

**London Borough of Hammersmith & Fulham**

**Final Internal Audit Report**

**Procurement Compliance – Community  
Equipment Framework**

June 2017

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## 1 Introduction

As part of the 2016/17 Internal Audit Plan, we have undertaken an internal audit of procurement compliance related to the procurement of a framework agreement for Community Equipment.

A framework for delivery and installation of community equipment for vulnerable adults was in place until 31 March 2017 with Medequip Assistive Technology Ltd. that originally started in April 2010 for which the Royal Borough of Kensington and Chelsea (RBKC) is the primary contracting authority. A new framework commenced on 1 April 2017, and this audit relates to the procurement of this new framework.

The equipment is ordered by professionals in Adult Social Care (ASC) and Health on behalf of clients and supports enabling people to live in their own homes for longer. This framework is currently accessed by 18 London Boroughs. The London Borough of Hammersmith and Fulham has been in the process of procuring a new framework. A Cabinet report was prepared seeking authorisation to proceed to procurement and this was given in July 2016.


An OJEU Contract Notice was published on 26 August 2016. However, at the time of publishing the Contract Notice, the tender documents were not fully uploaded onto CapitalEsourcing resulting in less than 30 days for providers to submit their bids after they could access all the tender documents. A PIN had been published for this procurement, meaning that the minimum response period for bidders could theoretically be lawfully reduced to 15 days. However, it was decided, on balance, that due to the size and complexity of the tender the bidders should be given at least 30 days. The initial Contract Notice was withdrawn and a new Invitation to Tender published after making further adjustments to the tender documents. The new Contract Notice was submitted on 26 September 2016, and a tender response deadline set for 27 October 2016.

The timeline is as follows:

Task	Completion date
Commissioning review for Community Equipment Service	November 2015
Obtain in-principle approval from consortium members for project – including for funding Recruitment of project team members (March 2016 – catalogue development officer / project support; May 2016 – procurement officer) Create business case (including detailed options appraisal) and procurement strategy Start preparing tender documentation Approval for procurement strategy, service extension and delegated authority to award	04/07/2016
First Contract Notice dispatched to OJEU (later withdrawn)	24/08/2016
Letter sent via capitalEsourcing notifying that tender is being withdrawn	13/09/2016
Second Contract Notice dispatched to OJEU	26/09/2016
Deadline for tenders to be submitted	27/10/2016
Tenders evaluated Recommendation to award report written Councillor approval received Standstill letter sent	09/12/2016
Contract award date	21/12/2016
Go-live date of new contract	01/04/2017

## 2 Executive Summary

### 2.1 Assurance Opinion

	Nil	Limited	Satisfactory	Substantial
<b>Audit Opinion</b>				

### 2.2 Recommendations Summary

The following table highlights the number and categories of recommendations made. The Action Plan at Appendix 1 details the specific recommendations made as well as agreed management actions to implement them.

Area of Scope	Adequacy	Effectiveness	Recommendations Raised		
			High	Medium	Low
Strategic Assessment and Business Justification (Strategic Outline Case)			0	0	0
Project Governance			1	0	0
Contract Strategy			0	0	0
Delivery/Procurement Strategy (Outline Business Case & Options Appraisal and Authorisation to Proceed to Procurement)			0	0	0
Procurement (Selection of Contractor/Service Provider/Suppliers)			0	0	0
Procurement (Assessing Value for Money) and Award of Contract (Full Business Case)			0	1	0
Formation of Contract, Compliance with Contracting Authority's Legal Requirements, Retention and Security of Contracts			0	0	0
<b>Total</b>			<b>1</b>	<b>1</b>	<b>0</b>

Please refer to the Appendix 2 for a definition of the audit opinions and recommendation priorities.

### 3 Summary of Findings

In Internal Audit's opinion, Limited assurance can be given to Members, the Chief Executive and other officers that the controls relied upon were suitably designed, consistently applied and effective in their application.

#### **Design of and compliance with controls to address the key risks identified**

- A framework was previously in place with Medequip Ltd. A Cabinet report was submitted in July 2016 requesting an extension to these services up until September 2017, and the approval of a procurement strategy for the procurement of a new framework. The Appendix to this report discusses contract packaging.
- A Project Highlight Report was produced documenting the project governance structure.
- A Project Brief was produced in June 2015. This included a project timetable. Following the withdrawal of the initial tender, and the start of the new tender process in September 2016, a revised project timetable was produced.
- Minutes were available for the project Steering Group from February 2016 to January 2017.
- Contract Standing Order 10.4 states 'All procurements must be managed using the e-tendering portal'. We were informed that the officer responsible for publishing the documentation on capitalEsourcing for this procurement had not received formal training on how to use the system. In addition, the project manager had received training but this was some time before having to use the system.
- A Prior Information Notice (PIN) was placed on Tenders Electronic Daily on 24 June 2016 based on an estimated framework value of £145m. The Cabinet Approval for the procurement was provided on 4 July 2016.
- The procurement was run as an open procedure.
- An advertisement was placed on 26 August 2016. This was withdrawn as the tender documents were not fully uploaded when the advert was published. The tender was re-started providing new tender response timescales in order to reduce the risk of a challenge to the Council and to improve the chances of a quality tender submissions. A further advertisement was placed on 26 September 2016 and published on 30 September after making further adjustments to the tender documents.
- We were advised that the tender process was undertaken to tight timescales as resources were not available to start the process as early as desired. This may have contributed to the initial notice having to be withdrawn.

### 4 Acknowledgement

We would like to thank the following members of staff for their time and assistance during the audit:

- Project Manager/Consortium Lead Officer
- Senior Procurement Officer
- Catalogue Development Officer

## Appendix 1: Management Action Plan

### 1. Forward Planning of the Procurement Process

Priority	Issue	Risk	Recommendation
High	<p>An initial OJEU Contract Notice was published on 26 August 2016. However, at the time of publishing the Contract Notice, the tender documents were not fully uploaded onto CapitalEsourcing resulting in less than 30 days for providers to submit their bids after they could access all the tender documents. The initial Contract Notice was withdrawn and a new Invitation to Tender published after making further adjustments to the tender documents.</p> <p>The revised contract notice was submitted to the Publications Office on 26 September 2016 and published on 30 September, with a closing date of 27 October 2016.</p> <p>We were advised that the tender process was undertaken to tight timescales as resources were not available to start the process as early as desired.</p>	<p>Where sufficient time is not allowed for the procurement process, there is an increased risk of non-compliance with The Public Contract Regulations 2015. There is a further risk that financial penalties and/or damages may be levied against the Council.</p>	<p>Sufficient time should be allowed to plan and resource the procurement process to help ensure that:</p> <ul style="list-style-type: none"> <li>- Tender documents are prepared to the required quality standard in good time for publication</li> <li>- Approved tender documentation is uploaded onto CapitalEsourcing (but not published) prior to the OJEU notice being sent for publication.</li> <li>- The time period when bidders may not be aware of the tender or have access to tender documents (between the submission of the contract notice and publication of the notice and tender documents) is taken into account when deciding the tender timescales.</li> <li>- The option of allowing more than the minimum time for the receipt of tenders (based on Public Contract Regulations) is available if this would improve the quality of submissions received.</li> </ul>

**Management Response**

There is now a comprehensive forward plan in place and this will be regularly reviewed by the Contracts and Commissioning Board. It incorporates contract end dates and the appropriate time requirements for developing and approving future procurement strategies and the implementation of new contracts.

This process is supported by the use of CapitalESourcing for managing all contract documentation as this allows for a flagging system for contract end dates. The forward plan of procurement will be reported regularly to Cabinet Members

<b>Responsible Officer</b>	<b>Deadline</b>
Director of Strategic Commissioning and Enterprise – Adult Social Care and Health	July 2017

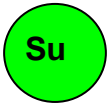


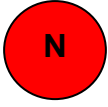
## 2. CapitalE-sourcing training and support

Priority	Issue	Risk	Recommendation
Medium	<p>Contract Standing Order 10.4 states 'All procurements must be managed using the e-tendering portal'.</p> <p>We were informed that the officer responsible for publishing the documentation on capitalE-sourcing for this procurement had not received formal training on how to use the system. In addition, the project manager had received training but this was some time before having to use the system.</p>	Where sufficient training and support is not provided, there is an increased risk of a non-compliant tender process being undertaken.	When planning the procurement process, the need for training (including refresher training) and support from Corporate Procurement should be considered, discussed with Corporate Procurement, and planned into the procurement process.
Management Response			
<p>There is an ongoing Corporate Project Group working to embed the use of CapitalE-sourcing. ASC has been represented on this working group and has nominated several "super users" as well as adding training to the team core skills.</p> <p>There is recruitment underway to bolster procurement expertise in the team and there will be more regular monitoring of individual training to ensure there is a reservoir of skills and knowledge of CapitalE-sourcing across the team.</p>			
Responsible Officer			Deadline
Head of Commercial Innovation and Insight			September 2017



## Appendix 2: Definition of Assurance Opinions and Recommendation Priorities

In order to help put the audit opinion and recommendation priority ratings in context the following tables detail the current ratings used by Internal Audit.

Rating	Description
 <b>Su</b>	There is a sound system of control designed to achieve the objectives. Compliance with the control process is considered to be substantial and no material errors or weaknesses were found.
 <b>Sa</b>	While there is a basically sound system, there are weaknesses and/or omissions 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.
 <b>L</b>	Weaknesses and / or omissions in the system of controls are such as to put the system objectives at risk, and/or the level of non-compliance puts the system objectives at risk.
 <b>N</b>	Control is generally weak, leaving the system open to significant error or abuse, and/or significant non-compliance with basic controls leaves the system open to error or abuse.

Priority	Description
<b>High</b>	Recommendation addresses fundamental weaknesses, which seriously compromise the effective accomplishment of the system's objectives. Risks presented by the control weaknesses could be damaging in the short term. The management action required should be implemented as soon as possible, certainly within 0-3 months.
<b>Medium</b>	Recommendation addresses serious weakness, which affect the reliance to be placed on the system. Risks presented by control weaknesses could be damaging in the medium term. Management action is required within 0-6 months.
<b>Low</b>	Recommendation addresses minor weaknesses, or suggests a desirable improvement. Risks presented by control weaknesses are unlikely and inconsequential. Management action is recommended to address concerns within 0-9 months.

## Appendix 3: Audit Scope & Limitations

This audit was a full risk based review of procurement compliance for the Community Equipment contract and included the following areas:

Ref	Audit Area - Description	Comments on Coverage / Area Objectives
1	Strategic Assessment and Business Justification (Strategic Outline Case)	A valid business case aligned to the organisation's strategic needs exists for the expenditure of resources.
2	Project Governance	Projects are managed within tolerances to maintain the cost/benefit ratio envisaged, and additional resources are only committed to pursuing benefits that are still deemed worth it: Project outputs/outcomes/benefits meet the organisation's needs; Projects are planned in sufficient detail and are controlled within tolerance sufficiently to deliver to time/cost/quality and where such delivery is threatened, that adequate and commensurate action is taken to avert such threats;
3	Contract Strategy	An optimum balance is achieved between contestability and delivering the service the contracting authority needs.
4	Delivery/Procurement Strategy (Outline Business Case & Options Appraisal and Authorisation to Proceed to Procurement)	The most efficient and effective procurement option is selected to realise the greatest value to the contracting authority, and EU Public Procurement Directives as enacted into the UK are complied with.
5	Procurement (Selection of Contractor/Service Provider/Suppliers)	The procurement process complies with EU and organisational regulations, policies and procedures, and best value for money is obtained.
6	Procurement (Assessing Value for Money) and Award of Contract (Full Business Case)	The business case (cost/benefit) is not invalidated by actual costs (tendered/negotiated costs) prior to "award of contract" and that the contingent liability created remains within the capital resourcing ability of the organisation.
7	Formation of Contract, Compliance with Contracting Authority's Legal Requirements, Retention and Security of Contracts	The contracting authority has recourse to legal redress and is able to seek enforceability of performance/other remedies including damages at the discretion of the courts.

## Key risks

The risks listed below are potential inherent risks which are common for any system of this type:

- Failure to focus on delivery of the Council's and Service's objectives, resulting in expected benefits not being realised;
- The most efficient and effective procurement option may not be selected from the various options, thereby reducing total value realisable to the Council;
- Non-compliance with the Contract Standing Orders and EU Procurement thresholds;
- Fraud or irregularity are perpetrated, resulting in increased contract costs and loss of best value, as well as reputational damage to the Council;
- Members do not scrutinise potential contract awards, resulting in non-compliant tenders not being identified; and
- Contracts do not meet the Council's needs, and provide legal comfort that, should things go wrong, it can see specific performance damages or other suitable remedies at the discretion of the court.

## Limitations to the Scope of the Audit

The internal audit approach was developed through an assessment of risks and management controls operating within the agreed scope.

The following procedures were adopted:

- Identification of the role and objectives of each area;
- Identification of risks within each area which threaten the achievement of objectives;
- Identification of controls in existence within each area to manage the risks identified;
- Assessment of the adequacy of controls in existence to manage the risks and identification of additional proposed controls where appropriate; and
- Testing of the effectiveness of key controls in existence within each area.

Management should be aware that our internal audit work was performed in accordance with the Public Sector Internal; Audit Standards which are different from audits performed in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board.

Similarly, the assurance gradings provided in our internal audit report are not comparable with the International Standard on Assurance Engagements (ISAE 3000) issued by the International Audit and Assurance Standards Board.

Our internal audit testing was performed on a judgemental sample basis and focussed on the key controls mitigating risks. Internal audit testing is designed to assess the adequacy and effectiveness of key controls in operation at the time of the audit.

Please note that, in relation to the agreed scope, whilst our internal audit will assess the efficiency and effectiveness of key controls from an operational perspective, it is not within our remit as internal auditors to assess the efficiency and effectiveness of policy decisions.

## Appendix 4: Timetable and Distribution List

It is the responsibility of the auditee to identify all officers that should receive a copy of this report.

Stage	Date
End of Fieldwork	22/03/2017
Draft Report Issued	06/04/2017
Responses Received	26/06/2017
Final Report Issued	29/06/2017

Audit Team
Client Engagement Manager: James Graham
Auditor: Lisanna Neumann
Auditee
Project Manager/Consortium Lead Officer
Senior Procurement Officer
Catalogue Development Officer
Client Sponsor
Mike Boyle – Director of Strategic Commissioning and Enterprise – Adult Social Care and Health

Report Distribution List
Project Manager/Consortium Lead Officer
Senior Procurement Officer
Copy Recipients of Report
Mike Boyle – Director of Strategic Commissioning and Enterprise – Adult Social Care and Health

The matters raised in this report are only those which came to our attention during our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required. Recommendations for improvements should be assessed by management for their full impact before they are implemented. The performance of internal audit work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by internal audit should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity. Auditors, in conducting their work, are required to have regards to the possibility of fraud or irregularities. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. Internal audit procedures are designed to focus on areas as identified by management as being of greatest risk and significance and as such we rely on management to provide us full access to their accounting records and transactions for the purposes of our audit work and to ensure the authenticity of these documents. Effective and timely implementation of our recommendations by management is important for the maintenance of a reliable internal control system.

This report is prepared solely for the use of Audit Committees and senior management of the London Borough of Hammersmith and Fulham, the Royal Borough of Kensington and Chelsea and Westminster City Council. Details may be made available to specified external agencies, including external auditors, but otherwise the report should not be quoted or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.