

THE HIGHLAND COUNCIL
PLANNING, DEVELOPMENT AND INFRASTRUCTURE
COMMITTEE

Agenda Item	15
Report No	PDI 49/14

5 NOVEMBER 2014

**INTERNAL AUDIT REPORT:
CONTRACTOR'S FRAMEWORK AGREEMENT FOR WORKS UP TO £50,000
(FOLLOW-UP)**

Report by Director of Development and Infrastructure

Summary

This report informs Members on the objectives and findings of the Follow-Up Audit Report presented to the Audit and Scrutiny Committee on 24 September 2014, and updates them on progress against the Action Plan.

1 Background

- 1.1 The Audit and Scrutiny Committee considered a Follow-Up Internal Audit Report on the Contractor's Framework Agreement For Works Up To £50,000 at their meeting on 24 September 2014. The summary of the report and accompanying Action Plan, which have been presented to the Audit and Scrutiny Committee, set out the objectives and main findings of the audit, and are attached at Appendix A.
- 1.2 This report sets out the objectives and main findings of the audit and informs members of progress with the Action Plan.

2 Contractor's Framework Agreement For Works Up To £50,000 (Follow Up)

- 2.1 The initial Audit that examined the operation of the Housing & Property Service's framework agreement for construction works of less than £25,000 was issued on 07/09/12 and identified that there were instances where work was awarded to contractors out-with the framework agreement.
- 2.1.1 The previous 2012 audit also identified that there was no formal procedure whereby officers awarding work to contractors were provided with feedback on contractors' performance gathered from tenant surveys. This report had 5 recommendations consisting of 1 High, 2 Medium and 2 Low, with an audit opinion of "Limited Assurance" and as a result, a follow-up audit was included in the 2013/14 audit plan.
- 2.1.2 The aim of this follow-up audit was to ensure that the management agreed actions arising from the original report were satisfactorily implemented and these were due to be completed by 1 April 2013.
- 2.1.3 A new framework was introduced in September 2012 and this increased the value of construction works included up to £50,000 in line with the Council's Contract Standing Orders. This framework also provides more flexibility to allow new contractors to be added, or existing trades or areas of work to be amended, every 6 months. There are currently 412 contractors on the framework.

3 Review Objectives

3.1 The objectives of the review were to ensure that the recommendations made in the previous audit report have been implemented and the following objectives can be achieved:

- The process for establishing the Contractors' Framework Agreement for Construction Works up to £50,000 complied with the Council's Contract Standing Orders and procurement legislation;
- The operation of the Contractors' Framework Agreement for Construction Works up to £50,000 complies with the Council's Contract Standing Orders and procurement legislation;
- The operation of the Contractors' Framework Agreement is effectively monitored.

3.1.1 Sample testing of contractors and works awarded under the new framework agreement since September 2012 was undertaken as part of this follow-up review.

3.1.2 In addition, the scope of this audit was expanded slightly following the receipt of an anonymous letter which alleged that certain contractors were being favoured in the award of works. This allegation was investigated and has been included within this report as it directly links to the operation of the framework agreement.

4 Audit Findings

4.1 The follow-up audit has found that previous recommendations have either been addressed, or are in the process of being addressed.

4.2 A further 3 medium priority recommendations are made within the follow-up report, as well as 1 high grade recommendation which has been made following investigation of the allegations made in the anonymous letter received.

4.3 The first audit recommendation relates to the Development and Infrastructure Service and has now been completed. The three remaining recommendations relate jointly to both Community Services and the Development & Infrastructure Service which have been accepted by management, with agreed action due to be completed by 30/09/15.

5 Implications

5.1 There are no resource, equalities, climate change/Carbon Clever, or rural implications arising from this report.

5.1.1 Legal Implication

Failure to complete the recommended actions could lead to non-compliance with the Council's own Contract Standing Orders. For this reason there is a commitment to complete the joint management actions in a timeous and efficient manner.

Recommendation

Members are invited to note the findings of the Audit Report presented to the Audit and Scrutiny Committee on 24 September 2014 and the action being taken to implement the recommendations.

Designation: Director of Development and Infrastructure

Date: 14 October 2014

Author: Finlay MacDonald, Property Manager

Appendix A: Audit Report Summary and Action Plan

AUDIT REPORT SUMMARY

Report Title

Development & Infrastructure/Community Services: Contractor's Frameworks Agreement for Works up to £50,000 (Follow up)

Report No.	Type of Audit	Issue Date	
HD11/003.bf	Follow up	Draft Report	26/08/14
		Final Report	15/09/14

1. Introduction

- 1.1 A report on the operation of the Housing & Property Service's framework agreement for construction works of less than £25,000 was issued on 07/09/12 and this identified that there were instances where work was awarded to contractors out-with the framework agreement. The audit also identified that there was no formal procedure whereby officers awarding work to contractors were provided with feedback on contractors' performance gathered from tenant surveys. This report had 5 recommendations consisting of 1 High, 2 Medium and 2 Low, with an audit opinion of "Limited Assurance" and as a result, a follow-up audit was included in the 2013/14 audit plan.
- 1.2 The aim of this follow-up report is to ensure that the management agreed actions arising from the original report were satisfactorily implemented and these were due to be completed by 01/04/13.
- 1.3 A new framework was introduced in September 2012 and this increased the value of construction works included up to £50,000 in line with the Council's Contract Standing Orders. This framework also provides more flexibility to allow new contractors to be added, or existing trades or areas of work to be amended, every 6 months. There are currently 412 contractors on the framework.

2. Review Objectives

The objectives of the review were to ensure that the recommendations made in the previous report have been implemented and the following objectives can be achieved:

- 2.1 The process for establishing the Contractors' Framework Agreement for Construction Works up to £50,000 complied with the Council's Contract Standing Orders and procurement legislation.
- 2.2 The operation of the Contractors' Framework Agreement for Construction Works up to £50,000 complies with the Council's Contract Standing Orders and procurement legislation.
- 2.3 The operation of the Contractors' Framework Agreement is effectively monitored.
- 2.4 Sample testing of contractors and works awarded under the new framework agreement since September 2012 was undertaken as part of this follow-up review.

In addition, the scope of this audit was expanded slightly following the receipt of an anonymous letter which alleged that certain contractors were being favoured in the award of works. This allegation was investigated and has been included within this report as it directly links to the operation of the framework agreement.

3. Main Findings

The main findings of the review, referenced to the above review objectives, are as follows:

- 3.1 This objective was partially achieved, as documentation to evidence receipt of applications to be included on the framework was not held for the majority (28/38) of contractors selected for sample testing. Similarly, the Supplier Appraisal Questionnaire (SAQ) submitted by contractors in support of their application was not held for 30 of the 38 contractors reviewed. As a result, it could not be verified that the 2 management agreed actions relating to this objective from the previous audit have been implemented.

Responsibility for receipting and storing applications, and entering details into the frameworks database, was delegated to Shared Business Support at the outset of the framework agreement. However, the member of staff responsible for this task has since left her post with the Council, and colleagues within Shared Business Support have been unable to trace the documentation. As a result the audit was unable to verify that applications were fully completed and submitted within the relevant deadline.

Where documentation had been submitted to the then Housing & Property Service or electronically through Public Contracts Scotland, it was verified that each contractor within the sample tested had fully completed their SAQ and submitted it within the deadline, with the exception of 1 contractor who only provided 1 technical and financial reference rather than the 2 requested.

The audit found that the process for establishing the current framework agreement complied with the Council's Contract Standing Orders and procurement legislation.

- 3.2 This objective was substantially achieved, and testing demonstrated that 90% of the 67,212 jobs awarded between 01/09/12 and 01/03/14 had been awarded to framework contractors, with only 3 jobs awarded to non-framework contractors. The remaining 10% of jobs were outwith the scope of the framework (work done by specialist contractors, consultants and work relating to capital contracts). This shows significant progress from the findings of the original audit. However, due to limitations within the IT systems used to record the issue of jobs, there is no authorisation process to demonstrate that Maintenance Officers have obtained line manager approval where required for works issued to non-framework contractors or to framework contractors for trades other than those for which they are registered.
- 3.3 This objective was not achieved as the management agreed actions had not been implemented at the date of the audit. It is intended that the introduction of the new Corporate Asset Management System (known as the K2 system) in November 2014 will provide the functionality to enable the previous management agreed action to be introduced by providing a means to monitor contractor performance, and to enable reminders to be issued to contractors whose insurance, health & safety or trade certifications have elapsed.
- 3.4 It was alleged that a member of staff was unfairly awarding works to 2 companies which were named. Examination of the works awarded to the named contractors identified that although they have been awarded a high volume of work in comparison with other framework contractors, this has originated from various Council officers with very little of this recorded as being issued by the named individual. The only area of concern was the award of plumbing works and installation of new bathrooms to one of the companies as they are not registered for this trade on the framework agreement (this point is already discussed at (3.2) above). The sum involved for these works was just over £164,000 for 2012/13 and 2013/14.

One issue that has been identified in investigating the above allegation is that due to the way in which the framework agreement is operated there is no evidence that the award of works to the 2 named companies was unfair even though this is high in comparison to that awarded to other contractors in the same trade category. Providing that the cost of the works is within the £50,000 threshold, staff can select any appropriate contractor and issue a works order without having to record or justify their decision. In particular, there is no policy in place requiring that work is rotated between contractors. As a result, this process could mask any bias or favouritism by staff or alternatively leave staff exposed to the risk of complaints by contractors.

4. Conclusion

- 4.1 Not all recommendations from the previous audit have been implemented although the new framework is operating effectively with the vast majority of applicable jobs being awarded to contractors on the framework. Jobs awarded to non-framework contractors are few in both absolute number and as a proportion of work awarded. Satisfactory explanations were given for the use of non-framework contractors in these instances and the adoption of the new K2 system will provide systematic management approval when

using non-framework contractors.

Some application documents have been lost and it was not possible to verify that applications had been received by the deadline. However these problems are the result of processes which are no longer followed and it is intended that from September 2015 online forms will be used to receive framework applications. This will improve the application process by ensuring that applications cannot be submitted after the deadline, and that applications can only be submitted when all fields within the application have been completed.

Similarly the new K2 system is expected to address the provision of feedback on contract performance and identify when trade qualifications have expired and issue routine reminders to contractors.

One particular area of concern raised by this review is that it cannot be demonstrated that the selection of contractors from the framework has been fair and this therefore exposes the Council to the risk that the process could be challenged by contractors who are included on the framework agreement but are rarely used.

- 4.2 Therefore the follow-up audit has found that previous recommendations have either been addressed, or are in the process of being addressed. A further 3 recommendations are made within the follow-up report, all of which are medium priority. In addition, a new high grade recommendation has been made following investigation of the allegations made in the anonymous letters received. All recommendations have been accepted by management, with agreed action due to be completed by 30/09/15.

5. Audit Opinion

- 5.1 The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Reasonable Assurance** can be given in that whilst the system is broadly reliable, areas of weakness have been identified which put some of the system objectives at risk, and/ or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.

AUDIT REPORT ACTION PLAN

Report Title

Report No.

Development & Infrastructure/Community Services: Contractor's Frameworks Agreement for Works up to £50,000 (Follow up)

HD11/003.bf

The Action Plan contains **4** recommendations as follows:

Description

Major issues that managers need to address as a matter of urgency.

Important issues that managers should address and will benefit the Organisation if implemented.

Minor issues that are not critical but managers should address.

Total recommendations

Priority	Number
High	1
Medium	3
Low	0
Total	4

REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
3.1	Medium	<p>Evidence of the date of receipt of SAQs was only held for 10 of the 38 contractors checked, all of which had been received before the relevant deadline.</p> <p>The SAQ was only held for 8 of the 38 contractors tested, 7 of which had been fully completed and provided the necessary supporting documentation</p> <p>Shared Business Support were responsible for the receipt and storage of SAQs at the commencement of the £50K framework but have been unable to trace the SAQs.</p>	<p>(1) Details from Supplier Appraisal Questionnaires should continue to be entered into the framework database and the SAQs stored in the appropriate folder.</p> <p>(2) Steps should be taken to ensure that all SAQs are retained when the next new framework commences in September 2015.</p>	<p>The Supplier Appraisal Questionnaires (SAQs) will be entered into the contractor's framework database and will be stored in the appropriate property service folder.</p> <p>All future SAQs will be retained electronically for easy access and reference.</p>	Property Support Officer.	Complete
					Property Support Officer.	Complete

AUDIT REPORT ACTION PLAN

Report Title

Report No.

Development & Infrastructure/Community Services: Contractor's Frameworks Agreement for Works up to £50,000 (Follow up)

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REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
3.2	Medium	<p>Analysis of works processed through the Total and Recorder systems, and clarification with staff identified 3 jobs given to non-framework contractors</p> <p>Further investigation identified that there were legitimate reasons for the award of two jobs. For the remaining job, the Officer who awarded the work is now retired, therefore it could not be determined why a non-framework contractor was used or whether line manager approval was sought.</p> <p>It was found that Maintenance Officers are able to book non-framework contractors without prior line manager approval as the Recorder and Total Repairs Systems do not have the functionality to record authorisation. The management agreed action from the previous audit report required that any instances where a non-framework contractor was used should be authorised by a line manager. Where the authorisation is not recorded, there is no assurance that a line manager has approved the use of a non-framework contractor, and there is a risk that the Maintenance Officer has bypassed the framework process.</p>	<p>(1) Until the new system is adopted the reason for the use of non-framework contractors should be clearly documented and duplications archived when found for jobs awarded through Recorder. This should also be done on an ongoing basis for jobs awarded through the Total system.</p> <p>(2) The workflow functionality within the K2 system should be utilised to demonstrate that authorisation was provided where required.</p>	<p>(1) The line management approval and reason for use of non-framework contractors will be recorded via an exemption report for works instructed through Recorder/K2 and Total (Works Order System).</p> <p>(2) The workflow functionality within K2 will be utilised to demonstrate that line manager authorisation is being provided where necessary for the use of a non-framework contractor.</p>	<p>Area Community Services Managers (4) and the Performance and Building Maintenance Manager.</p> <p>Head of Property.</p>	<p>28/11/14</p> <p>31/03/15</p>

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Development & Infrastructure/Community Services: Contractor's Frameworks Agreement for Works up to £50,000 (Follow up)

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REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
3.3	Medium	<p>During the initial audit meeting, the Property Support Officer confirmed that due to limitations with the existing IT systems a robust system to collate feedback had yet to be developed. Similarly, there was not currently a means of providing reminders to contractors whose insurance, health & safety or trade qualification documents had expired. Therefore the management agreed action from the previous report in respect of these two actions had not been implemented.</p> <p>It is intended that this will be addressed by the new Corporate Asset Management System (K2 system) which is due to be implemented in November 2014.</p>	<p>(1) The K2 system should be used to monitor contractor performance and enable officers to address issues where poor performance is identified.</p> <p>(2) The K2 system should be used to issue reminders to contractors whose documents are due for renewal.</p>	<p>A contractor performance management system will be deployed within both K2 and Total (Works Order System) to enable officers to monitor contractor performance.</p> <p>The framework database will issue reminders to contractor's 2no weeks in advance of documents requiring to be updated to ensure that they continue to be available for selection.</p>	<p>Head of Property (K2) and Performance and Building Maintenance Manager (Total).</p> <p>Head of Property.</p>	<p>30/09/15</p> <p>31/03/15</p>

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REPORT REF.	GRADE	FINDING	RECOMMENDATION	MANAGEMENT AGREED ACTION	IMPLEMENTATION	
					RESPONSIBLE OFFICER	TARGET DATE
3.4	High	<p>It was not possible to substantiate the allegations of unfair award of works to specific contractors which were made in anonymous letters.</p> <p>However, the investigation did identify that there is no system to demonstrate that the award of works to contractors on the framework agreement has been fair and above board.</p> <p>In addition, one of the contractors named in the allegations had undertaken works in a trade that it was registered for in the framework agreement.</p>	<p>(1) Consideration should be given to introducing systems which demonstrate the fair award of works to contractors from the framework agreement. Implementation of the monitoring of contractor's performance referred to at section 3.3 will also support the rationale for the selection of contractors.</p> <p>(2) The award of the bathroom and plumbing works to company 1 should be investigated and action taken to ensure that contractors are only awarded works in relation to the trades they have registered for on the framework agreement.</p>	<p>(1) A process for the rotation of the use of contractors from the framework will be developed and deployed to be used by all operational staff responsible for instructing works.</p> <p>(2) The Area Community Services Manager is to investigate the award of bathroom and plumbing works to Company 1 and if necessary deal with any non-compliance found.</p> <p>All future works are to be awarded in line with Council Contract Standing Orders and any other service specific conditions that apply.</p>	(1) Head of Property.	31/03/15
					(2) Area Community Services Manager	12/12/14
					Area Community Services Managers (4) and Building Maintenance Manager.	12/12/14