

# *Aberdeen City Council*

## Procurement in Construction

Internal Audit Report  
2014/2015 for Aberdeen  
City Council

**April 2015**

	<b>Target Dates per agreed Internal Audit Charter</b>	<b>Actual Dates</b>	<b>Red/Amber/Green and commentary where applicable</b>
Terms or reference agreed 4 weeks prior to fieldwork	10 November 2014	12 August 2014	Green
Planned fieldwork start date	08 December 2014	08 December 2014	Green
Fieldwork completion date	19 December 2014	02 February 2015	Red - <i>Due to delays in receiving information.</i>
Draft report issued for Management comment	09 February 2014	17 March 2015	Red – <i>Internal auditor delayed in reporting as result of delays in fieldwork completion.</i>
Management Comments received	31 March 2015	27 April 2015	Red – <i>Delay in receiving comment from management</i>
Report finalised	4 May 2015	28 April 2015	Green
Submitted to Audit and Risk Committee	11 May 2015	11 May 2015	Green

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Internal audit work will be performed in accordance with Public Sector Internal Audit Standards. As a result, our work and deliverables are not designed or intended to comply with the International Auditing and Assurance Standards Board (IAASB), International Framework for Assurance Engagements (IFAE) and International Standard on Assurance Engagements (ISAE) 3000.

# 1. Executive Summary

Report classification	Total number of findings <span style="float: right;">← Section 3 →</span>				
	Critical	High	Medium	Low	Advisory
Low risk	-	-	1	-	-
	-	-	-	-	-
	-	-	1	-	-

## Summary of findings

- 1.01 The Scottish Government published a ‘Review of Scottish Public Sector Procurement in Construction’ in October 2013 detailing 24 recommendations that it would expect to see in place regarding procurement in construction, on or before March 2015, within all Scottish Local Authorities (see Appendix 3 for a list of the recommendations). In order to provide assurance over the current status of the implementation of these recommendations by Aberdeen City Council, we have performed a review of the progress for implementation of each of the 24 recommendations.
- 1.02 From our review we have identified 16 of the 24 recommendations as being implemented at the time of our audit fieldwork, leaving eight recommendations outstanding for implementation. The details of those Scottish Government recommendations we identified as outstanding are in Section 4 of this report.
- 1.03 We have made one medium risk finding regarding the lack of an action plan and ownership for implementation of the eight recommendations that are overdue or due at 31 March 2015 at the time of our review. In addition there is no one at the Council who has been assigned overall responsibility for the implementation of the Scottish Government’s recommendations or for monitoring the progress in implementing them. Without an action plan and clear ownership for implementation there is a risk that the Council will not implement the recommendations made in the Scottish Government’s review and therefore not be aligned with good practice for public sector procurement in construction.

**Management comments**

An action plan, with corresponding target dates and responsibilities, has been developed to capture the information required and ensure this is used to positively embrace the local supply market as well as identify potential cross party collaborative opportunities. A structured approach to Category management with regular communication between the relevant service managers and the category manager will ensure the collation of the necessary information but also provide a natural platform for the identification and development of both supplier engagement opportunities and collaborative ventures, all during a very exciting and varied time for construction within Aberdeen City Council.

# 2. Background and scope

## Background

### Overview

- 2.01 The Scottish public sector construction industry is made up of c. 31,000 businesses and has annual expenditure of around £4 billion. To ensure value for money and promote the sustainability and development of small and medium sized enterprises, the Scottish Government conducted the “Scottish Public Sector Procurement in Construction” review in October 2013. The review had identified 24 recommendations for Local Authorities along with proposed implementation measures with a timeline for implementation over the period from March 2014 to March 2015.

### Council Responsibilities

- 2.02 It is the Council’s responsibility to ensure that the Scottish Government’s report is made available to all relevant members of staff, and that the appropriate member of staff has been implementing the recommendations as set out in the aforementioned report, within the expected timeframe.
- 2.03 The Scottish Government’s review was discussed with various personnel from across a range of departments involved in procurement in construction throughout Aberdeen City Council to get comfort over the progress of implementation of these recommendations. The departments consulted included Communities, Regeneration and Housing Investment, Planning and Sustainable Development, Infrastructure and Assets, and Building Services. Note that the Council has recently undergone a restructure and that these departments may no longer exist or may exist in a different capacity.

## Scope and limitations of scope

- 2.04 The detailed scope of this review is set out in the agreed terms of reference in Appendix 2.
- 2.05 We have undertaken the review of recommendations by:
- Meeting with key individuals to understand if recommendations have been implemented;
  - Obtaining evidence to verify that recommendations have been implemented as discussed; and
  - Considering action plans for recommendations which are not yet due.

# 3. Detailed findings and recommendations

## 3.01 Implementation of outstanding findings – Control design

Finding		
<p>Eight of the 24 recommendations made by the Scottish Government were not implemented at the time of our review and were either overdue or not on track for implementation before the deadline. The recommendations identified as outstanding are detailed in Section 4.</p> <p>The Council currently has no action plan for how it will implement those eight recommendations identified as outstanding. There is also no single person or group at the Council that has been assigned ownership for implementing the recommendations contained in the Scottish Government’s report, or for monitoring and reporting on progress in implementing. The result is a lack of clarity among Council Officers as to who is responsible for the implementation of the recommendations in the report and to the timeline for implementing the eight outstanding recommendations.</p>		
Risk		
<p>There is a risk that the Council will not be able to demonstrate that it has in place a plan to implement the recommendations made in the Scottish Government’s report.</p>		
Action plan		
Finding rating	Agreed action	Responsible person / title
Medium	<ul style="list-style-type: none"> <li>Responsibility for implementation of the outstanding recommendations will be assigned to an appropriate project group or Council Officer.</li> <li>An action plan will be developed that sets out the timescale and proposed actions for implementation of the eight outstanding recommendations identified in Section 4 of this report.</li> </ul>	Pete Leonard (Director of Community and Infrastructure Development) Craig Innes (Head of Procurement)
		<b>Target date:</b>
		Implemented

# 4. Outstanding recommendations

## 4.01 5.3 Annual rolling pipeline plan

### Scottish Government Recommendation

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.

*Deadline: 31 March 2015*

### Finding

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.

*Status: not yet due*

## 4.02 5.4 and 5.5 Collaboration

### Scottish Government Recommendation

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.

*Deadline: ongoing*

### Finding

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.

*Status: ongoing*



## 4.03 7.2 PCA framework

### Scottish Government Recommendation

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.

*Deadline: in time for the 2015 round of assessments*

### Finding

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.

*Status: not yet due*

## 4.04 7.3 Forums

### Scottish Government Recommendation

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.

*Deadline: by Autumn 2014*

### Finding

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.

*Status: overdue*

## 4.05 7.3 PCS Tender

### **Scottish Government Recommendation**

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.

*Deadline: by Summer 2014*

### **Finding**

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.

*Status: overdue*

## 4.06 9.5 Tracking all spending

### Scottish Government Recommendation

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.

Capability of systems

*Deadline: before 31 March 2014 to allow the spend for 2014-15 to be captured*

Submit detail of spend

*Deadline: to be gathered initially for the year ending 31 March 2015*

### Finding

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.

Capability of systems

*Status: overdue*

Submit detail of spend

*Status: not yet due*

## 4.07 9.5 Sectorial records

### Scottish Government Recommendation

Sectorial records of project overrun 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.

Specifying costs and how they are recorded  
*Deadline: 30 September 2014*

Submit benchmark information in standard agreed format  
*Deadline: commencing 31 March 2015*

### Finding

Currently there is no evidence that Sectorial records are kept within the Council.

Specifying costs and how they are recorded  
*Status: overdue*

Submit benchmark information in standard agreed format  
*Status: not yet due*

# Appendix 1 – Agreed Terms of reference

This review is being undertaken as part of the 2014/2015 internal audit plan approved by the Audit and Risk Committee in February 2014.

## ***Background***

The Scottish public sector construction industry is made up of c. 31,000 businesses and has annual expenditure of around £4 billion. To ensure value for money and promote the sustainability and development of small and medium sized enterprises, the Scottish Government conducted the “Scottish Public Sector Procurement in Construction” review in October 2013.

The review has identified 24 recommendations for Local Authorities to implement.

## ***Scope***

We will assess the Council’s compliance with the Local Authority recommendations. Where recommendations have been implemented we will seek evidence to independently verify this. Where recommendations are not yet due, we will assess management’s action plans to meet the deadline stated.

Recommendations included within the scope of this review are noted in Appendix A.

## ***Limitations of scope***

The scope of our review is outlined above. Internal control, no matter how well designed and operated, can provide only reasonable and not absolute assurance regarding achievement of an organisation's objectives. The likelihood of achievement is affected by limitations inherent in all internal control systems. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

## ***Audit approach***

Our audit approach is as follows:

- Meet with key individuals to understand if recommendations have been implemented.
- Obtain evidence to verify that recommendations have been implemented as discussed.
- Review action plans for recommendations which are not yet due.

# Appendix 2 – Scottish Government recommendations

<b>Section</b>	<b>Recommendation</b>
5.3	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.
5.4	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.
5.5	Regional co-ordination of infrastructure spend should be considered by councils across Scotland.
5.6	Current Scottish Government Affordable Housing Supply programme arrangements provide for an enhanced role for local authorities in programme planning and prioritisation. Alongside the Scottish Government, local authorities should therefore play a key role in helping to inform and influence procurement choices and delivery of local authority and RSL affordable housing supply in their areas as well as looking more widely at potential synergies with neighbouring authorities.
6.2	Design and whole life costing should be afforded appropriate priority in any construction procurement process. A comprehensive business case and procurement strategy focusing on desired outcomes and whole-life costs should be developed. This will require the earliest possible engagement between clients, users, designers and contractors.
6.3	Guidance on best practice in the use of framework agreements should always be followed, in particular in allowing opportunities for SMEs to participate.
	When used inappropriately, Wide frameworks and frameworks negotiated by regional purchasing bodies elsewhere in the UK can have the effect of preventing SMEs from participating in public procurement. Guidance should be developed and implemented on the appropriate use of such frameworks. This guidance should pay particular heed to the value of growing local economies.
6.7	Thorough consideration of options must be applied to contract selection as part of the pre-commercial stage.

	Any variations to standard forms of contract should be kept to a minimum and used only when absolutely necessary to take account of the particular circumstances of the project. We also recommend that any such amendments should be clearly highlighted within contract documentation so that client and contractor are clear on the variations being imposed to the standard terms.
6.8	<p>All public bodies should adopt a maximum 30 day payment term to their suppliers, as detailed in Scottish Procurement Policy Note 08/2009, and this should form the target against which performance in meeting payment terms is monitored as part of procurement capability assessments (unless shorter targets have already been adopted by the organisation in question).</p> <p>Public sector clients need to ensure that there is a clear understanding between those involved in pre-contract award stage and those involved in delivery on the public sector requirement for fair payment. Contractual terms between client and main contractor should consistently outline fair payment terms for supply chain participants. Clients should ensure that appropriate resources are allocated to contract management and enforcement of terms and conditions of contract.</p>
7.2	<p>Public sector bodies involved in construction procurement must have access to the right mix of professional procurement and construction expertise to ensure that infrastructure is procured effectively. It may not be appropriate for each organisation to retain this expertise on a permanent basis. It may instead be achieved through collaboration with other bodies – either on a project-by project, or a longer-term basis.</p> <p>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.</p>
7.3	<p>Public bodies should rightly seek to re-assure themselves of the competence and skills of bidders. This, however, should be done through asking for appropriate experience – as indeed is Scottish Government policy - rather than necessarily asking for exact experience of similar project delivery within a short number of years (for example “supply three examples of community halls which you have built in the last five years”).</p> <p>The ability of a company to deliver a contract should not solely be measured by the use of turnover thresholds. Where annual turnover is part of financial criteria it should be limited to no more than two times the annual contract value as outlined in the EU commission’s proposal. Further guidance should be developed on other valid and proportionate methods for assessing financial strength and risk.</p> <p>To the extent possible within the full scope of the law, including as may be amended by the new EU Procurement Directive and Procurement Reform Bill, contracting authorities should take the prior performance and behaviour of bidders into account when awarding contracts. Guidance which ensures compliance with legislation should be developed.</p> <p>Contracting authorities should always make feedback available to both successful and unsuccessful bidders at PQQ and ITT stage. Feedback should be timely, and a model of good practice building on existing sources, such as ‘the Scottish Suppliers’ Charter, and legislative requirements, should be developed.</p> <p>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.</p>



7.3	The use of Quick Quote should become the norm for works contracts worth less than £500,000, and public bodies should consider using Quick Quote for awarding construction-related contracts worth less than the proposed thresholds in the Procurement Reform Bill (£2 million for works and £50,000 for supplies and services).
	When using Quick Quote, public bodies should be able to demonstrate a clear audit trail to contract award, to ensure transparency and accountability.
	The use of PCS Tender should be mandatory for creating ITTs, using standard question sets as the basis, and submitting tender returns – whether individual contracts or frameworks.
8.2	The requirement that contracting authorities should have a clear strategic understanding of what they want community benefits to deliver through their public procurement for the sustainability of the Scottish and local economy and the community within which the project is being delivered. The public body should set out its strategic objective and ask the contractor to set out in its tender how it will meet that objective.
9.5	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.
	Sectorial records of project overrun 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.

# Appendix 3 – Limitations and responsibilities

## Limitations inherent to the internal auditor's work

We have undertaken a review of the current status of implementation of the Scottish Government's "Scottish Public Sector Procurement in Construction" recommendations at Aberdeen City Council, subject to the limitations outlined below.

## Internal control

Internal control, no matter how well designed and operated, can provide only reasonable and not absolute assurance regarding achievement of an organisation's objectives. The likelihood of achievement is affected by limitations inherent in all internal control systems. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

## Future periods

Our assessment of controls relating to Procurement in Construction is as at 31 December 2014. Historic evaluation of effectiveness is not relevant to future periods due to the risk that:

- the design of controls may become inadequate because of changes in operating environment, law, regulation or other; or
- The degree of compliance with policies and procedures may deteriorate.

## Responsibilities of management and internal auditors

It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems.

We endeavour to plan our work so that we have a reasonable expectation of detecting significant control weaknesses and, if detected, we shall carry out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected.

Accordingly, our examinations as internal auditors should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist.

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