

Final Internal Audit Report

Independent Fostering Agencies Framework

Procurement Compliance

November 2017

Distribution: Executive Director Resources (Final only)
 Director of Commissioning , Commercialism and Improvement
 Head of Commissioning and Improvement - Corporate
 Category Manager

Assurance Level	Recommendations Made	
Substantial Assurance	Priority 1	0
	Priority 2	2
	Priority 3	0

Status of Our Reports

This report ('Report') was prepared by Mazars Public Sector Internal Audit Limited at the request of the 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 work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, we 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 the London Borough of Croydon and 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. 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 set out in appendix 3 of this report for further information about responsibilities, limitations and confidentiality.

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1. Introduction

- 1.1 In March 2015, the Council began the re-procurement of its Independent Fostering Agencies Framework. The use of external fostering agencies (in addition to local authority foster carers) enables the Council to discharge its statutory responsibility to provide accommodation for children in its care.
- 1.2 The Framework is comprised of three lots, namely: Lot 1 – Standard Placements; Lot 2 – Specialists, and Lot 3 – Emergency Placements.
- 1.3 The Framework term is three years with the option to renew for an additional year. The estimated value of call-offs from the Framework is £69.9million.
- 1.4 This audit is being undertaken as part of the agreed Internal Audit Plan for 2016/17.

2. Key Issues

- 2.1 The Independent Fostering Agencies Framework had not been advertised through the Government's Contracts Finder service, and is therefore not compliant with the Public Contract Regulations 2015. We were informed that a technical issue with the Council's e-tendering portal, 'Procontract' had prevented procurements from being uploaded and advertised on Contracts Finder automatically. This issue has affected procurements across the Council since summer 2015. The Council has sought advice from the Crown Commercial Service on this matter and will be issuing notices retrospectively. We have not therefore raised a recommendation.
- 2.2 It was also identified that the initial procurement strategy did not include an adequate procurement options appraisal, instead presenting the use of a Framework as a foregone conclusion. We have not raised a recommendation on this occasion as this issue was rectified in an updated procurement strategy report which indicated that a dynamic purchasing system had also been considered.

Priority 2 Issues

The short-form equality analysis form indicated that a full equality analysis may have been required for this procurement, but was not undertaken. **(Rec. 1)**

Two bidders' submissions were accepted, although these were marginally late. The Tenders and Contracts Regulations require that approval from the Head of SCC Resources is sought prior to the inclusion of late bids but evidence of this could not be provided. **(Rec 2)**

3. Actions and Key Findings/Rationale

Control Area 1: Strategic Assessment and Business Justification (Strategic Outline Case)							
Priority	Detailed Finding/Rationale						
2	<p>Section 1.3 of the Equality Impact Analysis form completed in respect of the Independent Fostering Agencies Framework states, "if you answer "yes" or "don't know" to ANY of the questions in section 1.2, you should undertake a full equality analysis. This is because either you already know that your change or review could have a different/significant impact on protected groups (compared to non-protected groups) or because you don't know whether it will (and it might)."</p> <p>Although a Section 1.2 question was answered with a 'yes' it was concluded that a full Equality Impact Analysis was not required, the justification for this decision was not made clear.</p> <p>We acknowledge that the Equality Impact Analysis was provided to the Category Manager by the Equalities team and it was therefore assumed that the form was completed correctly. The Category Manager joined the Council part way through the procurement and would not therefore have been involved in the preparation of the form.</p> <p>There is a risk of non-compliance with the Equalities Act 2010 and the Council's requirements in respect of equality impact assessments.</p>						
Management Response							
Agreed.	<table border="1"> <thead> <tr> <th>Agreed/Disagreed</th> <th>Responsible Officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Agreed.</td> <td>Category Manager</td> <td>Immediately</td> </tr> </tbody> </table>	Agreed/Disagreed	Responsible Officer	Deadline	Agreed.	Category Manager	Immediately
Agreed/Disagreed	Responsible Officer	Deadline					
Agreed.	Category Manager	Immediately					

Control Area 6: Procurement (Assessing Value for Money) and Authorisation to Proceed to Award of Contract (Full Business Case)

Priority	Recommendation 2	Detailed Finding/Rationale						
2	Approval to accept late bids should be sought in writing from the Head of SCC Resources, and retained in procurement project files.	<p>Regulation 25 of the Tenders and Contracts Regulations states, 'Any tender that does not comply with the Council's requirements as set out in the tender invitation e.g. arrives late, should normally be excluded from consideration, with the circumstances recorded on the Council's e-procurement system. Officers may, however, seek the agreement of the Head of SCC Resources to relax these requirements in appropriate circumstances. Any such relaxation shall be identified when seeking any necessary authorities before the acceptance of a tender.' A similar provision was made in the previous version of the Regulations.</p> <p>The deadline for submission of tenders was 12:00 PM on 18 January 2016. Chrysalis Care uploaded their submission at 12:00:01 and Capstone Foster Care Limited uploaded their submission at 12:24:21. Both bidders' submissions were accepted and both were admitted onto the Framework.</p> <p>We were informed that the acceptance of the bids was discussed and authorised by the previous Procurement and Governance Manager. We were provided with relevant correspondence which confirmed this, and that the latter bidder was experiencing technical difficulties when uploading their submission. We could not, however, be provided with evidence that the Head of SCC Resources had authorised the acceptance of the late bids.</p> <p>This represents non-compliance with the Tenders and Contracts Regulations.</p>						
Management Response	I had spoken to the Head of SCC Resources prior to her leaving the Council and she had agreed to send me a statement confirming that she had delegated authority to accept/ open late tenders. Unfortunately, this was not actioned. Written authority will be sought and retained should this happen again.	<table border="1"> <thead> <tr> <th data-bbox="1077 907 1157 1243">Agreed/Disagreed</th> <th data-bbox="1077 481 1157 907">Responsible Officer</th> <th data-bbox="1077 138 1157 481">Deadline</th> </tr> </thead> <tbody> <tr> <td data-bbox="1157 907 1348 1243">Agreed.</td> <td data-bbox="1157 481 1348 907">Category Manager</td> <td data-bbox="1157 138 1348 481">Immediately</td> </tr> </tbody> </table>	Agreed/Disagreed	Responsible Officer	Deadline	Agreed.	Category Manager	Immediately
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TERMS OF REFERENCE

Independent Fostering Agencies Framework

Procurement Compliance

1. INTRODUCTION

- 1.1 In March 2015, the Council began the re-procurement of its Independent Fostering Agencies Framework. The use of external fostering agencies (in addition to local authority foster carers) enables to the Council to discharge its statutory responsibility to provide accommodation for children who are in its care.
- 1.2 The Framework is comprised of three lots, namely: Lot 1 – Standard Placements; Lot 2 – Specialists, and Lot 3 – Emergency Placements.
- 1.3 The Framework term is three years with the option to renew for an additional year. The estimated value of call-offs from the Framework is £69.9million.
- 1.4 This audit is being undertaken as part of the agreed Internal Audit Plan for 2016/17.

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 relating to the Independent Fostering Agencies Framework.
- 2.2 The audit will for each area included in the scope:
 - 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 This audit will examine the Council's arrangements for the following areas relating to the Independent Fostering Agencies Framework (and number of recommendations made):





Control Areas/Risks	Recommendations		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Strategic Assessment and Business Justification (Strategic Outline Case)	0	1	0
Contract Strategy	0	0	0
Market Building	0	0	0
Delivery/Procurement Strategy (Outline Business Case, VM & Options Appraisal and Authorisation to Proceed to Procurement)	0	0	0
Procurement (Advertising and/or Selection of Economic Operators)	0	0	0
Procurement (Assessing Value for Money) and Authorisation to Proceed to Award of Contract (Full Business Case)	0	1	0
Formation of Contract, Compliance with the Contracting Authority's Legal Requirements, Retention and Security of Purchase Orders, Contracts and Deeds	0	0	0
Total	0	2	0

- 3.2 The audit will, where appropriate, in the above areas incorporate compliance with relevant statutes.

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:

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 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.

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