

Report of Director of Resources

Report to Corporate Governance and Audit Committee

Date: 27th February 2012

Subject: Procurement Policies and Procedures

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Contract Procedure Rules (“CPRs”) are the most significant procurement procedures in place within the Council and a report was presented to the Corporate Governance and Audit Committee regarding their fitness for purpose on the 21st March 2011 which concluded that generally they were fit for purpose, but also highlighted a number of concerns relating to the lack of pro-active monitoring of compliance with CPRs by officers.
2. In addition to the CPRs, there are a number of other documents in place that provide the necessary tools to help officers comply with CPRs. A list of these documents is attached at Appendix A
3. Subsequent to paragraph 1 above a number of audits of the Council’s procurement practices have been carried out and recommendations for improvements have been made. The Procurement Unit will shortly be working closely with internal audit to address the issues highlighted, one of which is to develop and implement a strategy for pro-actively monitoring compliance with CPRs by officers, in order to ensure that value for money is obtained,
4. In addition, following the posts of the Chief Procurement Officer and the Deputy Chief Procurement Officer becoming vacant, the subsequent changes in the departmental structure and closer working between the Procurement Unit and PPPU, both units are looking at the entire procurement process with a view to implementing a category management approach to procurement from April 2013 (a report regarding this review

is elsewhere on the agenda). As part of this process, all of the Council's procurement policies and practices (detailed in Appendix A) will be reviewed to ensure they are consistent with category management arrangements and are fit for purpose.

5. In light of all the above, the current situation with regard to CPRs remains as it was in March 2011. However, it is anticipated that following the review outlined in paragraph 3 above, and through closer working with Internal Audit over the coming months, new CPRs will be published, along with supporting documentation. This will ensure that the Council's procurement policies and procedures are fit for purpose and help deliver value for money.

Recommendations

6. The Corporate Governance and Audit Committee are recommended to note the contents of this report.
7. That a further report is submitted to the Corporate Governance and Audit Committee in 6 months time to update on progress made.

1 Purpose of this report

- 1.1 The purpose of this report is to establish whether the procurement policies and procedures in place at the Council are fit for purpose and help achieve value for money.
- 1.2 The report specifically relates to Procurement Unit and the Public Private Partnership Unit.

2 Background information

- 2.1 Contract Procedure Rules (“CPRs”) are the most significant procurement procedures in place within the Council and a report was presented to the Corporate Governance and Audit Committee regarding their fitness for purpose on the 21st March 2011. This concluded that generally they were fit for purpose, but also highlighted a number of concerns around lack of pro-active monitoring of compliance with CPRs by officers.
- 2.2 In addition to the CPRs, there are a number of other documents in place that provide the necessary tools to help officers comply with CPRs. A list of these documents is attached at Appendix A.

3 Main issues

- 3.1 A number of audit reports have been recently carried out in relation to the Council’s procurement practices and recommendations have been made for improvements. The Procurement Unit will shortly begin working closely with Internal Audit to address the issues highlighted, one of which is to develop and implement a procedure for pro-actively monitoring compliance with CPRs by officers, in order to ensure that value for money is obtained
- 3.2 In the report of the 21st March 2011 reference was made to “no proactive monitoring by the Procurement Unit to ascertain whether CPRs are being complied with” and that the following was proposed –
 - “3.18 In order to address this shortfall, plans are currently being developed to ensure pro-active monitoring takes place. Reference has already been made in the recently published Contract Management Guidance for the need to comply with CPRs, and additionally, the use of the contracts diary and off-contract spend information to establish a process of “spot checks” for compliance with CPRs is to be introduced.
 - 3.19 It is anticipated that a report will be taken to the Legal and Procurement Decisions Group (LAPD) on a quarterly basis detailing instances of Officers’ failure to comply with CPRs. This information will be used to target training towards the particular officers involved. Should persistent offenders be identified, these will be reported to the relevant Chief Officer/Director so that they can take the appropriate disciplinary action.”

- 3.3 Due to the Council also reviewing the way it places orders with suppliers, substantial development of the Council's financial management system, FMS (Leeds), were carried out to assist orderers in making the correct purchase. The system has not fundamentally changed but has been redesigned to give category and contract information to the orderers and to steer them into using the Council's contracts. This has produced significant savings by reducing the amount of "off contract" spend that takes place and has highlighted a number of areas where there is a need for additional contracts.
- 3.4 Due to the priority that had to be given to FMS the planned pro-active monitoring of CPRs etc could not be implemented and, as stated above, this has been highlighted as a concern of internal audit which we are working to address. However, work has been undertaken when tendering high profile matters (e.g. Neighbourhood Networks) to ensure that the CPRs and procurement rules generally are being complied with
- 3.5 In addition, following the posts of both the Chief Procurement Officer and the Deputy Chief Procurement Officer becoming vacant, the subsequent changes in the departmental structure and the Procurement Unit working more closely with PPPU, both units are looking at the entire procurement process with a view to implementing a category management approach to procurement from April 2013 (a report regarding this review is elsewhere on the agenda). As part of this process all of the Council's procurement policies and practices (detailed in Appendix A) will be reviewed to ensure they are consistent with category management arrangements and are fit for purpose.
- 3.6 A 'beta version' of the strategy for implementing category management will be submitted to the Transforming Procurement Programme Board for approval in March 2012. Following approval, the strategy will begin to be implemented in relation to the council's buying activities, whilst work is undertaken to ensure fit with wider council policies and procedures such as the constitution and CPRs, and to further refine the documents. A final 'go-live' version will be submitted for approval to the council's Executive Board in March 2013, to be adopted council wide by April 2013.
- 3.7 As a result of this review, it is not proposed to undertake the normal annual review of CPRs in 2012 as it is anticipated that they will need to be totally re-written to fit in with category management approach.
- 3.8 In light of all the above, the current situation with regard to CPRs remains as it was in March 2011. However, it is anticipated that following the review outlined in paragraph 3.5 above, and through working closely with internal audit over the coming months, new CPRs will be published, along with the supporting documentation, which will provide procurement policies and procedures that are fit for purpose and help deliver value for money.
- 3.9 As this work has recently commenced and is ongoing, and it would be appropriate to provide an update to the Corporate Governance and Audit Committee in six months time so they can be kept abreast of progress made.

- 3.10 The core document used by staff in the PPPU is the PPP/PFI Governance Manual. This sets out the governance processes that the council's PPP/PFI projects must comply with. These reflect the requirements of CPRs and the specific requirements relating to these schemes under the Council's constitution and sub-delegation scheme. The current processes were originally approved in March 2005 by Executive Board and have been reviewed and refreshed periodically since then, including taking account of subsequent changes to the constitution, particularly those in spring 2010 relating specifically to PPP/PFI.
- 3.11 Individual project's compliance is assured through project boards, comprising senior officers from the relevant service directorate and from corporate Legal, Finance, City Development and PPPU. Check and challenge is also provided through internal line management within the PPPU and the relevant service directorate and through the council's Strategic Investment Board.
- 3.12 HM Treasury and the relevant sponsoring government department scrutinise and test a series of business cases and other documents prepared by the Council as part of the approvals process for these projects. For example, a housing project is scrutinised by HM Treasury, the Department for Communities and Local Government, the Homes and Communities Agency and Infrastructure UK. There are a number of formal review points – expression of interest, outline business case, pre-preferred bidder business case, and pre-contract signature business case. Each of these review points tests strategic fit and value for money, seeks confirmation of approvals secured and consultation undertaken, and reviews proposed project outputs, payment provisions and contract drafting. The value for money checks within this process include benchmarking proposed prices against national data.
- 3.13 To date all of the council's projects have successfully progressed through each of these approval points.
- 3.14 In addition the projects are often subject to external checks from independent OGC accredited gateway reviews organised through Local Partnerships (a joint venture between HM Treasury and the Local Government Association). A team of peer reviewers from outside of the council who have relevant expertise review project documents and interview key stakeholders. They benchmark the project against best practice and national guidance and produce a report summarising their findings and making recommendations for action. The last three of these reviews (Little London January 2011, Holt Park September 2011 and West Yorkshire Police January 2012) were all assessed as 'Green' with headline comments respectively of "overall this is a very well run project", "the team have done an excellent job" and "this is an exceptionally well managed project".
- 3.15 The processes are considered to be fit for purpose as demonstrated above through successful project delivery, successful sign-off to projects at various stages from HM Treasury and sponsoring government departments, and from successful independent gateway reviews.

- 3.16 Project lessons learned are reported to project boards and any issues relating to the governance and control environment are considered within the Unit's management team, and documents and guidance are refreshed appropriately.
- 3.17 The PPP/PFI Governance Manual will be reviewed and refreshed alongside CPRs through the Transforming Procurement Programme (paragraph 3.6 above refers).

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Senior Executive Manager of PPPU has been consulted on the content of this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no known equality and diversity or cohesion and integration issues

4.3 Council policies and City Priorities

- 4.3.1 CPRs form part of the Council's constitution and establish the basic governance arrangements that must be followed when procuring goods, works and services on behalf of the Council. There are no implications for City priorities.

4.4 Resources and value for money

- 4.4.1 A review of the documents listed in Appendix A is already underway and it is anticipated that it will require at least two officers to undertake this task over the next couple of months. Such a review will ensure the Council continues to procure goods, works and services in a cost effective manner.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Failure to comply with its own CPRs, and the policies and documents that complement them, may result in legal challenge and/or judicial review from aggrieved bidders or suppliers.
- 4.5.2 The information contained in this report is for information only and is therefore not subject to call-in

4.6 Risk Management

- 4.6.1 Other than the risks highlighted in 4.5.1 above, a further implication of failure to comply with CPRs etc, is of an Ombudsman investigation arising from a complaint that the City Council has not followed its own procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration.
- 4.6.2 Clearly, with any risk of challenge comes the risk of reputational damage should the Council be found to be at fault.

5 Conclusions

- 5.1 In conclusion, in addition to CPRs there are also a number of other policies and procedures in place that provide the necessary tools to help officers comply with CPRs. There are no major concerns with procurement policies and procedures but there is an opportunity to review them to make sure they fit into and are compatible with the developing Transforming Procurement Strategy.
- 5.2 In addition, a number of audit reports have been issued in relation to the Council's procurement practices and a number of recommendations have been made. The Procurement Unit will shortly be working closely with Internal Audit to address the issues highlighted.

6 Recommendations

- 6.1 The Corporate Governance and Audit Committee are recommended to note the contents of this report.
- 6.2 That a further report is submitted to the Corporate Governance and Audit Committee in 6 months time to update on progress.

7 Background documents

- 7.1 Report to the Corporate Governance and Audit Committee regarding their fitness for purpose on the 21st March 2011.