



City of Westminster

# Audit and Performance Committee Report

<b>Meeting:</b>	Audit and Performance Committee
<b>Date:</b>	15 July 2015
<b>Classification:</b>	General Release
<b>Title:</b>	Annual Contract Review 2014/15
<b>Wards Affected:</b>	N/A
<b>Financial Summary:</b>	N/A
<b>Report of:</b>	Chief Procurement Officer
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## 1. Executive Summary

- 1.1 This report forms the Annual Contracts Review for consideration by the Audit and Performance Committee, in accordance with their Terms of Reference, specifically those listed below:
  - 23. To maintain an overview of overall contract performance on behalf of the Council.
  - 24. To review and scrutinise contracts let by the Council for value for money and adherence to the Council's Procurement Code.
- 1.2 65 contracts over the value of £150,000 and 161 contracts with a value of less than £150,000 were let in 2014/15 in accordance with the requirements of the Procurement Code, as indicated in appendix A.
- 1.3 There were 101 extensions and 15 variations of existing contracts as highlighted in Appendix B.
- 1.4 In exceptional circumstances a waiver to the requirements of the Procurement Code may be obtained from the Chief Procurement Officer. Appendix C provides details of the 104 waivers that were approved.

- 1.5 The performance of live contracts in 2014/15 is shown in Appendix D.
- 1.6 The Council's eSourcing Platform, capitalE sourcing provides an evidence based robust means of managing the end to end procurement process.
- 1.7 A Tri-Borough Contracts Management Framework is currently being finalised, which will create a consistent approach to Contracts Management that will be applied to all external third party relationships.

## **2. Recommendations**

- 2.1 It is recommended that the Audit and Performance Committee note the contents of this report.

### 3. Reasons for Decision

- 3.1 The reason for the recommendation is to comply with the terms of reference of the Audit and Performance Committee.

### 4. Background, including Policy Context

- 4.1 In accordance with the terms of reference of the Audit and Performance Committee, an Annual Contracts Review must be submitted for their consideration.
- 4.2 The format of reporting focuses on the Executive Management Team (EMT), as the EMT is responsible for the overall management of the Council, for setting and monitoring overall direction, ensuring high performance and for overall risk and reputation management. Cabinet portfolios have been designed to create parallel responsibilities where possible.
- **Chief Executive: Charlie Parker**  
(Head of Paid Service)
  - **Tri-Borough Executive Director of Children's Services: Andrew Christie**  
(Children's Services Commissioning function, including Social Care and Family Support Services; a single Education Commissioning function responsible for raising standards and preventing failure in 153 schools; and borough-based provision protecting children and supporting families).
  - **Tri-Borough Executive Director of Adult Social Care Services: Liz Bruce**  
(Adult Social Care and Public Health covering Westminster, Hammersmith and Fulham and Kensington and Chelsea).
  - **Strategic Director for City Management and Communities: Leith Penny/Stuart Love**  
(Public Protection & Licensing; Waste and Parks; Parking Operations; Public Realm Programme Management)
  - **Executive Director for Growth, Planning and Housing: Ben Denton**  
(Property, Housing, Development Planning, City Transport, Planning, Investment, Infrastructure, Transport and Place Management Services).
  - **Interim Bi-Borough Executive Director of Corporate Services: Jane West**  
(Information Services; Human Resources; Legal and Democratic Services; Strategic and Commercial Procurement; Managed Services).
- 4.3 In 2012/13 a number of Service Support Units, Delivery Units and Commissioning Units came under the responsibility of Mike More, Chief Executive. With the appointment of a new Chief Executive, Charlie Parker, it was anticipated that responsibility for these units would be re aligned, but this did not happen until recently so for the purposes of this report, they are still listed under Charlie Parker. The 2015/16 report will reflect the correct structure.
- 4.4 This report is a summary of contract data taken from capitalEsourcing and the minutes of Gate Review Panel and Tri-Borough Contracts Approval Board

meetings. Following consideration by members of the Audit and Performance Committee, the report will be submitted to the Cabinet Member for Finance and Customer Services, only if required under their Terms of Reference e.g. "To maintain an overview of overall contract performance on behalf of the Council".

## **5. Procurement Governance**

- 5.1 The award and management of contracts has been governed by the Council's Procurement Code version 1.8, which was published on 24 Sep 2012, to version 1.12 which was updated and published on 29 Jan 2015.
- 5.2 Peer Reviews oversee the procurement of contracts up to £100,000, providing challenge and rigour. Peer Reviews are led by the Nominated Authorised Officer and are made up of a combination of appropriate officers such as Commissioners, Category Managers and Finance Business Partners. The level of challenge should be proportional to the cost and complexity of the procurement activity being reviewed.
- 5.3 The Gate Review Panel is a senior officer group responsible for overseeing contract letting, contract management, extensions and variations to existing contracts within the Council for contracts over £100,000. The Panel, chaired by the Chief Procurement Officer, provide strategic advice and define and disseminate best practice.
- 5.4 Procurement is centre led and a Category Management approach has been adopted. Category Management is a cross functional approach that uses to our advantage service expertise alongside professional procurement skills (such as CIPS<sup>1</sup> qualified officers) to effectively manage the organisation's spend.
- 5.5 A Corporate Services review, encompassing procurement, has recommended a centre led approach for Bi-borough and a Category Management approach across the two Councils, with contracts management decentralised.
- 5.6 There is a need to provide guidance and training to Contract Managers across the three Councils. A Contract Management Framework (CMF) has been designed to support an effective and more consistent approach to managing a diverse range of contracts across Tri-Borough, where the total value exceeds £25,000. It has been developed to help manage risk and exploit the opportunities that arise in all contracts; it draws upon existing good practice and offers a flexible approach to support Contract Managers according to their specific needs. Bespoke training will be provided as part of the implementation, and the CMF will be rolled out in the Autumn of 2015.

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<sup>1</sup> Chartered Institute of Procurement and Supply

5.7 Section 1 provides an overview of the role and key skills required and explains how the Framework should be applied. Section 2 provides a detailed step-by-step guide to the three stages (Define, Mobilise and Deliver) of contract management. The guidance highlights the key activities the Contract Manager is required to perform at each stage. All of the activities have been grouped into 6 themes (shown below) which are repeated in each stage

- 1 Specification
- 2 Governance and Organisation
- 3 Performance Management
- 4 Commercial
- 5 Risk Management
- 6 Legal

## **6 Procurement Systems**

- 6.1 capitalEsourcing is an end-to-end eSourcing Platform which encompasses strategic sourcing, procurement (including Request For Quote), evaluation, contract management, supplier performance management, programme management solutions and spend analysis in an integrated suite. All stages of the procurement process including supplier engagement, tendering, and contracts management are conducted through the system.
- 6.2 The capitalEsourcing contracts register is regarded as the “single source of truth” and forms the basis for reporting on contract information across the Council. Through training and regular communications, it has been made clear to Contract Managers that it is a mandatory requirement to ensure that records are accurately maintained and regularly updated. Regular reports are submitted to the Executive Management Team (EMT) outlining the level of compliance across the Council. Although it is evident that on the whole, compliance is improving, a large number of records remain incomplete and therefore non-compliant. Detailed analysis of the system demonstrates there has been good progress in some areas, with others lagging.
- 6.3 The responsibility for updating records lies with the individual Contract Managers. However, due to slow progress, reports have been circulated to each member of the Executive Management Team identifying the data gaps so that they can mandate and prioritise this requirement to the officers who directly report to them.
- 6.4 As a direct result of low compliance, the Strategic and Commercial Procurement team is finding it increasingly difficult to accurately report contract data to stakeholders, including Council Members and the Public, as part of the mandatory requirement to publish transparency information each quarter.
- 6.5 Table 1, below, outlines compliance by Directorate as at 19<sup>th</sup> May 2015.

**Table1****Mandatory Field Compliance**

by Contracting Authority

Updated: 19 May 2015

All Contracts Above £100k

Contracting Authority	Core Fields			All Mandatory Fields			Contract Performance		
	Completed	Total	% Compliant	Completed	Total	% Compliant	Updated	Total	% Compliant
<b>City of Westminster</b>	<b>188</b>	<b>290</b>	<b>65%</b>	<b>118</b>	<b>290</b>	<b>41%</b>	<b>75</b>	<b>247</b>	<b>30%</b>
Adult Social Care	68	71	96%	19	71	27%	18	64	28%
Built Environment (WCC)	1	1	100%	1	1	100%	1	1	100%
Children's Services	19	19	100%	19	19	100%	0	18	0%
City Management (WCC)	24	34	71%	19	34	56%	13	27	48%
Finance & Corporate Services (H&F)	2	3	67%	2	3	67%	2	3	67%
Finance & Corporate Services (RBKC)		2	0%		2	0%	0	1	0%
Finance & Operations (WCC)	20	33	61%	19	33	58%	10	22	45%
Housing Services (WCC)	6	55	11%	1	55	2%	21	48	44%
Housing, Regeneration & Property (WCC)	19	27	70%	18	27	67%	4	21	19%
Libraries	1	1	100%	1	1	100%	1	1	100%
Planning & Borough Development (RBKC)		1	0%		1	0%	0	1	0%
Public Health	21	26	81%	13	26	50%	2	25	8%
SEB/Central Services (WCC)	6	8	75%	6	8	75%	3	6	50%
Transport & Tech Services (RBKC & H&F)	1	1	100%		1	0%	0	1	0%
(blank)		8	0%		8	0%	0	8	0%

**7. Training**

7.1 The team receive regular training on the EU Directives, Competitive Dialogue and some team members are studying for their CIPS qualification. An ongoing training programme ensures that all team members are kept up to date with procurement related legislation.

Fraud Awareness training was provided for all procurement staff by the Tri-borough Head of Fraud during 2014.

During 2015/16 it is the intention of the Chief Procurement Officer to implement a rolling training programme the will include:-

- Category Management - mandated for all procurement staff
- Contracts Management Framework - mandated for all Commissioners, Contract Managers and Procurement staff
- Legal Aspects & Contract Development (Back to basics) – mandated for all procurement staff
- Specification Writing
- EU Procurement Directives
- Negotiation
- Finance for non Finance Managers

**8. High profile contracts awarded in 2014/15**

8.1 During 2014/15, procurement activity commenced for a number of complex and high profile contracts which are summarised below.

8.2 **Provision of Care Services as part of the Specialist Housing Strategy for Older People (SHSOP) in Westminster with Sanctuary Housing Association.**

The procurement was completed as part of the SHSOP Programme to offer older people with care needs who are unable to be supported at home to receive quality person centred health care and support at the following 6 homes:

- Carlton Dene (WCC Residential Care)
- Westmead (WCC Residential Care)
- Athlone House (Westminster NHS Nursing Care)
- Garside House (Westminster NHS Nursing Care)
- Butterworth Centre (Westminster NHS Nursing Care)
- Princess Louise Kensington (Kensington & Chelsea NHS Nursing Care)

This will be provided in an environment which promotes safety and independence as well as engagement in meaningful everyday activities leading to happy and healthy lives. The award of the contract to SHA is for eight years with possible extensions for a further eight years. The total contract value over the initial eight years is circa £126.2m of which £23.8m relates to Westminster Council and £102.4m relates to NHS commissioning.

- 8.3 **Provision of Print and Document Management Services with Ricoh.** The Council undertook a major re-tender of its outsourced Printing and Document Management services to create a framework of core services by pulling together a number of previously stand-a-alone work streams into a single contract. These included Print Management, Reprographics, Multi-Functional Devices, Digital Mail Room (Parking & Planning) and Archiving, Scanning and Indexing. The award of a framework contract to Ricoh will generate estimated gross savings of £3.8M when compared to current spend, based upon historic activity levels. The framework names 19 other Local Authorities and if any call off from this Framework this will trigger management fees of 2% payable to WCC.
- 8.4 **Development Partner for Luton Street Regeneration.** Bouygues London Newcastle have been appointed as the Development Partner for the Luton Street project. The project will deliver circa 130 – 150 new homes including a minimum of 35% affordable as well as the re-provision of the existing 14 social rented stock. There will also be enhanced leisure facilities and improvements to the public realm. It is envisaged that the project's delivery will be during 2017.
- 8.5 **Provision of Design & Build and Developer Manager services for the scheme known as the Marylebone Library.** Mace has been appointed as the Contractor and Development Manager to deliver the new 'state of the art' library and residential units at Luxborough Street which is in the heart of Marylebone Village. The scheme will also provide significant public realm improvement and is expected to be delivered in 2017.
- 8.6 **Tollgate Gardens.** Affinity Sutton has been appointed as Development Partner for the Tollgate Gardens scheme. Tollgate Gardens is a small development in the North of the borough .the project will deliver to deliver 195 new homes, 53

improved homes, new community hall , improved public realm and a new district heating system. The project is due to be delivered in 2018.

- 8.7 **Children and Family Obesity Prevention Service.** The aim of these services is to reduce the prevalence of obesity in the 3 boroughs by helping children, young people and their families to eat healthier and be more active. The recommended strategy is to let one Tri-Borough Single Supplier Framework for two lots, which each borough then calls off from. The two lots are: Lot 1 Planning, Policy and Workforce Development - (Prevent children becoming overweight or obese) and Lot 2 Prevention and Weight Management Programmes - (Reduce weight in children who are overweight or obese). The contracts will commence in April 2015.
- 8.8 **Provision of a Health trainer Service.** A procurement to let a Single Supplier Framework to provide Health Trainer Services, that meets the needs of residents and their families and contributes to reducing health inequalities in the Tri-Borough area, commenced on 1 Jan 2015. Health Trainers is a service that provides support on a one to one basis to members of the community who want to improve their health. The service helps people to develop personal health plans where they create goals and work out how to achieve those goals, and it delivers NHS health checks to help people reduce their risk of cardiovascular disease.
9. **Exceptional circumstances, Waivers and Emergencies**
- 9.1 It is recognised that there are instances where the requirements of the Procurement Code cannot be precisely followed. For example, a procurement activity may be grant funded and a particular supplier has been named as a condition of that funding. This means that the Council has no influence over supplier selection, and if the total contract value exceeds £10,000 it is not possible to obtain competitive quotes. This is a defined circumstance, examples of which are included in the Procurement Code (E.g. a grant funded procurement activity) and Nominated Authorised Officers can seek agreement in writing from Strategic and Commercial Procurement that this is the case.
- 9.2 If there is no defined circumstance, a waiver of the Procurement Code must be sought from the Chief Procurement Officer. Sufficient justification must be provided in the form of responses to key questions set by Strategic and Commercial Procurement. If the contract value exceeds £1.5m (£300k for consultancy agreements) a Cabinet Member decision is required.
- 9.3 The Council has a “**No Purchase Order No Pay Policy**” which highlights areas of non compliance with both the Procurement Code and with the Policy itself, and on occasion a Purchase Requisition has been denied by the e-procurement administrator. The requisitioner is advised to contact Strategic and Commercial Procurement and it is recommended that they either:

- Obtain the requisite number of competitive quotes as set out in the Procurement Code;
- Seek agreement that there is a defined circumstance as set out in the Procurement Code:
- Seek approval for a waiver of the Procurement Code.

9.4 The trend indicated that 2014/15 would see an increase in the number of waivers. There has actually been a considerable increase in the number of waivers, as indicated in the table below, because of a change in the Procurement Code which means that waivers must be sought if there is no provision to extend a contract and a direct award must be made.

	Number of waivers				
	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Total
2011/12	5	9	24	31	<b>69</b>
2012/13	22	8	11	23	<b>64</b>
2013/14	21	5	14	8	<b>48</b>
2014/15	20	19	28	37	<b>104</b>

9.5 The table below provides a breakdown of the reasons why waivers were sought in 2014/15.

No of waivers	Reason why waivers were sought
4	capitalEsourcing was not used
59	Directly award a contract in order to extend existing services
32	Directly award a contract without competition
2	Formalise existing arrangements
5	Monies owed for work already undertaken
1	Quotes sought instead of tenders
1	Use of a Memorandum of Understanding

9.6 The table below shows the number of waivers by Directorate.

Directorate	Number of waivers
Adult Social Care	16
Children's Services	17
City Management and Communities	17
Corporate Services	32
Growth, Planning and Housing	22
<b>Grand Total</b>	<b>104</b>

## 10. Contracts extended and/or varied in 2014/15

10.1 Appendix B gives an overview of the 101 extensions and 15 variations that were made to live contracts in 2014/15, which shows an increase on the previous year (see table below). This section deals with some of the more significant extensions and variations in detail, and contains extracts from the reports which were approved.

	Number of:	
	Extensions	Variations
2011/12	73	26
2012/13	106	23
2013/14	66	11
2014/15	101	15

### Housing Services

10.2 A report sought approval to extend contracts for Housing related support services. The report sought formal approval in line with the Supporting People Procurement Strategy paper, agreed in Sept 2010 illustrating how a total of £4m - £6M of savings would be delivered over a 4 year period. The recommendations contained in the report deliver savings of £659K in 2015/16 against the 2014/15 budget, maintains essential front-line services across a range of vulnerable groups through extending contracts following a thorough review of service delivery and recommends competitive tendering of floating support services for people with mental health problems. The 76 extensions are **highlighted in blue in Appendix B**.

## Serco

10.3 There were various extensions to the contract with Serco which are summarised in the table below.

	Details	Cost
Extension	<p><b>Provision of Human Resources Services.</b> The planning assumption for the Tri-Borough Managed Services Provider Go-Live was that all three boroughs would go-live for Finance in April 2014 to coincide with the start of FY14/15. Based on plans and information from BT, and consultation with both HR and Finance, this appeared to be a higher risk approach for all three boroughs than was previously appreciated and it would unnecessarily compromise the overall quality of both the finance and HR system builds. It was therefore widely accepted that the originally intended implementation of HR and Payroll for WCC in November 2013 was not achievable. In order to plan revised dates to enable the launch of the service in a timely manner and at the lowest overall risk, an extension of existing HR services was approved.</p> <p>A further extension, for a period of 6 months to 3rd November 2014, was approved owing to delays in the implementation of the Managed Services Programme and to ensure continuity of service of the services, at a cost of £2,395,981.</p> <p>After full consideration of the current programme and in agreement with BT, it was determined that the optimum go-live date for the Managed Service was 1 April 2015. Consequently, there were a number of contracts which needed to be extended to avoid a gap in service prior to the new Go-Live date, of which the existing Serco agreements for Banking &amp; Control and HR Services were amongst the most critical.</p> <p>A further extension, for a period of up to 9 (nine) months to 31st July 2015, was approved (as the contract was due to expire on 3rd November 2014) to ensure continuity of service of the services to Westminster City Council (WCC) employees. The cost for the nine month period was £2,685,830.</p>	£2,685,830
	<p><b>Provision of Westminster language services.</b> As a result of the delay to the procurement for translation services, in order to allow sufficient time for meaningful consultation and enabling Serco to fulfil the obligations outlined in the TUPE regulations (2007), an extension for the duration of 1 month was proposed. An extension would also ensure continuity of service, whilst allowing a comprehensive handover to the new provider thus de-risking any transition of services.</p> <p>An extension was sought for a period of 1 month to the contract with</p>	

Extension	Serco for provision of translation services (provided by the Westminster Language Services team) from 4th November 2014 to 1st December 2014, in the sum of £34,472 bringing the total contract cost to £5.58m per annum for the Core CSi contract.	£34,472
Extension	<p><b>Provision of Ariba Buyer licences and hosting.</b> The Managed Services framework agreement (delivering the Managed Services Programme (MSP)) was awarded to BT in January 2013 to reduce cost and streamline processes across the Councils. The planning assumption for the MSP Programme was that Go-Live would be 1st April 2014 to coincide with the start of FY 14/15. Based on the outcome of the readiness review on the 12th December 2013, and in conjunction with the latest programme plan, Go-Live was projected to be in September 2014.</p> <p>Consequently, there were a number of contracts which needed to be extended to avoid a gap in service prior to the new Go-Live date, of which the Ariba Buyer contract is one. An extension was sought for a period of 6 months to 31st December 2014 in order to ensure continuity of service to WCC users prior to the Go-Live date of the Managed Services Programme (MSP) at a value of £115,790.</p> <p>Due to the revised Go Live date for MSP Lot 1, the Ariba Buyer licences and support needed to be extended again to ensure continuity of service for WCC users prior to the introduction of the new Agresso system. An extension was sought for a period of 4 months to 30th April 2015 in order to ensure continuity of service to Westminster City Council (WCC) users prior to the Go-Live date of the Managed Services Programme (MSP) at a value of £77,193.</p>	£77,193

## 11. Overall Contractual Performance of 'Live' Contracts Over £150,000 during 2014/15

11.1 Contractor performance is assessed using four categories, shown below:

- Exceeds Expectations;
- Meets Expectations;
- Below Expectations;
- Critical Failure.

11.2 This report highlights the performance of contracts worth more than £150,000. Further information on the contract reporting is provided in Appendix D.

11.3 Those contracts which were assessed in capitalEsourcing either met or exceeded expectations. Out of the 299 contracts which had a total value exceeding £150,000, only 10% were assessed on the system.

### **Contract Monitoring Improvements**

- 11.4 The Contract Manager is responsible for monitoring contract performance.
- 11.5 All contract monitoring and performance scoring going is to be managed in capitalEsourcing. However, a key concern is that there is limited compliance in relation to quarterly contract performance updates which is particularly poor across Tri-Borough and has been highlighted as a major concern for Audit and Performance reporting at WCC.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:**

*Della Main on 020 7641 5981; [dmain@westminster.gov.uk](mailto:dmain@westminster.gov.uk)*

### **APPENDICES**

APPENDIX A (i) – BREAKDOWN OF CONTRACTS AWARDED IN 2014/15

APPENDIX A – CONTRACTS AWARDED IN 2014/15 (UNDER £150k AND OVER £150k)

APPENDIX B – EXTENSIONS & VARIATIONS TO CONTRACTS

APPENDIX C –WAIVERS OF THE PROCUREMENT CODE

APPENDIX D – CONTRACTS OVER £150,000 IN VALUE - PERFORMANCE ASSESSMENTS 2014/15