

Cabinet 6 October 2015	 TOWER HAMLETS
Report of: Louise Russell, Service Head – Corporate Strategy and Equality	Classification: Unrestricted
Scrutiny Challenge Session – Contract Specification and Management in Tower Hamlets	

Lead Member	Councillor David Edgar, Cabinet Member for Resources
Originating Officer(s)	Gulam Hussain, Corporate Strategy and Equality
Wards affected	All Wards
Community Plan Theme	ALL
Key Decision?	No

Executive Summary

This report provides recommendations from, and an action plan in response to, a challenge session on contract specification and management in the Council. The session used, as a case study, the contract with Veolia for environmental services.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Consider this report of the scrutiny working group and agree the action plan in response to the review recommendations.

1. REASONS FOR THE DECISIONS

- 1.1 In 2013/14 the Council spent £355.5 million on procuring goods and services. Tower Hamlets Council, like other local authorities, has been presented with significant reductions in its spending powers. By the end of 2015/16 the Council expects to have delivered a cumulative saving in excess of £118 million since the spending review of 2010.
- 1.2 In light of the financial pressures faced by the council the review sought to explore the existing approach to procurement and contract management to ensure it effectively balanced the need to achieve value for money whilst still delivering effective services and wider social benefits. The focus of the challenge session was underpinned by three core questions;

- a) How does value for money and quality of service provision inform contract specification and management?
 - b) What options are available for improving value for money and quality of service provision from contracts?
 - c) What are the challenges faced by the Council in securing its requirements (including financial and community benefits) within the existing framework?
- 1.3 In light of the current procurement exercise being undertaken by the council to secure waste management services as of 2017 and a London Councils' report noting waste management to be typically the third largest area of spend for London authorities after education and social care, this area was chosen as a case study for the purposes of this enquiry.

2. ALTERNATIVE OPTIONS

- 2.1 To take no action. This is not recommended. The proposed response includes activities set out and agreed in the Best Value Procurement Action Plan produced in response to directions from the Secretary of State. A timetable for delivering the recommendations has also been agreed by officers. The action plan is outlined in Appendix Two.
- 2.2 To agree some, but not all, recommendations. All of the recommendations are achievable at little additional cost to the organisation.

3. DETAILS OF THE REPORT

- 3.1 The challenge session took place on 22nd January 2015 led by Cllr Abjol Miah, Scrutiny Lead for Resources in 2014/15.
- 3.2 The session took place in the context of the Council needing to find further financial savings, maintain effective services and seek community benefits from procurement. The focus of the challenge session was therefore to understand the approach used in developing contract specifications and the management of contracts, utilising the Council's waste management contract with Veolia UK as a case study.
- 3.3 The report with recommendations is attached at **Appendix One**. Six recommendations have been made:

RECOMMENDATION 1:

Publish the quarterly Contracts Forward Plan on the Council's website and use the Members Bulletin to alert Councillors when it is updated.

RECOMMENDATION 2:

Officers periodically review the Council's approach to securing Community Benefits to ensure that:

- Community benefits are maximised whilst securing value for money, and
- Community benefits good practice is shared across Council services and category management areas.

RECOMMENDATION 3:

Communicate to residents the community benefits that are being achieved by the Council through major procurement activity and current contracts.

RECOMMENDATION 4:

Consider accredited learning for those involved in supporting high risk or high spend procurement and contract management activities.

RECOMMENDATION 5:

Publicise further Find it, Fix it, Love it (FIFILI) to increase its use including a focus on utilising the support of the 37% of staff members who live in Tower Hamlets.

RECOMMENDATION 6:

Explore wider use of mobile (app) technology in Council services informed by the experience of FiFiLi.

- 3.4 This review was timely as the council is currently exploring options to procure a new waste management contract as of 2017.
- 3.5 The scope of Recommendation 2 is restricted by the obligations placed on the council under the Public Contracts Regulations 2015 which implements European procurement regulations in to UK law.
- 3.6 The Executive proposes a broader approach to mobile technology be pursued in response to Recommendation 6. This reflects general advice, including from the Government, that apps can duplicate existing channels and that responsive web design (which optimises users' experiences across a range of devices, including mobile) is preferable.
- 3.7 The report with recommendations is attached as **Appendix One**. The action plan which accompanies the report is attached as **Appendix Two**.

4. ANY IMPLICATIONS

4.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER

4.1.1 There are no financial implications as a result of the recommendations within this report. The additional publicity and communications are being implemented through existing resource arrangements.

4.2 LEGAL COMMENTS

4.2.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements that ensure the committee has specified powers. Consistent with this obligation, Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework that the Scrutiny Challenge Session Report and recommendations in it be submitted to Cabinet for consideration.

4.2.2 Section 3 of the Local Government Act 1999 requires that the Council as a best value authority "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". Reviewing and where required updating the Council's procurement approach is an important way in which that obligation can be fulfilled.

4.2.3 Following the Scrutiny challenge session, the Scrutiny Challenge Session Report makes a number of recommendations relating to the Council's procurement approach, with particular focus on maximising value for money and securing community benefits through effective contract management and contract specifications.

4.2.4 The recommendations set out at paragraph 3 are consistent with the Tower Hamlets Procurement Policy Imperatives 2012-2015, particularly Imperative 1 which relates to "delivering budget efficiencies and providing value for money".

4.2.5 The Council is required to take into account the prevailing European and Domestic law relating to competition when considering the promotion of local benefits within its contract specifications.

4.2.6 Recommendation 2 relates specifically to securing community benefits. The inclusion of local benefits as specific contract deliverables may be anticompetitive to the extent that they can be difficult to deliver by contractors who are based outside of the borough. It is therefore important that the Council maintains the ability to consider each

contract on a case by case basis to determine the appropriate local deliverables so that potential discrimination against bidders is removed.

- 4.2.7 Additionally and in any event, the total score available for local community benefits within a particular evaluation methodology should not exceed 5% of the overall score available in order that the Council does not fall foul of the general principle of non-discrimination.
- 4.2.8 It should be noted that where there is reference to the Public Contracts Regulations 2006 within the Scrutiny Challenge Session Report, this legislation has, since 26 February 2015, been replaced by the Public Contracts Regulations 2015. The 2015 Regulations do not change the position on the contents of the report or the recommendations made in it.
- 4.2.9 In its consideration of the Scrutiny Challenge Scrutiny Report and its recommendations, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the Public Sector Equality Duty). A proportionate level of equality analysis will be required by the Council in developing contract specifications and when considering the nature of local community benefits being sought from individual contracts.

4.3 ONE TOWER HAMLETS CONSIDERATIONS

- 4.3.1 The recommendations contained within this report support the Council's strategic priority to work 'Work efficiently and effectively as One Council'.
- 4.3.2 Achieving efficiencies through effective contract management will support the council to continue delivering key frontline services affecting all residents of the borough.

4.4 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 4.4.1 There are no direct environmental implications arising from the report or recommendations.

4.5 RISK MANAGEMENT IMPLICATIONS

- 4.5.1 There are no direct risk management implications arising from the report or recommendations.

4.6 CRIME AND DISORDER REDUCTION IMPLICATIONS

- 4.6.1 There are no direct implications of crime and disorder as a result of the recommendations of this review.

4.7 EFFICIENCY STATEMENT

4.7.1 Recommendations 5 and 6 encourage the council to encourage the wider adoption of the FIFILI application through the 37% of the total employees of the organisation who also reside in the borough. The recommendations also encourage a wider application of mobile technology to support greater mobile working and encourage efficiency.

4.8 BEST VALUE IMPLICATIONS

4.8.1 The Scrutiny Review supports the Best Value duty by setting out a number of recommendations which aim to support improvement, informed by consideration of economy, efficiency and effectiveness. The report recommends that work be undertaken to assess the effectiveness of existing arrangements to support effective contract management and review periodically review the council's approach to securing community benefits to ensure the continued availability of high quality front line services delivering value for money.

5 CONCLUSIONS

Cabinet is recommended to agree the action plan contained as Appendix Two, which responds to the review's recommendations.

Appendix One: Scrutiny Challenge Session – Contract Specification and Management in Tower Hamlets

Appendix Two: Action Plan