

TO: SENIOR MANAGEMENT TEAM

FROM: HEAD OF FINANCE

DATE: 21 MAY 2014

SUBJECT: PROCUREMENT UPDATE

1 SUMMARY

- 1.1 Further to the report considered by SMT in January entitled "Finance Update – Procurement, Orders, Invoices and Contract Management", this report seeks to bring to SMT's attention further procurement related issues and actions now required.

2 RECOMMENDATIONS

- 2.1 That all members of SMT ensure that the Contract Register for their service is reviewed and returned to the Procurement Team by the end of May, with subsequent changes notified promptly.
- 2.2 That Budget/Contract Managers ensure that they have arrangements in place to monitor expenditure on individual contracts against the agreed contract sum.
- 2.3 That SMT ensure that all officers with any involvement in raising/processing orders/payments attend the Orders Training currently being rolled out.
- 2.4 That SMT remind all their employees (permanent or otherwise), of the requirement to disclose any potential conflicts of interest in accordance with the Code of conduct for Employees.
- 2.5 That SMT ensure that all contracts are correctly signed and make arrangements for the original signed contracts to be stored in the Council's Document Store.
- 2.6 That SMT ensure that procurement issues (tenders and contract management) are discussed in 1 2 1s and Team Meetings, and any problems are promptly reported.
- 2.7 That SMT review their Service Risk Register to ensure any procurement risks are duly included.
- 2.8 That SMT review the January 2014 SMT Report, "Finance Update – Procurement, Orders, Invoices and Contract Management", to ensure the issues raised in that report are being addressed.
- 2.9 That SMT ensure that this report is brought to the attention of all officers within their Service Areas with any responsibility for procurement (including tenders and contract management).
- 2.10 That SMT note the role of the Procurement Team and the responsibilities of officers within each Service Area.

3 REASONS FOR THE RECOMMENDATIONS

- 3.1 The Executive considered a report in March in which certain shortcoming in procurement practices were highlighted. This report was considered in more detail by at the SMT Away Day in April where it was used as a case study. The main recommendations were included within Appendix 5 of that report. The Head of Finance is taking the lead to progress those specific recommendations. This report picks up many of the issues considered within those recommendations, with a view to ensuring that SMT ensure that processes and procedures within their Services are compliant. Progress on implementing the recommendations coming out of the March 2014 Executive report is due to be reported back to members.
- 3.2. **Contracts Register**
- 3.2.1 The Contracts Register has been maintained by the Procurement Team for several years. The updated contracts Register is published on the website quarterly. A request was recently sent to all SMT/CMT to ensure that all the details within the Contracts Register are correct.
- 3.2.2 Whilst the Procurement Team maintains the Register, they are reliant on Service Areas providing them details for it to be updated. The Procurement Team are not directly involved in all procurement activity across the Council, for example "3 quotes" or the use of all frameworks (such as Scape). Also, as responsibilities/named officers change, the Contracts Register needs to be updated to reflect this.
- 3.2.3 Once the Contracts Register has been updated (responses requested by the end of May), SMT should ensure that the Procurement Team are advised of any future changes to the Register.
- 3.2.4 The Contract Register should be pro-actively used to enable Services to plan for forthcoming tenders etc. As referred to previously, the Finance & Audit Scrutiny Committee are looking to consider Service Contract Registers, and this is an area they are likely to be paying particular attention to. Discussions are underway for a programme of these reviews to be included in the F&A workplan.
- 3.3 **Contract Spend**
- 3.3.1 The Council does have in place a comprehensive system to manage budgets, as part of the budget Review Process. The basis of this is to compare expenditure/income to budgets and so monitor the Council's expenditure/income on services and overall net expenditure.
- 3.3.2 Alongside monitoring spend against budgets, expenditure on each contract needs to be monitored against the contract sum. In many cases, a single budget code may have expenditure to several contracts coded to it. At the other extreme, an individual contract may be coded to several budget codes.
- 3.3.3 It is important that arrangements are in place to ensure that contract payments are monitored against the agreed contract. Depending on the terms of the contract, in many cases the contract sum should not be exceeded, even if the budget holder has sufficient budget from which the payments can be met.
- 3.3.4 Budget Managers should consider with their accountant how they are monitoring the contract sum. This may require further controls being put in place which may include:-

- Use of spreadsheets
- Additional cost centres
- Creation of new subjective budget codes.

3.3.5 It is important that Budget Managers/Accountants consider all the contracts on the Contracts Register to ensure they are happy with the processes in place to monitor the relevant Contract spend.

3.3.6 As part of the Budget Review process, all budget managers with responsibility for high value contract should continue to meet monthly with their Accountant.

3.4 **Orders**

3.4.1 Processes expected to be followed in setting up orders were discussed in some detail in the January SMT report.

3.4.2 Recently, training on Orders commenced, provided by the ICT Trainer. The dates for this have proven popular, with more dates being arranged. It is important that all officers involved in raising orders and processing payments attend this training. This includes those directly inputting/authorising orders within Total, and those for whom these tasks are delegated.

3.4.3 Details have recently been sent to all members of SMT highlighting where orders are being raised after invoices have been received. As discussed in the January report, this practice is contrary to the Code of Financial Practice. It is apparent that orders are still routinely being raised retrospectively in some sections of the Council. Actions need to be taken to stop this practice.

3.4.4 Alongside raising orders in advance, officers should take the opportunity to raise "annual orders". Doing this properly reduces the overall time in managing orders, and well as making sure the full commitment is shown within Total.

3.4.5 In terms on monitoring contract spend, it is necessary to also monitor the actual expenditure against orders raised. As the order will have been initially authorised, any expenditure above this should have just cause and also will need to be authorised.

3.5 **Conflicts of Interests**

3.5.1 The Code of Conduct for Employees details requirements for all employees to disclose potential conflicts of interest, whether financial or otherwise, in any contract involving the Council. This is a legal obligation under Section 117, Local Government Act 1972. Along with disclosing of interests, gifts and hospitality should also be disclosed.

3.5.2 These requirements apply to all staff, whether permanent or agency. If a potential conflict is reported, it will then be for the relevant Head of Service to consider what action will be required in managing the situation.

3.5.3 SMT are requested to remind all their officers (permanent or otherwise) of the requirement to disclose all potential interests, along with gifts and hospitality.

3.6 **Signing and Storage of Contracts**

- 3.6.1 It is required that all contracts should be signed prior to goods or services being received, or work commencing. Those responsible for signing are shown below, as agreed by SMT in 2010, and subsequently reported to Executive in August 2010.

Contract Type (as defined in the Code of Procurement Practice)	Contract Price	Minimum authorised officer level for signing of the contract on behalf of WDC
Type 1	<£5,000	Senior Manager or named senior officer nominated by Senior Manager
Type 2	£5,001 -£19,999	Senior Manager
Type 3	£20,000-EU Threshold	Senior Manager
Type 4	>EU Threshold	CMT or S151 Officer

- 3.6.2 Contract Managers have been responsible for the storage of their own contracts. However, there have been cases recently where the signed contracts cannot be found. Therefore, arrangements are being put in place for the original signed contracts to be stored in the central Documents Store. The DMC Team Leader will shortly be issuing instructions to enable this to be actioned.

- 3.6.3 Contract Managers should ensure they have the signed contracts available ready to be passed to the DMC Team Leader. Each manager should ensure they have working copies (paper and electronic are recommended) to assist them in managing the contract.

3.7 **1-2-1s, Team Meetings**

- 3.7.1 Given the prominence of procurement, it is important that it is openly discussed in 1 2 1s and Team Meetings, where it is suggested that it should be a standing agenda item. All managers should be expected to highlight any potential problem with a contract with their line manager at the earliest opportunity so that appropriate action may be agreed. Consideration here is not just restricted to tenders, but also to the whole of contract management issues.

3.8 **Risk Registers**

- 3.8.1 Procurement should feature and be considered as part of individual service risk registers. Officers in each Service Area should consider what the relevant service issues relating to procurement are. Again, this includes tenders and contract management.
- 3.8.2 As many tender processes should be treated as a project, as part of managing the project, a specific project risk register should be drawn up and be reviewed throughout the project.

3.9 **Role of the Procurement Team**

- 3.9.1 This opportunity is being taken to remind SMT and all officers of the role of the Procurement Team. The team seek to ensure that there is a central co-ordination of all procurement activity whilst ensuring compliance with the Code of Procurement Practice.
- 3.9.2 In accordance with the Code, the team seek to provide expertise to assist in ensuring that all procurement actions undertaken by the Council are transparent, auditable and comply with all Public Contract Regulations 2006 and

current EU Procurement Directives thus ensuring the Council is exposed to minimum risk in this area.

- 3.9.3 Within the framework of control all other tasks relating to procurement and the management of contracts are the responsibility of departments in accordance with the scheme of officer delegation. Heads of Service are also responsible, within the framework of control, for management arrangements within their service areas.
- 3.9.4 Prior to entering into any contract arrangement the Procurement Team must be consulted early on in the process. This should be at the start of considerations, well before any tender documents are prepared. The advantages of this are:-
- i) The Procurement Team will be able to advise on the process to be followed so as to comply with the Council's Code of Contract Practice and EU Procurement Directives.
 - ii) By overseeing all contracts, the Procurement Team will get the overall view as to whether there may be advantages of bringing selected contracts together, for example for economies of scale, or even where there is the requirement to bring contracts together to ensure EU compliance.
- 3.9.5 The guidance and instructions issued by the Procurement Team should be followed in all instances unless there is good reason why they are not believed to be appropriate. In these cases, it will be for CMT to agree that the Procurement Team's recommendations are not followed, taking into account all known factors and advice.
- 3.9.6 The Procurement Team will not normally lead on the tendering exercise for supplies and services. For complex projects, it will be appropriate that the Procurement Manager will be part of the project team managing the procurement.
- 3.9.7 For corporate supplies and services, it may be appropriate for the Procurement Team to take the lead. However, in these instances, they will need to work with relevant budget holders. The management of the contract after tendering will then need to be the responsibility of a suitable budget manager.
- 3.9.8 The Procurement Team will manage all tender processes within the Procurement System, In-Tend. However, it is expected that some officers will be able to lead on this for some tenders and quotations, especially those of low value. Training on the use of the 'Quick Quote' system within In-Tend will be carried out by the Procurement Team.
- 3.9.10 The Procurement Team need to sign off all tender evaluations prior to the winning tenderer being confirmed. To assist in this a "Procurement Recommendation Report" should be produced by the contract manager that sets out details of the tender process and how the recommended tenderer has been arrived at. This report is important as it should clearly summarise details prior to the relevant Head of Service signing the contract, and so presents a full audit trail in case of challenge.