

Joint Audit and Governance Committee



Report of Head of HR, IT & Technical Services

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DATE: 25 January 2016

Procurement of IT equipment

Recommendation(s)

That the committee notes the contents of this report

Purpose of Report

1. At its meeting on 28 September 2015 the committee asked for a follow-up report concerning procurement of IT equipment from a particular supplier in the months after the fire of January 2015. The procurement was stated to be in “clear breach of OJEU rules and procurement protocols”. This report is the follow-up requested.

What happened

2. In the period January to September 2015, a total of 55 purchase orders were raised with a single IT supplier. Most of the orders were raised by the IT team, though several came direct from other service areas, for example purchasing carrying bags for laptops.
3. The total value of these orders was £191,160 plus VAT. The majority of the orders were for items of desktop IT, replacing items lost in the fire, and were covered by the contents policy of the councils’ insurance. Most purchases were made against a special cost centre and authorised by the accountancy team.
4. Since September there have been no further purchases from this supplier, in accordance with the recommendation in the audit.

What the rules say

5. The relevant EU directive is implemented in the UK by the Public Contracts Regulations 2015.
6. In essence the regulations require that a single procurement exceeding a particular threshold must be conducted by means of advertisement in the Official Journal of the European Union (OJEU) or by using a framework agreement which has itself been tendered through OJEU. In 2015 the relevant threshold was £172,514, net of VAT.
7. The regulations (6(6)) also state that a procurement must not be subdivided in order to avoid the need to go through the OJEU advertisement process. The estimated value of a procurement is to be calculated at the moment at which the call for competition is sent (regulation 6(7)).
8. The councils' contract procedure rules (41 and 68) provide that no more than £75,000 shall be spent by any head of service with any supplier during any financial year by means of single quotations. Expenditure above this total must be made by obtaining a minimum of three quotations or tenders in accordance with the contracts procedure rules.
9. The contracts procedure rules allow for purchase to be made by single quotation where the value to each council is £10,000 or below and the head of service is satisfied that the quotation represents good value for money. For purchases above £10,000 and up to £75,000 three quotations are required, and above £75,000 a tender exercise is necessary.

Was there a breach of OJEU rules?

10. There were 55 orders over a period of time, with no single procurement exceeding the £172,514 threshold (the largest single order was for £77,967 plus VAT).
11. These orders do not represent any intentional disaggregation of planned purchases. They were made in response to circumstances as the councils made successive decisions to move and install equipment into new locations:
 - Abbey House first floor
 - Abbey House west wing
 - Old Abbey House
 - Serviced office at Sandford
 - Milton Park.
12. At no stage in the process could the full picture have been known in advance. These 55 purchases clearly do not represent a single procurement exercise and there was thus no breach of the EU Directive / Public Contracts Regulations 2015.

Was there a breach of the councils' own procurement protocols?

13. In considering compliance with our own contracts procedure rules there are two separate questions to answer, concerning the individual orders and also the cumulative effect.

COMBINED ORDERS

14. First, the combined orders to this supplier in the financial year 2014/15 (including the period before the fire) amount to £69,581 plus VAT. This is below the £75,000 figure referenced in paragraph 8 above, so there are no compliance issues for the combined orders in 2014/15.
15. The combined orders to this supplier in 2015/16 are £136,000 plus VAT. Of this total, £77,967 comes from one particular order for which three quotations were obtained (see paragraph 18 below). The remaining orders amount to £58,033 which again is below the £75,000 total mentioned in paragraph 8. Again, therefore, there are no compliance issues for the combined orders in 2015/16.

INDIVIDUAL ORDERS

16. The remaining question is now about individual orders above the £10,000 threshold per council, for which the contracts procedure rules require that three quotations must be obtained. The costs of desktop IT equipment for the main council offices should be attributed equally to each council, and this report therefore now considers the three orders to this supplier with value above £20,000 plus VAT, that is those which exceed the threshold of £10,000 per council.
17. Order 1 was requested on 20 January, less than a week after the fire, when the acquisition of replacement equipment was particularly urgent. The value was £20,902 plus VAT. I have evidence that quotations were requested by email and that two quotations were obtained. It is possible that there is a minor breach of contracts procedure rules as there is no firm evidence that a third quotation was invited.
18. Order 2 was requested on 14 May. Three written quotations were received for this order, whose total value was £77,967 plus VAT. This falls below the tender threshold of £75,000 per council, and the order was therefore placed within the contracts procedure rules.
19. Order 3 was requested on 5 June, with a value of £32,833 plus VAT. I have found no evidence of any more than a single quotation. As the value of this order exceeds £10,000 per council it appears that there was a breach of contracts procedure rules on this occasion.
20. Summarising this section, it is clear that on an order by order basis there have been some breaches of the contracts procedure rules. In mitigation, the supplier that was used had demonstrated a track record of prompt response to requests for quotations, good value by comparison with competitors in cases where there were comparative quotations, and rapid delivery of the goods that were ordered.

Could it happen again?

21. The circumstances described here were highly unusual. All of these purchases were made under extreme time pressure arising first from the fire and then from

the various office moves. The IT team evidently attempted to comply with procurement rules but did not always succeed in doing so.

22. This purchasing activity also took place during a period in which we had no effective procurement function, as the service provided by Oxford City Council had largely petered out.
23. Since the recruitment of a procurement officer who joined us in April we now have processes in place which make a recurrence of this pattern very unlikely. First, I would expect the procurement officer to give advice and assistance to the process, and secondly I would expect any unusual purchasing volumes to be detected as a result of the regular spend analysis which is now carried out.

Conclusion

24. The purchases made from this particular supplier took place during a period of extreme time pressure and when there was no strong oversight of procurement processes.
25. It is acknowledged that there were some breaches of the councils' own procurement rules, but we are confident that the supplier in question was delivering equipment to us quickly and at competitive prices.
26. There was no breach of legislation and therefore no realistic risk of challenge by competing suppliers.