is confusion over the system name. Training may be necessary to make certain that employees are using the system correctly. | Decide which projects/contracts we use PCS for | Craig Innes | ✓ | 30th April 2017 | G | All commissioning requirements with an overall value of above £50k must be published on PCS unless there is appropriate approval for exception. |
| Scottish Government Recommendation<br>Action should be taken to ensure robust systems are in place to track all spending on construction by public authorities such that a complete analysis of annual public sector construction spends in Scotland can be easily available.<br><br>PWC Findings<br>Currently Departments separately monitor their budgets against actual spends; however this is held internally and there is no information collated or analysed centrally within the Council. | Capital Plan monitoring process | Craig Innes/John Quinn/Scott Paterson | ✓ | ongoing | G | This area is being worked on and updates will be provided to Committee at the next meeting. |
| Scottish Government Recommendation<br>Sectorial records of project outrun costs, including what they were estimated to cost at business plan and contract award stages and actual cost on completion, should be developed and maintained so as to provide meaningful benchmark figures for the public sector in Scotland. These records should also record timescales and quality measures to enable a true assessment of performance delivery to be made.<br><br>PWC Findings<br>Currently there is no evidence that Sectorial records are kept within the Council. | | David Leslie | ✓ | ongoing | G | Project close is part of the project management approach adopted by the Council through the PMO and a lessons learned exercise are now part of that process.<br><br>The PMO facilitate the completion of project close and lessons learned for all capital projects. These lessons learned will be centrally consolidated and considered in the development of all new business cases. |
| **Managing Capital Projects** | | | | | | |
| Consideration should be given to monitoring and reporting progress against business case aims and targets | | David Leslie | ✓ | ongoing | G | Project progress continues to be reviewed and monitored by the Strategic Asset and Capital Board, facilitated by the PMO. A project health check to review all business case aims and targets has been developed and carried out. We are in the process of developing quarterly project health checks to continue to review progress against all objectives, targets and aims in the business case. |
| Progress reporting for capital projects should be reviewed to ensure that sufficient information is provided e.g. about costs compared to budget, key decisions, slippage etc.; and audit trails are complete to assist more effective scrutiny. It is also important that key messages are adequately signposted. | | David Leslie<br>Scott Paterson | ✓ | ongoing | G | Progress against each project is provided on the corporate 'Project Status Report' template and collated on the SIP and Capital Plan dashboard. The reports capture extensive detail of total project budget, current spend and forecast spend, as well as timeline of key milestones, any slippage to these and key emerging risks and issues to the project. The project updates are scrutinised by the PMO, and officer group and the Strategic Asset and Capital Board. |
| Lessons learnt should be collated and reported to management and elected members. As a minimum this should be done as part of the post completion evaluation | | David Leslie | ✓ | ongoing | G | Project close is part of the project management approach adopted by the Council through the PMO and a lessons learned exercise are now part of that process.<br><br>The PMO facilitate the completion of project close and lessons learned for all capital projects. These lessons learned will be centrally consolidated and considered in the development of all new business cases. |
| While the SIP meets a number of best practice criteria, consideration should be given to including the following - overall condition of the council estate, links between investment objectives and service needs and identify opportunities for collaboration | | John Quinn | ✓ | | G | This area is being worked on and updates will be provided to Committee at the next meeting. |
| The assumption in project financial models should be kept under regular review and audit trails provided to evidence significant changes | | David Leslie<br>Scott Paterson | ✓ | ongoing | G | This is part of the monthly monitoring cycle where forecast spend with actual is reviewed. Any major deviations are captured in the 'Project Status Report' and SIP and Capital Plan dashboard and scrutinised by the Strategic Asset and Capital Board. |

# Implementing a more robust and effective programme management approach
## Action Plan

**Last Updated: 28/10/2016**

| Action | Lead Officer(s) | Started | End Date | RAG | Latest Update |
|---|---|---|---|---|---|
| Design and develop a poster to communicate the PMO vision and role to the organisation | Heather Martin<br>Claire Hunter | ✓ | | G | |
| Set up a shared PMO space (possibly on sharepoint) to provide updates and store documents etc | Helen Miele | | | G | |
| Develop a programme approach/framework and subsequent process map | John-Paul Cleary<br>Roddy MacTaggart | ✓ | | G | |
| Draft the role of the programme manager | Margaret Pattison | ✓ | | G | |
| Amend the governance guidance to be more specific on all programme/project roles and responsibilities | Claire Hunter<br>Margaret Pattison | | | G | |
| | | | | | |
| Develop a template for a project health check/review | David Leslie<br>Roddy MacTaggart | ✓ | | G | |
| Develop a dashboard for capturing the output from the project health check/review | David Leslie<br>Roddy MacTaggart | ✓ | | G | |
| Co-ordinate the completion of the Project Health Checks | David Leslie<br>Roddy MacTaggart | | | G | |
| | | | | | |
| Amend the Capital Plan stage gate process to include further gates and review stage gate checklists | John-Paul Cleary | ✓ | | G | |
| Create a definition for the RAG status | Heather Martin<br>Helen Miele | | | G | |
| Propose criteria for project tolerances and how contingency budgets will be managed | Heather Martin<br>Helen Miele | | | G | |
| | | | | | |
| Amend the Lessons Learned template and process | Helen Miele | ✓ | | G | |
| Amend the Business Case template and the Project Proposal template (more focussed questions) | David Leslie<br>Claire Hunter | | | G | |
| Amend the Project Status Report template (more focussed questions around baseline, milestones, costs and issues/risks) | David Leslie<br>Claire Hunter | | | G | |
| Amend the Dashboard template (separate sections for current status and mitigation) | David Leslie<br>Claire Hunter | | | G | |
| Amend the Change Control template (again more focussed questions to ensure all impacts are considered). | David Leslie<br>Claire Hunter | | | G | |
| | | | | | |
| Propose a way to combine the capital financial update and the dashboard update for committee | David Leslie | | | G | |

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**ABERDEEN CITY COUNCIL**

COMMITTEE                        **Education and Children's Services**

DATE                             **23 February 2017**

DIRECTOR                         **Gayle Gorman**

TITLE OF REPORT                  **Aberdeen Treasure Hub – Lessons Learned**

REPORT NUMBER                    **ECS/17/020**

CHECKLIST COMPLETED        **Yes**

## 1.    PURPOSE OF REPORT

1.1    The purpose of this report is to provide Committee with the results of the officer review into the scoping, design and construction of the Aberdeen Treasure Hub. This was referred to the Audit, Risk and Scrutiny Committee by the Education and Children's Services Committee at their meeting of 17 November 2016. Specifically, the Education and Children's Services Committee agreed to:

*"refer the reported overspend position in relation to the Aberdeen Treasure Hub to the February 2017 meeting of the Audit, Risk and Scrutiny Committee".*

## 2.    RECOMMENDATION(S)

2.1    It is recommended that Committee agree:

(i)    Note the findings of the review into the scoping, design and construction of the Aberdeen Treasure Hub which are set out in Section 5 of this report;

(ii)   Agree that all Heads of Service ensure that those officers conducting a Project Manager role have undertaken the appropriate training to enable them to discharge this function;

(iii)  Agree that the lessons learned from the Aberdeen Treasure Hub are incorporated into all future capital project planning and management; and

(iv)   Otherwise note the content of this report.

## 3.    FINANCIAL IMPLICATIONS

3.1    The 2014/15 budget setting meeting of the Council identified a budget of £3.674 million for the Aberdeen Treasure Hub.  In 2015/16 this initial budget was uplifted by the Council to £5.850 million to reflect the cost of tender returns and an increased specification which included sophisticated environmental conditions to better protect the collection.

3.2    A final account has yet to be received for the completed works and a cost of £6.549 million has been incurred to date. This additional cost has included an upgrade and testing to the fire suppression system to meet the Council's insurer's requirements. Further commentary on the financial controls related to construction of the Treasure Hub is included in Section 5 of this report.

3.3    In addition to the capital cost, the Council has also paid for the storage of elements of the collection which were taken from the Art Gallery in March 2015.  An agreement with the contractor was signed in February 2015 at a value of £226,000 and to date the cost of this storage from March 2015 has been £338,000. This increased cost has come as a result of the late delivery of the Treasure Hub, but it should be noted that the cost has been offset by savings in the running cost of the Art Gallery which had a revenue budget of £94,000 in its last year of operation.

## 4    OTHER IMPLICATIONS

4.1    **Property**
The Aberdeen Treasure Hub provides the Council with a fit for purpose building to store its art collection which is not on display in any of the Council's museums or galleries.  A key element of the building is public access and its location also provides an opportunity to take art into areas of regeneration.

4.2    **Legal**
There are no legal implications arising from this report.

## 5.    BACKGROUND/MAIN ISSUES

5.1    In reviewing the delivery of the Treasure Hub, officers have taken the opportunity to assess performance in the following areas:

- Setting the scope;
- Project management;
- Financial management;
- Resource management

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(a) **Setting the Scope**

The scope of the project was inaccurately defined and vastly underestimated the cost of the project. Further work carried out which identified a need for the deployment of sophisticated mechanical and electrical system to create a suitable environmental conditions resulted in the uplift of costs which were noted in paragraph 3.1 of this report.

(b) **Project Management**

Project management was ineffective throughout the project as the project manager was not clear on their role and responsibilities and the project team intimated that they did not understand the required governance arrangements even though a Project Board was established and updates were being provided to the Strategic Asset and Capital Board by the project manager.

Project management was also hindered by a lack of effective communications throughout the project from all parties concerned. This can be evidenced by the construction consultancy team taking responsibility for delivering the construction part of the project, through a contract administrator/architect who was responsible for budget monitoring. This role was not understood by the client project manager as they believed the contract administrator/architect was acting as project manager.

The Insurance Team were not engaged at the start of the project. At the time they were engaged the insurance provider refused the fire suppression system that had been designed and installed. This required a re-design and installation to comply with insurance requirements which added significantly to the building completion.

The service project team did not seek support from the ECS Estates Team which is unusual given the specialist skills and role they play in delivering other service capital projects.

(c) **Financial Management**

Financial management was not controlled as required in the project. It is unclear who had ownership of the project's financial profiling and budget monitoring, either by the Project Manager or the contract administrator/architect. It appears that the project manager relied on the finance services monthly spend reports to monitor the project budget, which meant only spend incurred was being tracked, not any future commitments.

As noted previously the cost increased due to the upgrade in specification. This work led to a value engineering exercise being undertaken but this work led to further changes to the design

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specification and increased cost of £140,000 which reduced the contingency budget from 5% to 2%.

There is a lack of evidence as to how the Architect's Instructions (AIs) were approved. It's not clear if AIs were approved by the Project Manager. The interaction and communication between the Project Manager and the contract administrator/architect could have been better. However, regardless of approval, AIs were issued and approved without full costs having been identified. The main items of potential overspends identified are additional mechanical, electrical and structural variations (£144k), additional changes to design specification for the installation of a lift shaft, steel doors and roof walkways (£180k) and a revision to the programme (£35k).

(d) **Resource Management**
Due to a lack of resource and demands placed on the project administrator/ architect, they were assigned to a number of projects at the same time. This may have contributed to some of the issues of this project.

5.2 **Lessons Learned**
Taking into consideration all of the above findings, the additional information received while undertaking the review, and the output from the lessons learned workshop, below are the lessons to be learned:

(a) **Setting the Scope**
In scoping a project there is a need to ensure full engagement with the appropriate Council services such as the Insurance team at all stages of the project. This should be part of the normal governance and gateway process.

(b) **Project Management**
Ensure the Project Manager has had appropriate project management training and clearly understands their role and responsibility in project delivery.

The Project Manager needs to understand and monitor spending on the project and full budget on an on-going basis. The contract administrator should profile and then monitor the construction budget appropriately, reporting all variations to the project manager as soon as is practically possible.

Effective and regular communication between the project manager and the contract administrator/architect is essential. This should be timetabled as a key element of the agreed and established governance arrangements.

(c) **Financial Management**

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To manage the project costs effectively all AIs should be produced with the full cost implications identified. Criteria and tolerances need to be set as to what AIs need approval from the Project Manager and if necessary through the Project Board or Strategic Asset and Capital Board before they are authorised.

The use of contingency budgets needs to be controlled and reported immediately to the Project manager and Project Board.

(d) **Resource Management**
Project Boards need to suitably constituted, so as to provide clear project-sponsorship and decision-making, supported by a suitably constituted project team capable with the skill set required to progress the project.

(e) **Governance Arrangements**
The governance arrangements and gateway process need to ensure that the client service accurately define the scope and design specification of the project at the start to get realistic costs, as well as seek specialist advice on scope and review comparative projects. This needs built into the gateway process.

Internal governance arrangements must be complied with in full. Complete business cases with full costings should be approved by the Strategic Asset and Capital Board before the project is added to the Council's capital plan.


6. **IMPACT**

6.1 **Improving Staff Experience**
Providing staff with appropriate development opportunities will mean that they are better prepared to successfully deliver projects of a capital nature. Further, clarifying respective roles and responsibilities will allow all parties to work with certainty on what are they are responsible for and for what areas other members of the wider project team hold responsibility.

6.2 **Improving Customer Experience**
Delivering capital projects provides a platform from which successful Council services can be provided to meet the needs of Aberdeen's citizens.

6.3 **Improving our use of Resources**
By incorporating the lessons learned into all capital projects, the Council will maximise the use of available resources. Improved control of expenditure is essential to ensure best value for money whilst delivering the necessary public infrastructure.

6.4 **Corporate**

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Improved governance and project management arrangements will ensure that officers are aware of their responsibilities. This is necessary to ensure the successful delivery of projects and the delivery of best value.

## 7. MANAGEMENT OF RISK

7.1 There is no risk directly associated with this report.

7.2 Incorporation of the lessons learned from 5.2 will allow Project managers and Project Boards to more effectively reduce the risk of capital projects not being effectively scoped or being delivered later than anticipated or over budget.

## 8. BACKGROUND PAPERS

Education and Children's Services Committee – 17 November 2016 - 2016/17 General Fund Revenue & Capital Budget Monitoring

## 9. REPORT AUTHOR DETAILS

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# Internal Audit Report

# Compliance with Procurement Related Legislation and Internal Regulations

**Date of Issue:  February 2017**                    **Report No. AC1717**

## EXECUTIVE SUMMARY

The objective of this audit was to undertake a high level review the Council's spend with a sample of suppliers to obtain assurance that the Council is complying with Legislation and the Council's internal governance arrangements and could, therefore, demonstrate that Value for Money has been achieved.

Whilst there was evidence supporting appropriate procurement arrangements for most of the sampled spend, testing did identify areas where the Council has not complied with the requirements of EU Procurement Regulations or its own internal governance arrangements. In such cases, the Council may have difficulty demonstrating best value and could be exposed to potential challenge from businesses that have been denied the opportunity to bid for the supply of goods / services.

In view of the above, it is not possible to give assurance that procurement and internal Council regulations are being complied with in all instances. However, recent changes in governance arrangements and planned future changes should assist in ensuring a higher level of compliance which will provide greater assurance in the future.

# 1.    INTRODUCTION

1.1    The Council's governance arrangements for procurement were contained within the Council's Standing Orders relating to Contracts and Procurement and are now within the ACC Procurement Regulations, which were approved by the Finance, Policy and Resources Committee on 7 June 2016 and replaced the old Standing Orders.  Further rules are contained in the Council's Financial Regulations, and Schemes of Delegation. Other governance arrangements are subject to on-going review as part of the Council's Governance Review.   Internal Audit commented on, and made recommendations regarding, the arrangements currently in place in Internal Audit report AC1623 (reported to the Audit, Risk and Scrutiny Committee in June 2016).

1.2    Both the old Standing Orders relating to Contracts and Procurement and the new ACC Procurement Regulations require that tendering exercises must be carried out depending on the level of expenditure on a contract.  Expenditure should be aggregated across the whole Council when determining if the threshold is met or can be aggregated towards a particular project.

1.3    The objective of this audit was to undertake a high level review the Council's spend with a sample of suppliers to obtain assurance that the Council is complying with Legislation and the Council's internal rules and could, therefore, demonstrate that Value for Money has been achieved.

1.4    To do this, payments made to the Council's 50 largest suppliers by payment value in the previous four financial years, and a further sample of 50 suppliers, were selected and assurance was sought that appropriate contracts were in place where appropriate.  In some cases contracts were not appropriate because of the type of payments that had been made (eg Business Rates refunds, grants, etc).

1.5    The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with Richard Ellis, Interim Depute Chief Executive (Director of Corporate Governance), Craig Innes, Head of Commercial & Procurement Services (C&PS), Fraser Bell, Head of Legal and Democratic Services and Steven Whyte, Head of Finance.

# 2. FINDINGS AND RECOMMENDATIONS

## 2.1 Contracts Register

2.1.1 The Procurement Reform Act (Scotland) 2014, required that local authorities publish their contract register, with information made available, online, by 18 April 2016. The Council's old Standing Orders relating to Contracts and Procurement and the new ACC Procurement Regulations also require that a Contracts Register is maintained.

2.1.2 In December 2014, Commercial and Procurement Services issued guidance to all Services regarding the purpose of a project to establish a Contracts Register as required by the legislation. This explained how Services were to complete a data return identifying where contracts were in place or expenditure had been incurred that was off contract.

2.1.3 The guidance highlighted the benefits of maintaining a Contracts Register in managing and understanding the Council's contractual and financial commitments, both at a Council and Service level. It would also assist in providing business intelligence regarding on and off contract spend, identifying areas that could be subject to collaboration, and help improve efficiency and generate savings.

2.1.4 The published Contracts Register is only required by legislation to record Regulated Contracts (ie £50,000 and over for public supplies and services contracts and £2 million and over for public works contracts). However, the Council's Contracts Register will record all contracts so that it can be used to manage the Council's contractual arrangements.

2.1.5 The Council published its Contracts Register on the Council's Website by the required date and this was used as an initial reference point to determine if contracts were in place with the sampled suppliers. However, testing in this audit has identified that the Contracts Register is not yet complete, with contracts relating to many of the selected suppliers not recorded, either in full or in part.

## 2.2 Results of Testing

2.2.1 As stated above, spend with 100 suppliers was selected for testing and, where appropriate, assurance was sought that a tendering exercise had been completed and Committee approval for the level of spend incurred had been obtained. No response has been received from officers contacted relating to 13 of the sampled suppliers. Therefore, no assurance can be provided regarding the level of spend with each of these. The results of testing where data was available / provided is detailed below.

2.2.2 A large number of contracts in place related to Framework Agreements let by other organisations. The Council's Standing Orders relating to Contracts and Procurement required that use of framework agreements let by third parties be approved by the Heads of Procurement and Legal and Democratic Services. The new ACC Procurement Regulations require this to be approved by the Head of C&PS. In some cases the Council's use of these frameworks had been approved by Committee to ensure that the level of spend through the contract was appropriately approved. However, it was not clear whether the use of all frameworks currently in use had been approved as they were not all detailed in the Council's Contracts Register or the newly introduced register of framework agreements which is currently being populated.

2.2.3 Evidence of individual contracts relating to some of the sampled suppliers having been let following an appropriate process was provided by Services which gives assurance over compliance. However, a number of these were not included in the Council's published Contracts Register. Progress is, however, being made with updating the Contracts

Register and some of those contracts identified during testing as being omitted have now been included.

2.2.4    Spend with 4 suppliers which was over the EU tendering threshold had not been subjected to tender (or was off contract) and did not have Committee approval.  Whilst it isn't necessarily the case that all spend with a supplier should be aggregated for procurement purposes, requirements for the same or similar supplies, services or works across the whole Council should be taken into account in determining the procurement route.  Not doing so means that the Council's procurement rules and legislation may be breached, and the Council may have difficulty demonstrating best value in these circumstances.  This could expose the Council to potential challenge from businesses that have been denied the opportunity to bid for the supply of goods / services being procured by the Council.  Such a challenge could cost the Council significant sums of money in defending any action and potentially paying compensation in respect of any successful challenge along with significant reputational damage.

2.2.5    Commercial and Procurement Services has stated that the Category Management approach, which commenced in January 2016, whereby there is more visibility of cross-Council spend, will support the Council in identifying where aggregation may apply.

2.2.6    Another area was identified during testing where spend in excess of EU tendering thresholds had not been subject to a current tender although this arose from a situation outwith the Council's control (eg a supplier ceasing to provide a contracted service at short notice).  Commercial and Procurement Services has confirmed that this is permitted under procurement legislation and that the Council is working to put appropriate contracts in place to cover this area.  In addition, there are some elements of spend with some suppliers that should be subject to contract but which are currently out of contract.  Commercial and Procurement Services is working to address these areas.

2.2.7    Some of the spend with suppliers had not been approved by Committee as required by both the Council's old Standing Orders relating to Contracts and Procurement and the new ACC Procurement Regulations.  Where there was approval it was not always clear whether the approval given covered all of the spend with a supplier for a particular commodity.  These results are similar to the results of a previous audit of this area.

2.2.8    Some contracts had been let following approval having been given by Committee that the budgeted value of Housing capital plan works be treated as estimated expenditure in terms of Standing Order 1(3) of the Council's Standing Orders relating to Contracts and Procurement.  In these circumstances, the Service Director was authorised to instruct appropriate procedures to procure the works referred to without recourse back to Committee.  This means that, having approved a high level programme of works, which does not show the detail of the actual works that will be undertaken or in respect of, for example, which properties, Councillors are not involved in the decision making process regarding programming and prioritisation of works.  In discussion with the Service, it has been agreed that details held by the Service which show the number of properties per Ward that it is intended will be improved as a result of each element of the capital plan in the forthcoming year will be included in future Committee reports to provide additional context.

2.2.9    It is anticipated that the new ACC Procurement Regulations, approved by the Finance, Policy and Resources Committee in June 2016, coupled with revised governance arrangements which should come from the Governance Review will help ensure that more assurance can be provided over compliance in future.

2.2.10   In addition, populating the BOrganised contracts management system with more information regarding existing contracts and their approval will provide a greater level of

assurance and help in managing contracts. Whilst the Council published a Contracts Register in April 2016, as required by legislation, it was found to be lacking a significant number of contracts. During the course of this audit further contracts were added to the system and the Council's published contracts register. However, it is not yet complete with details of all contracts that are in place and, as a result, is not yet in a position to be able to adequately assist the Council with managing all existing contracts.

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**Recommendations**

1. The Council should review spend with all suppliers and determine whether this is subject to an appropriately tendered and approved contract. (Major at a Corporate Level.)

2. The published Contracts Register should be updated with the findings. (Significant within audited area.)

3. Where an EU compliant procurement route is required, this should be prioritised and tendering undertaken as soon as is practical. (Major at a Corporate Level.)

4. Where another procurement route is required this should be progressed using a risk based approach. (Major at a Corporate Level.)

5. Steps should be taken to ensure that the Council's Procurement Regulations are understood and complied with and that Committee approval is sought where required.

**Service Response / Action**

Spend is reviewed on an ongoing basis and compliant procurements undertaken as required, utilising a risk based approach. It is not always the case that all spend with a supplier should be aggregated into one contract or that spend with a supplier which is in excess of the EU threshold is non-compliant.

The Contracts Register is updated on an ongoing basis as details of contracts are made available and this will continue to be the case.

As the new Scheme of Governance is introduced training for relevant personnel will take place in relation procurement compliance and appropriate approval.

| **Implementation Date** | **Responsible Officer** | **Grading** |
|---|---|---|
| Ongoing | Head of Commercial and Procurement Services | As detailed above. |

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**AUDITOR:** D Hughes

**Appendix 1 – Grading of Recommendations**

| GRADE | DEFINITION |
|---|---|
| **Major at a Corporate Level** | The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss, or loss of reputation, to the Council. |
| **Major at a Service Level** | The absence of, or failure to comply with, an appropriate internal control which could result in, for example, a material financial loss to the Service/area audited.<br><br>Financial Regulations have been consistently breached. |
| **Significant within audited area** | Addressing this issue will enhance internal controls.<br><br>An element of control is missing or only partial in nature.<br><br>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.<br><br>Financial Regulations have been breached. |
| **Important within audited area** | Although the element of internal control is satisfactory, a control weakness was identified, the existence of the weakness, taken independently or with other findings does not impair the overall system of internal control. |

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