

**NORTH YORKSHIRE COUNTY COUNCIL****AUDIT COMMITTEE****04 DECEMBER 2014****REPORT ON CONTRACT MANAGEMENT****Report from Corporate Director, Strategic Resources****1.0 PURPOSE OF THE REPORT**

- 1.1 To inform Members of the arrangements relating to contract management within the County Council and the principles of good contract management.
- 1.2 To describe the developing strategic direction of the Corporate Procurement Group to improving contract management within the Council.
- 1.3 To provide Members with an analysis of the future challenges and risks the Council faces in terms of contract management.
- 1.4 To inform Members of recent activity and next steps.

**2.0 BACKGROUND**

- 2.1 The Council has contractual arrangements valued at over £300m/year with third party contractors covering products, services and works.
- 2.2 The Council spends over £100m/year with just 19 contractors. Of this £70m is spent with 6 contractors in the following areas: Highways maintenance (£45m/year); engineering and property related consultancy (£9m/year); Wide Area Network provision (£5.5m/year); Domiciliary Care (£6m/year); waste disposal (£4.2m/year); and household waste recycling (£3.2m/year)
- 2.3 The Council has good visibility on both its current and future spending plans. The former is captured on the Council's Contracts Register and the later is proactively managed through the use of Forward Procurement Plans (FPPs).
- 2.4 The period of austerity has put greater emphasis on delivering better value for money and procurement activity has been identified as one area where savings can be realised. It is important, however, that any savings delivered through the procurement are not "lost" as a result of ineffective contract management. This report goes on to explore some of these risks and the plans being made to help improve contract management.
- 2.5 The Corporate Procurement Group is currently finalising a revised Corporate Procurement Strategy for consideration by Management Board and it is also scheduled for consideration by the Audit Committee on 5 March 2015. A key strand

running through this emerging strategy has been a need to strengthen engagement with suppliers and to ensure that council officers are well equipped to manage contracts, recognising that many staff will be more experienced in professional or service delivery arrangements rather than managing a contract with an external supplier. Emerging detail on the approach to contract management within the revised Corporate Procurement Strategy is therefore outlined in this report.

### **3.0 THE PRINCIPLES OF GOOD CONTRACT MANAGEMENT**

3.1 Like many areas, there can be competing definitions of contract management and the reasons for doing it well. The following areas are seen as features of good contract and supplier management although the list should not necessarily be regarded as exhaustive:-

- ensure the contract is successfully executed
- provide a formalised system of monitoring supplier performance against the contract requirements
- ensure there is clarity of the roles and responsibilities by all parties relating to supplier and contract management
- monitor overall compliance by all parties to the terms of the agreement and contract Key Performance Indicators and Service Level Agreements
- facilitate the identification and management of relationships with key supplier representatives
- identify potential additional savings due to proactive contract and supplier management including added value performance measures, demand, cost, supply chain, efficiencies and effectiveness management
- ensure realisation of estimated savings due to continuous monitoring of spend information
- provide co-ordination of the supply chain and intervention points
- provide a focus for development of initiatives/innovation
- deliver learning and knowledge transfer
- drive continual improvement

3.2 Good contract management does require “whole life” thinking about the contract. This starts from identifying the need for provision running through procurement of the goods / services; followed up by ensuring delivery of the contract to specification; and ending in a review of the effectiveness of the arrangements.

3.3 In a relatively recent CIPFA review of cross government major contract it was noted that Contract Management arrangement needed improving. The review asked the public sector the following questions –

1. Are we in control of our suppliers?
2. Can we be certain we are paying the right amount and receiving the services that we are paying for?
3. Can we easily demonstrate to the tax payer that they are receiving the expected return on investment from out sourcing?

Questions 2 and 3 can perhaps be best explored by establishing whether or not there is compliance with the terms and conditions of the contract and whether the specification is being delivered as envisaged at the start of the contract. If the answer to these questions is positive then it is likely that the council is sufficiently in

control of its suppliers. If the answer is no, however, then it is likely that the supplier has undue control of the council. Question 1 therefore feels more like a value judgment having reviewed the contractual arrangements in operation.

- 3.4 There has been significant strengthening on procurement disciplines over recent years. This has involved creation of the FPPs which allow Directorates (and their corresponding Directorate Procurement Champions) an oversight of impending procurements. As a result, resources and specialist support are able to be deployed to promote good procurement. Alongside this, the procurement gateway approach has now matured. This ensures that due process is undertaken and provides the opportunity to highlight any procurement which are considered to be “at risk” or falling below standards.
- 3.5 As part of the gateway there is a requirement to have a clear specification of goods / services and support is available to assist those producing the specification that it is appropriate. It is also a requirement that each procurement has a designated owner and it would normally be expected that this owner would go on to manage the contract. (It has been recognised subsequently that this will not always be the case and further work is being undertaken to review the gateway approach to ensure that Contract Management issues are given due consideration prior to contract award).
- 3.6 Having awarded contract there will be occasions where the council recognises that it wishes to make changes or even to try and improve the benefits (through price and / or quality) to the council. A good contract management approach allows for the Contract Manager to explore those issues with the supplier and to adopt a more strategic approach to Contract Management. It would be naïve however to believe that council officers are generally going to be as well-equipped as Contract Managers from the private sector. That is why greater focus is required in this particular area and the areas of excellent Contract Management in the council need to be exploited further.

#### **4.0 DEVELOPING A RENEWED STRATEGIC DIRECTION**

- 4.1 As identified earlier, the Corporate Procurement Group is finalising the revised Corporate Procurement Strategy for the period 2014 to 2020. Contract Management is a theme that runs strongly throughout the Strategy but the following areas are perhaps particularly relevant –

##### What we will achieve

*Improved commercial capability of our staff*

*Better understand the manage outcomes and risks*

*Improve supplier performance*

*Ensure the best provider(s) are identified for each contract, including SMEs, local and third sector providers.*

## What we need to achieve the vision

*Carry out a skills audit to identify gaps*

*Build commercial and procurement knowledge across the council to provide support and challenge*

*Utilise spend data and market intelligence to drive contract performance and outcomes*

*Work with services across the council at the earliest stages to deliver innovative outcomes*

*Ensure that risk is appropriately considered in the commissioning, procurement and contract management processes*

*Ensure robust contract management*

*Develop our reputation as “savvy” authority through effective contract and performance management*

*Identify opportunities for savings and improvement strategies during the contract term*

4.2 An action plan is being developed in order to address all of the above areas. Key themes emerging in the action plans include the following –

- Identifying staff who carry out the role of Contract Manager and performing a skills audit to identify training gaps
- Improving commercial awareness across the council as a whole and particularly those with Contract Management responsibilities
- Identifying higher opportunity contracts and deploying resources and skills accordingly. (For example, dedicated time from Central Services Directorate Procurement Champion in supporting the preparation for the procurement of the building services contract from April 2016)
- Engagement of a specific post relating to Contract Management on an invest to save basis. (Please note that the cost of engagement have been recovered within the first 3 months of a 12 month trial period).

The views from Members of the Audit Committee are welcomed as the strategy becomes fine-tuned prior to consideration by Management Board. As identified earlier, the subsequent strategy will be considered more fully by the Audit Committee in March 2015.

## **5.0 CHALLENGES FACING THE COUNCIL ON CONTRACT MANAGEMENT**

5.1 During this period of austerity there is greater emphasis on the need to be good at contract management but, at the same time, we are presented with some increased pressures. Some of these themes are explored further in the remainder of this section.

**Council capacity** – staffing numbers have consistently reduced over the last 4 years as a result of the Council’s savings programmes. This raises the prospect of less time being spent on managing a contract with a subsequent increased scope of contract “drift” with adverse impacts for the Council

**Council skills** – The Council is a multi-functional organisation where many of its suppliers are dedicated to particular services or products. As a result, suppliers can often be more knowledgeable and / or more commercially orientated. In such cases, there is a heightened risk that suppliers are exercising more control in the contract than is desirable.

**Contractor behaviour** – as the Council has been seeking savings, beneficial prices have been secured in many procurements (as witnessed through analysis of forward procurement plans). Suppliers cannot fail to have understood the need for the public sector to make savings and therefore understand that they need to be more competitive at the point of procurement. Suppliers may, however, have identified opportunities to increase margins following appointment through contract variations. Whilst such behaviours should be tested as much as possible during procurement, such practise can only be picked up at contract management stage and requires robust management on the part of the council.

**Increased likelihood of fraud** – as margins are reduced, there is perhaps a temptation for some suppliers to submit duplicate claims for payment. Such cases may not be clear cut so, so clear arrangements will be required in order to prevent “ambiguity”.

**Poor quality contracts** – some suppliers may well ensure delivery within the financial envelope but seek to reduce their costs by providing goods / services at a quality below the threshold set out in the contract.

**Contract management given insufficient attention by staff** – there is a risk that contract management is seen as an “add- on” to the day job. Some staff are likely to be managing contracts but have come to this arrangement with little in the way of commercial experience. Some staff may regard contract management as part of the procurement function and therefore falling within the remit of the North Yorkshire Procurement Service. It is therefore essential that there is clarity of responsibility and support is provided accordingly.

- 5.2 It is suggested that there is no single solution to mitigate the above risks. Rather it requires a systematic approach across the Council to identify those areas of highest risk and to deploy resources accordingly. It also requires the Council to ensure that it is as best placed as it can be to understand the commercial realities involved in contractual relationships. The training being embarked upon is aimed at broadening the commercial “savvy” of all staff but particularly those at the heart of contract management. The content of the Procurement Strategy and Action Plan seeks to address these areas.

## **6.0 NEXT STEPS**

- 6.1 As the Audit Committee will be aware, Internal Audit already carry out reviews into contract management which are reported on an annual basis. Issues are picked up accordingly and fed into the Corporate Procurement Strategy. A member of Internal

Audit management is now part of the Corporate Procurement Group to try and ensure that there is good two way knowledge transfer. This approach will therefore continue.

6.2 The Corporate Procurement Strategy will be progressed over the coming months. This will feature many of the actions identified above and a targeted delivery plan will be produced for contract management training.

6.3 The Action Plan for the Corporate Procurement Strategy is being produced on a Smart basis with clear actions; a key accountable officer; and a specific date for delivery. Monitoring of this action plan will therefore be undertaken alongside all of the embedded procurement disciplines such as Forward Procurement Plans and the Gateway approach.

## 7.0 **RECOMMENDATIONS**

7.1 Members are asked to:

- (i) note the content of this report.
- (ii) provide comments in order to feed into the emerging Corporate Procurement Strategy and particularly those areas relating to Contract Management.

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