



Internal Audit Report
The Environment Service
Purchasing Controls Assignment No.12-24
February 2013

Final Report

Chief Executive's Service
Finance Division
Perth & Kinross Council
2 High Street
Perth PH1 5PH

Background and Introduction

This audit was carried out in addition to the approved audit plan for 2012/13, as directed by the Chief Internal Auditor.

A complaint, addressed to the Chief Executive, was received regarding the conduct of an officer employed in The Environment Service, and their relationship with one supplier. Due to the nature of the allegations, an investigation was commissioned by the Chief Internal Auditor. As part of the preliminary work undertaken, invoices and purchase orders for work carried out by the supplier were examined, together with other council records. These were examined in relation to governance arrangements surrounding purchasing within the Council. This initial review highlighted a number of practices which required further examination.

Officers from Community Greenspace in The Environment Service, Procurement in Housing and Community Care and Chief Executive's Finance were interviewed as part of this investigation.

Findings

A schedule of payments made to the supplier was compiled and a sample of 32 invoices was identified from the financial year 2011/12. This selection, which was based on the higher value and information recorded on PECOS etc., was considered worthy of further examination to ensure that correct procedures were employed in the ordering, verification and authorising of goods and services.

It was noted that the only contract that had been formally notified to Committee for the supplier was for the provision of infrastructure works and these works accounted for 34% of the payments by value although 66% of invoices by number. Other works, including arboriculture and structural works accounted for 67% by value and 33% by number which were not covered by any reported contract.

Following this, a number of officers within TES were identified for interview to ensure that their understanding of procurement was in accordance with the Council's governance arrangements. In addition the officers were informed of the allegation and were invited to provide further information to ensure that the Auditors were able to arrive at an opinion as to whether there was any evidence to support the specific allegations.

As a result of their investigation, Internal Audit could find no evidence that corroborated the allegation and are satisfied that the allegation made against the officer was unfounded.

A number of issues regarding the process of procurement were raised as part of the investigation, particularly regarding the use of the supplier for work which was not subject to contracts, compliance with the Council's Contract Rules and the authorisation processes for changes to key governance documents. These are addressed in the Action Points attached in the appendices to this report.

With effect from June 2012, the contracts team in Community Greenspace entered into a framework agreement with a number of suppliers, including the named supplier

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for a variety of trades thus formalising arrangements. Corporate Procurement were involved in this process to ensure compliance with relevant guidance and legislation.

It should be noted that, since April 2012, there have been significant changes in relation to Community Greenspace in The Environment Service as a result of service reviews. The outcomes from this report, combined with these management changes, will ensure that systems and procedures are better controlled and consistently implemented.

Acknowledgements

Internal Audit acknowledges with thanks the co-operation of officers from Community Greenspace, and Performance & Resources in The Environment Service, Housing and Community Care's Procurement team and the Chief Executive's Finance Division during this audit.

Opinions

The processes in place for the procurement of such services within Community Greenspace had been identified within the Service for improvement, which had resulted in the new Framework Agreement being in place from June 2012. The processes in place prior to this did not provide sufficient evidence that the Council had obtained best value.

There is scope for improving the reporting of tenders received and works awarded to Council Committees.

Opportunities have been identified to ensure that guidance is clearer on some procurement documentation to ensure that officers have more awareness on some issues.

Management Action and Follow-Up

Responsibility for the maintenance of adequate and effective internal controls rests with management.

Where the audit has identified areas where a response by management is required, these are listed in Appendix 1, along with an indication of the importance of each 'action point'. Appendix 2 describes these action points in more detail, and records the action plan that has been developed by management in response to each point.

It is management's responsibility to ensure that the action plan presented in this report is achievable, appropriate to the circumstances and the actions are completed to the agreed timescale.

Achievement of the action plan is monitored through Internal Audit's 'follow up' arrangements.

Management should ensure that the relevant risk profiles are reviewed and updated where necessary to take account of the contents of Internal Audit reports. The completeness of risk profiles will be examined as part of Internal Audit's normal planned work.

Feedback

Internal Audit have received feedback from management, in connection with this audit.

Distribution

This report has been distributed to:

B Malone, Chief Executive

J Valentine, Executive Director, (Environment)

K McNamara, Head of Environmental & Consumer Services

I Innes, Head of Legal Services

A Taylor, Head of Finance & Support Services

M Mitchell, Corporate Procurement Manager

B Reekie, Waste Services and Community Greenspace Manager

A Clegg, Community Greenspace Team Leader

L A Cassidy, Senior Community Greenspace Officer (Infrastructure)

P Dickson, Complaints & Governance Officer

M Kay, Senior Committee Officer

External Audit

Authorisation

The auditor for this assignment was A Gallacher. The supervising auditor was J. Clark.

This report is authorised for issue:

Jacqueline Clark
Chief Internal Auditor
Date: 18 March 2013

Appendix 1: Summary of Action Points

No.	Action Point	Risk/Importance
1	<u>Companies House Registration</u>	Medium
2	<u>Changes to the Council's Contract Rules</u>	Medium
3	<u>Contract Rules – Reporting to Service Committee</u>	Low
4	<u>Contract Rules – Emergency Works</u>	Low
5	<u>Construction Industry Scheme</u>	Low
6	<u>Purchase Differences from Purchase Orders</u>	High
7	<u>PECOS</u>	Medium
8	<u>Committee Reports</u>	Low

Appendix 2: Action Plan

Action Point 1 - Companies House Registration

The supplier and its owner/operator were named in the original allegations and they were confirmed as a supplier to the Council.

It was found that the business name has not been registered at Companies House, the registrar of Companies in the UK.

Businesses which are registered are afforded a number of advantages with regard to the limits of their liability and in establishing the Company as a separate legal entity. There are however, a number of reasons why businesses may not register at Companies House e.g. small businesses, such as sole trader, where the company is registered overseas, where there are no limits to the company's liability, where any of the Directors have previously been disqualified from being a director of a company, or where the company prefers not to file accounts. Under competition legislation, the Council cannot require that businesses submitting tenders are registered at Companies House.

As part of the pre-qualification process for Tenders, the Council's Pre-Qualification Questionnaire has a space for the prospective supplier to record their company's registration number. However, the potential implications of this not having been completed are not covered in the Procurement Training provided and in this instance were not known by the officer responsible for issuing the tender.

Management Action Plan

Procurement guidance will be enhanced to highlight the implications of companies not registered with Companies House and the requirement to consider this when awarding contracts.

Importance:	Medium
Responsible Officer:	M Mitchell, Corporate Procurement Manager
Lead Service:	Housing & Community Care
Date for Completion (Month / Year):	June 2013
Required Evidence of Completion:	Updated guidance on intranet

Auditor's Comments

Satisfactory

Action Point 2 - Changes to the Council's Contract Rules

The Council's Contract Rules form part of the Council's governance regime and seek to ensure that officers comply with procurement legislation together with the Council's own reporting requirements to ensure transparency. Contract Rules were agreed by full Council in March 2005 but the version of the Rules which is now available on the Council's intranet (ERIC) differs from those agreed at that time. These changes, which include differences in the requirements regarding the frequency to report to the relevant committee, were made in June 2012 following agreement by the Policy & Governance Group but have not been approved by full Council or any Committee.

Under the Scheme of Administration, responsibility for the maintenance of the Contract Rules falls to the Head of Legal Services, however there is no stated means by which changes must be approved. Part of the remit of the Policy and Governance Group is to determine the level of approval required for policies and procedures and to apply that approval framework. No approval framework has been agreed by this group or approved by Council or Committee.

Management Action Plan

The contract rules will be presented to a future meeting of the Strategic Policy & resources Committee.

In addition, the approval mechanism for non- strategic policies and minor changes will be clarified.

Importance:	Medium
Responsible Officer:	I Innes, Head of Legal Services
Lead Service:	Chief Executive's Service
Date for Completion (Month / Year):	September 2013
Required Evidence of Completion:	Report to Strategic Policy & Resources Committee

Auditor's Comments

Satisfactory

Action Point 3 - Contract Rules – Reporting to Service Committee

For the period under review, the Council's Contract Rules required that where a tender, in excess of £5,000, has been awarded, this should be reported on a 3-monthly basis, to the appropriate Committee or Sub-Committee.

In the year to end March 2012, net payments made to the company totalled £194,956.73 yet examination of reports to the Environment Committee found that no contracts had been awarded to the supplier since January 2008, and this term contract had since expired. The contracts register held by the Corporate Procurement division of Housing & Community Care showed one term contract having been awarded to the supplier, for cemetery infrastructure works which had also expired (including extensions) in March 2010.

In the course of interviews, and with reference to the Service's own contracts register it was learned that a number of contracts had been won by the supplier in 2010 and 2011, however these had not been reported to Committee as they had not followed the correct protocol. In June 2012 one successful tender was reported to Environment Committee however only this referred to work done on the South Inch which was for £6,335 (reported as North Inch). There is no evidence of competitive tendering for this piece of work.

Management Action Plan

The process for compiling the report which is presented to Councillors is under review with an automated report being produced from the Contracts Register which will support this process of reporting throughout the Council.

The new procedure should streamline the process for ascertaining which contracts have been awarded during the relevant period and provide more comprehensive and complete information to Councillors.

Importance:	Low
Responsible Officer:	M Mitchell, Corporate Procurement Manager
Lead Service:	Housing & Community Care
Date for Completion (Month / Year):	June 2013
Required Evidence of Completion:	Tenders Awarded report to Environment Committee

Auditor's Comments

Satisfactory

Action Point 4 - Contract Rules – Emergency Works

In the case of emergency works, where no contract exists and cannot be entered into within the time frames required for compliance with EU legislation, the Contract Rules require that these are reported to the Chief Executive by the relevant Executive Director for presentation to Strategic Policy and Resources Committee. Historically this applies to emergencies such as snow clearing or the removal of fallen trees.

Due to storm damage, in May and December 2011, emergency tree clearing works were carried out by a number of companies. The value of these works paid to the particular supplier for emergency tree clearing works in 2011/2 totalled £31,000. No reports of emergency works were reported to Strategic Policy and Resources Committee.

Management Action Plan

The Service is now aware of the correct route for the reporting of emergency works which have been commissioned outside of any contract and will ensure that these are applied in future. The revised framework agreement does now, however, cover the works which would have been required to deal with the storm damage.

Importance:	Low
Responsible Officer:	S Welsh, Finance & Governance Team Leader
Lead Service:	The Environment Service
Date for Completion (Month / Year):	Completed
Required Evidence of Completion:	Not applicable

Auditor's Comments

Satisfactory

Action Point 5 - Construction Industry Scheme

The Construction Industry Scheme (CIS) is operated by Her Majesty's Revenue & Customs (HMRC) to ensure that taxable payments to subcontractors (such as this supplier, which is registered for CIS) are taxed at source i.e. by the Council. CIS operates for work concerning alterations, construction and repairs to properties and structures. The element of each invoice which is subject to this tax relates to the labour element of the work and is dependent on the type of work done.

While most suppliers who are part of the Scheme identify, in their invoices, the respective elements of materials and labour, the supplier in question records a total for all work. As such, the labour (taxable) element of relevant invoices is estimated by officers in the Chief Executive's Finance Division using a list describing the relative labour inputs provided by different construction trades. This list was provided some years ago from the Council's Property Division. Whilst it is noted that it is acceptable to HMRC that these estimates are made, there is the potential for the labour element to be mis-stated due to the Council's estimation.

The detail provided by this supplier on invoices regarding works undertaken is inconsistent which causes problems with ascertaining the labour element of the works. One invoice paid by the Council stated that it was for the supply of paint; however further enquiry has revealed that this was for painting works, which may be liable to tax. As this detail was not presented on the invoice, no taxable element was applied. A further invoice for works done at an Adult Resource Centre similarly did not specify painting works which were included in the order detail.

There is a risk that, where CIS applies and where invoices do not clearly state the labour element of costs, tax will be underpaid.

Management Action Plan

Relevant officers are now aware of the requirements of the Construction Industry Scheme and of its implications. Invoices which do not meet the required standard of detail are being challenged prior to passing for payment.

Importance:	Low
Responsible Officer:	A Clegg, Community Greenspace Team Leader
Lead Service:	The Environment Service
Date for Completion (Month / Year):	Completed
Required Evidence of Completion:	Not applicable

Auditor's Comments

Satisfactory

Action Point 6 - Purchase Differences from Purchase Orders

Whilst it is acknowledged, that the nature of the work done in Community Greenspace requires the estimate of works and costs, the Auditors noted that of the 32 invoices examined, 6 invoices had been submitted which were significantly in excess of the supporting purchase orders.

Invoice No.	Description of additional works	Difference	% variance on Purchase Order
5708	2 call outs	£200	+ 40%
5702	Additional works	£700	+ 37%
5710	Additional 80 hours	£3,840	+ 100%
5813	Weed-killer spraying	£4102.20	+ 36%
5950	Additional works	£990	+ 20%
6058	Additional hours	£1,550	+ 76%

In addition, a further 2 invoices were identified in the sample, which were not supported by purchase orders and which indicated an increase in costs from that originally requested;

5753	Additional works	£3,700	25% of top line of invoice
5781	Repairs & making good	£1,030	26% of top line of invoice

In each instance, no supporting variation order was provided. In the case of invoice 5710 the purchase was made without the proper authorisation.

Management Action Plan

As part of the revised checking of the detail of invoices, more information is required as to the additional works so as to substantiate that the work was both required and undertaken with appropriate authorisation prior to being completed.

In addition, timesheets are now provided by the supplier to verify the hours worked on particular tasks and these are checked to the invoices once received.

Importance:	High
Responsible Officer:	A Clegg, Community Greenspace Team Leader
Lead Service:	The Environment Service
Date for Completion (Month / Year):	Completed

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Required Evidence of Completion:	Not applicatble
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Auditor's Comments

Satisfactory

Action Point 7 - PECOS

In all cases where purchases were processed through PECOS (Professional Electronic Commerce Online System) the invoices had not been fully matched to purchase orders. Where differences in values arose, especially in the case of invoice 5710 which was twice the value of the Purchase order, the invoice had been passed for payment by a Senior Clerical Officer who had no delegated authority. A large number of PECOS orders remain on the system without having been matched to the corresponding invoices where these invoices have been passed for payment. This also results in a financial commitment being incorrectly held on the system.

Procurement Manuals available on ERIC (Council's intranet) did not clearly demonstrate how orders could be matched where differences occur.

Management Action Plan

Information is available on the council's intranet site detailing actions to be taken to receipt goods and services on PECOS and then match prior to payment where differences occur. Training is available for all PECOS users and dates of training sessions scheduled are on the intranet site.

Importance:	Medium
Responsible Officer:	M Mitchell, Corporate Procurement Manager
Lead Service:	Housing & Community Care
Date for Completion (Month / Year):	Completed
Required Evidence of Completion:	Not applicable

Auditor's Comments

Satisfactory

Action Point 8 - Committee Reports

As noted in Action Point 3 above, reports are required to be presented to the relevant Council Committee detailing "Tenders Received and Works Awarded". There is no standard template for minimum information and different committees have been provided with differing levels of details of tenders awarded.

Management Action Plan

The revised procedures detailed in Action Point 3 are being rolled out throughout the Council to ensure that information provided to Council is fit for purpose and consistent for each relevant Committee.

Importance:	Low
Responsible Officer:	M Mitchell, Corporate Procurement Manager
Lead Service:	Housing & Community Care
Date for Completion (Month / Year):	June 2013
Required Evidence of Completion:	Tenders Awarded report to Service Committees

Auditor's Comments

Satisfactory

