

Procurement Risk Deep Dive: Audit and Governance Committee

Background - scope

Relevant risks on the register

- 1. Contract Management and Supply Chain risk**, including inflationary pressures, facing council. Implications for revenue and capital programme.
- 2. Reprourement of contracts left until very late**, close to or passed contract expiry
- 3. Wholesale gas, electricity and utility costs increasing** and risk of continual increases placing unsustainable financial burden on the council, in addition that school energy recharges are recovered with that process having started in January 2023.



Proportionate approach required to address these risks effectively

Proposed actions form part of our Procurement Improvement Plan and support the outputs agreed with the Improvement Panel as part of their Exit Strategy for Croydon.

Categories of risk

Supplier Performance & Failure risks

Ethical risks e.g. Modern Slavery

Forecasting/Planning risks

Economic risks e.g. inflation

Fraud and Collusion risks

People risks (skills & capacity)

Demand risks

A Proportionate approach to risk management

		Platinum	Gold	Silver	Bronze
Contract scope, value and risk		<i>Strategic contracts or relationships that are considered high value and high risk. These are likely to be statutory services but can also include contracts that are a mix of statutory and non-statutory compliance services.</i>	<i>Major contracts, limited alternative providers that may impact on performance. These contracts may be long or medium term and support the delivery of the Council's priorities or its operations.</i>	<i>Lower value and less strategically important in the short-term but often critical to manage due to one or more of the elements of value, risk or complexity.</i>	<i>Low value, low risk contracts. Usually transactional in nature, loss of service easily restored or replaced. While there may be some interruption in supply arising from failure it would have minimal impact.</i>
Performance Management	Review KPIs and agree improvement plans. Apply contract remedies where required.	✓ Monthly	✓ Min. Quarterly	✓	✗
	Monitor delivery of social value commitments	✓ Monthly	✓ Min. Quarterly	✓	✗
	Certify acceptance of deliverables at key stages/ milestones	✓	✓	✓	✗
	Undertake Value for Money/Contract Benefit review	✓	✓	✗	✗
Risk Management	Actively identify risks and actions to manage them	✓	✓	✗	✗
	Monitor risks, issues and opportunities via a register. Manage early warnings (NEC)	✓	✓	✓	✗
	Manage ongoing assessment of the financial health of suppliers	✓ Min. Quarterly	✓ Min. Annually	✗	✗
	Assess the robustness of supplier business continuity arrangements	✓ Min. Annually	✓ where appropriate	✗	✗
	Draft supplier contingency plan and keep updated	✓	✓ where appropriate	✗	✗

- All contracts are assessed as platinum, gold, silver, bronze based on complexity, spend, risks, reputational impact, ease of switch etc.
- The table on this slide is an extract from a framework that will support a proportionate, consistent approach to contract management (it is being tested prior to embedding across contract managers)
- Allows resource to be focused where it matters.
- Similarly, the Procurement function's proposed new operating model (see next slide) will see a greater focus on strategic activity, **earlier engagement and commercial support for contract managers.**

Broadening Procurement's Offer



Pre-Procurement Support

- Actively manage procurement/contract pipeline & its internal/external communication via Business Partners
- Provide market intelligence where required to inform requirements & viability (option appraisals)
- Provide commercial expertise to support specifications, risk management, pricing models etc.
- Provide improved management reporting of performance data

Strategic Sourcing

- Identify appropriate routes to market to best meet project objectives.
- Ensure process is compliant with Regulations/Legislation
- Ensure supports the Mayor's Priorities: delivering value for money; social value and; sustainability
- Track forecast and delivered benefits (savings, social value and other benefits).

Streamlined, appropriate Governance

- Procurement will not source low value procurements unless requested to due to complexity/high risk but will provide support (training and systems) and assurance (to ensure ongoing compliance with CSOs)

Contract and Supplier Management Support

- Support effective contract management through helping to develop necessary skills.
- Work with contract managers to identify and delivery savings and improvements.
- Support contract managers on key contracts in managing risks (including development of contingency plans)



Procurement function adds little value in sourcing low value items and adding more parties can lengthen procurement timeline. Removing the requirement to engage with Procurement for these items will allow a broader more strategic

Plan to move incrementally to a position where procurement team manages all procurements >£180k*

Summary

A missing or incomplete forward plan means:

- the market is not sighted on future requirements and cannot build necessary capacity to respond to key procurements effectively.
- Internally it risks suitable resource not being identified and allocated
- It hampers early commercial engagement so reducing value for money

An incomplete contract repository:

- risks contracts expiring without the necessary procurements to replace them being undertaken. This may mean having to direct award to existing suppliers causing both legal and value for money issues



In Place or under development

- Monthly line by line review of Contracts Register and Forward Plan, reported to DMT's
- Developing *achievable* Council procurement forward plan, by Directorate
- Procurement systems review with development of procurement dashboards



Planned Future Developments

- Provide a series of market events sharing pipeline information with specific sectors to allow them to plan their engagement with the council.
- Development of system controls that prevent orders being raised without contracts in place.
- Spend analysis to identify any further contracts missing from register and compare spend vs contract value (to mitigate risk of overruns)
- Implement accessible Contract repository to contain copies of all signed contracts

Subsequent slides in this Presentation will detail a mix of actions in place/underway to address the risks and also planned as part of the Procurement Improvement Plan

Late Re-procurements of Contracts

Summary

Failing by the Originator to engage the right stakeholders at the right time across the business in the development of requirements/specifications can lead to hurried procurements, reduced competition, future contract variations and unnecessary costs



In Place or under development

- Revising procurement gateway templates
- As part of this commercial strategies built into the business case stage that take account of appropriate risk allocation, payment mechanisms, KPIs, contract management requirements, benefit realisation.



Planned Future Developments

- As a minimum Procurement team to input into options appraisals for all key procurements as part of business case
- Define all stakeholder roles and responsibilities in the end to end procurement process and communicate across the council.
- Identify skill gaps that prevent successful input into the procurement process & deliver training (e.g. specification development)
- Develop template schedules for end-to-end procurement timescales (including governance) to inform pipeline
- Report RAG status of pipeline entries (against procurement schedule) as part of Directorates dashboard reporting

Contract Management and Supply Chain risk

People risks (skills & capacity)

Summary

A lack of contract management training risks inconsistent and poor practices in place within contract administration, performance, risk and relationship management. This inconsistency is reinforced where common processes and documentation are absent



In Place or under development

- Development of contract management improvement initiative based on review of platinum and gold contracts.
 - c.88% of total contract value covered by Platinum/Gold contracts
 - Contract register indicates these are managed by a community of 42 Contract Managers – process underway to ensure we have an up to date list of contract managers and identify any gaps.
- Contract Management Assurance Board recently set up
- Development of contract management framework covering suite of tools, templates etc. for contract managers to use



Planned Future Developments

- Implement training programme where all contract managers required to undertake Government Commercial Function (GCF) Foundation training as a minimum.
- Develop/commission training to cover key gaps in skills for Gold & Platinum contract managers. As part of this review applicability for GCF Practitioner & Expert training for gold/platinum contract managers

Summary

A lack of attention to the performance of key suppliers, including appropriate plans to manage any failures risks delivery and reputational issues for the council



In Place or under development

- Segmentation tool already in place to identify high risk suppliers (where deterioration of contract performance may have a significant impact on the Council)
- Review of appropriate Contract management system underway that captures & reports on performance vs KPIs.
 - Rollout to focus on Platinum and Gold contracts (and all contracts >£5m).
- Contract management improvement initiative will provide an annual health check to ensure that key suppliers have up to date business continuity plans and risk registers are in place.



Planned Future Developments

- Implement market intelligence tool to help identify & mitigate financial and reputation risk
- Develop contingency plan template & work with contract managers to ensure contingency plans in place for all Platinum contracts
- Define approach for monitoring benefit realisation from key contracts (based on those identified at contract award stage and including social value) and identification of additional benefits over and above this. Support contract managers to measure these.
- Ensure key suppliers undertake periodic review of their supply chains to assess risk within and have

Summary

The inappropriate use of inflationary indices can lead to contract costs diverging from actual cost increases incurred by suppliers leading to them either gaining excess profits or the opposite, resulting in a degradation in performance.



In Place or under development

- Shorter term contracts tend to use fixed rates.
- Current contract template terms include indexation provisions that use CPI as the backstop but flexibility to negotiate based on actual changes to contractor costs
- CPI is recognized as a more robust general index than RPI and typically tracks lower (e.g Sept 2023 CPI was 6.7% vs RPI at 8.9%)
- Inclusion of indexation clauses to be justified as part of Commercial section in revised business case template under development



Planned Future Developments

- Development of guidance on appropriate sector specific indices to use in contracts – so any increases better reflect the pressures on the supplier e.g. use of Average Weekly Earnings (AWE) index for contracts with high labour content.
- Use of indices to support extension decisions in key contracts e.g. use of BCIS ROADCON tender price index (measures the movement of prices in accepted tenders for road contracts in England, Scotland and Wales).

Summary

Failure to categorise Modern Slavery risk in our procurement and contracts means we risk not focusing attention in the right areas and the suppliers do not undertake the necessary measures to mitigate risk in their supply chains



In Place or under development

As part of the tender exercise (the 'Selection' stage) bidders who are subject to Section 54 of the Modern Slavery Act are required to provide a modern slavery statement that outlines the steps they have taken during the financial year to ensure that slavery and human trafficking is not taking place in any of their supply chains, and in any part of their own business.



Planned Future Developments

Ensure Modern Slavery risk of procurements is categorised upfront using a modern slavery assessment tool and build in appropriate clauses into contracts.

Invite high risk suppliers to complete the UK Modern Slavery Assessment Tool (MSAT) and develop an improvement plan based on MSAT recommendations

Ensure procurement and contract management staff receive MS training (e.g Supply Chain Sustainability School's Modern Slavery Learning Pathway)

Work with contract managers to audit sample of high risk contracts (using MSAT question set as basis)

Summary

A lack of awareness and necessary controls to address conflicts of interest, fraud and collusion risks reputational damage, increased costs, legal challenge and market disengagement.



In Place or under development

Bidders can be excluded from participation in the tender where they have been involved in distortion of competition or have a conflict of interest

Bidders are required to complete a non-collusion declaration as part of the tender.

Evaluators are required to sign a declaration confirming they do not have a conflict of interest before accessing bid documents.



Planned Future Developments

Ensure staff are trained on conflicts of interest, fraud and collusion in procurement, recognise the 'red flags' and are clear on what actions to take.

Ensure that key suppliers have appropriate measures in place to identify and act on corruption within their supply chains.

Increasing wholesale gas, electricity and utility costs

Summary

Managing the volatility risk of wholesale energy markets. Conflict in Ukraine has driven a step-change increase in wholesale energy prices.



In Place

Gas and electricity contracts both frameworks let by LASER (Kent Commercial Services).

Council's energy volumes aggregated with other public sector customers to enable LASER to purchase directly from wholesale markets.

Strategy is to purchase different amounts of forward annual demand at different times according to markets

Approach spreads purchases and avoids fixing forward demand at a retrospective market peak



Planned Future Developments

Current strategy is to fix forward price before each annual supply period April – March.

Council could opt for more flexible strategy, e.g purchases continue during supply period (but unit pricing would change over the year)

Collaborative (London Councils) project exploring Power Purchase Agreements (PPA) with renewable generator. Requires long term, circa 10 year contract.

PPA can provide long term price certainty – but risk if wholesale prices subsequently fall

When will we deliver these actions?

- A detailed breakdown of deliverables by year from 23-26 will be included in the Improvement plan under development and we will report on progress against this.
- A number of them also support the required actions in the Improvement Panel's exit report for Croydon. They will also be delivered in line with the timescales in the report.