

## Final Internal Audit Report

### School Heating Works 2016 – Smitham Primary School, Emitter and Pipework Replacement (Vertical Construction Contract Audit)

May 2018

**Distribution:**

- Executive Director Place (Final only)
- Director of District Centres and Regeneration
- Head of Homes & School Improvements
- Interim Director Commissioning and Procurement
- Head of Commissioning and Improvement (Place and Resources)

Assurance Level	Recommendations Made	
<b>Substantial Assurance</b>	Priority 1	0
	Priority 2	2
	Priority 3	1

#### Status of Our Reports

This report ("Report") was prepared by Mazars Public Sector Internal Audit Ltd 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.

The Report was prepared solely for the use and benefit of London Borough of Croydon and to the fullest extent permitted by law Mazars Public Sector Internal Audit Ltd. 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. Accordingly, any reliance placed on the Report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification by any third party is entirely at their own risk.

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

# Contents

Page

## Executive Summary

1. Introduction.....	2
2. Key Issues.....	2

---

## Detailed Report

3. Actions And Key Findings/Rationale.....	3
3. Priority 3 Issue.....	5

## Appendices

- 1. Terms Of Reference
- 2. Definitions For Audit Opinions And Recommendations
- 3. Statement Of Responsibility

## Executive Summary

### 1. Introduction

- 1.1 As part of the Chapman BDSP Heating Condition Survey dated February 2014, it was identified that Smitham Academy required its boiler and heating system to be replaced with a newer, more efficient system to save costs and improve the standard of heating at the school. To minimise the impact on both the children's education and the annual schools maintenance budget, it was agreed that the works would be split into two phases. The first of which was a boiler replacement due for completion September 2015 and the second phase working on the emitter and pipework replacement due for completion September 2016.
- 1.2 This audit focused on phase two of the works and the procurement and awarding of the contract to BSW Heating Ltd. Five suppliers were selected from Constructionline and the Invitation to Tender (ITT) documentation was issued on 14 March 2016. BSW Heating Ltd was the only tender response received by the deadline date of 8 April 2016.
- 1.3 A JCT Intermediate minor works agreement between Croydon Council and BSW Heating was entered into on 2 August 2016, possession of the site having been granted on 30 July 2016. Whilst the contract was signed after the possession date, a recommendation has not been raised due to the small span of time the contract was unsigned for.
- 1.4 The physical version of the contract could not initially be provided to us. It wasn't until the exit meeting was held that it was produced.
- 1.5 This audit was undertaken as part of the Internal Audit Plan for 2017/18, as agreed by the Council's General Purposes and Audit Committee.

### 2. Key Issues

#### Priority 2 Issues

We were not provided with any evidence of sufficient expression of interest being sought during the tendering process. **(Issue 1)**

The project over-ran by twelve weeks and three days. No reasoning was provided as to why the project overran and no evidence was provided that a certificate or non-completion was issued or that an extension of time was granted. Furthermore, there was no evidence that Liquidated and Ascertained Damages of £400.00 per week or part thereof equating to £5,040.00 had been deducted from the final payment to the contractor. **(Issue 2)**

The Priority 3 issue is included under item 4 below.

3. Actions and Key Findings/Rationale

<b>Control Area 6: Gateway 4 – Commission Decision</b>		<b>Detailed Finding/Rational – Issue 1</b>
<b>Priority</b>	<b>Action Proposed by Management</b>	
2	<p>Usual practice is to retain evidence of the method for selecting contractors from Constructionline. Furthermore, the Council routinely conducts prior engagement with the shortlisted contractors to ensure sufficient market interest in the opportunity and appropriate capacity to both respond to the tender and deliver the requirements of the contract to the project timescales. Unfortunately on this occasion, only one tender was received and the appropriate documentation evidencing that this process was followed has not been retained and appropriately stored.</p> <p>Going forward, such evidence will routinely be retained and stored on the Council's e-tendering portal as part of the project file to ensure it is properly documented.</p> <p>Furthermore, Council officers have been reminded of the necessary process and written guidance will be issued to support compliance.</p>	<p>In the absence of open advertising or use of the random selection facility in the Constructionline portal, then evidencing the method and selection of contractors to the long list, and subsequent gauging of their interest prior to forming the short list, helps ensure that transparency and fairness can be demonstrated and that any allegations of fraudulent or corrupt behaviour can be rebutted.</p> <p>We asked for, but were not provided with, any evidence of the process for choosing contractors from Constructionline. There was also no evidence to show that sufficient expressions of interest were gathered prior to the tendering of the works. In the event, only one contractor submitted a tender. Furthermore, we could not be provided with any evidence that where nil responses were received, the reason why was ascertained from the contractors on the short list.</p> <p>There is a risk that an optimal competitive environment may not be established.</p>
<b>Responsible officer</b>		<b>Deadline</b>
Head of Commissioning and Procurement (Place and Resources)		Immediate

<b>Control Area 6: Gateway 13 – Completion/Non-Completion and Extensions of Time</b>	
<b>Priority</b>	<b>Action Proposed by Management</b>
2	<p>The heating works were mostly completed on the completion date with the exception of some elements of pipework insulation, boxing in and making good which were postponed until the next available half term in order not to interfere with the school day to day operation.</p> <p>There was no extension of time claim issued by BSW or non-completion form issued by ourselves as it was agreed by BSW to undertake the remaining elements at no extra cost and the school operation could carry on as normal.</p> <p>However the Council will ensure that in future such agreement is properly documented and formalised.</p>
	<p><b>Detailed Finding/Rational – Issue 2</b></p> <p>Clause 2.22 of the JCT Intermediate Form of Building Contract 2011 states, <i>'If the Contractor fails to complete the Works or a Section by the relevant Completion Date, the Architect / Contract Administrator shall issue a certificate to the effect'. Clause 2.23 makes the issuing of the certificate a condition of being able to deduct liquidated damages for non-completion.</i></p> <p>The contract states that the date for completion of works was to be 2 September 2016, however, the second payment certificate was valued for 30 September 2016, the mechanical defects was inspected 22 November 2016 and the certificate of practical completion was issued for 30 November 2016, some twelve weeks and three days late. No reasoning was provided as to why the project overran and no evidence was provided that a certificate of non-completion was issued or that an extension of time was granted. Furthermore, there was no evidence that Liquidated and Ascertained Damages (LADs) of £400.00 per week or part thereof equating to £5,040.00 had been deducted from the final payment to the contractor.</p> <p>There is a risk that should a contractor later fail to complete on time without an Extension of Time being warranted, that the Employer may be stopped from deducting LADs.</p>
<b>Responsible officer</b>	<b>Deadline</b>
Head of Homes & School Improvements	Immediate

**4. Priority 3 Issue**

<b>Action Proposed by Management</b>	<b>Findings</b>
<p>a) The Council was issued with a copy of the Operation and Maintenance Manual at the time of practical completion. However due to issue with staff turnover the document could not be retrieved. We will improve filling/storage of all O&amp;M manuals to ensure these are readily available for perusal</p>	<p>Holding and referring to Operational and Maintenance (O&amp;M) Manuals helps ensure that only authorised methods of use and maintenance are adhered to and that building and equipment insurances/warranties are not invalidated.</p> <p>We could not initially be provided with a copy of the O&amp;M manual, it having to be obtained from the Contract Administrator (Bianco Sale). This suggests that the School and the Council did not possess their own copies of the manual. Provision of the 'record drawings' and the O&amp;M Manuals was noted as outstanding in the Mechanical Defects Inspection Schedule listing of 22 November 2016.</p> <p>There is a risk that dangerous operational and maintenance practices may evolve at the School and that in the event of an incident, that the School's/local authority's insurances may be invalidated. There is also a risk that the expected useful life of the assets may be shortened invalidating the original value for money assumptions.</p>

## TERMS OF REFERENCE

### School Heating Works 2016 – Smitham Primary School, emitter and Pipework Replacement

#### Vertical Construction Contract Audit

#### 1. INTRODUCTION

- 1.1 The Homes and School Improvements Team had a remit to deliver the 2016/17 Schools Maintenance Plan Programme on behalf of the People Department. The programme was to deliver improvements to school facilities to ensure schools remained open and without serious disruption to the operation of them.
- 1.2 Four schools were included in the procurement, with bidders able to bid for the works contracts on an individual basis, or for all four contracts.
- 1.3 Bianco Sale, M&E Consultants, were appointed to provide estimates for the four sites as noted in the table below.

Project	Estimated Costs
Winterbourne infant school, Boiler Replacement	£120,000
Monks Orchard School, Boiler Replacement	£150,000
St. Giles School, Hot and Cold Water Replacement	£220,000
Smitham School, Emitter and Pipework Replacement	£245,000

Five suppliers were selected from Constructionline and the Invitation to Tender (ITT) documentation for all four projects was issued on 14<sup>th</sup> of March 2016. Only one tender submission was received by the deadline date of 8<sup>th</sup> of April 2016.

No responses were received from the other four suppliers despite pre-tender indications of their interest to bid.

- 1.4 BSW Heating Ltd was awarded the contract for replacement of boilers, heating, hot and cold water services and associated works at the four sites as noted in the table below.

Project	BSW Bid
Winterbourne infant school, Boiler Replacement	£63,826
Monks Orchard School, Boiler Replacement	£73,722
St. Giles School, Hot and Cold Water Replacement	£217,470
Smitham School, Emitter and Pipework Replacement	£219,113

- 1.5 This audit was undertaken as part of the agreed Internal Audit Plan for 2017/18.

#### 2. OBJECTIVES AND METHOD

- 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	Issues Identified		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Gateways 1 and 2 - Pre-project Strategic Assessment and Business Justification (Strategic Outline Case);	0	0	0
Project Governance (including Change Authority);	0	0	0
Gateway Three - Single Option and Approach Approval;	0	0	0
Procurement and Appointment of Consultants;	0	0	0
Project Approach and Brief (Customer Quality Expectations and Acceptance Criteria);	0	0	0
Gateway Four - Commission Decision;	0	1	0
Form of Contract and Contract Conditions;	0	0	0
Development/Detailed Planning and Pre-construction Commercial Arrangements;	0	0	0
Construction (Design and Management) Regulations (CDM Regs);	0	0	0
Project Implementation/Delivery (Logs/Registers/Reports)	0	0	0
Change Controls (variations to contract), Provisional Sums, Contingencies and Other Costs;	0	0	1
Valuations, Interim Payments and Estimates of Final Cost;	0	0	0
Completion/Non-completion and Extensions of Time;	0	1	0
Liquidated and Ascertained Damages (LADs) for Non-completion of Works;	0	0	0
Gateway 5- PC 'Snagging' Items, Post PC Patent Defects and Rectification Period;	0	0	0
Contractual Claims for Loss and Expense; and	0	0	0
Gateway Six - Project Close and Benefits Realisation/Operational Handover (to Business as Usual)	0	0	0
<b>Total</b>	<b>0</b>	<b>2</b>	<b>1</b>



## DEFINITIONS FOR AUDIT OPINIONS AND RECOMMENDATIONS

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 recommendations are based on the following criteria:

<b>Priority 1 (High)</b>	Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.
<b>Priority 2 (Medium)</b>	Control weakness that represent an exposure to risk and require timely action.
<b>Priority 3 (Low)</b>	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 Public Sector Internal Audit Limited 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.

In this document references to Mazars are references to Mazars Public Sector Internal Audit Limited.

Registered office: Tower Bridge House, St Katharine's Way, London E1W 1DD, United Kingdom.  
Registered in England and Wales No 4585162.

Mazars Public Sector Internal Audit Limited is a subsidiary of Mazars LLP. Mazars LLP is the UK firm of Mazars, an international advisory and accountancy group. Mazars LLP is registered by the Institute of Chartered Accountants in England and Wales to carry out company audit work.