

## ABERDEEN CITY COUNCIL

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COMMITTEE	Audit, Risk and Scrutiny Committee
DATE	23 February 2017
DIRECTOR	N/A
TITLE OF REPORT	Third Don Crossing
REPORT NUMBER	IA/17/005
CHECKLIST COMPLETED	Yes

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### **1. PURPOSE OF REPORT**

- 1.1 This report advises the Committee of the outcome from work that the Committee requested Internal Audit undertake following consideration of a report relating to the 3rd Don Crossing from the Interim Chief Executive (Director of Corporate Governance) on 27 September 2016.

### **2. RECOMMENDATION**

- 2.1 The Committee is requested to review, discuss and comment on the issues raised within this report.

### **3. FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications arising as a result of this report.

### **4. Third Don Crossing**

- 4.1 At its meeting on 27 September 2016, the Audit, Risk and Scrutiny Committee considered a report from the Interim Depute Chief Executive (Director of Corporate Governance) regarding the output from an independent external review of the contractual arrangements that were in place to construct the Third Don Crossing.
- 4.2 The Committee resolved, in response to various concerns raised by members relating to the contract and decision making process, to request that Internal Audit undertake an audit to ascertain where the responsibilities and accountability sat in relation to the Third Don Crossing and whether the appropriate level of scrutiny and records were in place throughout the project. The results of the requested audit are detailed below.
- 4.3 On 6 March 2013, Council agreed to progress construction of the crossing on a “works only” basis against an option of a “design and build” contract as part of the wider AWPR arrangements. The independent consultant’s report states that it was not clear if other alternatives had been considered and that there was limited / no direct involvement from the Council’s

Commercial and Procurement Services Team (C&PS) in developing alternative approaches to the type of contract. The consultant goes on to consider that the specialist knowledge that C&PS has, combined with strong networks that they have established, would have been helpful in the development of options. However, the C&PS team has evolved over the last four years and it would be difficult to confirm that the current level of expertise existed within the Team in 2013.

- 4.4 Recommendations that C&PS be more involved in projects of this nature in the future, however, do have considerable merit.
- 4.5 The procurement process was, as stated in the independent consultant's report, Service led, with some involvement from legal staff. This was the norm at that time and could be considered to have been constrained by the fact that few large scale infrastructure projects were dealt with by the Roads Design Team. Involvement in the same process on a regular basis helps build knowledge and expertise, both of which the Council should now have in place with a more established Commercial and Procurement Service.
- 4.6 At that time, the Roads Design Team had a core staffing level of 4 to 5 members of staff. The organisational structure around the Team was:
- Director of Environment and Infrastructure then the Director of Enterprise, Planning & Infrastructure
  - Head of Planning and Sustainable Development
  - Transportation Manager (vacant)
  - Team Leader Roads Design – now vacant – “Project Manager”
  - Senior Engineer – “Project Leader”
- 4.7 During this review, Service staff advised that prior to re-organisations over recent years, a major civil engineering project like this would have been directly lead / managed by a Director of Roads. The re-organisations, whereby the number of Directorates has reduced, resulted in the lead officer for this project being fourth tier, albeit one of the most senior roads engineers in the Council.
- 4.8 There is little documentation detailing the decision making process regarding the tendering processes or timescales for the Project. However, the report submitted to Council in March 2013, considered the main options that would be typical for a roads construction contract: either “works only” or “design and build”. The report also considered whether it was desirable to add the Third Don Crossing to the AWPR (Balmedie to Tippetty) contract. The merits and risks of each approach were discussed and it was concluded that the best option for the Council was a works only contract. The Council approved the recommendations in the report.
- 4.9 There are copy letters dated 1 May 2014 on file showing that five contractors were invited to submit a tender, having expressed an earlier interest. These state that there was to be a pre-tender site meeting on 22 May 2014 and that completed bids had to be submitted by 13 June 2014, allowing 44 days to do so. The Public Contracts (Scotland) Regulations 2012, which were in force at the time, provided for a minimum time limit for submission of tenders of 40 calendar days.

- 4.10 Further Tender Bulletins, providing details of changes / clarifications, were issued on 29 May, 30 May, 2 June and 6 June 2014.
- 4.11 Minutes of the site meeting held on 22 May 2014, which was attended by representatives of four of the invited tenderers (amongst others), were circulated to contractors on 11 June 2014, just three days before tenders had to be received by the Council.
- 4.12 The Audit, Risk and Scrutiny Committee raised a specific concern regarding the time in which contractors had to submit tenders. There is reference to this matter in the minutes of the site meeting as follows:
- “Tenderer Query – At least two requests for extension of time have been received, but this has so far been declined. There are limited number of bridge fabricators and they are indicating that they will struggle to return quotes within the time available for the tender. Are you able to reconsider extending the tender return deadline? ... response – There will need to be strong evidence shown that it is not possible to return the tender within the given time. Without this evidence this shall not be considered. The deadline is set according to Council Committee dates and the summer recess will be encountered if the tender return date is extended. This would mean a delay to the start of the works. If more tenderers come forward to request such an extension we would consider it further. Tenderers invited to approach us and make their thoughts on this known.”*
- 4.13 The four tenderers who attended the site meeting submitted tenders and the Finance, Policy and Resources Committee agreed the contract award on 19 June 2014.
- 4.14 The independent consultant’s report highlights the risks of having what was considered to be a quick turnaround of tender documents issued, tenders received, and evaluation carried out. However, the report does go on to state that the category management model that has been implemented across the Council and the role of Commercial and Procurement Services in supporting Services has been clarified which will address many of the issues identified during the procurement strategy for such works in future.
- 4.15 In conclusion, the report by the independent consultant provides a factual summary of events that took place and commentary on what would improve the processes that were in place at the time of commissioning this contract. Recommendations have been made and these are being considered by management, with a report due to be presented to the Audit, Risk and Scrutiny Committee in February 2017. Along with changes that have already been made over the intervening three year period, if the recommendations are accepted and implemented this will further mitigate against the risks identified.
- 4.16 There appears to have been an appropriate level of scrutiny, applied by Council and Committees. However, the level of documentation available to support decisions made during the project is considered to be inadequate. In future, Services will be working in collaboration with Commercial and Procurement Services on such contracts and the Head of Commercial and Procurement Services has confirmed to Internal Audit that documenting the

decision making process will be an important element of the process.

- 4.17 At its meeting on 27 September 2016, the Audit, Risk and Scrutiny Committee also expressed some concern that the independent consultants report had stated that recommendations made by Internal Audit in April 2015 relating to procurement in construction had not been implemented. This was followed by a recommendation that officers ensure that all the recommendations have been fully implemented.
- 4.18 The recommendation in question was that an action plan be developed that sets out the timescales and proposed actions for implementation of the eight outstanding recommendations that had been made by the Scottish Government in their “Scottish Public Sector Procurement in Scotland” review in October 2013. The Internal Audit report in which the recommendation was made confirmed that the recommendation had been implemented.
- 4.19 However, it is unclear whether the plan itself has been monitored to ensure implementation of the recommendations. The plan has been requested from Commercial and Procurement Services but has not yet been provided.

## **5. REPORT AUTHOR DETAILS**

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