



REPORT of DIRECTOR OF RESOURCES

to
OVERVIEW AND SCRUTINY COMMITTEE
4 OCTOBER 2017

FINAL REPORT – PROCUREMENT AND DELIVERY OF THE 2016 / 17 CAPITAL PROGRAMME

1. PURPOSE OF THE REPORT

- 1.1 To provide members of the Overview and Scrutiny Committee with a report providing conclusive findings on the procurement and delivery of the 2016 / 17 capital programme with particular reference to Project 180, the demolition and remediation of the St Cedd's temporary building.
- 1.2 This report contains eight recommendations arising from the conclusions raised in the Section 3 - Summary of Key Issues. These actions are for immediate implementation.

2. RECOMMENDATION

That the contents of this report be noted and assurance is provided to this Committee by 31 March 2018 that all of the recommendations contained in sections 3.3 – 3.11 of this report have been fully implemented.

3. SUMMARY OF KEY ISSUES

- 3.1 This report is for Members' information only.
- 3.2 This purpose of this project has two key themes; the first element is to review the overall delivery of the 2016 / 17 capital programme to fully understand why the capital programme underspend by approximately £900,000 when these schemes were approved on the basis it was essential that they were delivered in 2016 / 17. The second element is a review of the procurement and delivery of Project 180 (also known as St Cedd's and car park). Project 180 overspend in total has required approximately £60,000 of expenditure in addition to what was originally budgeted.

3.3 Size of Capital Programme 2016 / 17

- 3.3.1 The 2016 / 17 Capital Programme approved by the Council on 4 February 2016 consisted of schemes to the value of £889,000 (Minute No. 875 refers). All of these schemes were deemed to be essential due to service failure implications or were included in the capital programme as they offered the potential to generate additional revenue streams for the Council. In itself the level of this capital programme should have been deliverable considering the resources available.

- 3.3.2 However, due to underperformance of the 2015 / 16 capital programme additional schemes to the value of an additional £1.3m were added to the scheme. This then created a capital programme of approximately £2.2m which included in excess of 30 different schemes, the large majority sitting with the Customer and Communities directorate. Looking back, it is clear to see that the resource in place within this directorate was never sufficient to deliver this level of capital expenditure.

<Recommendation One>

Corporate Leadership Team (CLT) review the following year's capital programme and provide assurance over deliverability of it in entirety before it is proposed to Members as part of the Budget setting exercise. As part of providing this assurance CLT need to consider any underspends within the current year's capital programme.

3.4 Monitoring and Review

- 3.4.1 Review of the 2016 / 17 reports represented to the Finance and Corporate Services Committee demonstrated that Capital Expenditure was reported to the Members on 26 September 2016 and 29 November 2016 but was not reported after this date and there is no evidence that the Capital Programme was reviewed by Members after this date. At the end of November 2016, a number of projects had not yet been started and therefore it could be concluded that these would not be delivered by year end.
- 3.4.2 Quarterly reviews should take place with lead officers for each project, where schemes are not deliverable by the end of the year they should be removed from the capital programme and re-bid for in the following year. The Council has foregone investment income due to cash flows being held for schemes that would not be delivered in 2016 / 17.

<Recommendation Two>

The Council has approved the re-introduction of the Asset Management Working Group. Regular monitoring will be reported to this Working Group and this Working Group will provide additional scrutiny over the delivery of the capital programme. The terms of reference of this Working Group should be reviewed to ensure that they include sufficient oversight, scrutiny and regular reporting of delivery back to relevant programme committees and the Council where necessary.

3.5 Project Management

- 3.5.1 The Council has a project management framework in place. Due to the size of the St Cedd's project it should have followed and complied with stringent Prince II style project management methodology. From review of the limited documentation in place there is no evidence that the Council's project management methodology was complied with. The methodology requires detailed status reporting, project plans, financial reporting, performance indicators and risk management. Compliance with the project management framework would have ensured that adequate risk management, budget management and project dependencies were identified at an

early stage and could have been managed to ensure delivery within budget and timescale.

<Recommendation Three>

All capital schemes follow the required project management framework and report risks, performance and updates on budget to the Asset Management Working Group.

3.6 Tender Evaluation Process

- 3.6.1 Review of the documentation around the tender evaluation and scoring process for the St Cedd's process raised significant concerns. The specification was prepared by the Essex Procurement Hub, it was clear and contained all of the standard items. However, there was no detailed scoring methodology for tenders received and there appeared to be no review by the Director of the tender packs or scores allocated. Potential contractors were required to provide method statements and risk registers but only one contractor provided this and this was not the contractor that was awarded the work. This meant that the work was awarded to a contractor that provided no evidence or methodology of how they were going to carry out the work. In addition the contractor that carried out the work did not provide any information around the remediation element of the contract which they had sub-contracted to another organisation. Full evidence of this process has not been retained and as a result of this the Section 151 Officer has tried to obtain further information on this from the previous Section 151 Officer. At the current date the previous Section 151 Officer has not responded to requests.

<Recommendation Four>

Detailed scoring methodology is provided in advance of tender evaluation. If method statements and risk assessments are not provided then an automatic fail shall be applied to the tender. A specific section should be included within tenders around any sub-contracting taking place and the head contractor must provide assurances and guarantees where any sub-contracting is in place. The Tender Evaluation Process should be fully retained and reviewed and authorised by the relevant Director.

3.7 Contract Award

- 3.7.1 Essex Procurement Hub advised that a Joint Contracts Tribunal (JCT) contract be issued to the organisation delivering the work but officers at the Council used a letter of award. The advantage of using a JCT contract it would have set out the responsibilities of all parties within the construction process and their obligations so as to be clear as to what work needed to be done, who was doing it, and when they were doing it by. Instead we provided a contract of award to the lead contractor and had no direct relationship with the sub-contractor. In the case of St Cedd's only the demolition was done by the lead contractor with the remediation provided by a sub-contractor who the Council had no relationship with and no recourse available when the sub-contractor failed to deliver.

<Recommendation Five>

JCT Contracts used for all construction contracts in excess of £10,000 as previously considered by the Finance and Corporate Services Committee on 31 January 2017.

3.8 Ring-fencing of budgets

- 3.8.1 Review of actual expenditure demonstrated that within the project there were a number of sub-budgets and expenditure codes. Expenditure on office furniture was over budget which led to a lack of budget for the remediation and demolition.
- 3.8.2 There is a concern that the shortfall in capital spend led the Officers to focus too heavily on reducing the price for demolition and remediation to a level where quality delivery was not possible. Review of the evidence available has shown that Officers removed a number of items from the specification after they had received the initial price in an effort to reduce the amount payable for the demolition and remediation.
- 3.8.3 If each work stream had its own ring-fenced budget then sufficient budget would have been made available for the remediation and demolition.

<Recommendation Six>

Where project budgets include a number of work streams, each work stream is itemised and allocated a separate budget. If virements are required these are authorised by the relevant Director and can only be authorised where the quality of delivery is not significantly adversely impacted.

3.9 Director oversight

- 3.9.1 Review of documentation and discussion with both the Procurement Hub and Council Officers has not demonstrated a robust level of review and oversight by the Director of Resources at the time of contract award. The current Section 151 Officer has attempted to obtain further documentation to demonstrate oversight and review at the time of procurement but this to date has not been successful.

<Recommendation Seven>

Each Director is responsible and accountable for the quality and timely delivery of capital projects within their directorate.

3.10 Estimations and Professional Fees

- 3.10.1 Where a project involves construction a professional estimator should be used at the time of the requesting the budget to ensure that the level of expenditure approved in the budget process is sufficient to deliver the project. In addition a contingency should be employed as agreed by the professional estimator.
- 3.10.2 This did not take place on the St Cedd's car park project and very early in the procurement process it was identified that sufficient budget had not been allowed for in the business case when Officers estimated the level of budget required.

<Recommendation Eight>

Professional Estimators are used to ascertain costs for all capital construction projects with budgets greater than £10,000.

3.11 Use of Council staff to carry out work on capital schemes

3.11.1 Council office caretakers carried out some work to complete the scheme. Part of this work was carried out as overtime and part of this work was during normal working hours. It is essential that where caretakers are doing this work it is included in their job description so that they can be paid at the correct rate for such work being carried out. Human Resources are in the process of reviewing the job descriptions to ensure that they reflect the actual work being carried out.

4. CONCLUSION

4.1 Officers continue to complete the detailed review of this project with the final report coming to Overview and Scrutiny Committee in December 2017.

5. IMPACT ON CORPORATE GOALS

5.1 This report links to the corporate goal of ‘delivering good quality, cost effective and valued services’.

6. IMPLICATIONS

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – None.
- (iv) **Impact on Resources (financial)** – Accurate allocation of capital funding enables maximum investment income to be obtained.
- (v) **Impact on Resources (human)** – Within existing resources.
- (vi) **Impact on the Environment** –None.

Background Papers: None.

Enquiries to: Emma Foy, Director of Resources (Tel: 01621 875762).