

ABERDEEN CITY COUNCIL

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| COMMITTEE | Audit, Risk and Scrutiny Committee |
| DATE | 4 December 2018 |
| REPORT TITLE | Internal Audit Report AC1830 – Internal Transport Tendering |
| REPORT NUMBER | IA/AC1830 |
| DIRECTOR | N/A |
| REPORT AUTHOR | David Hughes |
| TERMS OF REFERENCE | 2.2 |

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present the planned Internal Audit report on Internal Transport Tendering.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

3. BACKGROUND / MAIN ISSUES

- 3.1 Internal Audit has completed the attached report which relates to an audit of Internal Transport Tendering.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from the recommendations of this report.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report.

6. MANAGEMENT OF RISK

- 6.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are as detailed in the attached appendix.

7. OUTCOMES

- 7.1 There are no direct impacts, as a result of this report, in relation to the Local Outcome Improvement Plan Themes of Prosperous Economy, People or Place, or Enabling Technology, or on the Design Principles of the Target Operating Model.
- 7.2 However, Internal Audit plays a key role in providing assurance over, and helping to improve, the Council's framework of governance, risk management and control. These arrangements, put in place by the Council, help ensure that the Council achieves its strategic objectives in a well-managed and controlled environment.

8. IMPACT ASSESSMENTS

| Assessment | Outcome |
|--|---|
| Equality & Human Rights Impact Assessment | An assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. As a result, there will be no differential impact, as a result of the proposals in this report, on people with protected characteristics. |
| Privacy Impact Assessment | Not required |
| Duty of Due Regard / Fairer Scotland Duty | Not applicable |

9. APPENDICES

- 9.1 Internal Audit report AC1830– Internal Transport Tendering.

10. REPORT AUTHOR DETAILS

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Internal Audit Report

Operations

Internal Transport Tendering

Issued to:

Rob Polkinghorne, Chief Operating Officer, Operations
Mark Reilly, Chief Officer – Operations and Protective Services
Craig Innes, Chief Officer – Commercial and Procurement
Jonathan Belford, Chief Officer – Finance
Fraser Bell, Chief Officer – Governance
William Whyte, Fleet Services Manager
External Audit

EXECUTIVE SUMMARY

Fleet procures all vehicles, plant and equipment, in accordance with the requirements of Operations and other Council functions, and in conjunction with the Commercial and Procurement Shared Service (CPSS). Between April 2016 and March 2018, payments of £1.7 million have been made for vehicle hires, and £5 million of vehicle and plant has been purchased.

All procurement activity needs to comply with the requirements set out in the Council's Financial and Procurement Regulations, and associated guidance, to ensure best value is being obtained and compliance with legislation. The objective of this audit was to ensure that purchases are being undertaken in line with these Regulations.

Whilst procurement exercises had been undertaken, and in most cases CPSS was consulted, documentation held on file was not always sufficient to fully evidence justification for selection and award, including direct awards without competition, particularly during a period of change for the Service. In addition, not all contracts entered into had been formally recorded on the Council's contracts register. Fleet will ensure records, calculations, and justifications are checked and retained on file for future procurement.

Following changes to procurement regulations in March 2018, Services have been required to present procurement work plans in advance of further procurement exercises. The Service submitted a work plan to the Strategic Commissioning Committee in September 2018, and this was agreed.

1. INTRODUCTION

- 1.1 Fleet procures all vehicles, plant and equipment, in accordance with the requirements of Operations and other Council functions, and in conjunction with the Commercial and Procurement Shared Service. Between April 2016 and March 2018, payments of £1.7 million have been made for vehicle hires, and £5 million of vehicle and plant has been purchased.
- 1.2 All procurement activity needs to comply with the requirements set out in the Council's Financial and Procurement Regulations, and associated guidance, to ensure best value is being obtained and compliance with legislation. The objective of this audit was to ensure that purchases are being undertaken in line with these Regulations. This involved examining a selection of purchases from the previous two financial years including ensuring that where appropriate tenders were undertaken and Committee approval evidenced in advance.
- 1.3 The factual accuracy of this report and action to be taken with regard to the recommendations made have been agreed with William Whyte, Fleet Services Manager and Craig Innes, Chief Officer – Commercial and Procurement.

2. FINDINGS AND RECOMMENDATIONS

2.1 Written Procedures

2.1.1 Comprehensive written procedures which are easily accessible by all members of staff can reduce the risk of errors and inconsistency. They are beneficial for the training of current and new employees and provide management with assurance of correct and consistent practices being followed, especially in the event of an experienced employee being absent or leaving.

2.1.2 Corporate documentation, including Procurement Regulations and Procurement Guidance Notes, is available covering all aspects of purchasing. This should be referred to prior to making any purchase, and in conjunction with communication with the Commercial and Procurement Shared Service (CPSS) for high value or high risk procurements.

2.2 Hires

2.2.1 The Service regularly hires vehicles on behalf of services for operational service delivery. Between 1 April 2016 and 31 March 2018 this amounted to £1.7 million, with spend on the top six suppliers of these services amounting to £1.63 million. This expenditure consisted of numerous hires of relatively small value and in these instances cumulative spend with the supplier must be taken in to account when determining the appropriate procurement route.

2.2.2 All suppliers with which the Service has placed orders for hires were on a Scotland Excel Framework Agreement which expired on 31 October 2017 and has subsequently been replaced by a new Agreement through which each of these suppliers can still be contracted. However, call off contracts are only recorded on the contracts register (BOrganised) for four out of the six suppliers, indicating that two had not been officially contracted for the supplies. Each of these call offs expired with the Framework Agreement, and whilst the suppliers have continued to be used, there have been no new call off contracts recorded on the register. Services are required to update the register promptly following the award of new contracts. In addition, there is no record of formal adoption of the new Framework (effective from 1 November 2017) by the Council as required under Procurement Regulations.

Recommendation

The Service (CPSS & Fleet) should ensure that the new Framework is considered for formal adoption for use, and call offs are registered as appropriate, before further purchases are made.

Service Response / Action

Agreed. The framework has been formally adopted but call offs with appropriate suppliers still require to be added to the contracts register.

Implementation Date

January 2019

Responsible Officer

Fleet Services Manager;
Category Manager CPSS

Grading

Significant within audited
area

2.2.3 The Procurement Regulations additionally require that projected expenditure in excess of specified thresholds is reported on a workplan for approval by the Strategic Commissioning Committee, prior to the commencement of the new financial year. Expenditure on hires, and one-off capital purchases (see section 2.3 below), is likely to continue to exceed these thresholds, but a workplan has yet to be prepared and approved.

Recommendation

The Service should ensure a work plan is submitted to the Strategic Commissioning Committee in support of all projected expenditure.

Service Response / Action

Agreed. A work plan was agreed by the Strategic Commissioning Committee on 13 September 2018.

Implementation Date

Implemented

Responsible Officer

Fleet Services Manager

Grading

Significant within audited area

- 2.2.4 There has been no recent analysis of the comparative value offered through hire or purchase of fleet. Such an analysis could aid the Service in decisions on whether to continue hiring or purchase vehicles outright.

Recommendation

The Service should review the costs and benefits of hires compared with purchasing.

Service Response / Action

Agreed. A review has been completed in conjunction with Building Services and, taking into account the resale value of vehicles, outright purchase is the most economically advantageous.

Implementation Date

Implemented

Responsible Officer

Fleet Services Manager

Grading

Important within audited area

2.3 Capital Purchases

- 2.3.1 Twelve capital purchases with a combined value of £4.4million were reviewed, out of total expenditure of £5 million for vehicles and plant between April 2016 and March 2018. It should be noted that although payment for these purchases was made within this period, the procurement process had in some instances started prior to these dates.
- 2.3.2 All high level purchases should be subject to Committee approval as part of overall planned Service expenditure. It was noted that Committee (Communities, Housing & Infrastructure) approval was sought and subsequently given in January 2017 for expenditure to 30 April 2018.
- 2.3.3 There was no record of approval for expenditure prior to January 2017, although expenditure up to this date was presented to Committee in January 2017 with it being subsequently noted. The Service explained that following an investigation and subsequent report by the Traffic Commissioner emergency measures had been adopted by the Service to bring the fleet up to date, including employing a Consultant, following which a number of purchases were made, which as discussed further below do not appear to have followed the correct protocol.
- 2.3.4 The Service has drafted a report for the Operations Committee detailing projected expenditure on new vehicles for the period to 31 March 2019. The Fleet Manager has confirmed that no further expenditure is to be incurred until Committee approval has been granted. This will however require to be supported by a procurement workplan for the Strategic Commissioning Committee as noted at 2.2.3 above.
- 2.3.5 Procurement procedures require that a minimum of four quotations should be sought for purchases between the value of £10,000 and £50,000. Between £50,000 and the EU

tender threshold limit (currently £181,302) a tender exercise must be undertaken, and for amounts over the threshold this must be OJEU compliant – which includes additional steps and requirements. Direct awards can however be made to suppliers by the appropriate Officer without going to tender, on an exceptional basis, but only if there are justifiable reasons for doing so and these have been approved in advance, in a specified format, by CPSS. There is a risk in doing so, as it will be more difficult to demonstrate that best value is being obtained, and a risk of the process or outcome being challenged.

- 2.3.6 Of the twelve purchases examined, eight had been recorded as direct awards to suppliers with a combined value of £3.9 million. Although the Service had retained notes indicating why a direct award was considered appropriate in six cases, there was only a record of CPSS agreement for one, for an award to the value of £1.79 million. In the other two instances orders with a combined value of £183,364 had been placed directly with suppliers with no recorded justification for direct award.
- 2.3.7 In addition, although it was recorded that one contract had been awarded on the basis of lowest price following a mini competition between Framework suppliers further examination showed that only one supplier had been approached for a quotation, which had then been compared with fixed pricing as originally included in the Framework agreement for the other supplier. The supplier to which the contract was awarded had offered a discount on pricing, which the other supplier had not been afforded the opportunity to do. This purchase was therefore also a direct award, with no clear justification.
- 2.3.8 Where the Service had recorded reasons for direct award (without CPSS approval) these were not generally supported with evidence or statements that clearly demonstrated the requirement to award contracts without competition. An element of brand preference was evident, with reasons including workshop and operator experience, longevity, resale values, service quality and availability, being noted. These assumptions were not supported by evidence of either prior experience in comparison to other options or of comparative elements from providers’ sales literature. Even if the assumptions are correct, there is no guarantee that this will remain the case in the future. Continued direct award for the same supplies risks further reducing the opportunity to explore other competitive options, and of these decisions being subject to challenge.
- 2.3.9 If direct awards are appropriate they need to be supported with clear evidence to demonstrate this, and CPSS approval.

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|---|-----------------------------------|---------------------------------|
| <u>Recommendation</u> | | |
| The Service should ensure that if direct awards are proposed these are supported by clear evidence of the reasons for doing so, and approved by CPSS. | | |
| <u>Service Response / Action</u> | | |
| Agreed. | | |
| <u>Implementation Date</u> | <u>Responsible Officer</u> | <u>Grading</u> |
| Implemented | Fleet Services Manager | Significant within audited area |

- 2.3.10 Arithmetical errors were noted in the scoring of the mini-competition. One of the five elements used to rank the suppliers had not been included within the calculation, although in this case it would not have affected the final result due to the suppliers scoring equally in this regard, and the weighting applied to price. However, in other circumstances an error could lead to a supplier being incorrectly awarded a contract.

Recommendation

The Service should ensure that tender scoring is independently checked before proceeding with contract awards.

Service Response / Action

Agreed.

Implementation Date

Implemented

Responsible Officer

Fleet Services Manager

Grading

Important within audited area

- 2.3.11 In one instance where tenders had been prepared, received and reviewed it was apparent that quality aspects of bids were being reviewed by a panel and compared with each other to provide a ranked order for each quality element. This is not appropriate procurement practice as it introduces subjectivity: bids should each be individually compared with the advertised award criteria, not with each other.

Recommendation

The Service should ensure that tenders are scored against the advertised award criteria, not against other bids.

Service Response / Action

Agreed.

Implementation Date

Implemented

Responsible Officer

Fleet Services Manager

Grading

Important within audited area

- 2.3.12 In order to evidence that the correct procedure has been followed in all instances, appropriate documentation should be retained by the Service. In one instance an order was placed to the value of £136,500 following a mini competition. While there was evidence of the scoring which indicated which supplier had been awarded the contract, there was no documentation showing the original invitation to quote: the Service stated that the Consultant employed at the time would have emailed the relevant suppliers, but there was no evidence retained of this. The returned quotations were also not present, therefore it was not possible to determine whether the scoring was accurate. It was further noted on the Purchase Order that this order had been authorised via email due to it being a business critical case. Again no evidence had been retained of this.

- 2.3.13 Upon a supplier being successful they should be issued with a letter confirming the award, and this should be signed and returned by the supplier in order to confirm the contract. In 7 of the 12 instances there was either no copy of the letter issued to the supplier or there was no copy of the letter having been signed and returned. In a further instance there was no evidence of the unsuccessful suppliers being informed of the award.

Recommendation

The Service should ensure that all relevant documentation is retained in relation to procurement exercises.

Service Response / Action

Agreed.

Implementation Date

Implemented

Responsible Officer

Fleet Services Manager

Grading

Significant within audited area

2.3.14 The Service has options to purchase vehicle chassis and bodies separately or in combination through various Scotland Excel and other Framework Agreements. In some cases combined vehicles are being purchased (a chassis with a specific body) following tender exercises, with the body supplier purchasing the chassis and including it within the price. There is no comparison on file to demonstrate that this offered best value in comparison to the Service purchasing the chassis (at a discounted Framework rate) then providing it to the body supplier, which was the process in other cases.

Recommendation

The Service should ensure it can demonstrate the best value combination of vehicle components is being selected.

Service Response / Action

Agreed.

Implementation Date

Implemented

Responsible Officer

Fleet Services Manager

Grading

Important within audited area

AUDITORS: D Hughes
C Harvey
D Henderson

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 | <p>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.</p> <p>Financial Regulations have been consistently breached.</p> |
| Significant within audited area | <p>Addressing this issue will enhance internal controls.</p> <p>An element of control is missing or only partial in nature.</p> <p>The existence of the weakness identified has an impact on a system's adequacy and effectiveness.</p> <p>Financial Regulations have been breached.</p> |
| 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. |