

Internal Audit Report

To: Head of Leisure
Subject: Management of Leisure Services Contracts 2004/05
Audit report ref: GBC 39
Date: September 2005

Control objective 1: Contracts comply with the procedures set out in 'Financial Regulations' and the 'Code of Practice for Tenders and Contracts'. Risk – Services may be procured in an inefficient, non-transparent and unauthorised way.			
Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
1.1 All relevant staff have access to the current version of 'Financial Regulations' AND the Authority's 'Code of practice for tenders and contracts' (FR 4.44 & FR 4.62).	The Authority has a set of appropriately detailed Financial Regulations and a Code of Practice. This documentation was available within the Department.	Yes	
1.2 Staff responsible for awarding contracts are fully aware of the relevant 'Financial Regulations' and 'Contracts Standing Orders'.	Staff currently employed by the Department were aware of the Financial Regulations and Standing Orders and their content.	Yes	
1.3 There are clear requirements for obtaining quotations or tenders and awarding contracts, which are adhered to, including:- <ul style="list-style-type: none"> - Value thresholds - No. of tenders required - Allowed exceptions & waivers 	The requirements for the obtaining of quotations or tenders are clearly set out in the Contracts Standing Orders. A sample of eight contractual arrangements was tested for compliance with the Standing Orders. All of the eight contracts did fulfil the compliance criteria.	Yes	

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1.4 All projects fulfil a genuine need and are supported by a suitable business case. (FR 2.58)	<p>Eight contracting arrangements were tested to establish their compliance with this requirement. Reasons for commencing projects which required work to be contracted were evident, usually after public consultation or surveys prepared by external consultants.</p> <p>In addition to this the Authority requires all capital projects and revenue growth projects to go through a standard project assessment process.</p>	Yes	
1.5 Appropriate approval has been obtained for projects leading to the award of a contract.	Eight contracting arrangements were tested to ensure that they had been approved during the audit. This was found to be the case in all eight instances.	Yes	
1.6 Adequate funding or budgetary provision is confirmed before tenders are invited.	<p>Five of the contracting arrangements tested were for capital projects, all of which had been approved through the capital programme.</p> <p>The three revenue contracts (Brewery Supplies, Richard Herrod Catering and Gym Membership) all had a connection to income generation, which meant that no budgetary provision was required.</p>	Yes	
1.7 All PFI contracts have undergone the relevant PFI test.	Examination of the project files revealed that none of the contracts could be classified as having a PFI element.	N/A	
1.8 Where appropriate, tenders are invited from companies on an approved supplier list or an ad hoc list constructed from replies to a newspaper advertisement.	<p>A sample of eight contracts were reviewed during the audit. Seven of the eight contracts had been either taken from the standing approved list or appropriately advertised from an ad hoc list.</p> <p>One contract was not put out to advert (Richard Herod Leisure Centre Catering contract, which was below the tendering threshold).</p>	Yes	

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1.9 The standing approved list is reviewed at least every three years.	The only standing approved list in Leisure Services is for playground equipment. This list had 29 companies on it, all of which had undergone health and safety evaluations. The list had last been updated in February 2003, which was within the time limits specified in the Standing Orders.	Yes	
1.10 Tender invitation documentation sent to potential bidders clearly explains the tender submission process and the requirements for submitting bids e.g. <ul style="list-style-type: none"> - Need to ensure bid does not identify the bidder - Clearly specifies the reception point and closing date/time - Evaluation criteria to be used 	<p>Tender invitation documents were sent out for six of the eight contract arrangements tested. These did specify the reception point and closing date and time for the submission of tenders. However they did not specify that bids must not identify the names of the bidders or explain the evaluation criteria used to evaluate bids.</p> <p>No tender documentation was sent out for the seventh contract (AHP Skateboard Park), due to only one company being identified as suitable after the original advert requesting expressions of interest had been placed.</p> <p>No tender documentation was sent out for the remaining contract (Richard Herrod Leisure Centre catering contract), due to the contract not going through a tendering process, because it was below the tendering threshold.</p> <p>There is a risk that if the evaluation criteria are not specified, then potential contractors may not frame their bids in the most advantageous manner and may.</p> <p>Furthermore, if any of the tenders submitted identify the bidder, there is a risk that the tender may be subject to improper intervention.</p>	No	<p>Tender invitation documentation sent to bidders should clearly explain the criteria which will be used to evaluate bids. It should also emphasise the need to ensure that bid envelopes and packaging must not identify the bidder. (Medium Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation accepted</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> Already implemented</p>

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1.11 Tenders are received and opened in accordance with the Authority's Contracts Standing Orders.	<p>The Authority has detailed guidelines on tender opening in its Financial Regulations. These include the requirement to open all tenders for a specific contract at the same time, that they are opened by a minimum of two officers and that the relevant Cabinet member is informed of the opening.</p> <p>The tender opening for two of the eight contracts sampled (Cavendish and Killisick) were carried out by the consultants managing the project and no record of this opening has been retained. No officers from the Authority were present at the opening and there was no indication that members had been informed that the tender opening was taking place.</p> <p>The tender opening for two further contracts (AHP Pavilion and brewery supplies) was carried out in accordance with the Financial Regulations.</p> <p>There was no tender opening documentation on file for the fifth and sixth contracts (Carlton Forum Gym Refurbishment and Gym Membership).</p> <p>Tender opening was not required for the final two contracts (AHP skateboard park and RHLC catering). The former had only one suitable expression of interest whilst the value of the latter was below the tender threshold.</p> <p>There is a risk that if tender opening does not follow the guidelines set out in the Authority's Financial Regulations, that contractors could challenge a decision made to award a contract to a competitor.</p>	No	<p>All tender opening documentation should be retained on the relevant project file as a record of the tender opening process. (Medium Risk)</p> <p><u>Response of the Head of Leisure Services</u> Project file to be held for each project including all relevant documents including tender opening</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> 18th July 2005</p> <p>Tenders opened on behalf of the Authority by external consultants should follow the Authority's Financial Regulations. Officers from the relevant department should be in attendance and members invited. (Medium Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> 18th July 2005</p>

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<p>1.12 Tender evaluation is carried out in accordance with the criteria stated in the tender invitation documentation. Where the contract is NOT awarded to the lowest tender, approval is obtained from the appropriate Cabinet Member. (CSO 11.03)</p> <p>Evaluation working papers are retained on file.</p>	<p>A sample of eight contracts was tested to ascertain how the contracts were evaluated. Of the contracts where an evaluation process was required, most had been awarded on the basis of lowest price, which is the Authority's standard evaluation criteria. The exceptions to this were:-</p> <p>Killisick Recreation Ground – the evaluation incorporated an element to take into account the feedback from a public consultation exercise. A report was submitted to the relevant Portfolio Holder in order to comply with the Financial Regulations.</p> <p>Carlton Forum Gym Equipment – The lowest bidder for the contract was not accepted on the grounds that the quality of the product offered was significantly lower than that offered by the company that the contract was awarded to. A report was submitted to the relevant Portfolio Holder in order to comply with Financial Regulations.</p> <p>Brewery Supplies – The contract was awarded on the basis of the lowest price for beer and lager, however the advert for the contract suggested that the contract would be evaluated on both the beer / lager prices and soft drinks.</p> <p>There is a risk that if tender opening does not follow the guidelines set out in the Authority's Financial Regulations, that contractors could challenge a decision made to award a contract to a competitor.</p>	No	<p>Tenders should be evaluated on the basis set out in the tender advert or 'Invitation to Tender'. (Medium Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> 18th July 2005</p>

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1.13 All contracts let as a result of an invitation to tender are recorded in a register maintained by the Head of Finance (CSO 12)	<p>The Authority's creditors section maintains a central contracts register. The eight projects tested during the course of the audit were checked against the register. All of the contracts that should have been on the register were on the register with the exception of the brewery supplies contract and the Carlton Forum Gym Equipment purchase contract.</p> <p>There is a risk that an incomplete contracts register can result in a lack of transparency in the contracting process and the Authority's relationship with its contractors.</p>	No	<p>All contracts above the £25,000 threshold limit (designated by Finance as the amount above which a record of contracts should be centrally maintained) should be added to the central contracts register. (Medium Risk)</p> <p><u>Response of the Head of Finance</u> Legal Services are now notifying Finance of all new contracts <u>Officer Responsible for Implementation</u> Head of Legal and Democratic services <u>Date for Implementation</u> Already implemented</p>
<p>1.14 A separate file is maintained for each project to record:</p> <ul style="list-style-type: none"> • Unique reference number • Names/addresses of all companies invited to tender • Tender opening forms, signed by the openers • Letters sent to unsuccessful bidders • Evidence of the legal contract between the Council and the contractor. 	<p>The department did not have a standard format for keeping project files or a standard requirement for the information that should be kept in them.</p> <p>Information relating to each project is kept in an individual file. Unique reference numbers are not used, however, due to the small number of projects that the department is involved in, the risk of confusion between contracts is minimal.</p> <p>All contracts are held centrally by the Authority's Legal Section, rather than on the individual project files.</p> <p>Eight project files were sampled during the course of the audit, only two of which contained the names and addresses of the companies invited to tender and the tender evaluation forms. None of the files contained correspondence to unsuccessful bidders.</p> <p>There is a risk that if there is no standard format for maintaining files that insufficient data may be kept in relation to each contract. This could create a problem if a contract decision was ever challenged.</p>	No	<p>Project files should be maintained in a standard format to allow for information to be held in a consistent manner and retrieved easily – see Appendix 'A'. (Low Risk)</p> <p><u>Response of the Head of Leisure Services</u> Pro forma adopted</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> Already implemented</p>

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1.15 Provision for performance bonds is formally considered for contracts over £100,000. (CSO 19)	Two of the eight projects sampled during the course of the audit were over the £100,000 limit. One of these (AHP Pavilion) did have a clause relating to performance bonds inserted into the contract. The second contract (brewery supplies) could not be located at the time of the audit visit, which meant that the control could not be tested.	Yes	
1.16 Liquidated and ascertained damages are provided for contracts over £50,000 which are date critical, unless deemed unnecessary. (CSO 18)	Provision for liquidated damages had been made in each of the five capital contracts sampled during the course of the audit.	Yes	
1.17 Contracts are in a standard form, which cover: <ul style="list-style-type: none"> - Health and safety responsibilities. - Access to contractor records. - Site access. - Precaution against damage to surrounding properties, roads and trees. - Provisions for arbitration. - Insurance provision - Payment mechanisms This format should be approved by Legal Services and signed and dated by the client and contractor. (CSO 17 - 22)	<p>Six of the eight contracts sampled during the course of the audit were located and tested for compliance with the standard format listed in the control.</p> <p>The contracts largely complied with these requirements and were in a format approved by Legal Services and had been appropriately signed and dated.</p> <p>The Brewery Supplies contract could not be located at the time of the audit and there was no indication that it had been approved by Legal Services.</p> <p>In addition, the contract for the Gym Membership income collection was still being finalised even though the current arrangement has been in place since 2003.</p> <p>There is a risk that, if contracts are not in place or can not be located, the Authority will not be protected against breaches of contract or other informal service agreements.</p>	No	<p>Contracts should be in place for all significant business relationships (as defined by the Authority's Financial Regulations) that the department is involved in. (High Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted <u>Officer Responsible for Implementation</u> Project Manager <u>Date for Implementation</u> Already implemented</p> <p>All contracts should be approved by Legal Services, who should retain a copy and make it available for inspection. (High Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted <u>Officer Responsible for Implementation</u> Project Manager <u>Date for Implementation</u> Already implemented</p>

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Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
1.18 All contracts awarded without a tendering exercise, fall within the allowed exceptions OR have a prior waiver in place.	<p>Only two of the eight projects sampled had been awarded without a tendering process. The first of these (Richard Herrod Leisure Centre catering) fell below the contract threshold limit.</p> <p>The relationship with the second contractor (for Gym Membership) was not currently managed through a contract.</p> <p>The company managing Gym Membership now handles over £50,000 of income per month on the Authority's behalf. There is a risk therefore that the Authority would have limited protection against loss if the company were to go into liquidation or if a dispute were to occur.</p>	No	<p>A contract with the company managing the Authority's Gym Membership scheme should be finalised into as soon as possible. (Medium Risk)</p> <p><u>Response of the Head of Leisure Services</u> Extension to contract to be signed by Aquaterra</p> <p><u>Officer Responsible for Implementation</u> Leisure Facilities Officer</p> <p><u>Date for Implementation</u> Already implemented</p>
1.19 The asset register / inventory of the relevant section is updated on completion of the contract (e.g. on capital contracts)	One of the capital projects sampled during the course of the audit had been completed (AHP Skateboard Park). The Authority's capital accounting entries, which are driven by the asset register, were checked to confirm that they had been adjusted to take into account the capital expenditure on the project. This was found to be the case.	Yes	

Control objective 2: Clients receive regular financial reports to allow them to manage their projects.			
Risk – contract obligations are not fulfilled through ineffective monitoring.			
Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
2.1 The monitoring of works orders is the responsibility of nominated officers, who monitor works in accordance with approved procedures.	<p>There are no internal guidelines within the department on how projects should be monitored.</p> <p>In practice, day to day project management takes place by either nominated officers within the Authority or by a consultant managing the contract on behalf of the Authority. In the case of the latter, the consultants would still have nominated officers in the department to report to.</p> <p>There is a risk that without internal guidelines that projects may be managed in an inconsistent manner, which could lead to sub-optimal performance.</p>	No	<p>Internal guidelines on project management should be formulated and distributed to staff within the department to ensure projects and contracts are managed consistently. (Low Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> Already implemented</p>
2.2 Officers maintain adequate information on file relating to the progress of works.	In the case of the five capital projects sampled, officers or the relevant consultants maintained information on the progress of works in their project files (for example progress reports and interim payment certificates).	Yes	
2.3 Key stages of progress are identified within the project, e.g. practical completion, defects, handover.	<p>If the project is of a suitable size, then it will be broken down into a series of milestones, which will then be monitored and discussed at the appropriate management meetings held between officers, consultants and contractors.</p> <p>The best example of this taking place from the eight sampled projects was the AHP Skateboard Park and Pavilion, which formed part of a larger project to renovate Arnot Hill Park. Milestones had been set for each part of this project and these were monitored on a monthly basis through the meetings of the Heritage Management Group.</p>	Yes	

Control objective 2: Clients receive regular financial reports to allow them to manage their projects.			
Risk – contract obligations are not fulfilled through ineffective monitoring.			
Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
2.4 Records are maintained in a standard form and used by the officers.	<p>Project records were not maintained in a standard format by officers within the Authority.</p> <p>There is a risk that if a standard format is not followed then record retention may not happen consistently, which could result in important documents being disregarded.</p>	No	<p>Guidance should be provided to Contract Managers for maintaining records in a standard form (see recommendation 2.1). (Low Risk)</p> <p><u>Response of the Head of Leisure Services</u> Already implemented</p> <p><u>Officer Responsible for Implementation</u></p> <p><u>Date for Implementation</u></p>
2.5 The officer responsible for each project maintains both a running financial statement of costs-to-date and expected final costs and a statement monitoring performance against milestones.	Project monitoring was tested on the four longer term capital projects in the sample of eight projects tested during the course of the audit. In all four cases monitoring had been taking place against financial factors and project milestones.	Yes	
2.6 The client analyses these reports to identify any courses of action to remedy any actual or potential overspends.	The monitoring reports are considered both by the officers who have been designated as the nominated officer and by any project management group that has been set up. Any remedial action required to address potential overspends would be discussed by these groups. However, none of the eight projects sampled had incurred any overspends.	Yes	
2.7 All essential additional work is approved in advance by the client by variation orders, extensions of time etc.	There was no additional work required on any of the eight projects sampled.	N/A	

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Risk – contract obligations are not fulfilled through ineffective monitoring.			
Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
2.8 Any variation over £5,000 is reported to the appropriate Committee as soon as possible.	There were no variations required on any of the eight projects sampled.	N/A	
2.9 If the actual expenditure of any contract at any time exceeds the amount of the accepted tender by more than 5%, the responsible officer shall, in conjunction with the Head of Finance, report to the appropriate Committee with an explanation and estimate of final cost.	The tender price was not exceeded by 5% on any of the eight tenders sampled.	N/A	
2.10 There is a contingency sum added to all contract prices. These contingencies are only used as a last resort and with the written approval of the client.	<p>There were four capital projects in the sample of eight projects tested where a contingency would have been applicable, whilst this was included in the contract price, it was not, however, separately identified on the payments forms.</p> <p>There is a risk that if a contingency is not separately identified on the payment forms that the contingency may be overlooked.</p>	No	<p>Contingencies should be identified separately on the payments sheets. (Low Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted <u>Officer Responsible for Implementation</u> Finance & Administration Officer <u>Date for Implementation</u> Already Implemented</p>
2.11 Regular site meetings are held, and progress reports produced for the client.	<p>Site or management meetings take place throughout the lifespan of all capital projects and evidence of this was found in the four capital projects that were sampled during the course of the audit.</p> <p>Performance of the revenue contractors (were applicable) was also managed through meetings with contractors. There are meetings with the Gym Membership contractor every two months and the performance of the catering contractor at the RHLC is also managed through meetings between the Leisure Centre Manager and the contractor.</p>	Yes	
2.12 All complaints are fully recorded and investigated.	There was no evidence for the eight projects sampled, either anecdotal or recorded, that any complaints had been made by a member of the public or an outside organisation against contractors used by the department.	N/A	

Control objective 3: Payments against contracts are authorised and based on work completed.

Risk – Payments are made for services that have not been provided satisfactorily.

Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
3.1 There are written instructions regarding the payment of contractual claims.	There are extensive written instructions incorporated into the Authority's Financial Regulations concerning the payment of contractual claims.	Yes	
3.2 Upfront payments are only made to contractors for valid reasons and with the appropriate approvals.	No up front payments had been made on any of the eight contracts sampled during the course of the audit.	Yes	
3.3 All claims are approved by the officer responsible for that project and are certified by both the approver and authoriser.	<p>A progress payment certificate has to be provided and signed by the appropriate surveyor before an invoice from a contractor can be paid. The invoice then has to be certified by a different officer.</p> <p>Payments had only been made in relation to two of the four capital projects tested during the course of the audit. In both cases the relevant invoices, certificates and payments schedules had been completed and appropriately certified.</p> <p>The fifth capital project (Carlton Forum) related to a one off payment for gym equipment, this payment complied with the Authority's standard payment authorisation controls.</p>	Yes	
3.4 The Head of Finance examines the contractor's final account together with such documentation as may be necessary	Only one of the eight sampled projects (AHP Skateboard Park) had got to the final account stage. The project file and invoices for this contract had been examined by the Authority's Internal Audit Section, acting on behalf of the Head of Finance, prior to the payment of the final invoice.	Yes	
3.5 The final claim is paid only against a completion certificate.	A final claim certificate had been produced in relation to the one claim in the sampled projects which had been completed.	Yes	

Control objective 3: Payments against contracts are authorised and based on work completed.			
Risk – Payments are made for services that have not been provided satisfactorily.			
Expected control	Audit findings	Expected control met	Audit recommendation and management response, officer responsible and date for implementation
3.6 The Client's approval is sought if claim causes the costs to exceed either budget or the agreed contract price plus approved variations.	There were no instances of a project exceeding its budgeted costs in the eight projects sampled.	N/A	
3.7 A percentage of each claim is retained to cover remedial work etc.	A retention fee was included in all four of the capital projects were one was applicable. The retention fee had been taken into account on the two capital projects on which payments had been made.	Yes	
3.8 All final accounts are checked and approved by the officer responsible for the project.	The project file and payment paperwork had been reviewed by the responsible officer on the one project in the sample that had been completed.	Yes	
3.9 All final accounts are submitted to Finance for pre-payment examination.	As per control 3.4.	Yes	
3.10 The final claim is paid only after all recoverables are deducted and all retentions added.	The final claim for the one project in the sample that had been completed had correctly only been paid after all the relevant adjustments had been made.	Yes	
3.11 Post-contract reviews are held to evaluate completed contracts.	<p>Only one of the four capital projects in the sample had been completed at the time of the audit. This project (AHP Skateboard Park) had undergone an informal post implementation review through the meetings of the Heritage Project Management Group.</p> <p>There was however no standardised format or recording mechanism for the carrying out of post implementation reviews within the department. There is a risk that without such standardised reviews that lessons that could be learnt from the management of one project could be missed and not applied to future projects.</p>	No	<p>A standard format for undertaking post implementation reviews should be introduced and carried out for each project upon completion. (Low Risk)</p> <p><u>Response of the Head of Leisure Services</u> Recommendation Accepted</p> <p><u>Officer Responsible for Implementation</u> Project Manager</p> <p><u>Date for Implementation</u> Already Implemented</p>

Recommendation 1.14 Suggested minimum requirements for Project Files

In order to assist management with the review of project files, a standard structure / format should be adopted. It is important to state that, whilst the following structure is suggested for consideration, Heads of Service should ensure that project files meet Departmental requirements and they should approve the standard format to be used.

Project Reference Data:

- Project Description and Title
- Unique project reference no.
- Project Manager

Business Case / Justification for project:

- Benefits to be gained
- Options considered
- Reasons for option selected
- Cost estimates and evaluation of benefits
- Budget / Source of Funding
- Formal approval to proceed

Tendering details:

- Copy of waiver if not competitively procured
- Copy of tender invitation
- List of Suppliers invited to tender
- List of bids received
- Details of tender opening (Date, Time, Officers in attendance)
- Evaluation criteria
- Evaluation results
- Winning tender
- Copies of acceptance and rejection letters

Contract Details:

- Contractor details (Name, Address, Contact information)
- Copy of the signed contract (or details of where this is held)
- Contract start date

Contract Progress Management:

- Project plans, milestones and progress meeting etc
- Variation Orders
- Interim Payment Certificates/ Invoices etc.

Final Accounts:**Post Project Evaluation:**