

# Internal Audit Report

## Landscape Contracts

### Walton High and Wavendon Gate Schools

#### 1. *Introduction*

- 1.1 The Internal Audit Service was requested to review the selection of tenders and the evaluation of the contract process for the Landscape Contracts at Walton High and Wavendon Gate Schools. This review was designed to ensure that the actions taken complied with Council's policies and contracting procedures.
- 1.2 The review involved an examination of the contract files, together with discussions with the relevant officers.

#### 2. *Conclusion*

- 2.1 The Landscape Section failed to follow contracting procedures with respect to the invitation to tender, as Committee approval setting out contractors to be invited and the selection criteria for the award of the contract was not obtained.
- 2.2 There was a failure by the Contract Unit to record an estimate of the value of the contract prior to the opening of tenders. This information is vital in order to determine the persons present at the opening of the tenders. As a consequence contract procedures were breached by the Contracts Unit in respect of tender opening. However, it is felt that this would not have had a material effect on the outcome of the letting of the contract.
- 2.3 An inconsistency exists between Standing Orders and the Contracts Framework in relation to tender opening procedures. Standing Orders C12(d) states that tenders are to be opened by the Chief Executive or other appropriate officer unless he directs it should be opened by the Chair or Vice Chair of the relevant Committee. Whereas the Contracts Framework suggests that Chair or Vice Chair should be present at the opening of tenders with an estimated value of £250,000 or more.
- 2.4 Standing Orders were breached by the Landscape Section as M.E.A.T criteria were not set for evaluating the tenders and awarding the contract. Having price as the only criterion goes against the principle of the M.E.A.T process, which requires full consideration to be given to the key components of the contract and a weighting to be allocated according to their importance.
- 2.5 It is not possible to state with certainty whether the outcome of the letting of the contract would have been different if the M.E.A.T criteria had been used. However, as there was only

a 6.5% (£23,855) difference in price between the lowest tenders, it could be argued that quality or technical criteria may have had a bearing on the outcome.

- 2.6 There was a failure to undertake financial and health and safety evaluations as part of the tender evaluation process although the information had been received. Only the lowest tender had been vetted based on information received for a previous contract. This oversight was rectified by retrospective evaluations.
- 2.7 There was no evidence of management checks within the Landscape Section to ensure that correct procedures are followed for tendering and letting of contracts.
- 2.8 There was an absence of documentation within the Landscape Contract files recording the tenderer selection and invitation process.
- 2.9 The review highlighted a confusion of roles between Officers in the Landscape Section and those in the Contracts Unit. This contributed to the non-adherence to the tendering and contract evaluation procedures.

### 3. *Recommendations*

- 3.1 All processes and decisions in the tender invitation, evaluation and selection process to be documented and held on the Departments contract files. (Ref 4.2 and 4.4)
- 3.2 Letting of contracts must be in accordance with the Council's Standing Orders and contracting procedures as set out in the Contracts, Tenders and Quotations Handbook. Where this is to be waived, then formal approval from Committee must be sought. (Ref 4.5)
- 3.3 All contracts over £50,000 in value must be awarded in accordance with the M.E.A.T. criteria. The criteria to be used for awarding the contract must be agreed in advance and communicated to all tenderers. (Ref 4.5)
- 3.4 Contracts Unit must obtain the estimated value of the contract from departments prior to the opening of the tender. (Ref 4.6)
- 3.5 The inconsistency between Standing Orders and the Contracts Framework in relation to tender opening procedures needs to be resolved by the Contracts Unit in consultation with the Legal and Internal Audit Services. (Ref 4.6)
- 3.6 There is a need for the role and services of the Contracts Unit to be more clearly defined and communicated to Departments, so as to ensure that no misconceptions occur in future with regards to the ownership and responsibility for the various stages in the tendering process. (Ref 4.8)
- 3.7 The review highlighted the need for the Landscape Section to introduce a formalised system of management checks to ensure that contract procedures have been followed at each stage of the tender process. (Ref 4.9)

3.8 Financial and Health and Safety checks must be undertaken for all interested contractors prior to invitation to tender. (4.8)

#### 4. *Summary of Findings*

4.1 The Landscape tender for Walton High and Wavendon Gate Combined School were combined to obtain the best price for the Council through economies of scale and to minimise the workload involved in the tender process and therefore to progress the tender process as promptly as possible.

4.2 The review found that documentary evidence of the tender invitation process was limited to the summary of events prepared in the Education Committee Report dated 27 July 1999. This indicated that a list of five tenderers was drawn up from a list of members of the Land and Drainage Contractors Association. Three contractors had previously carried out playing field construction work at Milton Keynes Schools, the remaining two were selected on the proximity of their location to Milton Keynes.

4.3 Consideration of inviting Synergy, the Council's DSO was discussed with Landscape Officers who stated that due to the specialist nature of the contract, which required specialist equipment and machinery and the fact that Synergy was not a member of the Land Drainage Association meant they were not invited to tender. Synergy were disappointed at not being consulted about the tender.

4.4 It is maintained by the Landscape Section that an estimated value of the contract and a tender list was verbally communicated to the Contracts Unit, although the process was not formally documented.

4.5 Prior to tender the estimated contract value was known by the Landscape Section to exceed £250,000. Therefore according to the contracts procedure set out in the Contracts, Tenders and Quotations Handbook, the Landscape Section should have obtained approval for invitation to tender from Committee, setting out the names of contractors to be invited and the M.E.A.T selection criteria to be used to assess tenders. This procedure was not followed.

4.6 The contracts procedures and Standing Orders were also not followed in the opening of tenders, where the relevant Chair of Committee should have been present. This breach was a result of the Contracts Unit not having a record of the estimated contract value. However, it is recognised that there is an apparent inconsistency between Standing Orders C12(d) which indicates tenders are to be opened by the Chief Executive or other appropriate officer unless he directs it should be opened by the Chair or Vice Chair of the relevant Committee. Whereas the Contracts Framework suggests that Chair or Vice Chair should be present at the opening of tenders with an estimated value of £250,000 or more.

4.7 Invitation to tender for the contract were sent out on the 18<sup>th</sup> March 1999 by Landscape Section to all five tenderers selected. In addition a fax requesting information relating to the Financial Accounts, Health and Safety Policy was sent on the 19<sup>th</sup> March 1999 by the Landscape Department. This action was prompted as a result of advice given by the

Contract Unit that this information would be required as part of the tender evaluation exercise.

- 4.8 There appeared to be some confusion regarding the role of the Contracts Unit, leading to a breakdown of the contract tendering process. The Landscape Section assumed that the Financial and Health and Safety evaluations would be co-ordinated by the Contracts Unit, as it had been done on an earlier contract. Whilst, the Contracts Unit's view was that as they were not involved from the outset, but only provided ad hoc advice that it was not their responsibility. The Financial and Health and Safety information was received by the Contracts Unit for two of the companies. However, the information was not forwarded onto the Landscape Department. It did not therefore form part of the initial tender evaluation process.
- 4.9 The contract file maintained by the Landscape Section did not illustrate evidence of Departmental management checks to ensure compliance with correct procedures.
- 4.10 The evaluation of the tenders was performed by the Landscape Section and based purely on the price, as M.E.A.T criteria had not been set. This was a breach of Standing Orders which requires all contracts over £50,000 to be awarded on the most economically advantageous basis to the Council.
- 4.11 The three tenders indicated below, were presented to the Education Committee on 20 July 1999, where formal approval to let the contract to Company A was sought.

Company A	£367,187
Company B	£391,042
Company C	£432,378

- 4.12 Following the Committee decision to request a revised report, retrospective company evaluations were undertaken on 26 July 1999. The evaluation found Company B was considered financially stable, although some reservations were raised regarding the liquidity position of Company C. Company A had previously been successfully financially evaluated from another recent contract.
- 4.13 The Health and Safety standard, where a minimum score of 60% is required to satisfy the Council's requirements was not achieved by any of the companies (Company A 42%, Company B 32% and Company C 38%). However, supplementary information was requested for all three contractors and the revised scorings now appear to meet the Health and Safety requirements for Company A (subject to provision of monitoring information) and Company C:

Company A 57%	-	Approved subject to the condition of providing evidence of Health and Safety monitoring
Company B 32%	-	Failed to provide further information therefore the score remained the same.

Company C 60% - Provided adequate information

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