

Audit Summary Report

July 2007



Review of Electrical Maintenance Contract arrangements

Wirral MBC

Audit 2006/2007

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Introduction

- 1 The Council recently undertook a tendering exercise for the award of contracts under the new schedule of rates, with contracts starting in December 2006. Following this exercise, we received representations on a number of alleged issues in relation to the selection of contractors to carry out electrical maintenance work and arrangements for the processing of this type of work. In line with our duties under the Code of Audit Practice, we have reviewed some of the arrangements for the tendering and management of this and related work, including relevant matters raised in the representations we received.
- 2 This report sets out our findings from the review of the arrangements for electrical maintenance work.

Background

- 3 The schedule of rates contracts for the period 1998 to November 2006 were split over seven area zones for each trade. A process of competitive tendering preceded the award of the contracts. Under the contracts, orders were placed via the Council's Housing Offices and the Technical Services, Children and Young People and Adult Social Services departments. Since the transfer of the housing stock in February 2005, the volume of electrical work has reduced significantly making it infeasible for zone contracts. The contract now covers the maintenance of corporate buildings only.
- 4 The contracts from December 2006 have been on a trade basis across the Council as a whole.
- 5 The current electrical repairs schedule of rates contract is for approximately £220,000 per annum and covers 430 Council buildings, including schools. After the invitation to tender was advertised in the European Journal the contract was awarded to Cottrells Electrical Services. The contract is for three years and depending on performance may be extended for one more year.

Audit approach

- 6 We have reviewed the tender process and the arrangements for monitoring the new electrical maintenance contract. Meetings have been held with Jeff Sherlock, Acting Assistant Director Technical Services, Ray Jkinson, Procurement Officer Technical Services, Mike Woosey, David Armstrong, Keith Brooks and Jeannette Royal from the Facilities Management section of the Children and Young People department, together with relevant officers in the Council's Procurement and Internal Audit sections. Our work also included reviewing documentation and addressing enquiries to other officers in Technical Services and Facilities Management.

Main conclusions

- 7 The overall arrangements for the tender process include good practice in a number of important aspects. We consider the approach of consulting and involving Central Procurement and Internal Audit from the outset to be important in developing a process that complies with Council objectives and meets legal requirements. The areas where we consider arrangements can be strengthened are summarised under the following sub headings.

Advertising new contract

- 8 The Council has met its legal requirements in advertising the invitation to tender in the European Journal. The tender process did result in an appropriate level of competitive tendering, with approximately 20 bids in total.
- 9 Additional arrangements for informing potential tenderers were more informal, and have resulted in some local companies feeling unfairly treated by the Council. We understand that, in addition to the advertising in the European Journal, the current schedule of rates contractors were informed of the new contract by officers in Technical Services. Assumptions had been made by Technical Services that other local contractors would have been informed by other officers of the Council. From representations received, it appears that this did not happen in all cases. The new contract was not advertised in the local press.
- 10 This informal process can leave the Council open to allegations from some suppliers that not all suppliers had similar advance knowledge of the new contracts and some have therefore been given preferential treatment. There is also a risk that some local contractors who are technically qualified to carry out the work will miss the opportunity to submit tenders. For similar tendering exercises in the future, the Council should ensure arrangements for informing potential tenderers are consistently applied, in line with advice received from the Central Procurement Unit. Where appropriate, this may include advertising in the local press.

Assessment of bids submitted

- 11 Pre-qualifying questionnaires (PQQ's) were sent to suppliers expressing an interest in tendering for the new contract. These formed part of the evaluation process to assess the technical competency of suppliers. Checks were also made of the technical and financial viability of suppliers by checking they had met appropriate technical and financial criteria on Constructionline. This identifies a notation value for registered contractors indicating the maximum sum for a specific job a contractor has the capacity to undertake. All the suppliers who completed PQQ's were assessed as satisfactory and invited to submit tenders against a pre-priced schedule of rates using 1998 schedule of rates uplifted for annual price increases. An indicative annual sum for the contract of £220,000 was given. Cottrells were awarded the contract after meeting the evaluation criteria and submitting a bid 64 per cent below the pre-priced schedule.

- 12 This bid appears to be extremely low and scepticism was expressed by some officers on the realism of the costs. We understand that the Acting Assistant Director, Technical Services did hold a meeting with Cottrells to challenge whether work could be delivered at the low costs tendered.
- 13 The extent to which the successful bid was below the pre-pricing schedule does raise potential risks to the Council. These include an increased risk that the supplier may be unable to fulfil the contract at the agreed rates with consequent potential risks in terms of the continuation of service delivery and the need to ensure adequate arrangements are in place to monitor the appropriateness of invoices raised.
- 14 This increases the importance of effective contract performance monitoring arrangements. Positive arrangements have been made in this direction. Monthly performance monitoring meetings have been held since the start of the contract with representatives from the contractor and client services to review any issues on contract costs and quality of work. Following our audit enquiries the Acting Assistant Director, Technical Services has sample tested Cottrells' invoices to check that costs and codes used appear appropriate.
- 15 For all Schedule of Rates contracts, it is important to ensure ongoing management arrangements provide a sufficient check that invoicing details, for example hours, rates etc, are in line with agreed contract terms.

Jobs within the new schedule of rates

- 16 The jobs within the schedule of rates for the new contract are based on the 1998 schedule of rates. This schedule included jobs for the then Council housing stock, together with items relevant to Corporate buildings. There is a risk that unless the schedule of rates fully reflects the nature of work now required, this can lead to bills being received from the contractor which refer to jobs not covered on the schedule of rates and the possibility of higher costs.
- 17 We understand that the schedule of rates has been reviewed by the Acting Assistant Director Technical Services to ensure it reflects the different nature of work pertinent to public buildings which have IT systems and that 4,000 jobs were subsequently deleted.
- 18 The contract does make provision for amendments to be made to jobs within the schedule of rates. It specifies that work should be measured with the agreement of the contractor and a new rate be applied with reference to the rates in the bid.
- 19 Performance monitoring by Technical Services has identified some instances where the schedule of rates should be amended. Arrangements should be made to keep under review the nature of jobs that are likely to arise from electrical repairs to public buildings and ensure the schedule of rates is amended promptly.

Reserve contractor

- 20 In line with the other schedule of rates contracts, the current arrangements for Electrical repairs do not make provision for a reserve contractor.

- 21 This issue has been considered by the Acting Assistant Director Technical Services who considers that the best option to pursue in the event of a cessation of the contract by the successful tenderer is to approach the contractor that came second in the tender list evaluation or to re-tender the work. On one of the other schedule of rates contracts where the contractor has been unable to deliver, the Council have gone to the contractor that was second on the list. Officers consider that the current performance monitoring arrangements provide the Council with an early warning of where the contractor may default on meeting the terms of the contract.
- 22 The nature of an electrical repairs contract presents potential risks to councils in the event of any non-performance by a current contract holder. The risks of non delivery are potentially higher locally given the low value of the contract awarded. In view of this, the Council may wish to consider establishing formal back up arrangements to call upon a reserve contractor in the event of the current contractor failing to meet the terms and conditions of the contract. This process would involve considering the trigger points at which point alternative supplier arrangements should be employed.

Selective tendering lists

- 23 Technical Services use Constructionline to produce selective tendering lists when work outside the schedule of rates is to be tendered. Constructionline is a public private partnership between the DTI and Capita which makes checks to ensure that suppliers are technically and financially viable. Technical Services generate tendering lists for each contract by inputting the category of work, number of suppliers required and an estimate of the total contract value. The system then generates a random list of contractors who are then invited to tender for the work. Constructionline generates a new random list each time a list is requested.
- 24 We understand that a number of contractors have queried why they been consistently missed off tender lists. A brief review of how the system operates shows that contractors will miss the opportunity to be included on the tendering lists if they have not completed their registration with Constructionline comprehensively and selected all the categories of work which come within their trade. For some trades, work can be split across a significant number of categories within Constructionline.
- 25 The Council has been using Constructionline for some tender lists since April 2004. Prior to this, the Council held a series of one-day Contractor seminars to inform existing and potential contracting organisations of the Council's intention to use this process. Since 2004, the Council has continued to develop its tendering arrangements, including its use of Constructionline. Given these developments, and the risk that some local companies seeking to work for the Council may be unaware of the importance of registering on Constructionline for all relevant categories of work, the Council should consider issuing periodic reminders to local suppliers explaining the significance of and process for registering for all categories of work on Constructionline.

Contractors used by schools

- 26 Guidance has been issued to schools which cover many of the aspects for ensuring the technical and financial suitability of suppliers. However, there are a number of issues which still need to be addressed.
- 27 Guidance has been issued to schools that come under the Facilities Management SLA that if they choose under Fair Funding to use their own supplier rather than the schedule of rates contractor to put this request in writing to the Principal Programme Manager for Children & Young Peoples Department. Schools are advised that such suppliers must be on the Authority approved list, registered with Constructionline and C.H.A.S (Construction Health & Safety Assessment Scheme), fully insured and be fully CRB checked. Schools are also advised that the Council's Contract Procedure Rules should be followed when selecting such suppliers.
- 28 There are several schools which have chosen not to sign up to the Facilities Management (FM) SLA. These are mainly larger secondary schools. FM does not have a role to monitor the selection of suppliers by these schools and check whether the technical and financial criteria above have been satisfied. Reliance has been placed on the Building / Premises managers to follow satisfactory procedures.
- 29 There is a risk that contractors may not be selected from fair competition and that work may be done by some contractors who are not technically proficient. Some work could fail necessary health and safety standards.
- 30 The Council should ensure periodic reminders are issued to those schools outside the FM SLA to ensure they
 - comply with Contract Procedure Rules in the selection of contractors; and
 - apply appropriate checks to ensure contractors provide assurance that they meet necessary financial and technical criteria.
- 31 Schools' compliance with these arrangements should be included in subsequent IA visits.

Recommendations

- 32 This report identifies a number of areas where arrangements can be strengthened. Our recommendations to address these issues are:
 - Ensure arrangements for informing potential tenderers are consistently applied. Where appropriate, this may include advertising in the local press.
 - Ensure ongoing management arrangements for Schedule of Rates contracts provide a sufficient check that invoicing details are in line with agreed contract terms.
 - Keep under review the nature of jobs that are likely to arise from electrical repairs to public buildings and ensure the schedule of rates is amended promptly.

- Consider the need to establish formal back up arrangements to call upon a reserve contractor in the event of the current contractor failing to meet the terms and conditions of the contract. Trigger points should be set at which point back up arrangements should be activated.
- Issue periodic reminders to local suppliers explaining the significance of and process for registering for all categories of work on Constructionline.
- Issue periodic reminders to schools outside the FM SLA to ensure they comply with Contract Procedure Rules in the selection of contractors and ensure contractors are checked to provide assurance that they meet necessary financial and technical criteria. Incorporate checks in IA visits to such secondary schools.

The way forward

- 33 This report will be discussed and agreed with relevant officers in the Technical Services and Children and Young People Departments. Officers will be asked to prepare an action plan setting out the Council's response to our recommendations.
- 34 We consider that there are a number of issues arising from our review which should be followed up further. Internal Audit will be undertaking further work in this area in July, following their recent review. This work will cover the following assignments:
 - To assess how Constructionline is used to produce selective tender lists by checking a sample of contracts awarded from this process.
 - To sample test invoices for electrical maintenance and general building works.
- 35 Subsequent IA school visits will include a review of the arrangements for the award of contracts by schools outside the SLA with Facilities Management to ensure contractors have been selected in accordance with Contract Procedure Rules and appropriate checks have been applied to ensure contractors meet technical, financial and health and safety criteria.

Appendix 1 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
Review of Electrical Maintenance Contract arrangements						
R1	Ensure arrangements for informing potential tenderers are consistently applied. Where appropriate, this may include advertising in the local press	3	J Sherlock/R Williams	Yes	On term tenders of this nature J Sherlock will seek advice from R Williams for the most appropriate form of advertising	22/06/2007
R2	Ensure ongoing management arrangements for Schedule of Rates contracts provide a sufficient check that invoicing details are in line with agreed contract terms	3	J Sherlock/R Cox	Yes	J Sherlock to ensure Ron Cox, Senior Quantity Surveyor carries out random checks on invoices and issues regular reminders to Project Officers	Ongoing
R3	Keep under review the nature of jobs that are likely to arise from electrical repairs to public buildings and ensure the schedule of rates is amended promptly	2	R Cox	Yes	Monthly monitoring meetings are the forum for initial discussions on this matter and F Cox to amend accordingly following agreement with all parties	Ongoing
R4	Consider the need to establish formal back up arrangements to call upon a reserve contractor in the event of the current contractor failing to meet the terms and conditions of the contract. Trigger points should be set at which point back up arrangements should be activated	2	J Sherlock	Yes	The regular monthly monitoring meetings will flag up any potential poor performance and the contractor will have every opportunity to take corrective action. If performance is consistently poor with no improvement suggestions from client dept's will be sought and Central Procurement will be involved	No
R5	Issue periodic reminders to local suppliers explaining the significance of and process for registering for all categories of work on Constructionline	2	J Sherlock	Yes	J Sherlock will consider adding a paragraph to standard letters that go out to all invited tenderers copy to Iain Miles when actioned	Ongoing

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Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
R6	Issue periodic reminders to schools outside the FM SLA to ensure they comply with Council Standing Orders in the selection of contractors and ensure contractors are checked to provide assurance that they meet necessary financial and technical criteria. Incorporate checks in IA visits to such secondary schools	2	David Armstrong	Yes	Children's Services to continue to remind schools about contractor selection in newsletters to schools – at least twice a year. Copy of final Audit Commission report to be sent to all schools to draw their attention to the review which has taken place and highlight contractor selection issues, particularly by those schools who organise work themselves	Oct 2007 and Spring 2008 Autumn Term 2007