



PROCUREMENT

A Review by a Task and Finish Group of the
Corporate Scrutiny Committee

February 2014



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By the Chairman of the Corporate Scrutiny Committee, Councillor Julie Young	
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FOREWORD

The Scrutiny Board recommended that the Corporate Scrutiny Committee conduct a review of the procurement strategy of Essex County Council (ECC). In response to the Scrutiny Board recommendation, the review commenced in September 2013, with the establishment of a Task and Finish Group.

The Task and Finish Group firstly agreed a scoping document (Annex A) with a focus on, amongst other things, value for money, probity and assurance, management and performance, local purchasing, support for Small and Medium Enterprises, and the Voluntary and Community Sector, and legislation affecting procurement.



Through six witness sessions, written responses and other research the Task and Finish Group was pleased to learn that new structures are in place at the County Council to ensure the integration of procurement services at the Authority which are professionally managed. A strong emphasis is placed on customer focus and there is a commitment to involve Small and Medium Enterprises in the county in the procurement process as well as engagement with the Voluntary and Community Sector.

The level of paperwork required of smaller organisations is currently a deterrent if they wished to engage in the procurement process at Essex County Council. There are new systems in place should make such engagement easier in the future. However, there is an historic reluctance amongst both Small and Medium Enterprises and the Voluntary and Community Sector due to the perception that tendering for service will be too onerous. The 10-day payment terms operated by the County Council is highly regarded, however, this must be passed down the supply chain by primary contractors.

The Task and Finish Group hopes that, if adopted, the recommendations included in this scrutiny report will make a positive contribution to procurement in Essex in the future, and to those who would wish to provide services to Essex County Council, particularly local Essex businesses and the Voluntary and Community Sector. The recommendations would also open up procurement opportunities to a wider market.

I would wish to thank my fellow Task and Finish Group Members for their diligent approach and professionalism during the course of this review.

I commend this report to you.

COUNCILLOR JULIE YOUNG

Chairman of the Corporate Scrutiny Committee

Background

Background to the Scrutiny

The predecessor to the Corporate Scrutiny Committee, Executive Scrutiny agreed a scoping document for the review of the Procurement Strategy in September 2012 and subsequently received a report and presentation on 5 November 2012 from Anthony Doyle, the then Chief Procurement Officer. Following the presentation the Chairman of the Executive Scrutiny Committee agreed to raise with the Scrutiny Board which Committee would best be placed to conduct a review of the Procurement Strategy due to the potential cross-cutting nature of the review.

The Scrutiny Board considered the request at its meeting on 9 January 2013 and agreed that a Task and Finish Group be established by Executive Scrutiny (following the May 2013 elections Corporate Scrutiny) to consider the strategy but that this was an issue which would need to be looked at after the County Elections in May 2013.

The Corporate Scrutiny Committee agreed to convene a Task and Finish Group on 25 June 2013. The Membership of the Task and Finish Group was established following this meeting.

Membership

The Membership of the Task and Finish Group was agreed as:

Councillor Julie Young (Chairman), Wivenhoe St. Andrew
Councillor Bill Archibald, Laindon Park & Fryerns
Councillor Susan Barker, Dunmow
Councillor Malcolm Buckley, Wickford Crouch
Councillor John Knapman, Chigwell & Loughton Broadway
Councillor Mike Mackrory, Springfield

Evidence base of the Scrutiny

Five formal oral evidence sessions, were held, where a range of witnesses were able to provide evidence to the Task and Finish Group. These were:

- Andrew Spice, Director of Commercial Services and Steve Ede, Head of Category Management
- Liz Chidgey, Managing Director of *EssexCares*
- Iain Wicks, Development Manager, Essex Federation of Small Businesses
- Janet Chinnery, Category Manager and Fleur Summers, Assistant Category Manager
- Sharon Alexander, Celia Clark and Jacqui Foile, invited representatives of the Community and Voluntary Services in Essex
- Paul Bird, Director for Commissioning: Transport and Infrastructure; Dr Mike Gogarty, Director for Commissioning: Healthy Lifestyles; and Sheila Norris, Director for Integrated Commissioning and Vulnerable People

- Melanie Evans, Head of Supply Chain and Contract Management
- Colin Ismay, Governance Team Manager, Democratic Services

Written representations, via email, from Stuart Smith, Quadrant Security Services Ltd and Andrew Gowers, Premier Design (both members of the ECC Supplier Working Group) were received by the Task and Finish Group. Due to work commitments it was not possible to gain oral representations from a number of members of the ECC Supplier Working Group. Some representatives of the Voluntary and Community Sector (VCS) who were invited to attend the session on 26 November 2013 gave their apologies. One request from the Task and Finish Group to give evidence from a potential witness was declined.

The Task and Finish Group was content that it received a range of views and collected evidence from a number of key witnesses.

Issues, Evidence and Recommendations

Key Evidence

The first meeting of the Task and Finish Group established the scope of the review and it was agreed the following should be tested as part of the review:

- Value for money
- Probity
- Professional management
- Performance and benchmarking
- The effect of Transfer of Undertakings (Protection of Employment) Regulations (TUPE)
- The effect of Official Journal of the European Union (OJEU) Tenders and Procurements
- Customer focus
- Local Purchasing to support Small and Medium Enterprises (SMEs)
- Consultation and lessons learned prior to and following procurements

The Task and Finish Group is satisfied that each of the above have been tested during the evidence sessions. A separate session with one of the Members of the Task and Finish Group was arranged to further explain the processes involved in OJEU. The Task and Finish Group would recommend some additional work, following this review, to ascertain how local SMEs can be supported further to engage in the ECC procurement processes, and would also recommend this aspect is included within the refreshed procurement strategy. By theme, the key evidence received at the Task and Finish Group sessions are outlined below:

Procurement at ECC

New structures are in place to ensure procurement at ECC is fully integrated and professionally managed. The service provided ensures against poor services being

procured. All contracts are to be awarded on the basis of most economically advantageous to the Authority with all organisations engaged in the tender process having to meet minimum ethical standards. Feedback is always offered to suppliers whether or not they have been awarded contracts. Key Performance Indicators with scorecard metrics test outcomes. The County Council places a strong emphasis on customer focus. Three suppliers are required for all procurements and, wherever possible, one should be a local company with a Head Office based in Essex. Potential suppliers are encouraged to register on the new ARIBA workflow system. The Authority does have governance systems in place to guard against any potential abuse of procurement decisions with rigorous processes in place to minimise any risks to the Authority.

The Voluntary and Community Sector

The VCS is key to what ECC are doing in terms of new procurement processes as they bring a unique approach to service provision. It is recognised the County Council should assist the sector to help them bid for contracts; but at the same time the sector should do more to work collaboratively to bid for contracts.

The sector is sometimes daunted by the paperwork and time involved in bidding for Local Authority contracts; however this could be mitigated by the new ARIBA system as it is now easier to bid for the smaller contracts which VCSOs are most likely to bid for. It was recognised at the session with the sector that VCSOs favour grants monitored through Service Level Agreements.

Small and Medium Sized Enterprises

SMEs highly regard the 10-day payments terms operated by the County Council. The principle of procuring goods from local SMEs is also well received. However, SMEs do not benefit necessarily from the 10-day payment terms as they are not the primary contractor in most contracts, and payments terms are not replicated down the supply chain, thus impacting upon SMEs in terms of cash flow etc. In general, SMEs like VCSOs find procuring goods with Local Authorities too complicated and professional liability is also an issue for SMEs. Again, the new ARIBA system should make it easier for SMEs to bid for ECC contracts. The new Pre-Qualification Questionnaire (PQQ) also sets the level of Public Liability and Professional Indemnity Insurance on a case-by-case basis with liability set at the legal limit for all organisations as this was recognised as a barrier to SMEs. The County Council publicises procurement opportunities in trade magazines and is actively seeking to improve its engagement events with potential suppliers.

Local Authority Traded Companies (LATC)

The Task and Finish Group focussed on *EssexCares* for which Essex County Council is the shareholder. The money made by *EssexCares* is reinvested on service-users. All staff, subject to TUPE arrangements are in the Essex Local Government Pension Scheme. *EssexCares* has regular contact with commissioners and the commercial team at ECC and ensures that governance and contract management is appropriate. Through discussions with the market *EssexCares* can keep up-to-date with the services it may

need to provide in the future. TUPE arrangements were managed effectively when *EssexCares* became a LATC.

Commissioning of Services

Commissioning is about delivering the best possible services to the residents of Essex and, as such, there is no automatic assumption that services are commissioned. What is working and what is not are weighed-up prior to any decision whether to commission a service or deliver it in-house. Different forms of contract are now being looked at which add flexibility to how services are delivered bringing the best value-for-money to Essex residents. Commissioners are able to have contractual control. The Task and Finish Group agreed the necessity to hold commissioned services to account and recommendation number seven relates to this. Councillor Derrick Louis

Value for Money

The Task and Finish Group is concerned that the move towards larger and longer-term contracts may fail to take into consideration the existence of diseconomies of scale. There is anecdotal evidence that the quality and speed of service provision can deteriorate and needs to be weighed against potential economies of scale related to price. In addition there is a concern that contractors may rely on sub-contracting to achieve results which, in effect, add an intermediary administrative cost. In effect ECC can create medium or even long-term monopolies in the provision of a particular service which may lead to inflexibility, slowness of response and overpricing when compared to the performance of smaller competitive local businesses who may attach far more importance to actual performance. **The Task and Finish Group would wish to be provided with an audit trail of how specific contracts have been awarded; looking at one large, one medium, and one smaller procured service. The Group would specifically look at how the procurement process evolved; how the contract was awarded and details of the cost impact. The Task and Finish Group should be provided with a full list of these procured services so as to make an informed decision of which procured services they would conduct a review of.**

Public Services (Social Value) Act

A key source of evidence received was regarding the above Act which can be found at: <http://www.legislation.gov.uk/ukpga/2012/3/enacted>

The Act requires all public authorities to have due regard to economic, social and environmental wellbeing in connection with public services contracts. Social value is a legal requirement as a result of this Act providing the opportunity for Local Authorities to embrace greater engagement with the Voluntary and Community Sector amongst others. The Task and Finish Group found, however, that knowledge of the Act within ECC is, at present, limited, and resultantly that the social value of procured services are not being taken into account.

OJEU

The Task and Finish Group expressed concerns about OJEU in particular the amount of time it takes to procure services where OJEU is applied; and the exclusion of certain

bidders for procured services as a result of OJEU. The Task and Finish Group heard that some of the delays occur because the requirements of OJEU are not made clear. Too often European Union (EU) regulations are interpreted as the reasons things take too long, and sometimes there is a resistance to take a risk. From 2014 the regulations change and the threshold for OJEU goes up to approximately £600,000 from approximately £174,000. Procedures will also change and timescales will consequently reduce substantially from the current five-six months on a full EU process. The change in regulations and procedures, it is hoped, will change the attitude to risk at ECC.

Recommendations

The Task and Finish Group has agreed its recommendations to the Cabinet Member for Transformation and Corporate Services and seeks the formal approval of Corporate Scrutiny Committee to file these recommendations to the Cabinet Member. The recommendations are outlined below and are also highlighted within the Summary of the Evidence Sessions section within this report (from page nine):

1. There should be a more proactive approach to potential suppliers from procurement professionals at the County Council.
2. Explicit wording should be inserted into contracts with the primary contractor to ensure 10-day payment terms exist throughout the supply chain.
3. The Public Services (Social Value) Act requirements should be included in the Equality Impact Assessments in all procurement exercises.
4. The County Council should provide grant aid to Voluntary and Community Sector organisations to deliver services where these organisations are best-placed to do so. There are economic and administrative advantages to this, with delivery ensured through Service Level Agreements.
5. Resources should be available to fund volunteer manager posts across the county placed within CVSSs.
6. As part of all future contracts there should be an explicit line requesting Chief Executive Officers of commissioned organisations to attend Essex County Council Scrutiny, when invited by the Chairman of the Scrutiny Committee. They should be accompanied by the appropriate Cabinet Member and Lead Commissioner. It should also be explored whether existing contracts can be amended to include this request to attend scrutiny.
7. All budget holders should have appropriate training on working in a political environment and this be progressed to all working in a political position in the Authority.
8. There should be some additional work, following this review, to ascertain how local SMEs can be supported further to engage in the ECC procurement processes. This should also be reflected within the refreshed ECC procurement strategy.

Summary of the Evidence Sessions

Tuesday, 17 September 2013

The Task and Finish Group confirmed its membership and elected a Chairman. The Group reviewed the existing Procurement Strategy and noted it states that it would be “subject to regular review to track progress” and that would “monitor and review the performance of procurement”. The strategy goes on to say that there would be “co-operation with any scrutiny relating to procurement in that it relates to a particular office of a Member”. Members of Corporate Scrutiny, or the previous Executive Scrutiny had not had the opportunity to review the progress of the strategy, other than to receive a report in November 2012. It was noted that the Procurement Strategy would be reviewed and revised in April 2014.

The Task and Finish Group would wish to see the balanced scorecard produced by Procurement, as stated within the Strategy, to monitor the performance of procurement since the inception of the current strategy.

The Task and Finish Group established the scope of the review and agreed it should look at how the development of new ways of working at ECC, moving the Council to a customer-first commissioning organisation has been working in practice and also include the following in the scope of the review:

- Value for money
- Probity
- Professional management
- Performance and benchmarking
- The effect of TUPE
- The effect of OJEU on Tenders and Procurements
- Customer focus
- Local Purchasing to support local SMEs
- Consultation and lessons learned prior to and following procurements

Tuesday, 3 October 2013

Andrew Spice, Commercial Director and Steve Ede, Head of Category Management provided evidence to the Task and Finish Group.

The Task and Finish Group heard that all elements of procurement at the County Council are being brought into a single place, with new structures being developed and a new style of working being introduced in the next month.

Members sought reassurance that quality services are being procured for our most vulnerable people because in the past wasteful block contracts with care home suppliers led to poor outcomes. How can we guard against these? Mr Spice assured Members that the track record at Essex, is excellent. The work he had seen since joining the Authority would mitigate against the risk of procuring poor services. Subject

matter experts develop plans for procuring the very best services; and the very best procurement standards are met. The procurement service at ECC is extremely professional and the most integrated he had seen. With regard to block bookings on beds in care homes the Task and Finish Group were informed there is a mix of block and spot purchasing of beds in care homes. Some of the block purchase contracts are long-term and non-negotiable. Previously Procurement did not have a handle on block purchasing and contracts will be looked at more rigorously in future.

With regard to the flexibility and agility of existing contracts the Task and Finish Group heard that some of the markets are not particularly well developed, so give the opportunity for intervention. The VCS plus local and smaller organisations are key in what ECC is doing; and there is a working group looking at how local businesses can win contracts with ECC. ECC monitors its activity with SMEs and as savings have to be made the Authority is looking at how some of this can be achieved with local suppliers and the VCSOs.

With regard to Voluntary and Community Service Organisations (VCSOs) the Group was informed that they bring a unique flavour to service provision but need coaching and assistance. The VCSOs could do more to work collaboratively. We need to take account of the time this will take, and consider the risks but we can focus on bringing small and medium sized organisations together.

Contracts are awarded on lowest price or most economically advantageous. From next year it will be just the latter. As part of pre-qualification organisations are expected to meet minimum ethical standards. If this cannot be demonstrated an organisation would not go through to tender stage.

Feedback is always offered to suppliers whether they have won or lost a tender. Face-to-face feedback is not typically offered on smaller contracts but is on larger ones. Debriefing sessions with bidders on larger contracts for those successful and unsuccessful are held.

A great deal of internal validation takes place within the Authority. The Chartered Institute of Procurement have recently evaluated ECC. Benchmarking exercises are undertaken and there is research into how other Local Authorities do things, for example London Borough of Harrow working with SMEs.

Outcomes are tested by working with Key Performance Indicators with scorecard metrics demonstrating how particular tasks are undertaken within the terms of the contract. Commissioners should ensure the contracts are being delivered appropriately. If commissioning is undertaken appropriately and effectively and with the right outcomes, together with having the metrics to test these ECC can ensure outcomes are appropriately met; and that all objectives are undertaken. ECC is placing greater emphasis on customer focus.

Tuesday, 22 October 2013

Members received a demonstration of the ARIBA procurement workflow system from Janet Chinnery, Category Manager, and Fleur Summers, Assistant Category Manager, Procurement Services. The system allows financial criteria along with other resource

criteria to be entered into the system which will then identify the correct procurement process to undertake.

The base for the procurement process is risk. Contracts worth between £2,000-£50,000 are regarded as low risk and go straight to the Request for Quote (RFQ) process. More rigorous questions are asked of medium risk contracts, worth between £50,000 and the threshold for the particular contract. The questions relate to the financial standing of the bidding organisation. Medium risk procurements usually have a one or two stage tender process. High and very high risk projects which might include the transfer of staff or EU procurements have a process which outlines phases and tasks that need to be completed.

Potential suppliers are encouraged to register with the ARIBA system and through this receive email alerts. Contract values are never disclosed to suppliers. A minimum of three suppliers are required for all procurements and, where possible, one must be a local company with a Head Office address located in Essex. The Task and Finish Group were concerned that the ARIBA system should include ECC branding.

RECOMMENDATION

There should be a more proactive approach to potential suppliers from procurement professionals at the County Council.

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

Liz Chidgey, Managing Director, *EssexCares* provided evidence to the Task and Finish Group. The five contracts *EssexCares* has with ECC are to provide services related to Learning Disabilities, Sensory Services, Reablement, Elderly Services and Equipment. When *EssexCares* was established these were the services which were directly transferred to the organisation as part of the Local Authority Traded Company (LATC) agreement. *EssexCares'* shareholder is Essex County Council. The principle behind this is the money comes back into a central 'pot' and is reinvested on service-users. This works well for *EssexCares*. Staff working for the organisation know that the profits come back to the Local Authority to spend on the residents of Essex.

The workforce for the Essex contracts are all local people and they are directly employed by *EssexCares* and the majority of these are on the same contracts as when they were part of the TUPE transfer. *EssexCares* looks to support its staff to enable them to decide the jobs they wish to undertake. In West Sussex, where *EssexCares* has been awarded contracts, the TUPE transfer arrangements are exactly the same. The volume of work has increased in West Sussex and, as a result, the organisation has a relationship with two other companies it sub-contracts to. *EssexCares* does not look outside of either Essex or West Sussex to recruit staff. All existing staff, subject to transfer arrangements under TUPE and new staff appointed up to April 2013 are in the Essex Local Government Pension Scheme. The organisation has good customer

satisfaction levels and a committed workforce. Frontline staff are absolutely committed and innovative and have permission to be creative in the work they do.

In terms of its governance arrangements *EssexCares* has regular contact meetings with the commissioners and the commercial team at ECC, working with the commissioners to ensure governance and contract management is appropriate. *EssexCares* is CQC registered, for the majority of its services, which ensures transparency and clarity. All the reports are on the CQC website. The accounts of *EssexCares* are available through Companies House. *EssexCares* has a network with commissioners who are having discussions with the market. Through this the organisation is able to keep up-to-date with the services it might need to provide. The organisation also talks to suppliers about how they could work together. Through conversations with acute hospitals and service providers demand is managed; however, there are no presumptions about being awarded future contracts; so *EssexCares* has to have a robust business planning processes.

Iain Wicks, Development Manager, Essex Federation of Small Businesses provided evidence to the Task and Finish Group and explained that procurement was a key element of the Keep Trade Local campaign run by the Federation of Small Businesses. He also explained that when a Local Authority procures a service with a small business or SME every £1 spent is worth 63pence as against 40pence with a large organisation. Membership of the FSB is open to businesses with 249 employees or fewer.

ECC delivers of 10-day payments is well received by businesses in Essex, as is the principle of procuring goods from SMEs. He also stated the invitation to give evidence to the Task and Finish Group was also a confirming principle in terms of ECCs relationship with the business sector in the county.

The 10-day payment terms are paid to the primary contractor, however, at times, this is not replicated down the supply chain. This can have a serious impact on smaller businesses.

RECOMMENDATION

Explicit wording is inserted into all contracts with the primary contractor to ensure ten-day payment terms exist throughout the supply chain.

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

Mr Wicks informed the Task and Finish Group that smaller businesses do not enjoy procuring goods with any Local Authority because the process is far too complicated. Businesses take the easiest route to market which will give sales. One of the problems is product or professional public liability. This gives no inducement to take on these opportunities with the restriction of up to £25m of public liability. Mr Wicks stated that between £200-£500 is the cost implication for public liability between £2m-£5m. During the fifth session of the Task and Finish Group Members were assured that the Pre-

Qualification Questionnaire sets levels of Public Liability and Professional Indemnity Insurance on a case-by-case basis, with the Employer's Liability set at the legal limit for all organisations. **The Task and Finish Group had previously been minded to recommend that a question be inserted into all tender documents stating “would you take out a Public Liability policy equal to that of the contract were you to be successful in the bidding process”?**

Members of the Essex FSB have raised that contractors are bringing in existing suppliers to the detriment of local businesses. The actual process and paperwork requirements are still written in “Local Authority speak”, for example the PQQs. Small businesses who do not have a procurement specialist have problems in seeing what the PQQs mean in common language. The FSB would wish PQQs to be simplified and restricted to no more than two pages.

Tuesday, 26 November 2013

The Task and Finish Group were joined by Sharon Alexander [Tendring Council for Voluntary Service (CVS)], Celia Clark [Rayleigh and Rochford Association for Voluntary Services] and Jacqui Foile [Voluntary Action Epping Forest] provided evidence to the Task and Finish Group.

The Task and Finish Group heard about the relevance of the Public Services (Social Value) Act. The Act requires public authorities to have regard to economic, social and environmental wellbeing in connection with public services contracts; and requires public authorities to look at the impact upon the local community prior to awarding a contract to an organisation, particularly in relation to the award of contract to large national and multi-national bodies. Social value is now a legal requirement as a result of this Act and is an opportunity for local authorities to embrace allowing greater engagement with VCSOs, SMEs and service users. It allows for local solutions to local issues. The Act has a duty for public authorities to consult with all stakeholders. This could lead to greater innovation through engaging with stakeholders to gain support, understanding and empathy.

There was a view stated that VCSOs are all excellent providers of services, yet, when the monetary value of contracts are being set too high it precludes VCSOs from bidding. The level of insurance, resources and thresholds should not be set too high either. Following a question with regard to public liability it was stated that VCSOs could factor in the insurance if they won contracts, and that this would encourage more bids. A tool to assess the non-monetary and secondary monetary impact of public liability could be developed it was suggested.

There was a view that many smaller highways contracts are lost because of the award of a central contract so it was questioned whether Equality Impact Assessments are undertaken to ascertain the effect on smaller local organisations when a contract is awarded to a larger national organisation?

RECOMMENDATION

The Public Services (Social Value) Act requirements should be included in the Equality Impact Assessment in all procurement exercises

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

A problem due to the daunting nature of the paperwork and other time-consuming requirements related to ECC contract's was raised, this prevents many VCSOs bidding for contracts. Therefore, anything that would make the process less burdensome would be welcomed. The ARIBA workflow procurement system should make it easier to bid for contracts with a value up to £50,000 now.

The Task and Finish Group needs to establish what the delegated powers are in relation to officer decisions and whether there should be tacit Member agreement for all procured services, even for smaller amounts. There might not need to be actual Member sign-off, but a Member, whether that is the Cabinet Member, Cabinet Member Deputy, or maybe the Chairman of the Scrutiny Board, should possibly have sight of all contracts.

The VCSO organisations present agreed that they favoured grants as they cost less, are less cumbersome, non-bureaucratic, and are not subject to EU legislation. Officer time is also spared with Service Level Agreements (SLA) put in place to ensure delivery. There was agreement from the Task and Finish Group that SLAs are a good way of procuring services for the voluntary sector and are economically advantageous for both the CVSs and the County Council in terms of bureaucracy.

RECOMMENDATION

The County Council should provide grant aid to Voluntary and Community Sector organisations to deliver services where these organisations are best-placed to do so. There are economic and administrative advantages to this with delivery ensured through SLAs

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

It was stated there are some contracts which CVSs would be unlikely to bid for due to issues such as TUPE. An example would be the youth service budget. If there were sufficient time a compromise position could have been suggested by CVSs. As an example it was stated there are extremely vulnerable young people living throughout Tendring and voluntary groups could work with them, with training from County Council staff. This is what sustainable communities is all about. Other services which could be delivered by CVSs include luncheon clubs and other services for older people; Home

Start as well as other programmes delivered to families and other vulnerable people throughout the county.

The Task and Finish Group were informed that most CVSs have a funding officer who can communicate with their members and the wider community. Funding opportunities can also be communicated further afield through the funding officer. The Task and Finish Group felt that this practice should be provided to all CVSs in the county to ensure equitable opportunity.

RECOMMENDATION

The resources should be available to fund volunteer manager posts across the county placed within CVSs

Owner: Leader of the Council

Implementation Review Date: September 2014

Impact Review Date: February 2015

Due to work commitments members of the Supplier Working Group were not able to attend the Task and Finish Group meeting. However, a statement, via email, from one of the members of the Supplier Working Group was circulated to the Group.

Tuesday, 17 December 2013

Paul Bird, Director for Commissioning: Transport and Infrastructure; Dr Mike Gogarty, Director for Commissioning: Healthy Lifestyles; and Sheila Norris, Director for Integrated Commissioning and Vulnerable People provided evidence to the Task and Finish Group.

With regard to commissioning services the Group heard that commissioning is not an automatic assumption that ECC will outsource; it is about delivering what is the best outcome for Essex. Commissioning is about the best choice to meet the outcomes within the Council's corporate priorities. New markets may need to be developed and shaped. Commissioning is about getting all the information that is possible to establish what is the best way to shape outcomes for the people of Essex. It is necessary to see what is working well and not so well and design appropriate services. This has to be established before a decision is made whether to outsource or deliver the service in-house. Up until April 2013 Health had a mature commissioner/provider split. There is recognition that there is strong in-house provision at ECC.

Commissioners are going to have to understand where there are mature markets already. Essex outsourced Highways in 1995. This was an initial five-year deal with very little flexibility. This contract, and how it was structured, made it necessary to look at different forms of contract that had the scope for greater flexibility and more transparency. The current highways contract with Ringway Jacobs is an actual-cost contract meaning the Authority can understand what the costs of a job are and can get the best value-for-money for the County Council. There are performance indicators directly linked to Ringway Jacobs profit and performance. This means if the Authority

receive poor performance this will directly affect the profit of Ringway Jacobs. The contract also incentivises Ringway Jacobs to find cheaper and better ways of working. Therefore, we have completely learned the lessons of the last 20 years of client/contractor relationships.

In response to a question regarding the voluntary sector and assurance that the commissioning process does not discriminate against them Mike Gogarty responded that all his work is commissioned through external providers - most former NHS providers. The third-sector comprises large national organisations down to smaller voluntary organisations. Sometimes the smaller third-sector providers are best placed to deliver contracts, however, the huge nationals do sometimes have the market sewn-up. It is right that third-sector organisations can bid for the award of contracts, and we would like to help develop smaller community groups to deliver contracts.

With regard to the methodologies for drawing up contract expectations the Group heard that in general terms the flexibility of the specifications and outcomes is key. The providers are the experts not the commissioners. Commissioners do have formal contractual controls which might include financial penalties. Through partnership, commissioners and providers get the specifications right and, thus, ensure delivery.

Following a question relating to smaller contracts the Task and Finish Group heard that grass-cutting, as an example, is done through SLAs with districts/boroughs and not through a main contract. Ringway Jacobs, on simple works such as bus stops, often sub-contract with smaller organisations, and this can assist in lowering costs too. We do encourage Ringway Jacobs to do this to add value-for-money. This is another example of flexibility within contractual arrangements.

With regard to contingency plans and flexibility in contracts when things go wrong the Task and Finish Group were informed that there is a willingness in the public sector to rise to such challenges and in urgent situations we have contingency plans, for example, we can always find alternative beds in a care home if we have to move residents out of another home. The Authority wants the best possible service and as such has strong contracts with organisations. It is difficult, at times, to extricate the Authority from contracts due to legal issues; this is recognised, however, the Authority always has an alternative provider ready in the wings if things go wrong, as the Council is not dependent on a single provider of services. This also gives the benefit of competition when a contract is due for renewal or a new contract comes to market. This all helps develop mature markets.

Councillor Young expressed that scrutiny should be able to hold commissioned services to account; and that other Members have concerns about this. Paul Bird agreed that top-tier suppliers should attend scrutiny with Cabinet Members and lead commissioners; and this should be part of the scrutiny programme. The view was expressed that commissioned organisations should attend a scrutiny meeting if requested by the Chairman of a Committee. This would ensure that all potential suppliers would be aware of the importance of holding them to account for service delivery and the significance of scrutiny in the commissioning process. This should be explicitly expressed in all new contracts between Essex County Council and commissioned suppliers. It should also be explored whether existing contracts be re-written to include this requirement. Both Mike

Gogarty and Sheila Norris concurred with Sheila expressing that commissioners should be regularly scrutinised too with scrutiny also looking at the key outcomes of services.

RECOMMENDATION

All future contracts should include an explicit line requesting Chief Executive Officers of commissioned organisations must attend Essex County Council scrutiny meetings, when requested, as part of the agreed contract. They should be accompanied by Cabinet Members and Lead Commissioners when requested to attend. It should also be explored whether existing contracts could be amended to include the request to attend scrutiny.

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

Melanie Evans, Head of Supply Chain and Contract Management attended the Group to provide information on the ECC Supplier Working Group which commenced in 2009 as a result of holding an event for local businesses where focus groups were formed to look at opportunities for improved engagement with the Council. From those groups it was clear that local businesses wished to have a forum for their voices to be heard by the County Council so the Supplier Working Group was formed. Volunteers from local businesses, initially focussing on the private sector, formed the Group. This was extended to include voluntary sector organisations. The Group meets on a quarterly basis and they look at how our practice can ensure their needs are covered appropriately with a focus on looking at how ECC can make working with the Authority easier.

Melanie circulated a handout to the Group entitled “Making It Easier to Supply Essex County Council (see Annex B). The Group has focussed on the Pre-Qualification Questionnaire (PQQ) as it was recognised that this can potentially exclude organisations at this early stage. As a result the number of questions on the PQQ has been reduced by 50%. Additionally, insurance levels have also been a barrier to smaller businesses and as a result we ask a question at the PQQ stage about an organisation’s willingness to take out public liability insurance if they were to be successful. It is recognised there are problems in getting small suppliers onto the ECC systems. Melanie stated that there is a perception issue. A survey of ICT suppliers was undertaken and the feedback showed they thought that ECC was a hard organisation to do business with. Therefore, work is being undertaken in order to change that perception. However, the Authority does have to balance doing a robust job in managing the risk to the Authority and getting a new provider on-board.

Melanie also stated that other themes such as Equality and Diversity and Health and Safety are being reviewed to ensure the barriers are not set too high whilst still protecting the Council adequately.

With regard to proactive measures to invite small businesses to engage in the procurement process Melanie explained that this is done on an opportunity-by-opportunity basis. The Authority publicises opportunities in trade magazines in order to

attract new suppliers. There will be more 'meet the buyer' events to communicate to a wider core of potential suppliers. There was a successful event for ICT suppliers, looking at how they can be engaged more effectively. The Authority is trying to take the learning from this and apply it to other sectors. The engagement events must ensure they meet the needs of all suppliers to ensure that all have access to resources. The options for doing this effectively are being refined, as at the moment the events are too generic and they should be tailored to focus on what individual suppliers do.

Colin Ismay, Governance Team Manager, attended the Task and Finish Group to provide detail of delegated authority. It was confirmed that at a formal level a key decision needs to be taken by a Cabinet Member at a threshold of £0.5million. An officer could take a decision up to this threshold. In response to a Member question Colin stated the threshold of £0.5m is based upon expenditure or savings; he did recognise that this is not necessarily easy to define. Where a decision has an impact on two or more divisions this is a key decision regardless of value. In circumstances where there appears to be a significant issue the advice is that officers speak to the Cabinet Member.

There is a training programme which, in future he will be involved with entitled Working in a Political Environment. Similar training has been delivered to staff at Tier 4 and above following the restructuring. Colin confirmed that it was at this level officers' can make budgetary decisions.

RECOMMENDATION

All budget holders have appropriate training on working in a political environment and this be progressed to all working in a political position in the Authority.

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

Following a question about the potential abuse of delegated powers Colin stated the Authority does have governance systems in place. If an individual goes beyond delegated authority it becomes a disciplinary measure. Financial compliance is assured via internal and external auditors and financial controls.

With the large contracts there is a process which takes place through the Outcomes Board. The award of a large contract is not down to a single person, with procurement, finance, legal and the service itself all involved. If it is a key decision a Member will be involved also. Smaller contracts do not necessarily have this level of involvement, however.

In answer to a question about the mitigation of risk to guarantee contracts are not being awarded to friends and relations Colin stated there are control mechanisms to prevent this. The Counter-Fraud team within Internal Audit can advise on the level of risk. Any expenditure over £500 has to be published on the ECC website; therefore, all such

decisions are subject to that scrutiny. Rigorous processes are in place to minimise the risk that contracts are not being awarded openly and fairly and that to minimise the risk our auditors have to give their assurance that such processes are solid.

RECOMMENDATION

There should be some additional work, following this review, to ascertain how local SMEs can be supported further to engage in the ECC procurement processes. This should also be reflected within the refreshed ECC procurement strategy.

Owner: Cabinet Member for Transformation and Corporate Services

Implementation Review Date: September 2014

Impact Review Date: February 2015

Written Evidence

Observations regarding my involvement with the ECC Supplier Working Group - Stuart Smith – Quadrant Security Services (Land & Marine) Ltd.

“Having attended an initial meeting / workshop (held at the Records Office), I was encouraged to get involved and was asked to join the ECC Working Group with the aim of making it simpler for small business to benefit from working with / for the County Council. At that initial gathering around 4 years ago, I raised a question / flagged up a problem relating to *payments made to sub-contractors*. In other words, small businesses *funding* large contractors who insist that we agree to *their payment terms* if we want to work for them.

As a Working Group, we have met many times and it is minuted that we need the County Council to ensure that swift payment terms are *drilled down THROUGH the ENTIRE Supply Chain*.

I suggested that as Government and Councils now pay in typically 14 or 21 days (or less), that the County Council should insist on these terms being mirrored by main contractors. The Working Group was advised that such terms could not be applied to existing contracts, but yes, in theory such terms could be applied to new contracts and he confirmed that this would be done.....*still waiting !!!!*

Main Contractors and large Sub Contractors will typically insist on a 60 day payment to their sub-contractors, and also typically may raise a ‘query’ on day 58 or 59 thus delaying payment for a further 30 days. Meantime companies like ours, pay their staff weekly and are therefore subsidizing the ‘big-boys’.

I was pleased to read in the minutes of the Corporate Scrutiny Committee Task & Finish Group (22 October 2013) – Item 6, that my Federation of Small Businesses representative, Ian Wicks, again brought this matter to the attention of the County Council. Furthermore I applaud the RECOMMENDATION to insert explicit wording into

contracts. *But why has this not been done sooner ??? and.....it should be a **CONDITION** not a recommendation !!!*

I have also, through my MP, had a question raised about this point in Parliament.

*The County Council must stand firm and say to these companies that “ these are OUR Standard Terms etc “ and if they want to Tender....they WILL agree. But you **MUST** ensure that these terms really ARE Drilled Down through all suppliers / sub-sub-sub contractors etc.*

There may be other ‘conditions’ that you may look at inserting too, relating to use of local labour/suppliers ?

On a brighter note, the Working Group dissected the County Council’s PQQ’s and reduced it by around 50%. It was obvious to us that over a number of years, procurement staff had just added and added questions/terms/requirement etc. to the PQQ’s without giving thought to ever reviewing what questions were being asked!!! Please don’t let this happen again.

So far therefore, YES – we’ve had an impact on the PQQ’s and YES we’ve been made aware to the transition to ARIBA, but the simple task of ensuring that Contracts are worded correctly to ensure swift payment to ALL Sub Contractors has yet to come to fruition.

I applaud the County Council’s idea to work with SME’s and the set-up of the Working Group (although please be aware that we receive no payment or mileage allowance for attending these meetings, have to pay our own parking fees and don’t even get offered a cup of coffee), but yet at times it seems that we are there so that someone can “tick a box” and say that small businesses have been consulted.

In summary, Essex County Council still has a long way to go in their quest to support small businesses in Essex”.

Observations regarding my involvement with the ECC Supplier Working Group – Andrew Gowers, Premier Design

“I’d like to say that our participation on the procurement committee is voluntary, and we all give a lot of time both inside and outside of the meetings in order to improve the efficiency of the procurement procedure.

From my point of view, what initially seemed to be a great idea, and one that had direction and impetus, is becoming held back by red tape once again. Considering we’ve been sat on this Working Group for around four years now, there have been only minimal changes.

With regards to the ARIBA system, it’s a shame that the businesses involved with the ECC Supplier Working Group weren’t consulted when this was selected, as we would be the kind of businesses using it and would have been able to assess its pro’s and con’s.

From a personal perspective I find ARIBA to be a frustrating system that's not user-friendly in the slightest, and it isn't "Essex" branded either, which is a shame.

Procurement should be a great way for the Council to work with LOCAL businesses. Unfortunately it's bogged down by bureaucrats and not run by business people. Perhaps procurement should be put out to tender".

Concluding Remarks

A working draft copy of this report was forwarded to the Cabinet Member for Transformation and Corporate Services to enable him to consider the recommendations in advance of the report being presented for approval to the Corporate Scrutiny Committee on Tuesday, 25 February 2014.

Acknowledgements

The Task and Finish Group would wish to thank the following for providing oral and written evidence across six meetings, as well as those who had expressed a willingness to attend sessions but were unable to do so due to other commitments:

Sharon Alexander, Paul Bird, Liz Chidgey, Janet Chinnery, Celia Clark, Graham Clarke, Steve Ede, Melanie Evans, Diane Fairchild, Paul Feasey, Jacqui Foile, Dr Mike Gogarty, Andy Gowers, Yvonne Harris, Colin Ismay, Councillor Derrick Louis, Sheila Norris, Arsene Poghosyan, Stuart Smith, Andrew Spice, Fleur Summers and Iain Wicks.

<p style="text-align: center;">Essex County Council Overview and Scrutiny Committee Review Scoping Document</p>
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This form is a tool that should be compiled at the start of each inquiry to set out clearly the aims and objectives of the committee's involvement in a particular matter, and will be completed at the end of the inquiry to confirm what has been achieved. The form also provides an audit trail for a review.

Review Topic (Name of review)	Procurement Strategy
Committee	Corporate Scrutiny Committee
Terms of Reference	To assess the outcomes and effectiveness of the existing Essex County Council Procurement Strategy and to make recommendations for improvement related to the revised strategy which is due to be published in April 2014. A key focus is the delivery of cost-effective, high quality services as ECC moves to a commissioning-based organisation.
Lead Member, and membership of Task and Finish Group	Councillor Julie Young (Chairman), Councillor Bill Archibald, Councillor Susan Barker, Councillor Malcolm Buckley, Councillor John Knapman, Councillor Michael Mackrory and Councillor Pierre Oxley
Key Officers / Departments	Andrew Spice, Commercial Director LATCs (i.e. EssexCares)
Lead Scrutiny Officer	Robert Fox

Relevant Portfolio Holder(s)	Councillor Derrick Louis, Cabinet Member Transformation and Corporate Services
Relevant Corporate Links	The revised Procurement Strategy is due for publication in April 2014.
Type of Review	Task and Finish Group
Timescales	February 2014 (the refreshed Procurement Strategy is due for publication in April 2014)
Rationale for the Review	<p>To ensure the existing Procurement strategy is ensuring the procurement of cost-effective, high quality services for the residents of Essex.</p> <p>The 2011/12 – 2013/14 Procurement strategy states that it would be subject to regular review to track progress and Members should review the performance of procurement.</p> <p>As the strategy will be reviewed and revised in April 2014 the Committee should commence a review of the 2011/12 – 2013/14 strategy in order to have input into the refreshed strategy.</p>
Scope of the Topic	<p>How has the development of new ways of working at ECC, moving the Council to a customer-first commissioning organisation with procurement at the heart of that model (Procurement Strategy 2011/12 – 2013/14) been working in practice?</p> <p><u>Include</u></p> <p>The following is included in the scope of the review:</p> <ul style="list-style-type: none"> • Value for money • Probity • Professional management • Performance and benchmarking • The effect of TUPE • The effect of OJEU • Customer focus • Local Purchasing to support local SMEs • Consultation and lessons learned prior to and following procurements

Key Lines of Enquiry	<p>The County Council has recently signed a number of high-profile agreements how have these procurements delivered the aspects outlined above in the scope of the topic?</p> <p>To review how the newly formed Commercial team is set up to support the shift to ECC becoming a commissioning-led organisation</p>
Other Work Being Undertaken	<p>Transformation II</p> <p>Revised Procurement Strategy (April 2014)</p>
What primary / new evidence is needed for the scrutiny?	<p>To agree what information is required to take the review forward, and what information is not already available.</p>
What secondary / existing information will be needed?	<ul style="list-style-type: none"> • The Procurement Strategy 2011/12 – 2013/14 • Procurement Balanced Scorecards (performance indicators) • Internal reports and audit trails of a selection of large, medium and small procurements
What briefings and site visits will be relevant to the review?	<p>Witness sessions.</p>
Who are the witnesses who should be invited to provide evidence for the review?	<p>The Cabinet Portfolio Holder</p> <p>Other Cabinet Portfolio Holders responsible for high-profile procurement agreements</p> <p>ECC Commercial Director</p> <p>Local Authority Traded Companies (i.e. Essex Cares)</p> <p>ECC Commissioning Directors</p> <p>Federation of Small Businesses</p> <p>ECC Shared Services</p> <p>The above list is not exhaustive and the above may be added to with the agreement of the Task and Finish Group</p>

<p>What equality and diversity issues need to be taken into consideration as a part of the review planning process?</p>	<p>Have Equality Impact Assessments been undertaken for all procurement activity?</p> <p>Paragraph 6.11 of the existing Procurement Strategy encourages suppliers to adopt practices to ensure sustainable procurement in the following areas: equality and diversity, ethical sourcing, supporting the local economy and environmentally sustainable procurement. The Task and Finish Group would wish to see evidence as to how this is undertaken and followed-up in practice.</p>
<p>What resources are required for this review?</p>	<p>In planning the review it is necessary to identify what resources are required to undertake the review, and any costs associated with the committee's activity. Given that the resource available is finite, it will be necessary to consider carefully the timing of the review within the Committee's overall work programme.</p>
<p>Indicators of Success</p>	<p>The recommendation of service improvements to the revised strategy. The delivery of a revised Procurement Strategy with full Member to set the strategic direction of the Council's Procurement Strategy.</p> <p>An ongoing role for Members in monitoring and reviewing the effectiveness of the strategy.</p>
<p>How will the scrutiny achieve value for money for the Council / Council Tax payers?</p>	<p>It is fair to say that any recommendations with financial implications will no longer be approved by Cabinet and so for scrutiny be in line with Council priorities and perceived as a useful / credible tool, it needs to be more innovative and look for solutions that will either save money or will improve services without additional costs.</p>
<p>Notes</p>	

Provisional Timetable	<p>Meetings of the Task and Finish Group have been set as follows:</p> <p>Thursday, 3 October at 10.00 a.m.</p> <p>Tuesday, 22 October at 1.00 p.m.</p> <p>Tuesday, 26 November at 2.00 p.m.</p> <p>Tuesday, 17 December at 2.00 p.m.</p> <p>Other dates to be advised.</p>
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For a better quality of life

“Making It Easier To Supply Essex County Council”

Many changes have been made to simplify doing business with Essex County Council (ECC) as a result of feedback and suggestions we received from the local business community and voluntary sector. A group of local businesses from across the County have been working with us for over two years to improve ECC procurement practices from a supplier and, importantly, an SME perspective.

- We have reduced the number of questions in our standard Pre-Qualification Questionnaire (PQQ) by half and have produced supplier "How to" guidance to accompany it on the Supplier Portal.
- Our PQQ is now easier to complete and much more relevant to SME's, sole traders, voluntary & community sector organisations and charities.
- Our PQQ sets levels of Public Liability and Professional Indemnity insurance on a case by case basis. Employer's Liability is set at the legal limit for all organisations.
- Our "Fit to Supply" checklist gives suppliers a head start determining their eligibility to supply the Council prior to registering on our Supplier Portal, or completing a pre-qualification questionnaire.
- We have standardised our supplier feedback process corporately to ensure a consistent and informative approach to providing feedback to help suppliers improve future bids.
- We are publishing all transactions above £500 and all contracts over £50,000 on our website to help suppliers identify upcoming contract opportunities.
- Procurement opportunities are published weekly to ECC's website to improve visibility for all suppliers and especially to make them accessible to SMEs.
- Lower value opportunities (£2k to £50k) are now published via our supplier portal, Ariba, improving visibility for local SMEs.
- We have introduced new policies from April 2011. At least one of every three quotes must come from local Essex suppliers where possible, and nothing under £50,000 will require a supplier pre-qualification.
- Members of the group have engaged with the procurement team to work on standardised content for procurement documentation in relation to key areas such as Health & Safety, Business Continuity, Quality Systems.
- The group has signed off and is monitoring the action plan developed in response to the Ariba supplier survey.
- Improvements to ECC's website have been made as a result of group members accessing it as an SME wanting to do business with the Council and providing feedback on the experience.
- Ariba processes have been simplified as a result of SME feedback with supplier guidance provided as standard.
- A 'Best Practice Guide to Engaging SMEs' has been developed using an approach utilised within the I.T. category.

All of our guidance documents are available on our Supplier Guidance pages at:
<http://www.essex.gov.uk/Business-Partners/Supplying-Council>.



Essex County Council

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