Policy and Resources Select Committee

11 October 2012

Contract Procurement and Contract Management

Head of Procurement & Contract Services

Executive Summary

The Policy and Resources Select Committee requested some reassurance about:
- robustness of the management processes in place for County Council contract procurement and contract management; and
- clarity on the County Council approach to learning lessons from its experiences in contract procurement/management.

An initial report was considered by Committee at its meeting on 22 March 2012. The report was referred to the Business Planning Group (BPG) for further consideration, at which it was decided that a further report should be presented to Committee to include a number of specific issues, examples and contract financial data.

This follow-on report addresses these specific issues taking into account the outcome of a number of recently completed and some ongoing activities. It identifies several examples of good and sound practice in both areas of contract procurement and contract management, recognising that current arrangements have been substantially strengthened. The report also identifies potential areas for strengthening and further improvement, and the additional work that is already underway to further strengthen the Council’s capabilities in these areas.

In light of Future Council structural changes to senior executive management, newly appointed directors with responsibility for some of the activities (especially arrangements for monitoring and re-evaluating contracts) need time to further understand the specific issues for areas they will be responsible for and to put together action plans for further improvement to address concerns. This area has therefore only been briefly touched upon here.

Recommendations

The Committee is asked to:

1. Consider whether they are satisfied that the update and information about the approach for the Council’s procurement and contract management arrangements provide assurance that the processes are robust.

2. Consider whether they are satisfied that the additional work underway is sufficient to provide assurance that the Council is learning from past and current activities and making effective arrangements for developing appropriate skills, knowledge and expertise.

3. Agree that the newly appointed Directors of Service Operations and Strategic Development should work with the Chairman and the BPG on the approach for future updates to this Committee on actions proposed to further strengthen contract management and governance to reflect Future Council arrangements.
1. **Background**

1.1 Following consideration of specific contract performance issues in November 2011 and January 2012, members requested some reassurance about:

(1) the robustness of the management processes in place for WSCC contract procurement and contract management; and

(2) clarity on the WSCC approach to learning lessons from our experiences in contract procurement/management.

1.2 A report by Tony Toynton, Director – Communities & Infrastructure and Edward Vera-Cruz, Head of Procurement & Contract Services was considered by the Committee at its meeting on 22 March 2012. The report focused on the way contracts were procured and managed. The Committee was not entirely satisfied with the report and referred the matter to its Business Planning Group to determine what a future report on the subject should include.

1.3 At the Business Planning Group (BPG) meeting on 16 May 2012, the Head of Procurement & Contract Services provided members with an update on the work being done within procurement and contract management. The BPG agreed to defer the report to the October 2012 Committee meeting to take account of some work in progress over the summer and asked that the follow-on report should include the following:

- examples of lessons learnt from past and existing contracts;
- examples of the procurement approach and process for selecting suppliers;
- use of consultants in procurements, including knowledge and skills transfer;
- ongoing monitoring of contracts and re-evaluation of value-for-money of long term contracts;
- the top 10 contracts (in monetary terms); and
- a table of financial breakdown of total expenditure on contracts (with a breakdown between large and small contracts).

1.4 This report takes into account the outcome of a number of recently completed strategic procurement exercises; the outcomes of 3 internal audit exercises (the electronic tendering (eSourcing) system; Crawley Schools PFI Contract benchmarking exercise, and Contract Letting Procedures); and the 2011/12 Annual Governance Report.

1.5 Arrangements for Future Council recently approved by Cabinet and due for implementation from January will make structural changes to senior executive management of the Council. Newly appointed directors with responsibility for some of the activities for monitoring and re-evaluating contracts have indicated a need for time to further understand the specific issues relating to areas they will be responsible for and to put together action plans for further improvement to address any concerns. The area of contract monitoring and re-evaluation is therefore being touched upon only very briefly in this report and further updates will be agreed with the Committee.

2. **Procurement Approach & Processes**

2.1 The Council regularly contracts for a diverse range of services, goods and works, for which a degree of flexibility is required in the procurement and
contract management arrangements employed with a number of hubs across various service units who undertake procurement and contract management in their service areas. However, the Council is moving towards a more consolidated approach.

2.2 There is a small, but experienced and skilled central procurement team (Procurement & Contract Services) with responsibility for specific strategic contracts and general oversight of relevant activities across the Council. Both the central team and the various service hubs are supported by finance and legal services.

**Process for Selecting Suppliers**

2.3 The Council’s Standing Orders on Procurements & Contracts sets out clear requirements for the Council’s procurements, including requirements for a competitive tendering and the form and content of contracts. This is shown in summary in the table below:

<table>
<thead>
<tr>
<th>Contract value</th>
<th>Procurement Process</th>
<th>Form of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>£5,000 or less</td>
<td>None specific but general requirements to provide value for money within budget and fairness apply.</td>
<td>Council’s standard Purchase Order terms, but supplier’s standard terms acceptable.</td>
</tr>
<tr>
<td>More than £5,000 but not more than £75,000</td>
<td>At least three or more quotations or tenders should be sought unless executive director permission given for a single quotation or tender.</td>
<td>In writing or electronic form and in a form approved by Legal Services</td>
</tr>
<tr>
<td>Over £75,000 but not more than £174,000 (goods &amp; services) or £4.35m (works)</td>
<td>Tendering procedure in line with detailed provisions in Standing Orders.</td>
<td>As above</td>
</tr>
<tr>
<td>Over £174,000 (goods &amp; services) or £4.35m (works)</td>
<td>EU public procurement process</td>
<td>As above</td>
</tr>
</tbody>
</table>

2.4 Responsibility for ensuring that these rules and processes are followed lies with the Directors of each directorate and their senior managers. Monitoring systems put in place by Procurement Services help to identify occasions when officers fail to comply, usually due to an underestimation of the requirements and sometimes due to an over-eagerness to do what is considered to be in the “best interest” of the service or of customers.

2.5 Procedures are in place for dealing with identified non-compliance. Procurement Services and Legal Services work with the services to help their understanding and ability to apply Standing Orders. On occasion, Procurement Services needs to directly intervene in matters, escalate them to senior officers, or refer them to Internal Audit. Examples of non-compliance are mentioned in the 2011/12 Annual Governance Report, and work is ongoing with Internal Audit to assist services to better understand and deal with any failings.

2.6 To further strengthen compliance monitoring, a process for placing new suppliers on the Council’s payment system in SAP (vendor adoption process) was established in July 2011. This process created a network of trained gate-
keepers, which ensures that new suppliers cannot be added to the system or paid without challenge. The process is reviewed periodically.

2.7 In conjunction with Legal Services, an approach has also been agreed with Internal Audit for providing senior managers with regular reminders, through existing communication channels, of their obligations to ensure compliance with Standing Orders.

2.8 Procurements are generally initiated by the service responsible for the particular service, goods or works to be procured, except for contracts that have multiple-service implications which are led by Procurement Services. This service-led approach generally provides strong input from operational managers and commissioners with Procurement Services providing both strategic and operational support.

2.9 Procurement Services support includes all activities for undertaking regulated and unregulated procurements. It also includes: early engagement with the services in the development of detailed and specific business cases (including benefits, risks and issues); advising on and assisting with the requirements for internal approvals; research to inform the sourcing strategy; assistance with developing specifications and requirements documents; and developing and delivering the procurement strategy, including procurement options appraisal, commercial and pricing strategy, market consultations, etc. Procurements - particularly those that are high risk and/or high value - are robustly scrutinised by the relevant project team, including testing bidders’ pricing models against different market scenarios and their ability to achieve cost efficiencies throughout the lifespan of the contract.

2.10 Procurement Services also undertakes (directly itself or in supporting self-serve procurements by the services) a robust, fair, transparent and fully compliant selection of the most appropriate suppliers. This has ensured that no procurement conducted in this way has been subject to any legal challenge. It also ensures that Procurement Services’ specific operational skills and commercial expertise are applied when the service is engaged.

2.11 The level of engagement by Procurement Services usually depends on the nature and complexity of the Council’s requirements, capacity of the service to self-serve, and the risk profile of the particular procurement. Procurement Services also provides intervention support to help manage procurements most effectively when required for procurements which may have started as self-serve.

**Use of Consultants**

2.12 The use of consultants is limited to circumstances where the Council has a lack of capacity or, more usually, the need for specific expertise not available in-house as it is not always commercially expedient for the Council to employ officers have and can maintain the required levels of skills, expertise and knowledge in every field. Typically, when such additional resources are required, the Council would engage external consultants to work alongside service managers and sometimes with the internal procurement team to provide additional expertise and capacity.
2.13 In these instances, consultants bring a level of input and ‘challenge’ based on their particular field of expertise and their knowledge and experience of working across a wide spectrum of councils and other public authorities. For example:

- technical, finance, procurement and legal consultants with specific expertise in street lighting PFI contracts were utilised for the Street Lighting PFI contract as this was the first outsourcing of the Council’s street lighting service and PFI’s are particularly complex (for which the DfT specifically requires councils to engage such consultants). This PFI was particularly complex and the consultants acted for all 3 local authorities involved: West Sussex County Council, Hampshire County Council & Southampton City Council;
- a technical consultant was utilised on the Highways Infrastructure Contract to develop a significantly different contractual model from that previously let to May Gurney and also led to the in-sourcing (transfer back in) of the highways structures maintenance service;
- technical and procurement consultants were utilised for the IT Services contract let to Capita as this was a new market approach for the Council, but similar procurements had been delivered by the consultants for several public authorities.

2.14 A requirement for skills and knowledge transfer is written into the engagement of these consultants as standard and certainly in all the examples set out in paragraph 2.13 above. This usually results in a good level of skills and knowledge transfer to officers of the Council. For example, the skills and knowledge transferred from consultants utilised for both the Street Lighting PFI (finance) and the IT Services (technical and procurement) procurements meant the Council was able to reduce its reliance on such consultants for the recent Support Services Outsourcing and rely successfully on in-house expertise and resources. Such transferred skills also benefitted the Council by enabling the use of internal resources for the recent spin-out of the Adults & Community Learning Service into a staff mutual organisation and the work Procurement Services is currently undertaking with the procurement of various services for the Pension Fund.

2.15 Unfortunately, there are instances where the use of consultants has not yielded the expected outcomes for the Council, usually either because the consultant has not been right for the Council or the project (in which case the consultant’s engagement is usually terminated), or because the skills and knowledge transfer effected has subsequently been lost to the Council.

3. Contract Management & Monitoring

3.1 Contract management of many of the Council’s strategic contracts (outside of children’s, social care and health services) will be consolidated under the new ‘Director of Service Operations’ as part of Future Council operating model. These include the waste contracts, Support Services Outsourcing (SSO) contract, IT Services contract, Street Lighting Private Finance Initiative (PFI) contract, and Highways Maintenance contract.

3.2 Various service units have already taken steps to address areas of potential risk and deficiencies previously identified. For example, the centralisation of contracts management expertise for adults’ social care contracts under one team in the Joint Commissioning Unit (JCU).
3.3 Another good example is the contract management team that has now been put in place for the Regaining Independence Support Service (RISS) contract. Procurement Services worked very closely with Adults’ Operations to design the model and identify the appropriate skills, knowledge and expertise required to ensure a good and balanced contract management structure. Recognising the overlapping nature of the skills, knowledge and expertise with that required for managing the Community Equipment Service (CES) contract, the specific capabilities of the CES contract manager, and the success that he had already achieved with that contract, it was recommended that the role of the CES contract manager be developed and expanded to encompass management of the RISS contract as well rather than the creation of a new contract manager role solely for RISS. The role was also then relocated from management by Procurement Services to Adults’ Operations in recognition of the need for greater operational direction for the new RISS contract.

3.4 More strategic learning regarding contract management has been utilised with the SSO contract. The client-side and contract management model took account of best practice recommendations from the Audit Commission, our active interactions with a number of other authorities with similar outsource contracts (e.g. Hertfordshire, Southampton, Swindon, etc.), learning from existingWSCC contracts, and a healthy debate and consideration by both senior officers and members. This has resulted in a very robust contract management framework for the SSO contract at all levels, including significant member involvement in the contract’s Strategic Partnership Board.

3.5 Procurement Services, contract managers in other service units, and officers from Legal Services and Financial Services with the appropriate skills and experience have been involved in recent value for money exercises across various contracts:

- benchmarking exercise for the catering service under the Crawley Schools PFI contract achieved a better and more commercially viable outcome for the PFI schools;
- the redesigned financial model for the CES contract yielded a clearer and more acceptable financial arrangement for the Council and its NHS partner;
- renegotiation of the Manpower (temporary staff) Contract avoided significant financial penalties against the Council and yielded additional cash savings for the remainder of the contract term;
- benchmarking of the managed print service proposal under the IT Services contract yielded a better commercial proposition for the Council;
- benchmarking of the proposal for the Council Tax Single Person Discount project confirmed that the commercial arrangements were acceptable and in line with commercial deals obtainable from the open market.

3.6 The collective skills, knowledge and experience gained through these various exercises are now being shared across other service units. Specific training on contract benchmarking is also being designed by Procurement Services for contract and service assurance officers in strategic contracts such as the IT Services and SSO contracts.
Contract Financial Data

3.7 A list of the Council’s top 10, recently let (2010-12), high value contracts by potential contract value is set out in Table 1 in Appendix A.

3.8 A further list of the County Council’s top 10 contracts (in monetary terms by actual expenditure, FY 2010/11) is set out in Table 2 in Appendix A attached. Financial Year 2010/11 has been used rather than 2011/12 as these figures have been fully verified by Internal Audit following the usual year end reconciliations and settlements.

3.9 A table of the financial breakdown of the County Council’s total expenditure (FY 2010/11) with a breakdown between large and small contracts is also set out in Table 3 in Appendix A.

4. Additional Arrangements to Strengthen Procurement & Contract Management

4.1 Examples of additional action taken to improve performance across procurement and contract management is summarised below:

- Future Council is moving the Council to a commissioning model with specialist commissioning skills and service operation by specialist teams
- Procurement Services now provide guidance, coaching and support arrangements for officers in other services engaged in procurement or contract management activities, e.g. the procurement and framework managers in Learning & Development and in Capital & Assets Management, and the contract management team for the SSO contract;
- the Council’s existing electronic sourcing portal has been rolled out for use by procurement officers across directorates, including use in Transport Coordination, Capital & Assets Management, JCU, Children’s Services, and Waste Management. This supports more robust and transparent procurements, with greater auditable processes;
- sourcing documents are being standardised across the Council both through the wider use of a single e-sourcing portal and the self-service toolkit deployed through the intranet;
- development (as part of the Future Council learning & development programme) of a comprehensive skills & competence framework for commissioning, procurement & contract management practitioners, including skills gap assessment, designing and delivery of training and structured learning/continuous development programme(s) for these officers; and
- full review and revision of Standing Orders (in conjunction with Legal Services) to ensure that the rules are fit for purpose in Future Council.

5. Resource Implications

5.1 The Council recognises the need to strengthen the Council’s capabilities in the identified areas to ensure the Council is not exposed to potential financial and reputational risks.

5.2 Funding for the learning and development programme being developed has been secured through the Cabinet Learning Fund announced by Leader of the Council recently. This is being organised as a central programme working
with the Head of Human Resources to ensure full utilisation and wider skills development.

5.3 Funding for a better fit for purpose electronic sourcing solution based on the Council’s specification and requirements has also been secured with Capita, as part the SSO contract.

5.4 There is likely to be further funding required for an electronic contract management system for use by all services to ensure easier and greater insight and visibility into the Council’s contract population. The full extent of this funding is yet unknown, but all cost effective options are being considered.

6. **Equality - Customer Focus Appraisal**

6.1 A Customer Focus Appraisal is not required for this report as it is looking at internal County Council processes.

**Edward Vera-Cruz**  
Head of Procurement & Contract Services

**Contact:**  Edward Vera-Cruz x 52043

**Appendix A** – Contract Financial Data

**Background Papers**  
None.