

Agenda Item No:

Report to: Overview and Scrutiny (Resources)

Date of Meeting: 12 February 2015

Report Title: Final report: Outsourced Contracts

Report By: Tom Davies
Chief Auditor

Purpose of Report

To report on the work of the review team set up by the Overview and Scrutiny Committee (Resources) on outsourced contracts.

Recommendation(s)

- 1. That the Sustainable Procurement Policy is updated and submitted to Cabinet for approval.**
- 2. That procedures are embedded to readily assist transparency of social value built into procurement through the procurement initiation document template.**
- 3. That Overview & Scrutiny Committee are informed when the training on Public Contracts Regulations 2015 has been delivered.**

Reasons for Recommendations

To ensure that the review findings and recommendations are reported and will be followed up.

Introduction

1. A scrutiny review on outsourced contract arrangements was included in the 2014/15 Overview and Scrutiny annual work programme. The review began in August 2014 and concluded in February 2015 and fell within the remit of the Resources Overview and Scrutiny Committee.

Background information

2. Hastings Borough Council is one of the biggest employers in East Sussex and spends about £19m every year on works, goods and services. We are required to seek `best value` in all of our purchasing activity. This not only takes account of cost but other factors including sustainable procurement which covers areas such as environmental considerations, equality issues and engaging with small and medium sized enterprises (SMEs) particularly from the local area wherever possible.
3. As a public body, we also have access to a number of framework agreements which are organised by other public sector partners, and this method of purchasing will continue. In addition, there is a drive by central government for local authorities to collaborate more, particularly in the area of procurement where there are benefits to be gained for the local community and council tax payer.
4. We support the ethos of encouraging firms to sell and buy Fairtrade products. The Council purchases such goods itself, particularly tea and coffee, for its Council meetings.

Review

5. The overall objective of the review was to examine whether Hastings Borough Council is achieving best practice in procurement and then to examine the interaction between `best practice in procurement` and `effective contract monitoring and control`.
6. The review evaluated the policies and procedures for:
 - a. Securing best value deals
 - b. Promoting local enterprise and employment
 - c. Promoting apprenticeships
 - d. Providing opportunities for economically vulnerable groups
 - e. Paying the living wage
 - f. Adopting the Lord Young Reforms in January 2015
 - g. Implementing the changes to Public Contract Regulations to be introduced in January 2015.
 - h. Public Services Social Value Act - 2012
 - i. Embedding procedures for contract management

7. The Members of the Review team were:
 - a. Cllr Liam Atkins (part)
 - b. Cllr Tania Charman
 - c. Cllr Robert Cooke (part)
 - d. Cllr Warren Davies (Chair of Overview & Scrutiny (Services))
 - e. Cllr Colin Fitzgerald
 - f. Cllr Mike Howard
 - g. Cllr Alan Roberts (Chair)
 - h. Cllr Phil Scott
 - i. Cllr Mike Turner

8. The following officers provided support:
 - a. Michael Courts, Democratic Services Support
 - b. Ian Roadnight, East Sussex Procurement Hub, Procurement Advisor
 - c. Mike Hepworth, Head of Environmental Services
 - d. Murray Davidson, Environment and Natural Resources Manager
 - e. Terry Drinkwater, Grounds Maintenance Contract Monitoring Manager
 - f. Dave Spillett, Group Auditor

9. The following methodology was adopted.
 - a. The East Sussex Procurement Hub gave a presentation to the committee providing an overview of the procurement process and describing the new reforms under the Public Contracts Regulations 2015 that are due to come into effect during 2015. The review team wished to examine a recent contract that was completed and in contrast, a contract procurement exercise that was live. The procurement process leading up to the new Banking Services contract was examined as this was a completed contract and also the procurement process around the new Minor Works Maintenance contract was reviewed as the work in progress.
 - b. The review team interviewed senior regional representatives from the Federation of Small Businesses.
 - c. The review team interviewed a panel of Contract Monitoring Officers.

Procurement Process

Procurement savings

10. Hastings Borough Council has been targeting procurement savings through its Priorities, Income and Efficiency Reviews (PIER) for over 8 years now. Despite the 'low hanging fruit' having been picked, the East Sussex Procurement Hub has generated in excess of £8m in savings and revenue since it was established in 2010 for all members and created efficiencies in procurement across the County. Performance of the East Sussex Procurement Hub is monitored by the East Sussex Finance Officers Association.

11. The savings are mainly due to higher combined purchasing power by purchasing collectively and through competitive tendering.

Procurement processes and compliance with regulations

12. The East Sussex Procurement Hub has assisted its members meet new legislative requirements such as assisting with posting opportunities on Contracts Finder and has enabled access to the South East Shared Services e-Sourcing Portal. The South East Shared Services e-Sourcing Portal is a superb opportunity for businesses in Hastings to have a chance to supply a wide range of local authorities. Registered businesses will get free email alerts when councils are looking to buy goods and services. Registration is free.
13. The banking services contract was completed on 1 December 2014. Hastings Borough Council previously banked with the Co-operative Bank and the contract was due to expire in March 2014. However, the Board of the Co-operative Bank announced on 5 November 2013 that it was withdrawing from local authority business. The East Sussex Procurement Hub collated transactional analysis across all East Sussex District and Borough Councils and Crawley Borough Council and benchmarked the results. A report was submitted to Cabinet on 9 June 2014 informing them of the procurement process and particularly that the contract was going to be let as 2 lots - Corporate Banking Services (lot 1) and Merchant Services (lot 2). It was the first contract that was tendered for that information on the 'living wage' was requested as part of the evaluation criteria. Lloyd's Banking Group won the bid and the transfer has been seamless. Projected savings for Hastings Borough Council are £6,000 per annum.
14. The live contract that the review team examined was the Minor Works Maintenance contract worth about £500,000 per annum. A report outlining the procurement process was submitted to Cabinet on 7 July 2014. Again, it included a commitment from tenderers to the 'living wage'. The review team saw how the opportunity had been advertised on the South East Shared Services e-Sourcing Portal and concluded that it was fair, efficient and transparent.

Contract documentation

15. All contracts requiring signature on behalf of the Council are examined and signed by Legal Services only after they are satisfied that the Council is adequately protected.

Significant contracts

16. A list of the Council's most significant contracts is shown at appendix A.

East Sussex Procurement Hub Work Programme 2014/15

17. The East Sussex Procurement Hub Work Programme for current year 2014/15 is shown at appendix B.

Localism

Local Small and Medium Enterprises (SME's)

18. The Federation of Small Businesses attended the Overview and Scrutiny Committee for Outsourced Contracts on 17 November 2014. They commented that "Hastings Borough Council continued to perform well through its procurement process, achieving a 61% spend with SME's compared to a national average of 47%".
19. Whilst the Council's approach to all contracts over £20,000 is correct, there is a perception that it can be difficult for a SME to be considered for lower value contracts, typically of £2 - £3k. This was a view voiced by the private sector about all councils at the 'Understanding the Buyer Event' held by the East Sussex Procurement Hub at the Sussex Exchange on 19 November 2014
20. Officers who have the requisite delegated authority can buy goods or services up to £20,000 without the need to go to controlled quotation or competitive tender. They are, however, expected to obtain 3 written estimates to be able to demonstrate best value.
21. Requirements of the Public Contracts Regulations 2015 combined with take-up of the South East Shared Services e-Sourcing Portal should better address concerns that SME's might not be considered (please see paragraphs 34-36).

Barriers to working for the Council

22. It was noted that there are sometimes obstacles that deter small and medium size organisations from submitting an interest to work for the Council, for example, detailed questionnaires. Officers are mindful that they should identify blocks and engage with businesses to remove barriers.

Apprenticeships and local labour

23. Hastings Borough Council is committed to developing its workforce through a variety of methods, including apprenticeships and wants to be seen as a role model for other employers throughout the town. It has a protocol in place and also supports work placements. The Council also has an Employment Initiatives Co-ordinator that facilitates apprenticeships within the area. The East Sussex Procurement Hub has just facilitated its first apprenticeship through the procurement process for an apprentice surveyor to be employed by the successful contractor.
24. The review team quoted examples of construction projects commissioned by the Council where a large proportion of the labour was brought in from outside the borough. Whilst the level of buildings work procured by the Council has declined over recent years and it is no longer a main force in the construction industry locally, the review team would like to promote inclusion of local labour through procurement wherever appropriate. It is expected that the Public Contracts Regulations 2015 will encourage this when they come into force (please see paragraphs 34-36).

Policy and Regulations

Sustainable Procurement Policy

25. The Sustainable Procurement Policy was approved by Cabinet on 9 June 2008. It is recognised that there have been changes in consumerism and in the market place, for example, it has just become as economical to purchase green electricity in certain cases as it is for ordinary electricity whereas green electricity was always more expensive just a year ago.
26. Other new areas that have emerged since 2008 include 'social inclusion' and 'living wage' which are absent from the Sustainable Procurement Policy.
27. It is therefore appropriate to update the Sustainable Procurement Policy so that social value at all levels of procurement is embedded.

Recommendation 1

That the Sustainable Procurement Policy is updated and submitted to Cabinet for approval.

Transparency

28. An independent internal review has been carried out to assess whether the Council is compliant with the Local Government Transparency Code 2014 procurement requirements.
29. Members would like assurance that the Council deals with organisations with similar ethical standards as its own, in particular, it would like there to be additional transparency over social value through procurement than is contained in the Local Government Transparency Code 2014.
30. The Public Social Value Act 2012 requires Hastings Borough Council to demonstrate social value in all contracts greater in value than £50,000. Hastings Borough Council does not have many contracts in excess of £50,000 but the East Sussex Procurement Hub demonstrated to the review team examples of where social value had been obtained.
31. The East Sussex Procurement Hub produces an annual procurement programme for internal use. This programme contains details about the larger procurement activities scheduled (Appendix B).
32. The East Sussex Procurement Hub is in the process of introducing a Procurement Initiation Document for completion by Officers for contracts over £5,000. It is a template document containing useful details (including evidence of providing social value) at the outset of a procurement exercise.
33. Members could draw from the annual procurement programme and satisfy themselves that social value has been included in the procurement process by reference to the procurement initiation document for those contracts of interest.

Recommendation 2

That procedures are embedded to readily assist transparency of social value built into procurement through the procurement initiation document template

Public Contracts Regulations 2015

34. The Cabinet Office is moving to finalise the Public Contracts Regulations 2015 with the aim of them coming into force in spring 2015. In practice, this will require completion of the parliamentary procedure before the pre-election dissolution of parliament on 30 March 2015.
35. One of the main objectives of the Public Contract Regulations 2015 was to make public contracts open to more suppliers.
36. There are a number of areas where officers will need to be trained in order for the Council to comply with the new regulations. Fundamentally, this will involve opening up opportunities for SME's. However, for the training to be effective, it will need to be provided close to when the Public Contracts Regulations 2015 become statutory.

Recommendation 3

That Overview & Scrutiny Committee are informed when the training on Public Contracts Regulations 2015 has been delivered.

Contract Management

37. The Environment and Natural Resources Manager and Grounds Maintenance Contract Monitoring Manager gave a PowerPoint presentation to the review team on monitoring the grounds maintenance contract and the Head of Environmental Services gave a comprehensive verbal account of how the Waste Management and Recycling Contract is managed.
38. Both contracts led to significant financial savings and had august governance arrangements in place.
39. The Grounds Maintenance Contract is a partnership between Hastings Borough Council (lead authority), Rother District Council, Amicus Horizon Housing Association and The Landscape Group, and the Waste and Recycling Contract is a partnership between Rother District Council (lead authority), Eastbourne Borough Council, Wealden District Council, Hastings Borough Council and Kier Services Ltd.
40. This partnership working with more than one external partner is still relatively new to the Council. A key feature is that performance of the contracts is now outcomes based rather than measured by outputs. The Council is realising the added value the contractor can make when incentivised through partnership working.
41. It is an aspiration that stakeholders will be able to have an input to contract monitoring of the Grounds Maintenance Contract once elementary training can be given and the scheme piloted.

42. Partnership working has also led to new unforeseen challenges that are being resolved, for example, we did not expect the Waste and Recycling contract to become so reliant on unsupervised agency labour and so we are looking to cap the level of agency staff that future firms contracting with the Council might use. The underlying performance for street cleanliness, however, has been quoted as being some of the best it has been for 6 years.

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**Wards Affected**

None

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**Area(s) Affected**

None

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**Policy Implications**

Please identify if this report contains any implications for the following:

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|---------------------------------------|-----|
| Equalities and Community Cohesiveness | No  |
| Crime and Fear of Crime (Section 17)  | No  |
| Risk Management                       | No  |
| Environmental Issues                  | No  |
| Economic/Financial Implications       | Yes |
| Human Rights Act                      | No  |
| Organisational Consequences           | No  |
| Local People's Views                  | No  |

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**Background Information**

Appendix A - Significant Contracts Schedule  
Appendix B - East Sussex Procurement Hub Work Programme 2014/15

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