

AUDIT COMMITTEE

16 April 2007

AGENDA
ITEM

SUBMISSION OF INTERNAL AUDIT REPORTS FOR SCRUTINY

Summary of report:

This report presents the two reports selected for scrutiny at the meeting of 5 March 2007.

Background papers: Internal audit reports/files/working papers.

Reason for scrutiny:

The audit committee's activities include ensuring an effective internal control environment is maintained and regular ongoing scrutiny of internal audit work.

Recommendation:

(1) To note the contents of the report.



Signed:

Executive Director: Carole Evans – 3 April 2007

Resource and legal considerations:

The cost of providing internal audit is charged to services based on audit activity. These projects were included within the contract audit work detailed in the annual risk assessed audit programme discussed with managers before the start of the respective financial year.

Citizen impact:

Report scrutiny assists in demonstrating that the council and its officers are protected and provides an assurance to stakeholders about the security of the council's operations.

Environment impact:

None arising from this report.

Vision impact:

The work undertaken by internal audit contributes towards the council's vision in ensuring we operate a sound control environment and provide excellent customer services.

Equality Implications:

None arising from this report

Consultation:

The annual audit work programme was discussed with relevant senior managers before the start of the year. These 2 contractors' final account reviews were undertaken to ensure the accuracy of the final cost and evidence the levels of contract controls in place. Areas for improvement were identified and these were included within the agreed final report/action plan. After a short period of time, the relevant managers will be asked to formally confirm that the agreed action plan recommendations have been implemented.

Author

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SUMMARY OF REPORTS SELECTED FOR SCRUTINY

1 Bus Showcase Routes

- 1.1 This final account was examined in November 2006 in accordance with the requirements of section 15.3.1 (b) of the council's financial and contract rules which state:

The contractor's final account shall be made available to the Chief Internal Auditor wherever the contract's value is £150,000 or more along with details relating to obtaining authority, planning, tendering, award, operation and payments relating to the project,

- 1.2 The objectives of the audit were to:

- ensure that the final account value reflects accurately the work undertaken and payments made; and
- assess the controls implemented throughout the procurement and performance of the contract.

- 1.3 T Maguire & Company undertook engineering works between August and December 2004 to roads along bus routes 529 and 311. These routes connect Walsall with Wolverhampton and Stourbridge. The auditor agreed the total value of these works at £303,677.46. Retention monies of £4,585.08, held under the terms of the contract, were released following the examination.

- 1.4 During examination of the final account and associated documents, it was noted that the contract between the council and contractor had not been executed under the council's seal. This was due to a genuine misunderstanding concerning authority required to accept a tender for this externally funded project. In accordance with contract procedure rule 25.3 as in force at the time, tenders in excess of £250,000 should have been accepted following a resolution of the cabinet. Acceptance of this tender had been undertaken by the then executive director for Regeneration, Housing and the Built Environment, following approval of additional finance by the chair and vice chair of a council committee in 2002.

- 1.5 A memorandum and action plan was issued to the officers within the built environment on the 22 November 2006, **Appendix 1**. The detailed finding was subsequently discussed with the group leader, major projects and minor improvements, from whom a written response agreeing to the recommendation was received on 5 December 2006. The officer states that he has recently implemented systems to ensure that liaison with the council's legal services officers is put onto a more formal basis.

2 Willenhall College Alterations

- 2.1 This final account was examined in December 2006 in accordance with the requirements of section 15.3.1 (b) of the council's financial and contract rules which state:

The contractor's final account shall be made available to the Chief Internal Auditor wherever the contract's value is £150,000 or more along with details relating to obtaining authority, planning, tendering, award, operation and payments relating to the project.

- 2.2 The objectives of the audit were to:

- ensure that the final account value reflects accurately the work undertaken and payments made; and

- assess the controls implemented throughout the procurement and performance of the contract.
- 2.3 George Law Limited undertook building and associated works for the alteration to Willenhall Sports College. The auditor agreed the total value of the contract at £179,571.99. Retention monies of £10,371.99, held under the terms of the contract, were released following the examination.
- 2.4 The overall conclusion in the final report, **Appendix 2**, issued on 21 December 2006, was that:
- “The financial and other systems operated were found to be of a poor standard. Controls are in place but operating poorly or controls are inadequate. Only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively.”*
- 2.3 The auditor’s contract examination identified a number control weaknesses in relation to failures to seek the executive director’s approval to tender, to arrange for the necessary surety or contract under seal, including the relevant completed questionnaires and to approve promptly the completion time extension.
- 2.4 The five recommendations detailed within the report action plan were agreed for implementation by the Head of Property Services. The works were actually procured and undertaken in 2004, since which time new management and improved systems have been introduced within the council’s Building Design Unit.

Memorandum

Internal Audit

To	Keith Stone Assistant Director for the Built Environment	From	David Blacker Chief Internal Auditor
FAO	Mr Richard Sheldon - Group Leader Major Projects and Minor Improvements		
Your Ref	MPM1/BSC/529/311/1.02/ns	My Ref	AUD2/SJO/06IA9N

Date: 22 November, 2006 Ext: 2920 Please ask for: Steve Osborne

Contract **Bus Showcase Routes 529 and 311**

Contractor **T Maguire & Co Ltd**

Examination of this contract has now been completed and the final total is agreed in the sum of £303,677.46. Payment to the contractor is understood to total £299,092.38. The remaining sum of £4,585.08 should be paid providing:

- The contractor has completed all maintenance liabilities under the contract and the maintenance period set out in the contract,
- The final payment is made following completion of the maintenance period prescribed in the contract specifications,
- The contractor accepts this sum as representing a full and final settlement, and
- You are able to verify the value of the payment previously made.

1 **Examination**

During his examination of the account, the auditor noted one area of weakness.

a) **Execution of a Sealed Contract**

Although informed by the council's legal services that a contract for these works was due to be executed, at the time of the audit examination this had not yet taken place. Contract procedure rule 29.3, as in force at the time required:

29.3 Wherever a contract shall exceed £100,000 in value or amount it shall be embodied in a formal written contract under the common seal of the Council. The Council's Director of Legal and Democratic Services shall have custody of all contracts made under the Council's seal. The General or Service Manager responsible for the contract shall retain a copy of the contracts conditions.

2 Recommendations

There is one recommendation, which is shown in the action plan at section 4 of this memo.

3 Response

Under the council's corporate governance arrangements, outcomes of all audits are reported routinely to the audit committee, including the extent to which recommendations have been successfully implemented. I should be grateful to receive your response to this memo, including your agreement or otherwise to the recommendations contained in section 2 above, before Monday 4 December 2006.

Should you require any further assistance on this matter please contact the writer.

Chief Internal Auditor

ACTION PLAN

Ref	Priority	Finding	Risk Exposure	Recommended Action	Response	Responsibility & Timescale
a)	*	A contract for these works is due to be executed, but this had not taken place at the time of the audit examination.	Failure to comply with the council's contract procedure rule 29.3 as then in force. The council might lose protection should the contractor cease trading or there to be a serious flaw in the works.	Officers should continue to liaise with the council's legal services department in order to ensure prompt execution of contracts.	Recommendation agreed	Group Leader, Major Projects and Minor Implementations Implemented

Walsall Council
Internal Audit Service

Contract for Works at
Willenhall Sports College - Alterations
Undertaken by
George Law Limited

PRIVATE & CONFIDENTIAL
Audit Report 2006 / 2007

21 December, 2006

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AUDIT OPINION AND ACTION PLAN

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EXECUTIVE SUMMARY

Introduction

1. An audit of this final account has been undertaken in accordance with the requirements of section 15.3.1 (b) of the council's financial and contract rules:

The contractor's final account shall be made available to the Chief Internal Auditor wherever the contract's value is £150,000 or more along with details relating to obtaining authority, planning, tendering, award, operation and payments relating to the project,

2. The objectives of the audit were to assess the controls implemented throughout the procurement and performance of the contract.
3. The scope of the audit is as set out on the contents' page. An overall opinion, points of good practice and an improvement action plan for each of the areas audited are attached. Audit recommendations, in general, are prioritised as high (***) , medium (**) or low (*).
4. Within a short period of issuing the final audit report, the head of service will be contacted to formally confirm that the action plan recommendations have been implemented as agreed.
5. Under the council's corporate governance arrangements, the outcomes of audits are reported routinely to the audit committee. This includes providing an overall report opinion and details of agreed recommendations successfully implemented.
6. The committee has expressed concern with a failure, in a number of instances, to implement agreed recommendations. The committee will seek explanation from managers failing to ensure that agreed recommendations are actioned.

Overall Audit Opinion

- The financial and other systems operated at were found to be of a poor standard, as described below:

Overall Audit Opinion		
	Good	Controls are in place and operating satisfactorily. Reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively.
	Adequate	There are some control weaknesses but most key controls are in place and operating effectively. Some assurance can be given that the system, process or activity should achieve its objectives safely and effectively.
→	Poor	Controls are in place but operating poorly or controls are inadequate. Only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively.
	Unsatisfactory	Controls are failing or not present. No assurance can be given that the system, process or activity will achieve its objectives safely and effectively.

Summary of Findings

	Good	Adequate	Poor	Un-satisfactory
Selection of Consultants and Contractors		✓		
Contract Documents			✓	
Performance		✓		
Final Account	✓			

AUDIT OPINION AND ACTION PLAN

1. Selection of Consultants and Contractors

AUDIT OPINION

General procedures are of an adequate standard.

Good practice includes:

- Use of appropriate system for tendering
- Assessment of tenders by the quantity surveyor

ACTION PLAN

Ref	Priority	Finding	Risk Exposure	Recommended Action	Response	Responsibility & Timescale
1	**	There was no agreement in writing from a director to approve the works being tendered as required in contract procedure rule 19.3 as then in force	Failure to comply with contract procedure rules and to create appropriate authority for officers' actions.	Officers should obtain appropriate authority prior to seeking tenders in accordance with financial and contract rule 10 as now in force.	Procedures are being developed to ensure Approp Authority will be sought to invite tenders	KK April 07

2. Contract Documents

AUDIT OPINION

General procedures are of a poor standard.

Good practice includes:

-

ACTION PLAN

Ref	Priority	Finding	Risk Exposure	Recommended Action	Response	Responsibility & Timescale
2	**	There was no evidence of a performance bond or other surety having been obtained from the contractor as required in contract procedure rule 20 as in force at the time.	Failure to comply with the council's rules and risk to finances if the contractor failed to complete the works	A performance bond or other surety should be made available to demonstrate that the council has received appropriate protection.	Procedures are being developed to ensure Bonds are obtained	KK April 07
3	""	The auditor was unable to find a contract executed under the council's seal as required in contract procedure rule 29 as in force at the time.	Failure to comply with the council's rules and risk to finances if the contractor failed to complete the works	A contract should be made under the council's seal to demonstrate that the council has received appropriate protection	Procedures are being developed to ensure Contracts are executed	KK April 07
4	***	The auditor was unable to find evidence of the contractor providing either a completed race relations or health and safety questionnaire as required in the council's contract procedure rule 30 as in force at the time.	Failure to comply with the council's rules and heightened risk to the council's resources and reputation.	Race relations and health and safety documentation should be available in accordance with the requirements of financial and contract rule 14.4	Procedures are being developed to ensure Questionair is completd	April 07

3. Performance

AUDIT OPINION

General procedures are of an adequate standard.

Good practice includes:

- Architect's instructions have been priced by the quantity surveyor
- The contract administrator's regular site meetings are evidenced.
- Completion of the works to time is evidenced by the Certificate of Practical Completion.
- The Making Good of Defects certificate has been withheld pending the end of the defects period.

ACTION PLAN

Ref	Priority	Finding	Risk Exposure	Recommended Action	Response	Responsibility & Timescale
5	*	Granting of an extension of time for completion of the works was certified some twenty months after the works were completed.	The architect may receive unfair criticism for appearing to arrange a settlement after the event to which it pertains.	Extensions of time should be certified and sent to the contractor as soon as agreed by the employer	Procedures are being developed to ensure Extensions Of time are Made within timescale	KK June 07

4. Final Account

AUDIT OPINION

General procedures are of a good standard.

Good practice includes:

- The quantity surveyor has produced a final account in good time, which evidences the final cost for the works
- Contingencies and provisional sums have been dealt with appropriately.
- It is possible to reconcile the quantity surveyor's final account with the tendered sum and variations.
- Interim valuation certificates are to hand and verified from the council's officers who have effected payment.

ACTION PLAN

Ref	Priority	Finding	Risk Exposure	Recommended Action	Response	Responsibility & Timescale
		There are no findings which require action				