



# INTERNAL AUDIT

## Final Assurance Report 2020/21

### Contracts and Procurement

7<sup>th</sup> January 2021

#### Overall IA Assurance Opinion:

**REASONABLE**

#### Recommendation Overview:

High Risk	0
Medium Risk	3
Low Risk	2
Notable Practice	0

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## 1. Introduction

- 1.1 This risk based Internal Audit (IA) assurance review was requested by management to be undertaken as part of the 2020/21 annual IA plan. **The purpose of this review is to provide assurance to the West London Waste Authority (WLWA) Officers Team and the Audit Committee over the key risks surrounding contracts and procurement:**
- If procurement exercises are not conducted in accordance with relevant legislation and the Authority's own objectives, there is a risk that the Authority may face financial penalties or risk not meeting its objectives, resulting in significant financial, legal and reputational damage to the Authority;
  - If the Authority does not have an approved procurement programme in place and this is not monitored by senior management, there is a risk that the Authority may fail to conduct its procurement in transparent way and in accordance with its objectives, resulting in uncompetitive tender processes and gaps in service provision, resulting in operational, legal, financial and reputational damage to the Authority;
  - If there is insufficient expertise in place to perform effective procurement exercises, there is a risk that the Authority could fail to consider and evaluate current market climates or potential suppliers and award processes may fail to comply with legislation or procurement rules, leaving the Authority open to opportunities of fraud and resulting in financial, operational and reputational damage to the Authority; and
  - If there is insufficient assessment of a contractor's viability and suitability for a contract during the procurement phase, there is a risk that the contractor may fail provide the agreed service or lead to a lack of control over contract costs, resulting in financial, operational and reputational damage to the Authority.

## 2. Background

- 2.1 As the statutory waste disposal authority for west London, a large proportion of annual expenditure comprises the treatment of residual waste for the six constituent boroughs. These are split between two contracts: the West London Residual Waste Services contract with West London Energy Recovery Ltd and the Waste Services Processing contract with Viridor Waste Management Ltd, with annual values of £30m and £10.4m respectively.
- 2.2 The remainder of the Authority's operational contracts are split between different providers for the processing of specific types of waste, such as gypsum, hardcore, organic waste, mattresses, Waste Electrical and Electronic Equipment (WEEE) management and metal, among others. Contracts also cover arrangements for transporting the different waste streams to and from different locations for processing.
- 2.3 Outside of the operational contracts in place, numerous contracts are in place to aid the Authority with different head office functions and professional services, including legal services, IT, health and safety advice and support, and insurance. These underpin the effective management, governance and operations of the organisation and enable it to fulfil its objectives under the Joint Municipal Waste Management Strategy 2005-2020.
- 2.4 The Public Contracts Regulations 2015 govern public sector procurement, although this legislation is subject to amendment as a result of the United Kingdom's exit from the European Union. A Statutory Instrument was enacted in March 2019 to update the Regulations, ensuring that procurement practices are maintained following Brexit.

### 3. Executive Summary

- 3.1 Overall, the IA opinion is that we are able to give **REASONABLE** assurance over the key risks to the achievement of objectives for Contracts and Procurement. Definitions of the IA assurance levels and IA risk ratings are included at **Appendix C**. An assessment for each area of the scope is highlighted below:

Scope Area	IA Assessment of WLWA
Procurement policy and strategy	<p><b>Reasonable Assurance</b> – The Authority has an overarching procurement policy in place, the Contract and Procurement Rules 2016, which were formally approved by senior management. The policy details the standards for procurement processes within WLWA and are accessible to all staff via the Authority’s intranet and shared drive, to promote compliance with the Public Contracts Regulations 2015 (PCRs). However, the document is not subject to version control and the content has not been updated since July 2016. Review of the document has commenced, although this currently presents a potential weakness in the control environment. The document contains delegated authority matrices, which outline approval and documentation requirements for each procurement exercise, which have been updated on an annual basis in accordance with EU procurement thresholds.</p> <p>WLWA meetings take place on a quarterly basis, Members are provided with updates on contracts and procurements, highlighting oversight and scrutiny over delivery of the approved annual procurement plan.</p>
Assessment of supplier viability and suitability	<p><b>Reasonable Assurance</b> – There were found to be strong controls in place surrounding the evaluation of tenders, where each is assessed against clear financial and quality/ technical criteria. Testing found that formulas are built into the spreadsheet template to evaluate the costs quoted by each potential supplier. The Authority sends the spreadsheet to each bidder, who is required to insert figures and costs in highlighted cells; other cells are restricted and cannot be modified to ensure data integrity and fair evaluation. An Invitation to Tender (ITT) document is produced which contains method statement questions for each tenderer to respond to, including the scoring methodology of each question. Bidders provide their answers within their tender submissions, which are then evaluated and reviewed by the Responsible Officer leading the tender exercise.</p> <p>Further, controls over the assessment and supplier viability were found to be in place, although evidence could not be obtained to demonstrate that financial health checks were being conducted and recorded consistently for each potential supplier.</p> <p>Testing found that successful and unsuccessful bids were formally notified of outcomes following each tender exercise, and sent summaries of their performance against the financial and quality/ technical evaluation criteria and the winning bidder’s scores.</p>
Contract implementation	<p><b>Limited Assurance</b> – There was found to be an absence in key controls over the implementation of contracts, where aspects of the PCRs and Contracts and Procurement Rules 2016 had not been adhered to. During testing, we selected a sample of operational and service contracts, none of which had been previously included within testing for the 2017/18 IA assurance review of Contracts Management. It was identified that several services were operating without a signed contract in place, which could result in ambiguity or dispute over responsibilities and service provision.</p>

Scope Area	IA Assessment of WLWA
Contract implementation (cont'd)	<p>In addition, testing identified instances where contracts were signed over a year after the commencement of services.</p> <p>This is not in line with the Authority's Contracts and Procurement Rules 2016, which states that a contract must be signed by WLWA and the Supplier for contracts valued above £50,000.</p> <p>Further, the PCRs and supplementary Procurement Policy Notes dictates that contracting authorities must publish contract award notices on Contracts Finder and Tenders Electronic Daily (TED) for contracts valued above £25,000, detailing the parties to the contract, services tendered, procurement method, and value of the contract. However, sample testing identified that contract award notices were not published consistently in line with the PCRs, potentially highlighting a lack of transparency and compliance with regulations.</p>
Roles, responsibilities and training	<p><b>Reasonable Assurance</b> – Roles and responsibilities for procurement processes are clearly documented within the Contract and Procurement Rules 2016. The rules included a clear table and summary of the approval and documentation required throughout the procurement process, in line with OJEU thresholds. From 2015 to 2019, the Authority received external procurement and legal services from the London Borough of Harrow. The roles and responsibilities of the external provider were clearly documented within an agreed SLA. Since then, an in-house Contracts Manager role has been introduced, with clear responsibilities for overseeing procurement processes defined within a job description.</p> <p>However, there was no formal record of training on the Contract and Procurement Rules since they were created and approved in 2016. In line with best practice, training should be provided to relevant staff to ensure transparency, compliance and guidance throughout procurement processes. The Authority has devised a Procurement Operating Procedures (POP) document. Together, the Procurement Rules and the POP are designed to ensure compliance with the Authority's Constitution, Financial Regulations, Policies, and the PCRs.</p>

3.2 The detailed findings and conclusions of our testing which underpin the above IA opinion have been discussed at the exit meeting and are set out in section four of this report. The key IA recommendations raised in respect of the risk and control issues identified are set out in the Management Action Plan included at **Appendix A**. Good practice suggestions and notable practices are set out in **Appendix B** of the report.

## 4. Detailed Findings and Conclusions

### 4.1 Procurement policy and strategy

4.1.1 The Authority's Contract and Procurement Rules (2016) sets the standards for procurement processes and has been shared to all staff via the Authority's intranet and shared drive. However, testing identified that the Rules were not version controlled and had not been updated since July 2016. Review of the Rules has, however, commenced and management advised that the document is expected to be updated and approved in December 2020. As a result, we have raised a recommendation aimed at mitigating the minor risk in this area (refer to **Recommendation 4** in the Management Action Plan at **Appendix B**).

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- 4.1.2 The Rules contain 2 matrices to specify levels of delegated authority for procuring works and services. However, these matrices are updated each year separately from the Rules and, although formally approved and in use, they had not been published on the intranet. As a result, we have raised a recommendation aimed at mitigating the minor risk in this area (refer to **Recommendation 4** in the Management Action Plan at **Appendix B**).
- 4.1.3 Although Brexit's effect on procurement processes had yet to be fully realised at the time of testing, it is likely that the Contract and Procurement Rules will require updating to reflect any changes that Brexit may bring, for e.g. the thresholds and processes for publishing different types of tender opportunities and contract awards. It is acknowledged that an update of the Rules has already commenced, however there is a risk that the policy could, again, become outdated. As a result, we have raised a recommendation aimed at mitigating the minor risk in this area (refer to **Recommendation 4** in the Management Action Plan at **Appendix B**).
- 4.1.4 Strong controls were found to be in place in relation to the governance of the Authority's procurement processes. A Procurement Review Board, chaired by the Contracts Manager and made up of senior officers, was introduced during 2020 to meet on a monthly basis to provide strategic direction and monitoring of the implementation of the Annual Procurement Plan. It has overarching responsibility to ensure compliance with the Authority's Contracts and Procurement Rules, Contract and Procurement Authorisation Tables, and the Public Procurement Regulations 2015.

## **4.2 Assessment of supplier viability and suitability**

- 4.2.1 A sample of 6 contracts was selected – 3 operational and 3 service contracts – from the Annual Procurement Plan Contract Register 2020-2021, we identified strong controls in place for assessing the viability and suitability of bidders during each procurement exercise. In all 6 samples, a financial and quality/ technical evaluation was completed for each supplier.
- 4.2.2 In 3/6 cases, an electronic tender exercise was led by the Authority. In each of the 3 cases, a financial evaluation spreadsheet was sent to each bidder for completion, with controls in place to restrict tenderers from modifying cells and formulae for calculation, ensuring data integrity and fair evaluation.
- 4.2.3 Testing identified that the quality and technical aspects of bids received during tender exercises is evaluated by method statements. For electronic tenders, an Invitation to Tender (ITT) document is tailored to the services being procured and contains method statement questions for response, including the scoring methodology of each question. Responses were then evaluated, reviewed, and scored according to the methodology. Further, for unsuccessful bidders, the Authority provided a breakdown of their evaluation and the score achieved compared to the successful bidder within a notification letter.
- 4.2.4 For the remaining 3 cases in our sample, 2 related to procurement exercises for insurance policies, carried out by the Authority's appointed procurement support provider, the London Borough of Harrow, and their appointed insurance broker, Aon. The remaining sample related to a lower value procurement for health and safety support, where 3 quotes were obtained and evaluated. In each of these 3 samples, clear evaluation criteria and evidence of assessment against these was provided by Aon and the Authority's Responsible Officer, as defined in the Contracts and Procurement Rules 2016.
- 4.2.5 During testing, we sought to verify that a financial health assessment had been conducted and recorded for each successful bidder prior to award of the contract. The Authority was found to utilise a credit check system called D&B to assess each company's financial strength. However, evidence of these checks was not provided for 5/6 samples. Of these 5, management advised that 2 suppliers were financially assessed by an externally appointed broker, Aon, as they related to the purchase of insurance policies, although there was no evidence of this. The remaining 3 suppliers had no record of a completed financial check.



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4.2.6 Reports for financial checks that are issued via the D&B portal are only relevant at the time of issue. Testing identified that reports cannot be obtained from the portal at a later date. In 1 sample where evidence of a check was provided, a local copy had been saved on the Authority's shared drive, but we were unable to verify that these checks were completed and reviewed for the remaining 5 samples.

4.2.7 As a result of this control weakness, and findings in 4.2.5 and 4.2.6, we have raised a recommendation aimed at mitigating the risk in this area (refer to **Recommendation 1** in the Management Action Plan at **Appendix A**).

### **4.3 Contract implementation**

4.3.1 Testing of the same sample of contracts specified in para. 4.2.1 found that a signed contract was not on file in 2/6 samples, 1 of which was valued above £50k, although the services tendered for had commenced. Further, in 2/6 samples, contracts were signed over a year after the contractor had started providing services to the Authority. This is not in line with the Authority's Contracts and Procurement Rules 2016, which state "*For values above £50k, a contract must be signed by WLWA and the Supplier*".

4.3.2 As a result of this control weakness, we have raised a recommendation designed to strengthen controls in this area (refer to **Recommendation 2** in the Management Action Plan at **Appendix A**).

4.3.3 It is a requirement under Regulation 50 of The Public Contracts Regulations 2015 (PCRs) and the Authority's Contracts and Procurement Rules 2016 to publish a contract award notice on Contracts Finder for each contract awarded above the value of £25,000. However, for the 5/6 samples where contract award notices should have been published on Contracts Finder, 2/5 had not been. This demonstrates non-compliance with the PCRs and a potential lack of transparency. As a result, we have raised a recommendation designed to strengthen controls in this area (refer to **Recommendation 3** in the Management Action Plan at **Appendix A**).

### **4.4 Roles, responsibilities and training**

4.4.1 From 2015 to 2019, the Authority received external procurement and legal support services from the London Borough of Harrow. An SLA was found to be in place for this, with clearly defined roles and responsibilities. Since expiry of the agreement, an in-house Contracts Manager role has been introduced to manage of the Authority's portfolio of contracts, with responsibilities for this clearly defined within a job description document.

4.4.2 Further, although in need of updating as referenced in para. 4.1.1, the Contract and Procurement Rules 2016 specifies roles and responsibilities for contract and procurement processes. This document includes a summary table for approval and documentation requirements throughout the procurement process, according to the estimated value of the contract and in line with legislation.

4.4.3 The Authority has drafted a Procurement Operating Procedures (POP) document which, together with the Contracts and Procurement Rules, are intended to ensure compliance with the Authority's Constitution, Financial Regulations, policies, the PCRs and English law. However, at the time of testing, the POP were still in draft and yet to be circulated and published on the Authority's intranet. As a result, we have raised a recommendation aimed at mitigating the minor risk in this area (refer to **Recommendation 4** in the Management Action Plan at **Appendix B**).

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4.4.4 At the time of testing, there was no formal record of staff training in relation to contracts and procurement, specifically the Contracts and Procurement Rules. As referenced in para. 4.1.1, review of the Rules had started, and updates are expected to be formally approved in 2020. Although there is currently no training in place, discussion with management identified that training is planned to be rolled out following the approval and circulation of the new Rules and POP. As a result, we have raised a recommendation aimed at mitigating the minor risk in this area (refer to **Recommendation 5** in the Management Action Plan at **Appendix B**).

## 5. Acknowledgement

5.1 Internal Audit would like to formally thank all of the officers contacted during the course of this review for their co-operation and assistance. In particular, the Contracts Manager, whose advice and help were gratefully appreciated.

## 6. Internal Audit Contact Details

This audit was led by: Ryan Galvin IACert  
**Senior Internal Auditor**

This audit was reviewed by: Nick Cutbill CIA  
**Principal Internal Auditor**

Thank you,



Sarah Hydrie CMIIA, CIA  
**Head of Internal Audit & Risk Assurance**

## APPENDIX A

### Management Action Plan


No.	Recommendation	Risk	Risk Rating	Risk Response	Management Action to Mitigate Risk	Risk Owner & Implementation date
1	Management should ensure that a credit check/ financial health assessment is conducted and reviewed for all bidders of WLWA services or works, with a copy of the report saved on the Authority's shared drive (para refs. 4.2.5 and 4.2.6).	<i>If a credit check/ financial health assessment is not completed for each bidder in a timely manner and recorded appropriately, there is a risk of uninformed decision making, leading to the potential appointment of a contractor with poor financial stability and higher risk of failure, resulting in financial, reputational and operational consequences for the Authority.</i>	<b>MEDIUM</b> ●	<b>TREAT</b>	A new process will be implemented to ensure financial checks on the status of bidders will be made and records maintained in accordance with the Procurement Rules.	<i>Contracts Manager</i>  <i>Beth Baylay</i>  <i>31<sup>st</sup> March 2021</i>
2	Management should ensure that all contracts are completed and signed by relevant parties in a timely manner, prior to commencement of the tendered services/ works (para 4.3.1).	<i>If a contract is not signed by the Authority and contractor prior to the commencement of services/ works, there is a risk that the rights and obligations of each party are unclear, leading to a lack of accountability and ownership, inconsistent practices, and legal dispute, resulting in legal, financial and operational consequences for the Authority.</i>	<b>MEDIUM</b> ●	<b>TREAT</b>	Implement internal process and training to improve timeliness of contract signing – noting that in some occasions for specific commercial or financial reasons T&C's may be confirmed after commencement. Review and update processes to ensure compliance with contract requirements.	<i>Contracts Manager</i>  <i>Beth Baylay</i>  <i>31<sup>st</sup> March 2021</i>

\*Please select appropriate Risk Response - for Risk Response definitions refer to [Appendix C](#).



## APPENDIX A (cont'd)

### Management Action Plan

No.	Recommendation	Risk	Risk Rating	Risk Response	Management Action to Mitigate Risk	Risk Owner & Implementation date
3	Management should ensure that contract award notices are clearly published on Contracts Finder for all contracts valued above £25,000, in line with the Public Contracts Regulations 2015 (para ref 4.3.2).	<i>If contract award notices are not published on Contracts Finder and other applicable electronic portals in accordance with the Public Contracts Regulations 2015, there is a risk of non-compliance with statutory obligations and a lack of transparency over the Authority's procurement processes, leading to potential legal or regulatory action and resulting in reputational, legal and financial consequences to the Authority.</i>	<b>MEDIUM</b> 	<b>TREAT</b>	Contracts Manager to ensure that contract award notices are published on Contracts Finder.	<i>Contracts Manager</i>  <i>Beth Baylay</i>  <i>31<sup>st</sup> March 2021</i>

\*Please select appropriate Risk Response - for Risk Response definitions refer to [Appendix C](#).

## APPENDIX B

### Good Practice Suggestions & Notable Practices Identified

No.	Observation/ Suggestion	Rationale	Risk Rating
4	Management should ensure that the Contracts and Procurement Rules, Procurement Operating Procedures, and accompanying matrices are updated, regularly reviewed and version controlled, ensuring that relevant changes brought by Brexit are captured (para refs. 4.1.1, 4.1.2, 4.1.3 and 4.4.3).	<i>If policies and procedures are not regularly reviewed and properly version controlled there is a risk that information and guidance provided might become obsolete, leading to inconsistent practices and non-compliance with legislation, resulting in operational, financial and legal consequences for the Authority.</i>	<b>LOW</b> ●
5	Management should ensure that all staff involved with the contract and procurement processes are appropriately trained to ensure compliance with the Public Contracts Regulations 2015 and internal guidance (para ref 4.4.3).	<i>If training is not appropriately recorded and provided to staff, there is a risk that the Authority's procurement processes will be inconsistent and not in line with the current legislation, resulting in operational consequences for the Authority.</i>	<b>LOW</b> ●

\*Please select appropriate Risk Response - for Risk Response definitions refer to **Appendix C**.

### INTERNAL AUDIT ASSURANCE LEVELS AND DEFINITIONS

Assurance Level	Definition
<b>SUBSTANTIAL</b>	There is a <b>good level of assurance</b> over the management of the key risks to the Authority's objectives. The control environment is robust with no major weaknesses in design or operation. There is <b>positive assurance</b> that objectives will be achieved.
<b>REASONABLE</b>	There is a <b>reasonable level of assurance</b> over the management of the key risks to the Authority's objectives. The control environment is in need of some improvement in either design or operation. There is a misalignment of the level of residual risk to the objectives and the designated risk appetite. There remains <b>some risk</b> that objectives will not be achieved.
<b>LIMITED</b>	There is a <b>limited level of assurance</b> over the management of the key risks to the Authority's objectives. The control environment has significant weaknesses in either design and/or operation. The level of residual risk to the objectives is not aligned to the relevant risk appetite. There is a <b>significant risk</b> that objectives will not be achieved.
<b>NO</b>	There is <b>no assurance</b> to be derived from the management of key risks to the Authority's objectives. There is an absence of several key elements of the control environment in design and/or operation. There are extensive improvements to be made. There is a substantial variance between the risk appetite and the residual risk to objectives. There is a <b>high risk</b> that objectives will not be achieved.





1. **Control Environment:** The control environment comprises the systems of governance, risk management and internal control. The key elements of the control environment include:
  - establishing and monitoring the achievement of the Authority's objectives;
  - the facilitation of policy and decision-making;
  - ensuring compliance with established policies, procedures, laws and regulations – including how risk management is embedded in the activity of the Authority, how leadership is given to the risk management process, and how staff are trained or equipped to manage risk in a way appropriate to their authority and duties;
  - ensuring the economical, effective and efficient use of resources, and for securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
  - the financial management of the Authority and the reporting of financial management; and
  - the performance management of the Authority and the reporting of performance management.
  
2. **Risk Appetite:** The amount of risk that the Authority is prepared to accept, tolerate, or be exposed to at any point in time.
  
3. **Residual Risk:** The risk remaining after management takes action to reduce the impact and likelihood of an adverse event, including control activities in responding to a risk.

## APPENDIX C (cont'd)

### RISK RESPONSE DEFINITIONS

Risk Response	Definition
<b>TREAT</b>	The probability and / or impact of the risk are reduced to an acceptable level through the proposal of positive management action.
<b>TOLERATE</b>	The risk is accepted by management and no further action is proposed.
<b>TRANSFER</b>	Moving the impact and responsibility (but not the accountability) of the risk to a third party.
<b>TERMINATE</b>	The activity / project from which the risk originates from are no longer undertaken.

### INTERNAL AUDIT RECOMMENDATION RISK RATINGS AND DEFINITIONS

Risk	Definition
<b>HIGH</b> 	The recommendation relates to a <b>significant threat</b> or opportunity that impacts the Authority's corporate objectives. The action required is to mitigate a substantial risk to the Authority. In particular it has an impact on the Authority's reputation, statutory compliance, finances or key corporate objectives. <b>The risk requires senior management attention.</b>
<b>MEDIUM</b> 	The recommendation relates to a <b>potentially significant threat</b> or opportunity that impacts on either corporate or operational objectives. The action required is to mitigate a moderate level of risk to the Authority. In particular an adverse impact on the Department's reputation, adherence to Authority policy, the departmental budget or service plan objectives. <b>The risk requires management attention.</b>
<b>LOW</b> 	The recommendation relates to a <b>minor threat or opportunity</b> that impacts on operational objectives. The action required is to mitigate a minor risk to the Authority as a whole. This may be compliance with best practice or minimal impacts on the Service's reputation, adherence to local procedures, local budget or Section objectives. <b>The risk may be tolerable in the medium term.</b>
<b>NOTABLE PRACTICE</b> 	The activity <b>reflects current best management practice</b> or is an innovative response to the management of risk within the Authority. <b>The practice should be shared with others.</b>