



City of Westminster

Audit and Performance Committee Report

Meeting:	Audit and Performance Committee
Date:	30 June 2014
Classification:	General Release
Title:	Annual Contract Review 2013/14
Wards Affected:	N/A
Financial Summary:	N/A
Report of:	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 the following terms of reference:
 - 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 61 contracts over the value of £150,000 and 31 contracts with a value of less than £150,000 were let in 2013/14 in accordance with the requirements of the Procurement Code, as indicated in appendix A.
- 1.3 There were 66 extensions and 11 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 48 waivers that were approved.

- 1.5 The performance of live contracts in 2013/14 is shown in Appendix D.
- 1.6 The council's new eSourcing Platform, capitalEsourcing was launched in January 2014 and will provide an evidence based robust means of managing the end to end procurement process.
- 1.7 A Tri-borough Contracts Management Framework will be rolled out in October 2014 to create a consistent approach to Contracts Management that will be applied to all external third party relationships.
- 1.8 Procurement Audits, conducted by the Westminster City Council appointed auditors Baker Tilly, were carried out on key procurement projects.

2. Recommendations

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

3. Reasons for Decision

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 Strategic Executive Board (SEB), as the SEB 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)

§ **Executive Director for Children's Services: Andrew Christie**
(Children's social services and schools covering Westminster, Hammersmith and Fulham and Kensington and Chelsea).

§ **Tri-borough Executive Director of Adult Social Care: Liz Bruce**
(Adult Social Care and health covering Westminster, Hammersmith and Fulham and Kensington and Chelsea).

§ **Strategic Director for the Built Environment: Rosemarie MacQueen**
(City Planning; Development Management; Economic Development; Highways and Transportation; Building Control; Public Realm; Arboriculture).

§ **Strategic Director for City Management: Leith Penny**
(Street and premises management; Waste and Parks; Parking; Special Events; Civil Contingencies; Sports, Leisure and Wellbeing).

§ **Strategic Director for Housing, Regeneration and Property: Ben Denton**
(Housing; Housing Renewal Programme; Rough Sleeping; Temporary Accommodation; Corporate Property; Worklessness; Libraries and Culture).

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 is anticipated that responsibility for these units will be re aligned, but for the purposes of this report, I have listed them under Charlie Parker.

4.4 This report is a summary of contract data provided by each Nominated Authorised Officer, and from the minutes of Gate Review Panel 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 eg "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 updated and published as version 1.9 in April 2014.
- 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 is chaired by the Chief Procurement Officer and continues to provide strategic advice and defines and disseminates best practice.
- 5.4 In August 2012 the Chief Procurement Officer implemented a "Procurement/Commercial Foundations" Programme to introduce a new operating model. This provided a platform for improving procurement and corporate contracts management, with more professional and commercial focus and new best practice (standardised) processes and systems (capitalSourcing). The Programme of activity has run through to early 2014.
- 5.5 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 CIPS¹ qualified officers) to effectively manage the organisation's spend. We have two Category Management teams; Corporate and City Services (predominantly supporting the Built Environment, City Management, Public Health and wider corporate service initiatives) and Housing & Construction (supporting Housing Regeneration, general Construction i.e. Libraries/Leisure/Schools, and Property). The Housing team also work closely with City West Homes.
- 5.6 A Tri-borough Corporate Services review, encompassing procurement, is recommending a centre led approach for Tri-borough and a Category Management approach across the three Councils with contracts management decentralised. Elements of the "Procurement/Commercial Foundations" Programme will continue as the three Councils collaborate to standardise and simplify processes.

¹ Chartered Institute of Purchasing and Supply

- 5.7 A Contracts Management Framework is being developed which will be rolled out in October 2014 to create a consistent approach to Contracts Management that will be applied to all external third party relationships. The Contract Management Framework will focus on the delivery of obligations (of all parties) as set out in the contract. These obligations might range from the provision of a service or delivery of products, through to the provision of information and payment. It is also about the facilitation and on-going review of contracts and the resolution of unforeseen issues, events and disputes.
- 5.8 In the main, Contract Management aims to ensure that the contract delivers at least what was contemplated upon its creation through:
- Managing contractual obligations
 - Monitoring performance
 - Securing supply
 - Managing issues and risks
 - Managing change
- 5.9 Procurement Audits, conducted by the Westminster City Council appointed auditors Baker Tilly, were carried out on key procurement exercises. This was in order to review procurement processes, evaluation criteria and the results of the evaluation of tenders and to provide further assurance before progressing through the Procurement Gate process and Cabinet Member approval.

6 Procurement Systems

- 6.1 In January 2014 the new eSourcing tool for Tri-borough (capitalE sourcing) went live. capitalE sourcing is an end-to-end eSourcing Platform which encompasses spend analysis, strategic sourcing, procurement (including Request For Quote), evaluation, contract management, compliance, supplier performance management, and programme management solutions in an integrated suite. All stages of the procurement process including supplier engagement, tendering, contracts management and strategic supply management are conducted through the system.
- 6.2 capitalE sourcing is a self service hosted eSourcing system utilised across Tri-borough. Procurement processes have been standardised and the system provides a single, trusted source of procurement and spend information, supporting evidence-based decision-making and improved compliance monitoring.
- 6.3 To date there are 57 sourcing projects running on the capitalE sourcing system and in February there was a mass upload of existing contract information, and a total of 327 contracts are now recorded on the system. capitalE sourcing is the central repository for the Councils Contract Register.

6.4 Training of Contract Managers in capitalEsourcing has been slower than anticipated. However, resources have been seconded from the current Purchase to Pay (P2P) team to support this activity so that it is actively managed to ensure that contract records are updated.

7. Training

7.1 Fraud Awareness

The Tri-borough Head of Fraud, Audit, Insurance and Risk, is currently arranging a half day training course for all Strategic & Commercial Procurement staff to attend.

7.2 General

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.

8. High profile contracts awarded in 2013/14

8.1 During 2013/14 a number of complex and high profile contracts were either awarded or the procurement activity commenced. These are summarised below.

8.2 **Provision of ICT services with BT Global Services.** Call-offs were made from Westminster ICT Framework Agreements for Distributed Computing, Service Desk and Data Centre Services. The Framework Agreements are in accordance with the latest thinking in the ICT market place. These Framework Agreements are structured to allow call-off of the whole service, discreet parts of the service and any combination of the discreet parts of the services. Westminster City Council looks set to save £1million and further savings are expected as other contracting authorities call down services.

8.3 **Parking award to NSL.** Westminster City Council has signed two major contracts with NSL for the provision of its parking services. The award of the two contracts marks a real transformation in the way that Westminster will assist citizens to find available parking. The implementation of the two contracts for "Business Processing & Technology" and "People and Resources" is going well and is expected to make significant cost savings for the Council. They are set to save £1.3million in year 1 and then £1.5m in year two between the two contracts.

8.4 **Customer Programme award to Agilisys.** The latest step of the Customer Led Transformation programme at Westminster has seen the award of call centre services and back-office to Agilisys Ltd. The market response to this opportunity was exceptional and resulted in the Council's receipt of a number of excellent

bids. The Council is pleased to have awarded the contract to Agilisys and looks forward to the successful implementation of the next generation of its call centre and back-office service provision. Savings of £6million are expected in avoidable contact by investing £1million in a digital self serve platform.

- 8.5 **Highways Programme.** Westminster City Council has awarded six key contracts for the management of its Highways and Transportation services. The contracts are linked to Framework Agreements that will allow other boroughs and authorities to call-off requisite services. We are currently implementing the contracts and are looking forward to availing ourselves of the savings, both revenue of £817,000 and capital between £10- £15 million over the life of the contracts.

There was a claim brought about by Murphys Ltd, an successful tenderer, but the claim has been dropped at an early stage and Murphys Ltd is reimbursing to the Council a significant part of the legal costs spent defending the claim. Murphys Ltd claimed that the winning supplier had offered an abnormally low tender but following further discussions, it was agreed that these claims are unsubstantiated. The robustness of the procurement process, including a benchmarking exercise at the beginning of the programme, and the benefit of capitalEsourcing provided a strong defence against the claims.

- 8.6 **Print Management.** Westminster City Council launched the OJEU (Official Journal of the European Union) notice 111125-2014 and Pre Qualification Questionnaire PQQ) for the provision of print and fulfilment services on its capitalEsourcing tendering portal on 28th March 2014. 19 London Boroughs have been named on the OJEU notice. The PQQ closed on 28th April 2014 and there has been a great response from the supplier market. The Council has now evaluated all the PQQs received and is inviting 8 suppliers to tender for Tri-borough print and fulfilment requirements.

- 8.7 **Passenger Transport.** At the request of Councillor David Boothroyd, a review of the Westminster led Tri-borough procurement for Passenger Transport has been included in this report.

A competitive procurement exercise commenced on 20 Sep 2012 which fully complied with the Public Procurement Regulations 2006 (EU Directives). The first part of the process was devoted entirely (100%) to quality of service and no economic operator could be considered further if it did not pass this first stage. The second stage comprised of award criteria with a ratio of 30% technical capability and 70% price.

The Invitation to tender process was used to set up a framework agreement with suppliers who had demonstrated their capability of meeting our transportation requirements. We called off this Framework and awarded contracts to the most economically advantageous supplier. In order to

ensure value for money to the three authorities, we organised the various destinations into bundles and the suppliers priced per bundle of work.

The original procurement proposed three lots; Lot 1a Mini Buses, Lot 1b Taxis, Lot 2 Transport Management and Lot 3 Mini Buses, Taxis and Transport Management combined. The competitiveness of proposals for Lot 2. Transport Management and Lot 3 Mini Buses, Taxis and Transport combined proved not to offer value for money. It was subsequently agreed that an inhouse Transport Management provision would provide greater control as well as being more economically advantageous.

Healthcare and Transport Services (HATS) Ltd, Westway, CT+, Amey and Radio Taxis were included on the Tri-borough Framework Agreement, and minibus requirements were called off from HATS, CT+ and Westway and taxi requirements from HATS and Radio Taxis.

As is common practice, another Framework Agreement was also used to call-off those requirements where the suppliers on the Tri-borough Framework were not inclined to bid for various reasons. This other Framework Agreement had been created by the West London Alliance (WLA) and we added Star Bus, Impact and IHS to our list of Tri-borough suppliers from the WLA framework agreement.

Mobilisation of the contracts occurred on 21st April 2014. The Transport Commissioning Team (TCT) oversaw the operational go live of the new services. There were teething problems that were exacerbated by the Tube strike during the early stages of the contract. The total Tri-borough savings are approximately £3million over the course of the contract. The savings for Westminster City Council are £1.5million over the course of the contract.

Robust governance was in place throughout the procurement exercise, which included a Programme Board with Executive sponsorship and regular updates to a Cabinet Sub Committee and Audit. Support was provided by the Strategic and Commercial Procurement team, Strategic Finance and subject matter experts.

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.

This close link between Strategic Finance and Strategic and Commercial Procurement means that compliance with the Procurement Code and the “No Purchase Order No Pay Policy” can be enforced.

- 9.4 In 2011/12 there were 69 waivers of the Procurement Code, and in 2012/13 there were 64 (a reduction of 7%). In 2013/14 there has been a further reduction to 48 waivers (a reduction of 25%).

10. Contracts extended and/or varied in 2013/14

- 10.1 In 2012/13 there were 106 extensions and 23 variations. Appendix B gives an overview of the 66 extensions and 11 variations that were made to live contracts in 2013/14, which shows a significant reduction on the previous year. This section deals with some of the more significant extensions and variations in detail, and contains extracts from the reports which were approved.
- 10.2 A Tri-borough Contracts Approval Board (CAB) has been introduced to provide greater governance of Tri-borough services (such as Children’s Services). Service Directorates will be required to prepare a report which outlines their procurement approach at Gate 0 (an annual planning process). This will ensure that any recommendation to extend contracts is supported by a related procurement strategy that is understood up front.

Adult Social Care

- 10.3 A report sought approval to vary and extend contracts and funding arrangements with current one to one Professional Advocacy providers. The approval was sought in order to cover the tender and governance period for the award of four

professional advocacy service contracts across the Tri-borough from 1 October 2014 for vulnerable adults, people with learning disabilities, people with mental health needs and dementia and Children and Young People. The Westminster extensions are set out in the table below and are marked with an asterisk in **Appendix B**.

	Provider	Westminster Contract	Cost of extension – 1 st April 2014 to 30 September 2014	Annual Value
1	The Advocacy Project	People with learning disabilities	£20,348	£40,696
2	POHWER	Older people and people with disabilities	£4,000	£8,000
3	The Advocacy Project	Older people	£13,050	£26,100
4	Advocate for Mental Health	Targeted mental health advocacy	£15,299	£30,597
		TOTAL	£52,697	£105,394

10.4 A report sought approval to vary and extend a number of contracts with voluntary sector organisations to enable seven strategic service reviews to be completed. The contract extensions and variations are **marked with a double asterisk in Appendix B**. Each review will require:

- A local needs and population assessment;
- A review of individual services and costs;
- Benchmarking with other council and CCG areas;
- Stakeholder engagement (users and carers, service providers, the wider care market, internal staff, colleagues in Clinical Commissioning groups, Public Health, corporate council officers as appropriate, HealthWatch, local forums etc);
- Co-design of new services with local stakeholders and residents (including carers) and/or model the best services across the Tri-borough area;
- A new service model single, Bi or Tri-borough.

10.5 Details of the seven strategic reviews:

Review	Borough	Local Residents	Who is involved	Possible Outcome/Products
Information and advice services	H&F and K&C (as WCC have already commissioned new services in 2013, however the review outcome may encourage service development)	All ASC users	ASC commissioning, ASC operational services, Corporate services, Public Health, CCGs, local organisations, older and disabled residents	A Tri-borough Strategy/Policy, procurement of services in K&C, discussions about service development in H&F and WCC with contracted providers. Link to Carers information and advice needs and services.
Prevention services (community based)	Tri-borough	Older People	ASC commissioning, ASC operational services, Corporate services, Public Health, CCGs, wider local organisations, older people and their carers	A Tri-borough Strategy/Policy, , procurement of services in K&C and WCC and service development in H&F.
Day Opportunities	Tri-borough	People with Learning Disabilities (LD) – moderate and lower level needs	ASC commissioning and CCGs, ASC operational services, providers, users, carers/parents	Support the local market to collaborate and develop services, Tri-borough Strategy/Policy and Tri-borough procurement. This work also sits alongside a larger piece of commissioning and procurement to investigate outsource options, with a timescale of 18 months to two years, hence the longer variation and extension requested.
Volunteering	Tri-borough (Strategy), K&C and WCC procurement	People with Learning Disabilities and mental health needs	ASC commissioning and CCGs, ASC operational services, providers, users, carers/parents, corporate services	A Tri-borough Strategy/Policy, procurement of services in K&C and WCC.
Dementia day services	Tri-borough	People living with Dementia	ASC commissioning and CCGs, ASC operational services, providers, users, carers	A Tri-borough approach leading to the procurement and outsourcing of services.
Travel Mentoring	Tri-borough	Disabled people all ages and people with learning disabilities including young people	ASC commissioning, FCS Commissioning, Corporate Transport and TfL, ASC and FCS operational services	Service redesign, Tri-borough commissioning intentions and a procurement.
User Engagement	Tri-borough	People with learning disabilities, People with mental health needs or dual diagnosis	ASC commissioning and CCGs, ASC operational services, providers, users, carers	Tri-borough strategy, service redesign leading to procurement.

Serco

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

	Details	Cost
Variation	To use BT for the Tri-Borough IP Address Schema Design and Implementation Phase.	£281,000
Extension	SharePoint upgrade and migration.	£327,453
Extension	<p>Provision of Human Resources Services. 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.</p>	£2,395,981
Variation	<p>Provision of wireless CCTV services primarily for parking and moving traffic enforcement and maintenance of CCTV equipment. Serco have, as part of the technology refresh, proposed a change in third party support and maintenance provision from Telindus to Atec. The contractual requirement to upgrade the technology infrastructure associated with the Wireless CCTV Solution is now overdue. The Council is seeking approval to spend funds with Serco, and the new provider Atec, to undertake this programme of works.</p>	
Extension	<p>Passenger Transport Service (Children and Adults). The extension was to enable the current providers to deliver the service for another five months until new arrangements were agreed for the services and to enable officers to complete the competitive procurement process for Tri- borough Passenger Transport Services (Children and Adults) led by Westminster City Council's Strategic Procurement and Corporate Contracts team. The extensions were required to enable officers to complete mini competitions, to carry out due diligence and to have sufficient time to complete the</p>	£2,802,287

	implementation phase of the project.	
Extension	<p>Provision of Ariba Buyer licences and hosting. 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. Therefore 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>	£115,790

11. Overall Contractual Performance of 'Live' Contracts Over £150,000 during 2012/13

11.1 Nominated Authorised Officers were required to complete a standard monitoring and evaluation appraisal form for all contracts over £150,000 on a six monthly basis (as a minimum). Monitoring reports could be completed monthly, quarterly or other term basis, whatever was considered appropriate to the contract and its required outcomes.

11.2 Contractor performance is assessed using a four point category scoring system shown below:

- 4 = Performance was acceptable/good and in some areas exceeded the specified/expected level of performance;
- 3 = Performance was consistent and acceptable, i.e. at the specified/expected level of performance;
- 2 = Performance was acceptable but on occasion or in certain areas fell below the specified/expected levels of performance;
- 1 = Performance was unacceptable, i.e. below the specified/expected level in several areas of the contract.

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

11.4 All contractors achieved a score of 2 or above.

Contract Monitoring Improvements

- 11.5 Currently, it is the Nominated Authorised Officer (NAO) who is responsible for monitoring contract performance.
- 11.6 The contract monitoring forms are available on the Strategic and Commercial Procurement Sharepoint site allowing for easy access and in order to simplify the process. The Council standard terms and conditions incorporate the requirement for performance monitoring.
- 11.7 Collection and collation of the data has proven a time consuming exercise due to the devolved nature of this work. All contract monitoring and performance scoring going forward will be managed in capitalEsourcing. Contract and performance information for the 2015 Audit and Performance report will be provided from the new system.
- 11.8 A Tri-borough approach to Strategic Supplier Relationship Management (SSRM) is being developed. SSRM is a strategic approach for managing supplier that builds on the foundation of continuous improvement created by Category Management. It is about the alignment of goals, objectives and roadmaps in a way that is designed to deliver incremental value for both Tri-borough and its suppliers.

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

APPENDICES

APPENDIX A (i) – BREAKDOWN OF CONTRACTS AWARDED IN 2013/14

APPENDIX A – CONTRACTS AWARDED IN 2013/14 (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 2013/14