

Denbighshire Internal Audit Services
 Caledfryn, Smithfield Road, Denbigh LL16 3RJ

Internal Audit Follow Up

West Rhyl Coastal Defence Scheme (Phase 3)

December 2016



Assurance Rating (based on areas reviewed)		
	High Assurance	Risks and controls well managed and objectives being achieved.
▶	Medium Assurance	Minor weaknesses in management of risks and/or controls but no risk to achievement of objectives.
	Low Assurance	Significant weaknesses in management of risks and/or controls that put achievement of objectives at risk.
	No Assurance	Fundamental weaknesses in management of risks and/or controls that will lead to failure to achieve objectives.

Ivan Butler CMIIA, MBA, Head of Internal Audit Services

Purpose & Scope of Review

We carried out our original review of the West Rhyl Coastal Defence Scheme (Phase 3) at the request of the previous S151 Officer to provide assurance that there are robust procurement arrangements in place within the project. We gave a low assurance rating in our report of April 2016 because of the nature and, in some cases, corporate impact of the issues raised and the number of other lessons to be learned that we identified at the time.

We have now followed up the action plan included with our April report to ensure that the agreed improvements have been made.

Background & Context

The West Rhyl Coastal Defence Phase 3 project is the final phase of a scheme that aims to reduce the risk of coastal flooding to properties within West Rhyl. The original plan was for three phases of the scheme to be implemented at the same time, but the Welsh Government (WG) only approved the first two phases in January 2011. A tendering exercise for Phase 3 was undertaken in November/December 2014 using the Official Journal of the European Union (OJEU) compliant North and Mid Wales Trunk Road Agency's (NMWTRA) framework.

The majority of the costs for the flood defence element of Phase 3 have been met through a WG grant under the Coastal Protection Act, with additional funding through the European Regional Development Fund (ERDF) and Council match-funding.

The Works Unit (formerly known as the Major Projects Group) was responsible for implementation of Phase 3 (although it only took over responsibility for this Phase from January 2014), but was not involved in Phases 1 and 2 of the Scheme. The Flood Risk Manager was also involved in the project, having responsibility for liaising with WG for funding.

Audit Opinion

Since our original review, the Works Unit has not been involved in projects that are of a similar size and nature as the West Rhyl Coastal Defence Scheme (Phase 3). This means that we have been unable to ascertain progress with two issues that we previously raised relating to having a project board and for improvements within the risk management process.

Despite this, it is evident that work has been undertaken by the Works Unit to implement improvements since our last review. This includes ensuring that members of staff attend the relevant procurement training, and seeking clarification from WG of grant funding requirements. Additionally, they are currently reviewing their key paper documentation and quality management processes to prevent duplication and ensure that they are working more efficiently and electronically.

Recognising that the Proactis e-sourcing solution's contract register does not currently monitor contractor expenditure or provide an effective reporting tool for ensuring that contracts are signed promptly, the Performance Officer within Highways & Environmental Services has developed a bespoke contract register to incorporate these elements. Additionally, the contract register also has the functionality to record the procurement route that has been undertaken for each contract, e.g. framework agreement, contract or delegated decision so that the appropriate approval can be sought. We acknowledge the considerable work that has been undertaken to implement this interim measure but the corporate Proactis e-sourcing solution needs to be developed in the longer term so that all contracts above £25,000 can be published on the Council's website, and to enable the Collaborative Procurement Service to effectively monitor all contracts.

Corporately, the development of the Proactis e-sourcing solution, to ensure that it provides an effective monitoring and reporting tool for the Collaborative Procurement Service to carry out its quality assurance checks, has been held up by the system provider. There are plans to integrate the e-sourcing solution and the Proactis Purchase to Pay (P2P) system once both systems have been subject to an upgrade so that contractors' expenditure can be monitored.

Since our original review, the Contract Procedure Rules (CPRs) have been updated and address actions raised in terms of strengthening the tender evaluation criteria and the procurement planning process.

Early indications from our Corporate Procurement audit, currently being undertaken, have identified that while the Works Unit has ensured that a contract in our sample has been signed promptly, there may still be an issue with ensuring that contracts are in place and signed promptly and that the relevant documentation is held on the Proactis e-sourcing solution. Therefore, further progress with addressing this risk/issue will be ascertained as part of the Corporate Procurement audit.

Based on the progress that has been made since our original review within the agreed timescales, with further improvement mainly to be made from a corporate perspective, we have increased our assurance rating from 'Low' to 'Medium'.

Action Plan Progress

Audit Review of: West Rhyl Coastal Defence Scheme (Phase 3)

Date: December 2016

Corporate Risk/Issue Severity Key	
0	Critical – Significant CET and Cabinet intervention
1	Major – intervention by SLT and/or CET with Cabinet involvement
5	Moderate – Containable at service level. Senior management and SLT may need to be kept informed

Risk/Issue No.	Risk/Issue	Action Agreed Responsibility & Timescale	Current Status	Further Action Needed
1.	Despite the financial and reputational impacts, there is no project board in place to oversee the Phase 3 element of the Scheme. This has resulted in a lack of evidence being maintained on Verto to show the reporting to the project sponsor and any monitoring and challenge made by him.	<p>All future schemes will comply with Verto. The size of the project board will depend on the risks within the project and must include a decision maker who has sufficient knowledge of procurement.</p> <p>Further documented guidance on Verto is needed (<i>this has already been raised as part of our Corporate Project Management review, and will be followed up separately by the Head of Internal Audit</i>).</p> <p>Project Manager / Corporate Programme Office Manager – To be complied with for future schemes</p>	<p>Unable to ascertain</p> <p>Since our original review, there have been no projects of a similar size and nature as the West Rhyl Coastal Defence Scheme (Phase 3) that would necessitate the need to have a project board. Future schemes planned for the Works Unit have been procured under the OJEU compliant Scape National Major Works Framework, but are only at a feasibility stage due to the current uncertainty over WG funding.</p> <p>The Corporate Programme Office Manager has recently left the Council, but contained within the Business Improvement & Modernisation Service Plan is the requirement to deliver targeted project management training by the end of March 2017.</p>	Based on our work across services, it needs to be ascertained what targeted project management training is needed across the Council.

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2.	<p>The risk management element of the project would benefit from a review to ensure that risks are regularly reviewed and updated, and that risk reporting is accurate. If a construction risk register template is used, it needs to clearly show the impact if the risk occurred and the action in place to mitigate the risk.</p>	<p>Both the old project management guidance and Verto were used to develop the two risk registers. There is a need for us to maintain the two registers, but we will ensure that any inconsistencies do not occur.</p> <p>Project Manager – To be complied with for future schemes</p>	<p>Unable to ascertain</p> <p>Since our original review, there have been no projects of a similar size and nature as the West Rhyl Coastal Defence Scheme (Phase 3) that would necessitate the need to have two risk registers.</p>	
3.	<p>The WG grant offer letter details that funding relates to expenditure for 2014/15 and 2015/16, yet there are costs detailed for 2012/13 and 2013/14 on the cost report.</p>	<p>We have incurred costs on the project during 2012/13 and 2013/14 but the vast majority of the invoices paid during this period specifically include reference to Phase 3 of the scheme. While the WG offer letter does state that the funding relates to the period 2014/15 and 2015/16, it should be noted that Phase 3 is the final element of a programme of works that commenced in 2009.</p> <p>However, this will be picked up when we submit the final audited accounts to WG, probably before the end of March 2016. Verbally, WG's view is that all eligible costs for the scheme will be paid, whichever phase they relate to. We will also raise this as a risk on Verto.</p> <p>Senior Engineer–Flood Risk Management – April 2016</p>	<p>Complete</p> <p>The Flood Risk Manager has contacted WG who confirmed that, <i>“As these costs are for eligible work towards the West Rhyl phase 3 scheme, we are content for these costs incurred prior to 2014/15 to be included within your final claim which you have confirmed will be within the approved grant eligible sum”</i>.</p>	

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4.	An assessment of a contractor (selection criteria) should not be carried out at award stage, which should only assess the actual tender bid (award criteria). During the NMWTRA tender, the contractors' previous projects were assessed as part of the award criteria.	<p>The Council's CPRs have been updated (CPRs 2.1.3, 2.1.4 & 3.7.5) to ensure that framework agreements should be followed if there is any discrepancy with the CPRs, as long as it has been ensured that the framework is robust. The new CPRs have also been updated to reflect the use of industry standard national terms and conditions (CPR 3.5.1).</p> <p>Strategic Procurement Manager/ Programme Manager (Facilities, Assets & Housing) - Complete</p>	<p>Complete</p> <p>CPRs have been updated to reflect the use of industry standard national terms and conditions. While CPRs are not explicit that they should be followed if there is any discrepancy with CPRs (although they have been updated to reflect their use), the Programme Manager (Business Change) does reinforce this through training provided.</p>	
		<p>Under the new Public Contract Regulations 2015, there is now further limited flexibility to take into account previously defined "selection criteria" as part of any future tender award criteria process. The Collaborative Procurement Service will be reviewing the evaluation criteria as part of its quality assurance process and a review of the templates within the Proactis system will be carried out by the end of Quarter 2 2016/17 to ensure that they align with the new CPRs.</p> <p>Strategic Procurement Manager/ Programme Manager (Facilities, Assets & Housing) - October 2016</p>	<p>In progress</p> <p>The Programme Manager (Business Change) explained that, "<i>All templates have 'selection criteria' questions built in as a standard. With regards to 'Award' questions these are not pre-configured as standard as they are specific to each project undertaken. It is the responsibility of the Project Manager at the time to develop and add the award questions to the project template when undertaking the task in the Proactis system</i>".</p> <p>All templates have been built into Proactis to align with CPRs. We are currently carrying out a Corporate Procurement audit that involves a review of the evaluation criteria used by project managers.</p>	<p>Once we have reported the outcomes of our Corporate Procurement audit, the Collaborative Procurement Service needs to put in place an appropriate quality assurance process.</p>

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		<p>Guidance in relation to the selection and award criteria is covered in CPR 3.7.5 and also referred to in separate procurement guidance (Intermediate Value Procurement £25,001-OJEU) under Evaluation and Award.</p> <p>Strategic Procurement Manager/ Programme Manager (Facilities, Assets & Housing) – Complete</p>	<p>Complete</p> <p>The CPRs (3.7.5) have been updated as follows, “<i>Where a procurement procedure has both selection and award stages, the criteria used at the selection stage should not be used again at the award stage. Selection criteria will typically be those that cover suppliers’ capability and experience, whilst award criteria will assess which tender is the most economically advantageous</i>”.</p> <p>Additionally, procurement guidance (Intermediate Value Procurement) covers the evaluation criteria that should be used at both pre-qualification stage and award stage.</p>	
		<p>An assessment should be carried out to establish the number of officers in the Works Unit who have attended the corporate e-procurement training course, and any officers that have not received training should attend any future courses. There will also be workshops during April 2016 introducing the Procurement Strategy and the revised CPRs.</p> <p>Works Unit Manager – to be agreed</p>	<p>Complete</p> <p>The Works Unit Manager advised us that his staff have attended the Proactis e-sourcing solution training, and the majority of his staff have attended the CPR and Procurement Strategy training. He believes that his staff need more specialist rather than generic procurement training, so he will contact the Collaborative Procurement Service to discuss this.</p>	

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5.	<p>Employees were procured for their professional expertise from Mott Macdonald. However, a tender exemption was only submitted retrospectively, once we had identified the fact that CPRs had not been complied with and despite the value of the work being approximately £42,000. Despite there being a contract in place with Groundsolve, the current expenditure exceeds that of the contract value.</p>	<p>Where staff are being procured for their professional expertise, either quotes should be obtained or tendering should be carried out depending on the value of the goods or service required. Where this is not possible, the appropriate tender exemption approval will be obtained.</p> <p>For future projects, the procurement checklist will detail the delivery route for the procurement process.</p> <p>Project Manager - January 2016</p>	<p>Complete</p> <p>While the Proactis e-sourcing solution can be used to request tender exemptions, there is currently no integration between the e-sourcing system and P2P system to enable contractor expenditure to be monitored effectively. The plan is for both systems to be integrated once the two elements have been subject to an upgrade.</p> <p>Recognising that the Proactis e-sourcing solution's contract register does not monitor contractor expenditure, the Performance Officer within Highways & Environmental Services has developed a bespoke contract register database to report this until a corporate solution can be provided. The database also records the procurement route that has been undertaken for each contract, e.g. framework agreement, contract or a delegated decision for any tender exemptions. A reporting tool is available to independently monitor progress with each contract. The plan is to go live with this version of the contract register in January 2017.</p> <p>CPRs have also been updated to reflect the new requirement to have a commissioning form for any procurement activity that is greater than £25,000.</p>	

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6.	<p>There are weak arrangements in place corporately to ensure that a signed contract is in place before a contractor starts work, which could contravene the Council's CPRs. If this is not put in place promptly, the Council could be at risk of legal challenge, facing financial repercussions if any disputes arise (such as Legal costs), and cause significant project delays.</p> <p>Within this project, while there was no signed contract in place, Legal has confirmed that the written acceptance letter, together with the signed purchase order, cross-referenced against the signed tender submission does constitute a written contract. However the status of that contract is at a lower level than a fully</p>	<p>A signed contract is now in place with the contractor. In future, the Project Manager should arrange the signing of the contract by the contractor and a document checklist in order for this to be supplied to Legal, at the very latest four weeks after the contract has commenced.</p> <p>The Project Team will ensure that contract documentation is passed to Legal directly (and not left in reception), and will obtain a signature to confirm that documents have been submitted to Legal.</p> <p>Project Manager – To be complied with for future schemes</p>	<p>Complete</p> <p>As part of the sample testing from our Corporate Procurement audit, we identified that a project manager from the Works Unit did ensure that a contract was signed promptly. Additionally, the bespoke contracts register database, designed within Highways & Environmental Services, records when contracts have been signed. A reporting tool available within the database would also alert where a contract has not been signed.</p>	

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	<p>signed-up contract document would have provided.</p> <p>Processes are not robust, as there had been inadequate attempts to chase up Legal for the contract, which would have identified that the documentation had been lost.</p>	<p>Corporately, the impetus is that there should be a signed contract in place before the contractor starts work. Within the Proactis e-sourcing solution, we are working with the supplier to ensure that there is a mechanism to collect data for the performance measure - % with an estimated amount over £25,000 with a signed or sealed contract in place within six weeks of the contract award. Monitoring can then be carried out on a monthly basis once this mechanism is in place.</p> <p>Programme Manager (Facilities, Assets & Housing) - June 2016</p>	<p>In progress</p> <p>From a corporate perspective, this is being picked up as part of our Corporate Procurement audit. Early indications arising from our audit have identified that contract documentation is not being retained on the Proactis system, and there is currently no reporting tool available for the Collaborative Procurement Service to monitor whether a contract has been signed promptly.</p> <p>The Programme Manager (Business Change) explained that it is the project manager's responsibility to ensure that contracts are issued, signed promptly, and that this is recorded on the Proactis E-sourcing solution. Where Legal has drawn up the contracts, it is still the project manager's responsibility to chase up Legal if they do not receive notification of their contracts being issued or that it has been signed and sealed.</p> <p>There has been a delay in the Collaborative Procurement Service carrying out its monitoring on a quarterly basis due to the system provider not being able to provide the mechanism to enable them to do this. It is planned to have this monitoring process in place by January 2017; however, the Procurement Systems Officer has already identified where the Proactis system is not being kept up to date, and will contact the relevant project managers to discuss the reason for this.</p>	<p>We are satisfied that the Works Unit has sufficient controls in place to ensure a contract is signed promptly, so we will only be establishing further progress with this risk/issue through our Corporate Procurement audit.</p>

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Other lessons to be learned				
a)	Ensuring that there is a clear audit trail in place. Within this project we identified that there was no written confirmation from WG of the timescales for the coastal defence work to be completed.	<p>The Flood Risk Manager explained that he will liaise with the WG about the implications of not having documented deadlines for grant funded projects.</p> <p>Senior Engineer–Flood Risk Management – April 2016</p>	<p>Complete</p> <p>The Flood Risk Manager confirmed that he has discussed the matter with WG. He believes that the issue arose due to a confusion on WG’s part regarding the terms of the ERDF funding and the Welsh European Funding Office (WEFO) requirements. WG’s Flood and Coastal Team is now responsible for administering future projects, and this should result in greater clarity of the timescales and reporting procedures.</p>	
b)	Putting in place adequate quality assurance measures to ensure that CPRs and relevant procurement legislation are complied with.	<p>We are working with Proactis and Business Team (Facilities, Assets & Housing) to develop a “dashboard” of procurement indicators. We are also reviewing the Procurement Team structure, which is based on a business partner model, and is intended to bring closer co-operation and working between the services and Procurement team, and will help identify and address areas of non-compliance early on.</p> <p>Programme Manager (Facilities, Assets & Housing) – October 2016</p>	<p>In progress</p> <p>There has been a delay in the Collaborative Procurement Service carrying out its monitoring on a quarterly basis due to the system provider not being able to provide the mechanism to enable them to do this. It is planned to have this monitoring process in place by January 2017. Due to recent staff illness, there has also been a delay in implementing a new staffing structure within the Collaborative Procurement Service.</p>	<p>As part of our Corporate Procurement audit, we will discuss with the Collaborative Procurement Service the quality assurance process they plan to put in place.</p>

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c)	While outside of the control of this project, having adequate timescales in place to allow for effective procurement planning and to ensure that the market is sufficiently tested.	<p>Unfortunately there were tight timescales due to the need to obtain planning approval and also to suit the June 2015 requirements of WG. Within the new CPRs, which place more emphasis on the need for procurement planning, there is a procurement checklist that will need to be used to ensure that there is sufficient procurement planning (Procurement will approve checklists where the procurement is above £100,000).</p> <p>n/a</p>	<p>Complete</p> <p>CPRs have been updated to reflect the importance of procurement planning. For any procurement activity where the value of the contract is estimated to be greater than £25,000, the service should complete a commissioning form so that the proposed route to market can be assessed and agreed.</p>	
d)	Ensuring that key stakeholders, such as Finance, Legal and Procurement are aware of key projects at an early stage so they can build in resources to be available at key stages of the project, e.g. preparing the contract. It would also be useful for their role to be defined as part of the process so all project staff are clear on their level of input.	<p>Procurement report produced at scheme start-up presented to the board, which includes risks and how the scheme is to be delivered with roles, responsibilities, timeline and cost.</p> <p>Ensure that all necessary information is made available to the team from other sections to enable all paperwork to be filed in one place, e.g. the signed grant offer and signed acceptance letter.</p> <p>A requirement of the new CPRs (2.5 and 2.7), for projects where the expenditure is above £25,000, is the use of a commissioning form. The</p>	<p>Complete</p> <p>As detailed above, CPRs have been updated to reflect the importance of procurement planning. CPR 7.2 details the authorisation process for approval of the commissioning form.</p> <p>The Works Unit Manager explained that they do have conversations at an early stage with stakeholders, such as Legal and Procurement, to confirm their level of involvement in projects. The contract register, developed within Highways & Environmental Services, also has the functionality to alert both Legal and Procurement of a contract so they can be involved where appropriate.</p> <p>The Programme Manager (Business Change) confirmed that the terms of reference have been amended for the</p>	

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		<p>purpose of the form is to ensure that the procurement element of the project has been properly considered by the relevant service, and subsequently for the Collaborative Procurement service to assess whether the proposed route to market is compliant with the law and these CPRs.</p> <p>This form details how tendering will be carried out, the timescales for the project, a procurement checklist, financing and a risk assessment. It is mandatory for this form to be authorised by the Head of Service, the Section 151 Officer and the Monitoring Officer. For contracts above £1m, the form also needs to be signed by the relevant lead Cabinet member.</p> <p>Project Manager – To be complied with for future schemes</p> <p>We will also look to strengthen the process within the Strategic Investment Group (SIG), e.g. asking specific questions about the project management to determine the robustness of the process. A revised terms of reference is currently being developed for SIG in order to align with a re-</p>	<p>Asset Management Group (AMG). The AMG advises the Strategic Investment Group (SIG), and the Head of Finance confirmed that the process is now more robust through asking specific project management questions as part of the business case.</p>	

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		<p>established Asset Management Group, which will also have terms of reference. We will ensure that these terms of reference pick up any project management issues.</p> <p>Programme Manager (Facilities, Assets & Housing) – October 2016</p>		
e)	<p>Ensuring that key members of staff involved in the tendering process are aware of the content of the Council's CPRs and the Public Contracts Regulation. If they need any clarity, they should seek advice from the Collaborative Procurement Service.</p>	<p>Members of staff are due to receive training on the Proactis e-sourcing solution.</p> <p>See action for risk/issue 4 with regards to other training.</p> <p>Project Team– January 2016</p>	<p>Complete</p> <p>The Works Unit Manager advised us that his staff have attended the Proactis e-sourcing solution training, and the majority of his staff have attended the CPR and Procurement Strategy training. He believes that his staff need more specialist rather than generic procurement training, so he will contact the Collaborative Procurement Service to discuss this.</p>	

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f)	<p>A requirement of CPRs (5.3) is to have a scheme of delegation to record officers approved to carry out tendering or entering into contracts. No scheme of delegation could be provided during our review.</p>	<p>The Strategic Procurement Manager advised us that this scheme of delegation is built into the Proactis e-sourcing solution.</p> <p>However, the new Constitution (not yet in place), will require every service to have a documented scheme of delegation. Therefore, having it contained within Proactis may not be sufficient, as the scheme would need to cover other elements such as decision making.</p> <p>n/a</p>	<p>In progress</p> <p>The Programme Manager (Business Change) confirmed that a scheme of delegation for procuring goods and services is built into the Proactis e-sourcing solution. CPRs are also more detailed in terms of who can authorise contracts and other key procurement documentation.</p> <p>County Council approved the new Constitution in July 2016. The Constitution refers to a departmental delegated scheme (p126) where heads of service have made sub-delegations to other officers within their service. As the Head of Highways & Environmental Services has only recently taken up post, he has contacted the Head of Legal, HR & Democratic Services for further advice.</p>	<p>We will ascertain progress with implementing a scheme of delegation within Highways & Environmental Services.</p>

Report Recipients

- Works Unit Manager
- Head of Highways & Environmental Services
- Programme Officer (Business Change)
- Corporate Director (Economic & Community Ambition)
- Head of Facilities, Assets & Housing
- Head of Finance
- Head of Legal, HR & Democratic Services
- Scrutiny Co-ordinator
- Lead Member for Public Realm
- Chair (Performance Scrutiny Committee)
- Lead Member for Finance, Corporate Plan & Performance
- Corporate Governance Committee

Internal Audit Team

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Key Dates

Review commenced	November 2016
Review completed	December 2016
Reported to Corporate Governance Committee	25 January 2017
Proposed date for next follow up review	To be determined by the Corporate Governance Committee