

# Regulatory and Audit Committee

Title:	Highways Contract 2013/14, Specifically – Capital Maintenance Programme
	Management Response
Committee date:	28 <sup>th</sup> January 2014
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Electoral wards affected:	All

## 1. Introduction

This report outlines the response from the Place Service management to the above internal audit report. Place Service is responsible for the strategic management of the Transportation Services Contract (TfB Contract) with Ringway Jacobs and day to day interface with TfB on contractual matters. The TfB Contract includes delivery of the annual Capital Maintenance Programme which was the subject of this audit.

## 2. Context

Place Officers agree with the findings of the audit with respect to the concerns raised in the audit report about project management and cost control by the Contractor with respect to the individual projects examined. The extent to which the issues identified arise from failings in the Contractor's systems or are related to non-compliance with those systems is less clear but the result is the same i.e. improvements are needed.

However, the Strategic Client believes that:

- full account should be taken of the improvements which have been put in place since the review and are actively being pursued through the TfB Improvement Plan;
- further work is needed to establish the extent to which the findings of this audit can be extrapolated to other schemes and other areas of the contract; and
- it is important that the level of overall potential financial risk associated with the audit findings is established and considered in the round.

An audit of this nature is deliberately designed to focus on detail. It is the responsibility of the Strategic Client to address the findings of the audit but also to ensure that the issues arising from the audit are viewed in relation to the overall context and priorities of the contract and service.

## TfB Improvement Plan and Environment, Transport and Localities Select Committee Inquiry

Since this audit of Capital Maintenance Schemes was undertaken, and whilst the report was in preparation, the TfB contract has been the subject of significant scrutiny. An external consultant's review of the contract undertaken in June and July last year raised some issues about the business processes and management information systems used by TfB as well as a number of other themes. A detailed improvement plan was put in place and to date significant progress has been made in its implementation. The contract has also been the subject of an Environment Transport and Locality Services (ETL) Select Committee scrutiny inquiry which started in July this year. The findings of the inquiry were reported to Cabinet on 13<sup>th</sup> January.

These reviews have prompted improvements, some of which have already been implemented, so that both the Strategic Client and Ringway Jacobs believe that a significantly better position with respect to the issues raised in the audit report pertains today than did at the time of audit. This is not to suggest, however, that either party to the contract is complacent and specific actions for both the Client and Ringway Jacobs arising from the audit report have now been consolidated into the TfB Improvement Plan going forward. An extract from the TfB Improvement Plan showing the relevant actions is attached at Appendix A. These actions have been developed in discussions with Internal Audit staff and Ringway Jacobs. Relevant actions which were included in the original Improvement Plan and/or arise from other reviews are also shown in Appendix A.

Both the proposed improvement actions and the actions already taken since the audit have enabled the audit report to record 'substantial' confidence in actions being taken to address the issues. This is reflected in the conclusions of the report and is welcomed by the Strategic Client.

It is the intention to provide a full update on progress on the TfB Improvement Plan to the meeting of the ETL Select Committee in February.

### Level of financial risk arising from the audit

The audit report deals with the findings of a detailed audit of 3 schemes from the Capital Maintenance Programme, 2 schemes from 2012/13 programme of schemes and 1 from 2011/12. 3 other schemes were subject to brief review.

The extent of the overall financial risk to the authority arising from the audit findings needs to be explored further. More information is needed on the 3 schemes which were subject to a brief review only. It is also essential to understand fully the extent to which the schemes chosen were typical of the whole programme and whether or not similar problems would be found on other schemes.

Specific assurances on this second point have been sought from Ringway Jacobs which has commissioned its own audit of the capital maintenance programme. Once this is complete a more accurate assessment of overall financial risk should be possible.

## Overall Context of the Contract

The successful operation of the TfB Contract relies on 'mutual trust and co-operation' between Client and Contractor and in fact there is a contractual obligation on both parties to work in this way. The contract is largely reliant on 'self-auditing' by the Contractor with checks and balances provided by the 'open book' nature of contract and through a system of controls and monitoring by the Client.

This contract concept has allowed the Council to reduce direct expenditure on staff involved in day to day management of the service resulting in a very lean organisational structure for the County Council client side staff and an associated reduction in costs. The contract has realised significant savings overall since its inception. Ringway Jacobs estimate that savings in staff costs within TfB in the first four years of the contract amount to £7.2m with overall savings on all aspects of the service of £18.9m since contract start. A key issue is whether or not these savings have been achieved at too great a risk to financial probity. This is a judgement for the Council to make but what is self-evident is that the overall contract arrangements will only work effectively if the Contractor's auditing, project control and quality assurance procedures can be relied upon fully.

### **3. Comments on the Audit Findings**

Place officers have worked closely with officers from Internal Audit and representatives of Ringway Jacobs to develop a set of management actions to supplement the improvement work which is already going on. This process has been a good one and has prompted helpful discussions about the underlying reasons for the findings and issues for improvement. Because of the constraints of the audit reporting process and, to a lesser extent, differences in opinion, it has not proved possible to incorporate these discussions fully in the audit report. With this in mind, set out below is the Strategic Client's view of key points arising from the detailed findings of the audit. The comments have been rearranged in accordance with the priority assigned to them in the report. Place Officers are in agreement with these priorities.

#### High Priority Issues

The audit has identified three high priority areas to be addressed as follows:

1. Target Costs
2. Cost estimates (unclear tracking of costs)
3. Defects Certification and Completion Certification

Items 2 and 3 (cost estimates and defects certification) are matters for the Contractor to address and relate primarily to the Quality Assurance, Project Management and cost control procedures within TfB and the extent to which they are complied with by staff at all levels. The Strategic Client is satisfied that the actions already taken and proposed by Ringway Jacobs will result in improvement.

The actions taken include strengthening the number of works supervisors. From the Council's perspective it is important to note that under the Contract the cost of this additional supervision is borne by the Council. Within the overall funding available for the contract it is not possible to provide 100% supervision of all works without significantly impacting on the level of works which can be achieved on the ground. A balance needs to be struck between expenditure on supervision and the potential level of financial risk from a reduced level of supervision. The level of supervision now being undertaken by Ringway Jacobs is broadly in line with local authority practice for this type of work. This being said, whatever level of supervision is chosen by the Contractor and supported by the Client, it is important that when it is done, it is done properly and in accordance with best practice. It is the Contractors obligation to ensure this happens. The deficiencies identified in the audit in this respect are now being addressed.

The issues relating to discrepancies relating to Target Costs (item 1 above) are less clear cut. The Contractor has provided explanations for the audit findings on each of the three schemes which were examined in detail by the audit. These explanations are accepted and/or noted by the Client. The Strategic Client's view is that, to an extent, the problems here are also related to lack of clarity in tracking costs and cost control. This is evidenced by the three schemes which were briefly reviewed, none of which appear to have a full record of costs.

There are also two main issues in relation to Target Costs which have implications for the Client. The first is the extent to which the Client has the capacity and requisite information to make an informed judgement on scheme costs and to this purpose provide an overall sense check of any Contractor's proposals. The second is at what point in developing the programme should Target Costs be agreed. If both the Client and Contractor do not have a reasonable degree of certainty about the scope and detail of the schemes at the time of agreeing the Target Cost then it is inevitable that some large variation between Target Cost and final outturn costs will occur. Moreover, if the Contractor goes to its supply chain partners too early in the process then risk allowances in any resultant estimates will be higher. Earlier agreement of the programme by the Client helps the Contractor achieve better value for money through its supply chain but does restrict the Client in the degree of flexibility it has to change priorities.

The actions proposed of strengthening the Client side of the contract, improved benchmarking activity and joint review with Ringway Jacobs of the target costing procedure will all help in this respect.

### Medium Priority Issues

There are 8 action areas identified as 'medium priority' in the Audit Report as follows

1. Business Performance (review meetings)
2. Three year plan for the Capital Maintenance Programme
3. Benchmarking
4. Contractor payments (satisfactory completion)
5. Management information (detail and sufficiency)
6. Programme Development (understanding scheme prioritisation)

7. Tracking work undertaken (the defects period)
8. Disallowed costs (checking invoices for compliance)

Of these medium priority issues the most important is benchmarking (item 3) as it potentially provides an opportunity to address some of the limitations in how Target Cost provisions of the contract are currently working and provide improved information for the Client (and Contractor) to judge value for money. There is a contractual obligation on the Contractor to provide this information and on the Client to provide assistance to this process. However, attempts to do this to date have not been successful because of some reluctance by other authorities to participate and the difficulties in ensuring any cost comparisons are on a like for like basis. The latter of these two difficulties, providing true like for like comparisons with other authorities, is inherent in the benchmarking process and is often encountered industry wide. Whilst this should not prevent attempts at benchmarking it does mean that any comparative information must be treated with caution, rather as a trigger for further investigation if needed, than an end in itself.

The situation on the TfB contract with regard to benchmarking is further complicated by the nature of the contract for two reasons. Firstly, there are still relatively few similar contracting arrangements with which comparisons can be made and secondly it must be noted that Ringway Jacobs currently provide a managed service for the whole programme of works. For this reason, taking schemes costs in isolation will not always be a true comparison and any benchmarking activity needs to be on a 'whole programme' basis.

Notwithstanding these limitations of the benchmarking process, work is underway to address the issue and it is expected that an approach which is both informative to the Client and fair to the Contractor can be agreed in time for implementation in the 2014/15 financial year.

Items 4 and 7 above relate directly to the Contractor's system and processes and the degree of compliance therewith. The measures aimed at addressing the high priority issues of cost estimates and defect certification will also address these issues.

Items 1,5 and 8 all relate to how management information about costs are presented to the Client. This is also a theme within the TfB Improvement Plan and joint work is needed with Ringway Jacobs to improve presentation and content of information. As part of this process the Strategic Client will have to be absolutely clear about its requirements. As the contract is on an 'open book' basis, improvements to these issues should be relatively quick and simple to make.

Items 2 and 6 of the report relating to a three year forward plan of schemes and scheme prioritisation are noted. A forward programme of schemes is good practice and could help address some of the difficulties associated with Target Cost estimates by providing Contractor and Client greater certainty on the annual programme earlier on. However, a balance will need to be struck about the level of detailed work undertaken on the programme to minimise abortive costs associated with changing priorities.

## Low Priority Issues

There are a further 6 issues identified in the report which are minor issues which in the opinion of the auditor do not present a material risk to the system of control.

These are:

1. PTS 25.1C Percentage of patronage growth on Urban Routes – this relates to a Key Performance Indicator for the contract related to passenger transport and has been dealt with.
2. Street furniture – development of a guide
3. Tree Maintenance – County Council Policy
4. Project Risk Registers
5. Award of Grass Cutting Contracts
6. Timely issue of subcontractor contracts

Explanations have been sought from Ringway Jacobs on these where needed and the Strategic Client is satisfied with the responses received. Actions have been included in the Improvement Plan where appropriate.

## **4. Conclusion**

The view of the Strategic Client is that the most significant improvements in management and control of the contract are likely to accrue from improvement actions which focus on the following key areas.

- For the Contractor, improvements to Quality Assurance and internal audit procedures focussing on detail at scheme level and the extent of compliance by staff with these procedures as well as good industry practice with respect to site supervision and record keeping. This is understood and recognised by Ringway Jacobs and it is expected that the reviews planned as part of the TfB Improvement Plan will address these.
- For the Client the extent to which the client side is sufficiently staffed to provide the level of assurance on financial probity which the Authority expects after due consideration of the likely financial risks and rewards
- For the Client and the Contractor, improved processes and approaches to Target Cost setting and benchmarking.

These improvement actions are actively being taken forward along with a number of other actions arising from the external consultant review and the ETL Select Committee report in the consolidated TfB Improvement Plan.

## Appendix A – Extract from TfB Improvement Plan showing actions relevant to Audit Report

<b>Work-stream</b>	<b>Short title</b>	<b>Milestone/deliverable</b>	<b>Owner</b>	<b>Date due by</b>
A3	Contract governance	Resolve client structure and funding for any new posts	BCC	31-Mar-14
E2	ETL report - 4 year plan	Produce first draft	RJ	Complete
E2	ETL report - 4 year plan	Final report produced	RJ	21-Feb-14
E2	ETL report - 4 year plan	Considered by SB	RJ	10-Mar-14
E2	ETL report - 4 year plan	Present to ETL Select Committee	RJ	15-Aug-14
E4	ETL report - Benchmarking	Comments from RJ on 1st Draft Benchmarking paper	RJ	17-Jan-14
E4	ETL report - Benchmarking	Review previous work on benchmarking with RJ	BCC	Complete
E4	ETL report - Benchmarking	Review ADEPT and HMEP available information	BCC	27-Jan-14
E4	ETL report - Benchmarking	Discussion paper with proposals from Ringway Jacobs	RJ	27-Jan-14
E4	ETL report - Benchmarking	Discuss and formulate proposals	BCC/RJ	10-Feb-14
E4	ETL report - Benchmarking	Sign off by Strategic Board	BCC	10-Mar-14
E4	ETL report - Benchmarking	Share proposals with ETL Committee	BCC	30-Apr-14
P1/2	Quality assurance	Review client management information requirements	BCC	14-Feb-14
P1/2	Quality assurance	Develop highlight report for client info	BCC	28-Feb-14
S2	Suite of Policies	Compile list of standards	RJ	28-Feb-14
S2	Suite of Policies	Review and amend tree maintenance policy if needed	RJ	28-Feb-14
U1	Audit report - Business performance	Add provision in business planning for visibility of discounts	BCC	28-Feb-14
U2	Audit report - Project risk registers	Risk management process to be communicated to all RJ staff	RJ	31-Jan-14
U3	Audit report - Target costs	Improve robustness of target costs in 14/15 T11 Business Plan	RJ	31-Mar-14
U3	Audit report - Target costs	Joint review of target cost development procedure	BCC/RJ	31-Jan-14
U3	Audit report - Target costs	Complete internal review of RJ commercial procedures	RJ	31-Jan-14
U4	Audit report - Cost Tracking	Provide assurances on Project Mgt Methodology	RJ	31-Jan-14
U4	Audit report - Cost Tracking	Implement improved site supervision procedures	RJ	31-Mar-14
U4	Audit report - Contractor payments	Clear backlog of completion certificates	RJ	31-Dec-13
U5	Audit report - Remedial costs	Introduce measures to improve visibility of remedial costs	BCC/RJ	31-Mar-14
U5	Audit report - subsequent discussions	Review RJ audit procedures and amend as necessary	RJ	tba
U5	Audit report - subsequent discussions	Provide assurances re 'non-audited' CMP schemes	RJ	27-Jan-14
U6	Audit report - Disallowed costs	Develop process for handling disallowed costs	BCC	28-Feb-14

tba = to be advised      BCC = Bucks County Council      RJ = Ringway Jacobs