



City of Westminster

Executive Summary and Recommendations

Committee Report to Westminster Scrutiny Commission

Date: 9th November 2010

Subject: Procurement Policy and Involvement of Policy and
Scrutiny Committees in Contract Awards

Summary

Policy and Scrutiny Committees have recently reviewed a number of major contract awards and issues have been raised as to the timing and value of the Scrutiny process. This report makes some proposals as to how Members can fulfil both the policy and scrutiny aspects of their role in order to add value to the procurement process.

A further report will be submitted to the Commission's April meeting to provide an overview of strategic procurement policy, and its implementation through the City Council's contracting process.

Recommendations

1. That the report be noted and Members of the Commission comment on the proposals for the future involvement of Policy and Scrutiny Committees in the award of contract procedures



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Committee Report

Item No:	6
Date:	9 th November 2010
Classification:	For General Release
Title of Report:	Procurement Policy and Involvement of Policy and Scrutiny Committees in Contract Awards
Report of:	The Head of Legal and Democratic Services
Wards involved:	All
Policy context:	To maintain a low Council Tax
Financial summary:	There are no financial implications arising from this report
Report Author:	Peter Large
Contact details	0207 641 2711 plarge@westminster.gov.uk

1. Background Information

1.1 At its meeting on 6th July 2010 the Westminster Scrutiny Commission considered its work plan for the year and indicated that it wished to have further oversight of the City Council's strategic procurement policy and in particular the Commission raised the following points:-

- The Finance and Resources Policy and Scrutiny Committee should be the lead Committee in respect of contracting arrangements, particularly in the light of the inclusion in the terms of reference of the Cabinet Member for Finance and Resources the consideration of all major contracts;
- Emphasis on a central procurement system;
- Service users should be included in the drafting of specifications;
- The Finance and Resources Policy and Scrutiny Committee should not be involved in scrutinising other Committees' work in setting requirements/service level contracts nor should it scrutinise the remit of the Audit and Performance Committee in relation to contracts. It was suggested that the Audit and Performance Committee should have an observer role in relation to deliberations by the Commission regarding procurement;
- Opportunities should be taken for joint scrutiny of both work with external organisations such as health contracts and also education;
- It should be possible to draw on the expertise of Members in relation to services as well as finance and procurement;
- Procurement should ensure that Members and Officers with the appropriate functional knowledge should be involved in the process
- Consideration should be given to the work of large commissioning bodies and joint working;

1.2 The Commission asked for a report on the City Council's Procurement Strategy and an overview of the strategic procurement policy and this will be the subject of a report to the Commission's next meeting.

1.3 Earlier this year, Policy and Scrutiny Committees were asked to consider the award of contracts for waste collection and parking enforcement. As Members had not been directly involved in the evaluation processes, their role was limited to reviewing how officers had conducted the procurement process and assess the criteria set out in the tender documentation. This report seeks to set out a protocol which can be used to ensure that Members are involved at crucial stages of the procurement process so that they have input into both the services required under the contract as well as have appropriate oversight of the contracting process.

2. Involvement of Policy and Scrutiny Committees in the Contracting Process

2.1 Consideration has been given as to what the exact role would be for Members in scrutinising the evaluation of tenders in preparation for the award of contract and whether this is part of an audit function. Unless Members have been involved in the whole of the procurement process it is extremely difficult for them to pick up complex issues at a late stage in the process unless they have really been

involved in the end to end tendering exercise. It is also thought that no particular benefit is added to the procurement process by Members seeing tenderers' representatives shortly before the award of the contract. At this stage recommendations are often already finalised and Members have not had the opportunity to read the tenders or be part of the evaluation process.

2.2 Major contracts may take between 9 to 12 months from the issuing of a notice in the Official Journal of the European Union to the award of contract and it is crucial that input from Councillors is at the appropriate stages of the procurement process.

2.3 It is therefore proposed that the Policy and Scrutiny Committees are involved in the procurement process in the following ways:-

- Review of the specification and the contract award criteria – this will give the Policy and Scrutiny Members an opportunity to review and shape the service before the final decision on the general levels of service is finally approved by the service Cabinet Member.
- Members to decide whether they wish to be involved in the actual procurement process.
- Involvement of a task group formed from Members of the Finance and Resources Policy and Scrutiny Committee and Members of the Service Committee.
- Opportunity for a task group or scrutiny panel to scrutinise the scoring by the evaluation panel and to ask detailed questions on scoring and the application of the criteria of and by officers.
- Scrutiny by Finance and Resources Policy and Scrutiny of the award of contract report prior to the award of contract being agreed by the Cabinet Member for Finance and Resources.

2.4 When planning the procurement timetable, project officers will need to allow sufficient time for meetings of the Scrutiny Committees and any task groups. Liaison with the relevant chairmen of the Committee will be required in respect of any extra meetings.

3. Financial Implications

3.1 None.

4. Legal Implications

4.1 Major contracts for goods, services or works must be let in accordance with the Public Contracts Regulations 2006, which implements the European public procurement regime in domestic legislation. The regime is designed to achieve transparency and equal treatment in procurement, by providing that the criteria against which tenders are to be evaluated are published in advance, and that tenders are evaluated in accordance with those published criteria only and no others.

4.2 Where a Policy and Scrutiny Committee reaches a view or makes a recommendation on an award without having seen the detailed tender

submissions, and the scoring of the submissions by the tender evaluation panel, it can lead to complaints by unsuccessful tenderers that the process has been improperly influenced by considerations other than the published evaluation criteria. The recommendations in this report are designed to ensure that Policy and Scrutiny Committees can participate in the letting process in a meaningful and effective way without such issues arising.

- 4.3 It will be necessary to make slight amendments to the terms of reference of both the Cabinet Members (in relation to the approval of specification rather than just service levels of large contracts) and Policy and Scrutiny Committees to make more detailed reference to involvement in the contracting process if the protocol set out in this report is adopted.

5. Staffing Implications

- 5.1 There are no staffing implications arising out of this report.

6. Business Plan Implications

- 6.1 None.

7. Risk Management Implications

- 7.1 The protocol set out in this report, if agreed, will help to minimise the risk of successful challenges to the letting of major contracts.

If you have any queries about this report or wish to inspect one of the background papers please contact Peter Large on 020 7641 2711, fax 020 7641 3325, email plarge@westminster.gov.uk.

Background Papers

None

Major Contracts

PROCESS FLOW DIAGRAM

