
TITLE: CONTRACT PROCEDURES- PROGRESS UPDATE

Committee: Finance & Assets Committee

Date: 4 March 2021

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[V146]

1.0 ISSUE

1.1 To report progress on matters relating to contract procedure.

2.0 RECOMMENDATION(S)

2.1 Members are requested to:

- i) Note the progress and actions identified in this report, and
- ii) Note that further audit work is being undertaken, as referenced in 4.7 of this report, and will be reported to Finance & Assets Committee following the completion of this work.

3.0 BACKGROUND/OPTIONS

- 3.1 In July and September 2020, Members expressed various concerns relating to the contract procedures that are in place for the Council and how they are applied.
- 3.2 Initial concern followed an audit report that was considered by Finance & Assets Committee on 23 July 2020 (Agenda Item 6). The report identified that 92% of the opinions given in relation to the control environment and compliance have been at least of Satisfactory Assurance and further identified that the proportion of audits resulting in opinions of Substantial Assurance has been higher than in previous years.
- 3.3 None of the audits resulted in major organisational risk, however, limited assurance was given in relation to compliance with controls on contract extensions. This is the area where Members expressed concern.
- 3.4 The objective of the internal audit review was to ensure that the Council procures goods, services and works in accordance with the Contract Procedure Rules which were adopted at Full Council on 5 October 2017. These rules include the procedure to be followed when extending contracts.
- 3.5 The audit concluded that there was little or no supporting documentation to evidence compliance with the Contract Procedure Rules and where contracts have been extended they have not been included in the central contracts register. An opinion of Good Assurance was given to the design of the Council's controls and Limited Assurance was given relating to compliance.

- 3.6 Officers have reviewed the circumstances of non-compliance related specifically to contract extensions. A summary of the contracts, including commentary, that were tested is provided at Appendix 1.
- 3.7 On 24 September 2020 (Agenda Item 7) Members continued to express concern for the Council's Contract Procedures Rules more generally and, through the Chairman, requested a review to be carried out to ascertain whether the contract procedure rules in place need to be reviewed.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 In relation to the contact extension audit that was considered by Finance & Assets Committee in July 2020, the audit gave a limited assurance and provided two recommendations:
1. All staff involved in the procurement of goods and services, including the extensions to contracts, should take personal responsibility to ensure they fully understand, apply and record compliance with Contract Procedure Rules and that managers ensure this is consistently enforced; and
 2. Services identify all contracts, including contract extensions over £5,000 which are not yet on the contract register and provide the required details to legal services.
- 4.2 As provided in Appendix 1, the main area of concern is that whilst the original contracts had been entered into the contracts register, the extension to those contracts, were not. Further, there has been an incident where a service provider was being used 'out of contract' and there was no ability to extend the contract. On the latter issue it is confirmed that a new contract is in place and the correct procedure for awarding the contract has been followed.
- 4.3 Management took immediate corrective action and all staff have been sent an email reminding them of the requirements set out in the Contract Procedure Rules and a request was made that all staff to review the contacts that are currently in place (where there is a value of £5,000 or more), including extensions, and provide these details to the Legal Services Team so the contract register is accurate.
- 4.4 The Tender Register and Contract Register is compiled and published by the Information Officer in the Legal Services Team. The Information Officer sends a quarterly reminder to Service Managers to provide information for inclusion of tenders and contract on the register.
- 4.5 In addition the Finance Manager has requested that procurement training is undertaken to ensure that all Services Managers understand the requirements of the Contract Procedures rules and understand the financial and legal risks relating to non-compliance. Service Managers will then identify other members of staff that need to undertake training. Further, the Legal Services Manager will ensure that Service Managers receive refresher training relating to the Open Data requirements of the Council.
- 4.6 Turning now to the point of contract procedures more generally. On 5 October 2017 Council adopted contract procedure rules. These rules form part of the Council's Constitution and set out the process to be followed when awarding

contracts, the process of procurement changes depending on the value of the contract. For ease of reference a summary of the thresholds and process is provided at Appendix 2.

- 4.7 An internal audit is currently being conducted in two areas; procurement compliance and off contract spend. The procurement review is looking at the compliance with contract procedure rules in the procurement of goods/services and the off contract spend review is looking at spend with suppliers where no contract or framework is in place. The outcome of both of these reviews will be reported to Committee once they have concluded.
- 4.8 Since the meeting held in September 2020 the Finance Manager has reviewed the Contract Procedure Rules to ensure that they are fit-for-purpose, clear and understandable for staff to follow.
- 4.9 The Finance Manager concluded that the Contract Procedure Rules meet the needs of the Council and are clear and understandable. Further, the Finance Manager has undertaken to review the Contract Procedure Rules if there are recommendations from internal audit to do so. Members may recall that the Council received Good Assurance from internal audit on the design of the controls that the Council has in place.
- 4.10 The Finance Manager has instructed the Finance Team to review all contract spend over £5,000 to ensure that the information correlates with the information held on the contract register. If it is found that information does not correlate, the responsible officer will need to ensure that the information is provided promptly to the Data Officer.
- 4.11 As identified in 4.5 above it is essential that staff receive refresher training on Contract Procedure Rules and Open Data to ensure the Council complies with the requirements of both legislation and the adopted rules it has in place.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT/CARBON IMPACT ASSESSMENT

- 5.1 There are no financial implications arising from this report.
- 5.2 Equality Impact Assessment (EIA) not required.
- 5.3 Carbon Impact Assessment (CIA) not required.

6.0 APPENDICES

- 6.1 Appendix 1- Summary of tested contracts
Appendix 2- Summary of Contract Procedure requirements

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Finance & Assets Committee- 23 July 2020- Agenda Item 6. Finance & Assets Committee- 24 September 2020- Agenda Item 7. Contract Procedure Rules	The Grange, Ely	Emma Grima Director Commercial (01353) 616960 E-mail: emma.grima@eastcambs.gov.uk

AGENDA ITEM 9 – Appendix 1

	Value of Original Contract	Spend since end of contract/not on register	Issue	Area of Non-Compliance	Update
Contract 1	Per transaction	£6,993	The contact commenced in February 2015 and expired in February 2018. There was an option to extend the contract with the express agreement of the Council and the Contractor.	<ol style="list-style-type: none"> 1. No documentation on record to evidence express consent of both parties 2. Extension not recorded on the contract register 	<p>The responsible officer is no longer in the employment of the Council and it has not been possible to establish the reasons for non-compliance.</p> <p>Service Managers receive a quarterly reminder from Legal Services to enter contracts with a spend over £5,000 on the contracts register.</p> <p>Training is being arranged to remind staff of the requirements of Contract Procedure Rules and Open Data.</p>
Contract 2	£12,186	£7,113	The contract commenced in April 2015 and expired in March 2018. There was no provision for the contract to be extended.	<ol style="list-style-type: none"> 1. Continuing with a service provider 'out of contract' 2. Extension not recorded on the contract register 	<p>The issue arose when the responsibility for that element of the service was crossed between two departments. Unfortunately, the contract end date was overlooked. Following a tendering exercise a new contract is in place.</p> <p>Service Managers receive a quarterly reminder from Legal Services to enter contracts with a spend over £5,000 on the contracts register.</p> <p>Training is being arranged to remind staff of the requirements of Contract Procedure Rules and Open Data.</p>

AGENDA ITEM 9 – Appendix 1

Contract 3	£88,494	£20,992.32	The contract commenced in November 2015 and expired in November 2018. A new contract was entered into, with the same supplier, in November 2017 at a reduced cost of £20,992.32. This was subject to competition by comparing prices with two other suppliers.	1. The extension was not recorded in the contract register	<p>Service Managers receive a quarterly reminder from Legal Services to enter contracts with a spend over £5,000 on the contracts register.</p> <p>Training is being arranged to remind staff of the requirements of Contract Procedure Rules and Open Data.</p>
Contract 4	£73,500	£2,100	The contract expired on 31 March 2018 with a limited extension for 6 months at a cost of £2,100.	1. The extension was not recorded in the contract register	<p>Service Managers receive a quarterly reminder from Legal Services to enter contracts with a spend over £5,000 on the contracts register.</p> <p>Training is being arranged to remind staff of the requirements of Contract Procedure Rules and Open Data.</p>
Contract 5	£15,728	£15,000	The original contract expired on 31 March 2019. An exemption was sought for a period of one year for a value of £15,000. The exemption form was completed and authorised correctly.	<p>1. The signed exemption was not provided to the Monitoring Officer for recording purposes</p> <p>2. The extension was not recorded in the contract register</p>	<p>Service Managers receive a quarterly reminder from Legal Services to enter contracts with a spend over £5,000 on the contracts register.</p> <p>Training is being arranged to remind staff of the requirements of Contract Procedure Rules and Open Data.</p>