

CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL

21 MARCH 2016

USE OF CONSULTANTS

Summary

1. The Cabinet Member with Responsibility for Transformation and Commissioning and the Director of Commercial and Change have been invited to the meeting to discuss the County Council's use of consultants.
2. On 24 February 2016 the Overview and Scrutiny Performance Board (OSPB) was asked to consider the Audit and Governance Committee's request that the OSPB consider including the use of consultants as an item on its Work Programme. The OSPB agreed that the issue should be referred to the Corporate and Communities Overview and Scrutiny Panel to examine the Use of Consultants Policy, how it could be enforced and how the Cabinet could be held to account.

Background

3. At its meeting on 27 June 2014, the Audit and Governance Committee considered the results of an audit of the use of consultants. A further audit was subsequently requested and included in the agreed 2015/16 internal audit plan.
4. At its meeting on 11 December 2015, the Audit and Governance Committee considered the results of the follow-up internal audit report on the use of consultants. Although the report concluded that the County Council has very good clear documented and detailed processes relating to the engagement and management of consultants, it found a continued non-compliance with that framework by managers across the organisation. There also remained some ambiguity over the Council's definition of consultancy and hence a lack of consistency in interpretation.
5. The Committee agreed to receive a further audit report during 2016/17. The Committee requested that the results of the audit report be reported to Council. In addition, the Committee requested that the OSPB be asked to consider including the use of consultants as an item on its Work Programme.

Subsequent Actions

6. As a result of the audit report, the Director of Commercial and Change has implemented a new procurement policy and communication programme to ensure Council Officers follow the correct process prior to engaging consultants.
7. The policy has been extended to cover all Professional Services support to ensure there is no ambiguity on the definition of a consultant.

8. The policy was commenced on 21 January 2016 and to date, 8 March 2016, 42 correctly authorised requests to procure external Professional Services support have been sanctioned.

9. This compares to 47 correctly authorised requests being received in the whole of 2015, for procurement of the narrower definition of consultants.

Purpose of the Meeting

10. The Corporate and Communities Overview and Scrutiny Panel is asked to:

- Consider the information within the report
- Determine whether it would wish to carry out any further scrutiny, and
- Agree whether it would wish to make any comments to the Cabinet Member with Responsibility for Transformation and Commissioning.

Supporting Information

- Appendix 1 Procurement of Professional Services Policy
- Appendix 2 Authorisation to Procure Process Flow Diagram

Contact Points

County Council Contact Points

County Council: 01905 763763

Worcestershire Hub: 01905 765765

Email: worcestershirehub@worcestershire.gov.uk

Specific Contact Points for this report

Jo Charles, Head of Commercial

Email: jcharles1@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) the following are background papers relating to the subject matter of this report:

- Agendas and Minutes of the Audit and Governance Committee meetings held on 27 June 2014 and 11 December 2015
- Agenda and Minutes of Overview and Scrutiny Performance Board on 24 February 2016

All Agendas and Minutes are available on the Council's website at

<http://www.worcestershire.gov.uk/cms/democratic-services/minutes-and-agendas.aspx>

Appendix 1 Procurement of Professional Services Policy

When procuring any professional service support, you must follow the processes described below.

1. Definition

The definition of Professional Service Support is:

"A person, agency or firm engaged for a limited period of time on a fee basis to carry out a specific task or tasks. A professional service supplier provides subject matter expertise and/or experience to the Council either because it does not possess the skills or resources in-house or which requires an independent evaluation/assessment to be made. Professional services include (but not limited to):

- Architects
- Lawyers
- Quantity Surveyors
- Recruitment Expertise
- Training
- Market Research
- Professional Social Care Expertise
- Arts & Leisure Specialist Expertise
- Scientific Expertise
- Specialist Analysis Support
- Financial Expertise
- Consultancy
- Clinician Consultants
- Interim Management (except through Matrix)
- Temporary Staff (except through Matrix)

Within this category, "A Consultant is a person, agency or firm engaged for a limited period of time on a fee basis to undertake 'strategic business related tasks'. Consultants provide subject matter expertise and/or experience to the Council on a strategic level either because it does not possess the skills or resources in-house or which requires an independent evaluation/assessment to be made".

Exclusion is agency staff sourced through the Council's corporate contract for the supply of temporary staff (currently with Matrix).

All purchase orders for Professional Services must have the correct GL code, in order to accurately distinguish the different types of professional services.

2. Options Appraisal

Before proceeding with the procurement of any external professional service, a full options appraisal must be undertaken, and shall consider whether the necessary resource is available elsewhere within the council or whether the need can be fulfilled more cost effectively by a fixed term employment contract.

If the options appraisal identifies the need to secure external professional service support, then Officers must consider the use of the corporate contract for the supply of temporary staff (currently with Matrix).

If the corporate contract for the supply of temporary staff is deemed unsuitable then the completion of **C1A (Document Reference: C1A_v1_January 2016)** is required, approved and be allocated a sanction reference number before any procurement activity is started.

The Officer submitting the C1A form for approval is accountable for the information contained within and for ensuring the process is adhered to.

2.1 Approval Limits

- Less than £10,000 Head of Service
- £10,000 to £50,000 Head of Service, Director (and the Cabinet Member notified)
- Above £50,000 Head of Service, Director and Cabinet Member

All assignment extensions require a new C1A with the appropriate approval. Levels of approval are based on the total cost of the assignment, including the original contract and the extension.

2.2 Allocation of Sanction Reference Number

Once completed and approved the C1A must be submitted to the Commercial Team, (Procurement@worcestershire.gov.uk) to sanction and assign a unique reference number for the requirement before the procurement process can commence.

3. Procurement Process

Officers must recognise that the procurement of all types of professional services is subject to the processes and requirements of Contract Standing Orders and the Procurement Code to the same extent as any other procurement exercise.

- Work required must be specified in terms of clear, quantifiable and measurable outputs (deliverables) and timescales
- The specification must have absolute clarity as it forms the basis of all subsequent activities.
- A minimum of 3 quotations are required for contracts under £25,000
- Opportunities over £25,000 must be advertised on the Council's tender portal and Contracts Finder
 - A minimum of 3 tender responses are required
 - If less than 3 responses are received, exemption approval to the procurement process is required from the Commercial Team
- Opportunities over £164,176 must follow EU Procurement Regulations
- Fixed prices must be sought in invitations for quotations and tenders
- All quotations and tenders must be inclusive of all expenses, including mileage and other travel related costs
- The procurement process must ensure that potential professional service suppliers:
 - Have appropriate insurance cover in place during the period of the assignment
 - Submit answers to the Employee Status Questionnaire (see 3.1 below) to enable HMRC checks to be undertaken
- Contracts must be let on the council's standard terms and conditions
 - The use of suppliers' terms and conditions are not permitted
 - Contracts must specify milestones or gateway reviews at which formal contract reviews are undertaken
- The work of the appointed suppliers must be monitored to ensure that timescales and outputs are met in their entirety and Officers shall be prepared to terminate contracts which are failing to deliver the required outputs.
- Once a purchase order has been issued to the supplier, a C1A Procurement Record (**Document Reference: C1A Procurement Record_v1_January 2016**) must be completed and submitted to the Commercial Team, (Procurement@worcestershire.gov.uk).

3.1 HMRC Checks

Whenever an Officer engages self or externally employed individuals, the Council's policy, "**Employee Status – Employed or Self-Employed (e.g. Consultants)**" must be followed. The Officer submitting the C1A form is responsible for adherence to this policy. For advice, contact: HR Policy & Employee Relations Unit ext. 6208. Wrongly categorising an individual as self-employed may result in the Council being held liable for unpaid income tax and National Insurance Contributions ("NICs"), interest and penalties.

3.2 Reporting and Monitoring

Officers must ensure that monitoring arrangements are in place to manage the progress and outcomes of all professional service support work. A corporate register of all professional service support assignments will be maintained by the Commercial Team to monitor compliance with the Council's procurement code and to provide details of professional service work undertaken by the Council.

4. Compliance

Regular audit checks of these processes will be undertaken by the Commercial Team and any breach will be reported to the Council's SLT.

Appendix 2 Procurement of External Professional Services Support

