

Final Internal Audit Report

PMI General Building Works Contract

December 2019

Distribution:

- Executive Director of Place (Final Only)
- Director Council Homes District and Regeneration
- Head of Capital Delivery for Homes and Schools
- Contracts Manager

Assurance Level	Issues Identified	
Limited Assurance	Priority 1	3
	Priority 2	0
	Priority 3	3

Confidentiality and Disclosure Clause

This report ("Report") was prepared by Mazars LLP at the request of London Borough of Croydon and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

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Please refer to the Statement of Responsibility in Appendix 3 of this report for further information about responsibilities, limitations and confidentiality.

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1. Introduction

- 1.1 As part of Croydon's vision to become an enterprising; caring; sustainable and learning city, it was agreed that the Council would need to continue to maintain and improve its housing stock.
- 1.2 In March 2014, the Contracts Commissioning Board (CCB) approved a strategy to commence an EU procurement process for Lots 1-5 of the PMI (Preventative Maintenance Inspection) programme (General Building Works; Mechanical; Electrical; Windows and Lifts). It was decided to award a long term partnering contract to enable the Council to deliver General Building Work for the maintenance and improvement of its housing stock for an initial period of 5 years with options to extend up to a maximum period of 14 years '(5+3+3+1+1+1)' and a maximum annual value of £15m. Other areas of the Council will also be able to use the service being procured.
- 1.3 An OJEU Notice was issued in October 2014. The works were also advertised on the Council website and through the London Tenders Portal. Twelve responses to the Pre-qualification questionnaire (PQQ) were received. The PQQ stage ensures that only bidders who have the financial strength, capacity and similar experience are put forward to the next stage. The PMI Project Board considered the Pre-qualification Questionnaire outcome report reflecting the overall result of the PQQ evaluations and agreed to proceed to the Invitation to Submit a Solution (ISS)/Invitation to Submit a Final Tender (ISFT) stage with the top five highest scoring candidates. Following the evaluation of the final tender submissions, the scores are given in the table below, with Bidder A recommended as offering the most economically advantageous tender.

Bidder	Quality Score	Price Score	Overall Score	Rank
A	46.6	35.7	82.3	1
B	43.1	35.5	78.6	2
C	38.6	33.0	71.6	3
D	33.6	32.7	66.3	4
E	26.5	31.5	58.0	5

- 1.4 The contract was subsequently awarded to Mulalley & Co (Bidder A) on 19 September 2016 by Cabinet and commenced service provision on 01 April 2017.

2. Key Issues

Priority 1 Issues

The PMI contract has not been financially managed in accordance with the contractual provisions for quarterly KPI reporting and the service delivery aspirations for at least three years. Management resolution of the data issues, meaningful and calculable KPI substitutions, and evidence based variable profit calculations remains outstanding. **(Issue 1)**

We were informed that the Core/Commercial/Partnering meetings as originally envisaged have been restructured. These changing terms of reference and arrangements have not been formalised via a contract variation or other mechanism leaving the governance arrangements undefined three years into the contract. Partnering Team meetings have been held irregularly but evidence of Commercial and Core Group meetings was not provided. **(Issue 2)**

Whilst there is a standing agenda item to discuss 'Capital Delivery Highlight Reports' at the Housing Assets Capital Investment Board, the minutes for June 2019 noted, 'No highlight reports provided at this time.' and the minutes for July 2019 noted, 'No highlight reports provided at this time.' Although a detailed works forecast spreadsheet exists and an example was provided, there is no evidence that this or any other budgetary control report is being used to monitor the budget position by senior management on a systematic basis. **(Issue 3)**

Priority 3 issues are included under item 4 below.

3. Actions and Key Findings/Rationale

<u>Control Area 6: Payments</u>	
Priority	Action Proposed by Management
1	<p>A revised KPI suite has been agreed with the Service provider that provides a suite of KPIs that can be measured under the current arrangements. These will be used as the basis for calculation of Variable Profit in 2019/20 and moving forward will be agreed on an annual basis. The change to the KPI suite will be formally agreed by the Core Group in accordance with the Contract.</p>
	<p>Detailed Finding/Rationale – Issue 1</p> <p>The TPC2005 contract with Mulalley and Co. Limited details that, 'The amount of Variable Profit that the Client will pay to the Service Provider will be calculated in accordance with the KPI Handbook and Price Framework and shall become due no more often than quarterly, in accordance with the KPI review provisions in the KPI Handbook and the Price Framework. The Variable Profit for each quarter shall become due when the Core Group have agreed the scores for the relevant KPIs'.</p> <p>We were informed at the exit meeting that the Variable Profit Calculation had not been undertaken for 2016/17, 2017/18 or 2018/19 due to inadequacies in capturing the relevant data in the WOPM system with which to calculate the relevant KPIs.</p> <p>Post Exit Meeting, in respect of the 2016/17 financial year, we were provided with email evidence that the Housing Assets Capital Programme Board had approved a negotiated settlement of £75K in respect of the Variable Profit that could be paid under the contract terms.</p> <p>In respect of the 2017/18 financial year's agreement, we were informed that, 'The problems encountered during 2016/17 continued through 2017/18 and 2018/19 and payments have been based on a negotiated basis. While systematic measurement of MCL's performance has not taken place during the first 3 years aspects have been measured such as Social Value outputs and Customer Satisfaction albeit on an Ad Hoc basis.'</p> <p>We were also provided with the Housing Assets Capital Programme Board minutes of 20 September 2018, minute 5b.2 noting that, "'Mulalley - 17/18 - Variable profit of £118,488.08 claimed, £59,244.04 will be proposed to Mulalley by PG." Mulalley have come back with a counter offer. PG to agree with SU. To be agreed with contractor 24/9/18'.</p>

	<p>A subsequent Housing Assets Capital Investment Board Financial Report dated 9 November 2018 for presentation at the meeting of 15 November 2018 notes that, 'John asked to provide KPI evidence for 17/18 variable profit. Once determined, additional budget will need to be agreed as this was not included in the current financial year's allocation.' This confirms the negotiated stance taken for 2017/18.</p> <p>In respect of the 2018/19 financial year's settlement, no further evidence was provided.</p> <p>For the 2019/20 financial year, we were informed that, 'To address the issues from previous years and reflect the Council's changing priorities it was agreed in late FY 2018/19 to review and simplify the KPI suite and base future VP recovery on these measures. The measures are simple and will generate enable VP to be paid at Year end (May 2020)'.</p> <p>The contract has therefore not been financially managed in accordance with the contractual provisions for quarterly KPI reporting and the service delivery aspirations for some three years. Management resolution of the data issues, meaningful and calculable KPI substitutions, and evidence based variable profit calculations remains outstanding.</p>
<p>Responsible officer</p> <p>Contract Manager</p>	<p>Deadline</p> <p>30/11/19</p>

Control Area 7: <u>Contract Performance Monitoring, Management Reporting and Performance Management</u>					
Priority	Action Proposed by Management				
1	<p>Core Group Meetings will be held on a quarterly basis going forward with monthly Commercial and Partnering Team Meeting. We will issue revised Terms of Reference for each meeting including attendees and formalise this.</p>				
	<p>Detailed Finding/Rationale – Issue 2</p> <p>Volume A General Requirements of the Term Brief notes various requirements concerning the roles, responsibilities, frequencies of and attendees at Partnering Team, Commercial Group and Core Group meetings.</p> <p>We were informed that the Core/Commercial/Partnering meetings as originally envisaged have been reduced due to it being realised that the same people were attending the meetings which was wasting officers' time. We were also informed that the attendee requirements have been refined and each group now discusses what is relevant to it and only escalate those matters that require it.</p> <p>These changing terms of reference and arrangements have not been formalised via a contract variation or other mechanism leaving the governance arrangements undefined three years into the contract. Partnering Team meetings have been held irregularly and we were not provided with any evidence of Commercial and Core Group meetings.</p> <p>There is a risk of sub optimal contract management arrangements.</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Contract Manager</td> <td>05/12/19</td> </tr> </tbody> </table>	Responsible officer	Deadline	Contract Manager	05/12/19
Responsible officer	Deadline				
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Control Area 8: Budgetary control

Priority		Action Proposed by Management	Detailed Finding/Rationale – Issue 3
1	The detailed works forecast spreadsheet is the primary tool for managing the budget. This will be attached to (and part of) the Commercial Group minutes and used as the tracker for expenditure and projections going forward. The standing agenda item in the Housing Assets Capital Programme Board will be amended to 'Review of Capital Delivery Forecast spreadsheet'	Post exit meeting we were provided with an example of the dashboard spreadsheet that is presented to the Housing Assets Capital Programme Board. This shows expenditure to date, the budget, a projected out turn and the variance for each of the budgets controlled by the Board. We were provided with the last two meeting minutes of the Housing Assets Capital Programme Board (June and July 2019). Whilst there is a standing agenda item to discuss 'Capital Delivery Highlight Reports', the minutes for June noted, 'No highlight reports provided at this time.' and the minutes for July noted, 'No highlight reports provided at this time.' Although a detailed works forecast spreadsheet exists and an example was provided, there is no evidence that this or any other budgetary control report is being used to monitor the budget position by senior management on a systematic basis. There is a risk of ineffective budgetary control.	
Responsible officer		Deadline	
Contract Manager		30/11/19	

4. Priority 3 Issues

Action Proposed by Management	Findings
<p>a) Going forward all applications for payment will be reviewed by the project team within seven days and recorded on the WOPM/CoPs systems which are the Councils payment portals.</p>	<p>The contractor is required to provide to the Council an 'Application for Payment' detailing the work and quantities completed. In one case out of ten tested, we were not provided with the original Contractor's Application for Payment (reference Order No BW N907 BW). There is a risk of invalid and/or inaccurate payment being made.</p>
<p>b) We will include within the standing Agenda for Partnering Team Meetings 'Croydon Complaints' which will include complaints from residents, councillors and the like. Complaints received directly by Mulailey will be forwarded on to the Councils contract manager and head of service to ensure timely responses and lessons learnt are captured within KPI's.</p>	<p>Monitoring and reporting on the level of complaints received and their satisfactory resolution helps provide assurance over service delivery. We were provided with minutes of the Partnering Meetings of 16 April and 23 July 2019 produced by Mulailey & Co. These have a standing agenda item for Customer Liaison and Customer Satisfaction. Review of the minutes suggests they are operational 'issues' as opposed to formal complaints although one is listed as a complaint about noise. There does not appear to be any overlap with Mulailey's formal complaints log. However, there is no standing agenda item that deals with formal complaints originating via either the Council's or Mulailey's channels. As the two complaints registers are not merged, there is no overall sense of the level or types of complaints being experienced. There is a risk that complaints may not be progressed in accordance with the Council's published standards.</p>
<p>c) The few number of complaints have emerged that have required a multi department response and this has taken time to gather and respond. Where the complaints are solely relevant to the PMI contract the contracts manager has instructed the council's agents to investigate the complaint (where relevant to quality or workmanship) which has then been forwarded to the contractor to address and resolve. This has elongated the time to review and complete the process given</p>	<p>The Council's complaints policy notes for 'Stage one complaints' that, <i>'3.6.2 The maximum amount of time given for responding to a stage one complaint is 20 working days. If the complaint cannot be resolved on the spot, then the service must acknowledge the complaint within five working days and resolve to deal with the complaint in the remaining time left.'</i> <i>3.6.3 All services should aim to resolve and respond much quicker than the 20 working days, and as often as possible resolve on the spot.'</i> We were provided with corporately produced outstanding caseload logs and noted: • 'overdue' case number CAS 81887 T1B6S3 dated 17 July 2019 in the 'CRM365 Weekly Complaints Report 23.09.2019 Cllr', and</p>

current resource levels but will improve in the new year as additional resources are added to the team.

- 'overdue' case number CAS 79750 Y5W9Z3 dated 22 July 2019 in the 'CRM365 Weekly Complaints Report 23.09.2019 S1'.

We were also provided with an update email on 7 October listing those complaints overdue at Wednesday 27 September (the date of the exit meeting) informing us that they had been closed as at Friday 4 October 2019.

'Overdue' case number CAS 81887 T1B6S3 dated 17 July 2019 is not included on this list produced after 56 working days but had taken a minimum of 46 days to resolve. It is unclear that this relates to the GBW contract though.

The updated list provided lists case number, CAS 79750 Y5W9Z3 dated 22 July 2019 from above. This has taken 53 days to resolve.

Whilst the number of complaints is low, they are not being dealt with in accordance with the Council's published standards for timeliness.

There is a risk that complaints may not be progressed in accordance with the Council's published standards.

TERMS OF REFERENCE

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- 1.1 As part of Croydon's vision to become an enterprising; caring; sustainable and learning city, it was agreed that the Council would need to continue to maintain and improve its housing stock. In March 2014, CCB approved the strategy to commence the EU procurement process for Lots 1-5 of the PMI programme (General Building Works; Mechanical; Electrical; Windows and Lifts). It was decided to award a long term partnering contract to enable the Council to deliver General Building Work for the maintenance and improvement of its housing stock for an initial period of 5 years with options to extend up to a maximum period of 14 years '(5+3+3+1+1+1)' and a maximum annual value of £15m. Other areas of the Council will also be able to use the service being procured.
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2. OBJECTIVES AND METHODOLOGY

- 2.1 The overall audit objective is to provide an objective independent opinion on the adequacy and effectiveness of controls / processes.
- 2.2 The audit will for each controls / process being considered:
- Walkthrough the processes to consider the key controls;
 - Conduct sample testing of the identified key controls, and
 - Report on these accordingly.

3. SCOPE





3.1 The audit included the following areas:

Control Areas/Risks	Recommendations Made		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Procurement (Assessing Value for Money);	0	0	0
Contracts and Variations to Contracts;	0	0	0
Instructing/Ordering of Services/Goods/Works;	0	0	0
Quality Control (including receipting of services provided);	0	0	1
Complaints, Deficiencies in Provision, Rectification and Default;	0	0	2
Payments;	1	0	0
Contract Performance Monitoring; Management Reporting and Performance Reporting (including Social Value);	1	0	0
Budgetary Control;	1	0	0
Total	3	0	3

DEFINITIONS FOR AUDIT OPINIONS AND IDENTIFIED ISSUES

In order to assist management in using our reports:

We categorise our **audit assurance opinion** according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	There is a sound system of control designed to achieve the system objectives and the controls are consistently applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses in the design or level of non-compliance which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and/or non-compliance that puts achieving the system objectives at risk.
	No Assurance	Controls are non-existent or weak and/or there are high levels of non-compliance, leaving the system open to the high risk of error or abuse which could result in financial loss and/or reputational damage.

Priorities assigned to identified issues are based on the following criteria:

Priority 1 (High)	Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.
Priority 2 (Medium)	Control weakness that represent an exposure to risk and require timely action.
Priority 3 (Low)	Although control weaknesses are considered to be relatively minor and low risk, action to address still provides an opportunity for improvement. May also apply to areas considered to be of best practice.

STATEMENT OF RESPONSIBILITY

We take responsibility to the London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

This report is confidential and must not be disclosed to any third party or reproduced in whole or in part without our prior written consent. To the fullest extent permitted by law Mazars LLP accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the Report, its contents, conclusions, any extract, reinterpretation amendment and/or modification by any third party is entirely at their own risk.

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