

Argyll and Bute Council
Internal Audit Report
February 2020
FINAL

Procurement Strategy

Audit Opinion: High

	High	Medium	Low	VFM
Number of Findings	0	0	0	0

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1. Executive Summary

Introduction

1. As part of the 2022/23 internal audit plan, approved by the Audit & Scrutiny Committee in March 2022, we have undertaken an audit of Argyll and Bute Council's (the Council) system of internal control and governance in relation to the Procurement Strategy.
2. The audit was conducted in accordance with the Public Sector Internal Audit Standards (PSIAS) with our conclusions based on discussions with council officers and the information available at the time the fieldwork was performed. The findings outlined in this report are only those which have come to our attention during the course of our normal audit work and are not necessarily all the issues which may exist. We have not identified any actions to strengthen internal control, however, it is the responsibility of management to determine the extent of the internal control system appropriate to the Council.
3. The contents of this report have been agreed with the appropriate council officers to confirm factual accuracy and appreciation is due for the cooperation and assistance received from all officers over the course of the audit.

Background

4. Good procurement is vitally important to public services, businesses and communities to enable delivery of sustainable economic growth and achieve strategic objectives.
5. Scottish Government is responsible for developing public procurement policy and legislation in Scotland, as well as setting up contracts and framework agreements for themselves and the wider public sector. In partnership with Scottish Government, Scottish public sector organisations work together to ensure public procurement is subject to continuous improvement and delivers value for money.
6. Legislation governs how Scottish public bodies, including the Scottish Government, buy their goods, services and works. The Procurement Reform (Scotland) Act 2014 (The Act) built on the work achieved in the previous reform of public procurement following the 2006 McClelland review, providing direction to public bodies and setting out procurement responsibilities and accountabilities. The Act applies consistent rules to public contracts, therefore simplifying and streamlining the procurement process for contracting authorities.
7. Alongside the Act are regulations to ensure that public purchases are made in a transparent and fair manner. This is to achieve efficiency in public spending while facilitating the participations of small and medium-sized enterprises (SMEs), third sector bodies and supported businesses. These regulations are:
 - The Public Contracts (Scotland) Regulations 2015
 - The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020
 - The Utilities Contracts (Scotland) Regulations 2016
 - The Concessions Contracts (Scotland) Regulations 2016
 - The Procurement (Scotland) Regulations 2016
8. The Act requires all contracting authorities with significant procurement expenditure in the next financial year to publish a procurement strategy setting out how they intend to carry out

regulated procurements, or review the current strategy and make appropriate revisions. This strategy sets out how the Council intends to ensure that its procurement activity complies with legislation and Council plans and policies, achieves value for money and contributes towards both national and local outcomes and improvements.

9. The Act further requires all contracting authorities obliged to publish a Procurement Strategy, and also publish an Annual Procurement Report indicating its performance as soon as reasonably practicable after the end of its financial year.
10. The Council's Procurement Strategy and Annual Procurement Report is prepared by the Procurement, Commercial and Contract Management Team (PCCMT) who work with the council services and suppliers to develop contracts and procedures that deliver best Value. The team is responsible for the purchasing of goods and services for all council departments and developing procurement processes, procedures, strategies and policies in line with national best practice.

Scope

11. The scope of the audit was to review process in place in terms of the procurement strategy and annual procurement report to ensure compliance with statutory requirements as outlined in the Terms of Reference agreed with the Head of Legal and Regulatory Services on 5 September 2022.

Risks

12. The risks considered throughout the audit were:
 - Audit Risk 1: Failure to comply with legislative and regulatory requirements
 - Audit Risk 2: Failure to comply with Council Standing Orders, policies and procedures
 - Audit Risk 3: Published annual performance information is inaccurate or incomplete

Audit Opinion

13. We provide an overall audit opinion for all the audits we conduct. This is based on our judgement on the level of assurance which we can take over the established internal controls, governance and management of risk as evidenced by our audit work. Full details of the five possible categories of audit opinion is provided in Appendix 1 to this report.
14. Our overall audit opinion for this audit is that we can take a high level of assurance. This means that internal control, governance and the management of risk are at a high standard. Only marginal elements of residual risk have been identified with these either being accepted or dealt with. A sound system of control designed to achieve the system objectives is in place and being applied consistently.

Recommendations

15. We have not identified any recommendations as a result of this audit.
16. Full details of the audit findings can be found in Section 3 of this report.

2. Objectives and Summary Assessment

17. Exhibit 1 sets out the control objectives identified during the planning phase of the audit and our assessment against each objective.

Exhibit 1 – Summary Assessment of Control Objectives

	Control Objective	Link to Risk	Assessment	Summary Conclusion
1	The Council's Procurement Strategy is compliant with The Procurement Reform (Scotland) Act 2014 and associated regulations.	Audit Risk 1	High	A Procurement Strategy and Sustainable Procurement Policy has been prepared, appropriately approved and published on the Council's website for the period 2022/25. This Strategy contains all of the mandatory elements in compliance with the requirements of the Act. A sample of frameworks belonging to other organisations and of contracts entered into by the Council were reviewed and found to conform to the requirements of the Strategy and therefore the Act.
2	The Council's Procurement Strategy is compliant with the Council's policies, plans, aims and objectives.	Audit Risk 2	High	The Strategy takes cognisance of the content of Council documents and contributes towards achieving local and national outcomes. Consultation took place when developing the new strategy and changes were made as a result. The PCCMT are appropriately trained to undertake procurement duties and those purchasing goods and services in other business areas of the Council have access to the Procurement Manual, e-learning resources and support from the PCCMT.
3	The Annual Procurement Report incorporates all of the mandatory statutory elements and information provided is complete and accurate.	Audit Risk 1 Audit Risk 2 Audit Risk 3	High	The Annual Procurement Report 2021/22 was prepared and submitted to senior management for review and subsequently published. The report contains the necessary information in compliance with the Act and statistics reported were found to be an accurate reflection of performance achieved.

18. Further details of our conclusions against each control objective can be found in Section 3 of this report.

3. Detailed Findings

The Council's Procurement Strategy is compliant with The Procurement Reform (Scotland) Act 2014 and associated regulations

19. A Procurement Strategy has been prepared for the period 2022/25, it was formally reviewed and approved by the Policy and Resources Committee in December 2021 and by the full Council in February 2022. The Strategy was subsequently published on the Council's website and Scottish Government promptly notified of the publication and provided with a link to review the contents.
20. The mandatory elements as required by the Act are set out in a table within the Strategy and the Council's responses and associated strategy content detailed alongside.
21. The Strategy sets out how the Council intends to carry out regulated procurements in the overview and is reinforced throughout the remainder of the document. There is also provision for an annual review to ensure alignment with broader priorities.
22. The Strategy states that the Council's procurement spend was £140m during the year 2020/21, contributing to an annual spend of £12.6b across the public sector in Scotland. This would imply that the Council is expected to spend in excess of the £5m threshold in regulated procurements each year.
23. National and local policies and priorities are reflected throughout the strategy via reference to the Council's Corporate Plan and Outcome Improvement Plan which are directly linked to National Policy Priorities. Further outcomes are referenced throughout the strategy including those related to food procurement, sustainability, equalities, best value and community benefit.
24. Value for Money (VFM) is a key strategic procurement objective and the term is referenced throughout in support of the overarching aims of the strategy which are to:
 - support the Council achieve budget savings targets
 - work closer with client department to better understand needs
 - identify opportunities to reduce expenditure
 - control demand
 - improve process efficiencies and
 - to work more collaboratively with other public sector organisations to support community wealth building across the Council area.
25. The requirement for equalities and diversity including fair work first principles and practices are referenced throughout the strategy with links provided to the relevant legislation. This helps to ensure there is no intentional discrimination against specific groups of people when undertaking procurements.
26. Transparency is achieved through compliance with the Council's standing orders, the Act and other statutory guidance, the Strategy also explains that the Council engages with the Supplier Development Programme to understand organisational needs and share the Council's procurement work plan. Prior Information Notices (PINs) will be published on Public Contracts Scotland for all regulated procurements throughout 2022-2025 and consideration is given within the initial Commodity Sourcing Strategy to lotting all regulated contracts.

27. The Council is committed to long-term economic, social and environmental sustainability which is clearly evidenced throughout the Strategy and augmented in the appended Sustainable Procurement Policy.
28. Community wealth building and community benefits are key aims within the Strategy. The requirement to achieve community benefits for all procurement exercises above £100k for goods and services and £2m for works is acknowledged along with the associated reporting requirements and links to further information.
29. The need for relevant and proportionate consulting and engagement with appropriate stakeholder groups is noted within the Strategy. The key stakeholder groups have been identified along with the approval and publication requirements.
30. Promotion of the living wage and wider fair work first practices is a strategic aim and is also outlined within the table of mandatory requirements. There is further acknowledgement of the requirement throughout the Strategy and advises that further guidance can be obtained from Scottish Government.
31. Health and safety considerations within the workforce, for clients and throughout the supply-chain are acknowledged and specifically referenced within the procurement principles and the table of mandatory requirements along with the legislation that is required to be complied with. A link is also provided to the Council's corporate health and safety policy.
32. Also included within the table of mandatory requirements and as a priority within the Sustainable Procurement Policy is the need to source goods and services fairly and ethically. There is further acknowledgement of this throughout the Strategy and particular reference is made to the completion of a Commodity Sourcing Strategy in preparation for a procurement exercise which considers fair and ethical trade.
33. Health, wellbeing and education of communities is implied throughout the Strategy and specifically stated within the table of mandatory requirements where food procurement is concerned. The requirement to maintain animal welfare in the food supply chain is also included in this table and within the appended sustainable procurement policy.
34. The Strategy states that prompt payment clauses requiring a 30 day payment term are embedded within contractual terms and conditions and this should also apply to contractors when paying sub-contractors who are delivering and supporting Council contracts. This does not extend to sub-contractors paying sub-contractors but this would be outwith the control of the Council staff to monitor.
35. The contract register published on the Council's website shows that we also purchase from contracts created by other organisations/collaborations such as Scotland Excel, Scottish Government, NHS and other Local Authorities in Scotland. A sample of four strategies prepared by these other organisations was selected for review to ensure they were also compliant with the Act. All four were found to be largely compliant with only minor omissions noted. All Scottish public sector procurement strategies are reviewed by Scottish Government upon publication and subsequently amended where necessary. It is therefore appropriate for the Council to purchase from the contract frameworks agreed by these organisations.
36. A sample of four recent contracts entered into by the Council were selected for review to determine if they were compliant with the content of the Strategy and these were found to be satisfactory.

37. As part of their day to day work, the PCCMT will monitor off-contract spend and take action where relevant. Where purchases are found to be incorrectly recorded as non-contracted spend, the records will be updated for future reference to show that such spend is in fact part of a contract or framework. Where significant spend with a non-contracted supplier is identified, the PCCMT will contact the Council service responsible for the purchases and advise that a contract should be put in place.
38. Single source suppliers may be contracted using the “Justification for Non-Competitive Action” (JNCA) process in accordance with supplementary guidance. This guidance clearly states the circumstances where competitive action may not be required and this includes where there is only one possible supplier. At the time of review, there were 168 JNCAs recorded for the year 2022/23 and each contained an appropriate reason for using this process, the most common being due to single supplier, additional purchase from existing supplier for consistency or urgent purchase.
39. The Strategy informs the reader that other relevant regulations should also be complied with when undertaking procurement exercises.

[The Council’s Procurement Strategy is compliant with the Council’s policies, plans, aims and objectives](#)

40. The Strategy takes cognisance of the directions set out in formal Council documents including the Council Constitution, Corporate Plan, Outcome Improvement Plan and Procurement Manual. Elements within these documents direct the reader to comply with content such as the financial and security regulations and contract standing orders.
41. The six outcomes from the Outcome Improvement Plan are quoted within the Strategy including detailed explanations of how the associated aims and objectives will be addressed. An action plan has been prepared with performance measures put in place to monitor progress.
42. There is frequent reference to the community demonstrating a clear understanding of the challenges faced across the Council area as well the benefits of being a rural authority. The long-term outcomes are addressed throughout the Strategy and acknowledgement is made of the requirements for equality, engagement, supplier empowerment, resources, partnership working and overarching governance frameworks.
43. Consultation on the revised Strategy took place in November 2021 and was open to all members of the public to provide commentary. The consultation report advised that a total of 47 responses were received from both the public and from Council employees resulting in some changes being made to the Strategy prior to publication.
44. The Procurement Manual was last updated in August 2022 and is available to view on the Council’s website. The manual takes cognisance of the content of the Strategy in terms of contributing to Council objectives, meeting best value requirements, compliance with relevant legislation and ensuring that sustainability is considered at operational level when carrying out procurement activity.
45. The PCCMT consists of 18 members of staff, 12 of whom are members of professional bodies and 4 studying towards membership. The PCCMT have also completed a range of learning modules delivered both in-house and externally to keep up to date with current practices and ensure compliance with the legislative requirements as set out within the Strategy.

46. Council staff outwith the PCCMT who are required to purchase goods or services as part of their duties have access to the Procurement Manual and a range of e-learning modules on the Council's e-Learning platform LEON. These are comprehensive resources that carefully guide the user through various stages of procurement. Additional specific guidance is available on the Council's intranet site, the Hub, for members and employees and includes links to further information. The PCCMT can also be contacted to provide advice and support when required.

[The Annual Procurement Report incorporates all of the mandatory statutory elements and information provided is complete and accurate](#)

47. The Annual Procurement Report for 2021/22 was submitted to both Department Management Team and Executive Leadership Team in July 2022 prior to publishing on the Council's website for members of the public to view. Scottish Government have been advised of this publication and provided with a link to review the content.

48. The report contains the necessary information to ensure compliance with the Act including:

- Summary of regulated procurements completed during 2021/22
- Review of compliance with 2021/22 Procurement Strategy
- Identifies areas for improvement
- Number of regulated procurements that did not comply with the Strategy (none)
- Number of community benefits achieved within contracts awarded (19)
- Summary of supported businesses including steps taken to facilitate their involvement
- Details on 57 regulated procurements expected to commence over the next two financial years
- Statistical analysis of procurement activity

49. The statistics provided in the executive summary of the annual report were reviewed and verified using information extracted from the systems maintained by the PCCMT. These are as follows:

Executive Summary Statistics

£171.4m Total Spend	£158.8m Estimated Procurement- related Spend	£144.5m Contracted Spend
1635 Total Suppliers		82,909 Invoices processed
£97,120 Average spend per supplier	1,305 SME Suppliers	£109.6m SME Spend

Summary of Regulated Procurements Completed

	Open Procedure (Single Stage)	Restricted Procedure (Dual Stage)	Quick Quote	Framework/ Call-off/ Mini Comp	Light Touch Regime	Direct Award	Total
Supplies	1	0	1	15	0	1	18
Services	5	1	0	6	9	3	24
Works	2	0	0	1	0	0	3
Total	8	1	1	22	9	4	45

Total estimated value of completed regulated procurements	£38.4m
Total estimated procurement revenue savings to be delivered from the contracts placed (identified at Contract Award)	£0.021m
Total estimated revenue procurement benefits to be delivered from the contracts placed (identified at Contract Award)	£0.024m
Average number of bids received (for Open/Restricted)	4.9
% of contracts awarded to SMEs during the reporting period	75.6%
Average processing time for a procurement exercise (from procurement start date to date of award) in weeks	19.5
Number of collaborative contracts let in cooperation with other organisations	22

Appendix 1 – Audit Opinion

Level of Assurance	Definition
High	Internal control, governance and the management of risk are at a high standard. Only marginal elements of residual risk have been identified with these either being accepted or dealt with. A sound system of control designed to achieve the system objectives is in place and being applied consistently.
Substantial	Internal control, governance and the management of risk is sound. However, there are minor areas of weakness which put some system objectives at risk and specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.
Reasonable	Internal control, governance and the management of risk are broadly reliable. However, whilst not displaying a general trend, there are areas of concern which have been identified where elements of residual risk or weakness may put some of the system objectives at risk.
Limited	Internal control, governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and placing system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
No Assurance	Internal control, governance and the management of risk is poor. Significant residual risk and/or significant non-compliance with basic controls exists leaving the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.