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Audit Committee – 7 August 2019

MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD AT COMMITTEE ROOM A - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON WEDNESDAY, 7 AUGUST 2019

PRESENT

County Councillors JG Morris (Chair), D R Jones, M J Jones, K Laurie-Parry, K Lewis, WD Powell, D A Thomas, R G Thomas, T J Van-Rees and A Williams and Mr J Brautigam

Cabinet Portfolio Holders: County Councillors A W Davies, Finance, and J Evans, Corporate Governance

Officers: Jane Thomas, Head of Finance, Vincent Hanly, Commercial Services Lead, Ann Owen, Treasury Manager and Francis Hydes, Assistant Finance Business Partner/Technical Accountancy Assistant

1.	APOLOGIES
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Apologies for absence were received from County Councillors N Morrison, J M Williams and R Williams

2.	APOLOGIES
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Apologies for absence were received from County Councillors

3.	DECLARATIONS OF INTEREST
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There were no declarations of interest.

4.	DISCLOSURE OF PARTY WHIPS
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There were no disclosures of party whips.

5.	MINUTES
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The Chair was authorised to sign the minutes of the previous meeting, held on 16 May 2019, as a correct record.

6.	PROCUREMENT PROCESSES
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Documents:

- Dawnus chronology
- Dawnus questions
- Vetting prior to procurement
- Undertaking Economic and Financial Standing (EFS) Procedures in Procurement

- Assessing and Monitoring the Economic and Financial Standing of Suppliers
- Portfolio Holder's statement at County Council

Discussion:

- The Chair indicated to the Committee that the purpose of the meeting was to understand the process for procuring contracts and seek assurances that such processes were sound following the failure of two companies, Dawnus and Jistcourt, both of which had contracts with the Authority
- The Commercial Services Lead informed Members that the Jistcourt contract had been let under a framework agreement supported by the Authorities own processes
- Treasury Management undertake financial appraisals when required
- Whilst procurement in general falls under the remit of the Portfolio Holder for Finance, individual contracts are signed off by the relevant Head of Service. It is the Portfolio Holder's role to ensure the framework and policies are relevant.
- The Portfolio Holder whose remit includes corporate governance, confirmed that Portfolio Holders were not involved in the letting of contracts to avoid any implication of impropriety but were kept informed of progress through the process. At no point would a Portfolio Holder be informed of the names of companies tendering for a contract.
- It was confirmed that there were no set procedures in place for keeping a Portfolio Holder informed but that this would occur during a routine meeting with a Head of Service.
- In assessing a company, only historical data is available. The previous two year's audited accounts are requested and are therefore somewhat out of date. In some cases, unaudited accounts are requested to provide current information.
- Construction Line is only used for construction projects
- Assessments must be proportionate and not disadvantage small and medium sized companies
- Once information has been collated a series of mandatory questions are asked which will then determine whether a company passes or fails
- Financial assessments are carried out by the Finance team and will determine whether a company passes or fails for the next stage of the process
- If only one company is interested in the tendering exercise, the information is submitted alongside the tender
- A tender evaluation is undertaken
- Recent guidance has been issued by the government "Assessing and Monitoring the Economic and Financial Standing of Suppliers"
- Members asked what other procedures were in place to assess a company in order to undertake due diligence. The Commercial Lead informed the Committee that 30 or 40 questions must be completed which includes the key personnel, types of work undertaken etc. References are also considered. A company cannot be discounted if it is singly owned. If a company is part of a group, some information may not be available for other areas of the group.
- Jistcourt Construction had been owned by Jistcourt Holdings – were both sets of accounts considered? The group accounts will be considered if a

parent company bond or guarantee is required. In this case, the accounts for Jistcourt Construction only were appraised. The Group accounts for Dawnus were appraised.

- Jistcourt Holdings was established recently with Jistcourt Construction being the only trading arm of that holding company. The accounts for both companies show that the parent company owed Jistcourt Construction £1.2M. At 30 June 2017 it was evident that the Group as a whole was solvent but the parent company's liabilities exceeded its assets. A spreadsheet flagged up the potential risk and a bond had been sought.
- The lack of the bond and the level at which it had been sought (10%) were also cause for concern. If a company is refused cover by an insurance company for a bond this should also flag up concerns. Jistcourt were unable to take out a bond as a contract had not been entered into at that stage. However, work had started on site as this was critical to the award of grant funding. Under normal procedures there would be no progress until a bond had been taken out. It was noted that no money had been paid to Jistcourt. Once work has started on site, a contract is deemed to have been awarded.
- A member suggested that even where there were no criminal convictions, investigations into personal investments in a company should be undertaken. The Commercial Lead reported that directors are asked to self-certify that they have no civil or criminal convictions. If any convictions are noted, the company is disqualified.
- The Committee asked for clarification of the comment that the Council must not be overly risk averse within the financial assessment. If a contract is worth £3M, for example, a company should be able to undertake a contract of £6M, but this may exclude small, local businesses. A judgement can be made if a company nearly satisfies these criteria. A local company can be assisted by the setting up of local bank accounts and payments will be made promptly to aid cash flow.
- From the outset the Authority has a view of the level of risk of a contract – the market should not be stifled. An assessment of risk is also undertaken regarding the impact should a company fail.
- Prior to the tender a gold, silver or bronze risk is identified. Those with a bronze risk may not even require an assessment but more complex contracts will need a higher level of assessment.
- Throughout the responses provided, the term maximum contract value is used, and Members asked how this was determined. All figures together give a score which would determine the maximum value of a contract. This is checked against a rating given by other agencies, such as Equifax etc. The Powys procedures seem to be more robust.
- Contracts are advertised. Pre-tender events are held and annual events. In some instances, phone calls are made to those who may be interested to alert them to upcoming adverts. Sell2Wales is the 'shop window' and workshops are provided for assistance in completing tender documents. However, responses from local companies remain low. Contracts are advertised across Europe.
- With regard to Dawnus, intelligence was circulating that the Company may be in difficulties. Accounts for 2016 had been used for an appraisal and another appraisal was requested on 5 July 2018. The appraisal was updated on the basis of the 2017 accounts. Whilst there had been a loss this had a minimal affect on the appraisal – the net worth of the company

and asset base had not changed. Quarter 1 management accounts for 2018 were considered later but it was difficult to compare like with like.

- The Welsh Government had been made aware of issues with Dawnus in December 2017 when management consultants were called in and the company was in discussion with HSBC and the Welsh Government regarding continued viability. The 2017 accounts demonstrated that there were no funds in the bank and extensive creditors and debtors. The Directors' report at year end noted a write down. Turnover had reduced by 17% and a profit had turned into a loss. The company had taken out debentures totalling £7M as well as a chattels mortgage. The foregoing should have raised the alarm and the Authority should not have proceeded with the contract.
- The financial assessment had picked up on the figures reported but a profit turning to a loss is not a major issue – the company could have been investing in future operations. However, what the Welsh Government was aware of was not available to the Authority. If that information had been available, further investigations would have been carried out. The Committee were of the opinion that the Authority was aware of the Welsh Government's involvement and further enquiries should have ensued.
- It was thought that the Welsh Government was assisting the company to survive and releasing that information would have been self-defeating as further contracts would not have been won. They had a vested interest in keeping the company afloat.
- The issue was one of communication between the Welsh Government and local authorities. Full disclosure was needed on all contracts. Members asked what steps were now being taken with the Welsh Government regarding reputational risk and rising costs following the failed contract.
- The Public Accounts Committee had also considered the issue, but little new information was forthcoming. Local Authorities could not be warned because of business confidentiality.
- Procedures which had been used were Powys specific, but new guidelines would be applicable nationally.
- The Portfolio Holders were asked if they thought they had had sufficient training and support to carry out their role in bringing challenge to officers regarding due diligence. What was the role of the WLGA to ensure these tasks are undertaken? Support is provided both at a local authority level and by the WLGA. Mentoring is ongoing and it was thought that adequate support was given. It was not possible to have instant expertise, but Portfolio Holders learn from their experiences and rely on professional officers. It was a constant learning process.

Outcomes:

- **The new policy guidance note 'Assessing the Economic and Financial Standing of Suppliers' must be used to review current practice and approach by the Council**
- **The Council will review its monitoring process for all of its major or high risk contracts – this will include access to forward information and predictions if available as well as ongoing published results as anniversary of publications occur. This may be delivered via electronic means via a specialist provider such as Dunn and**

Bradstreet or Equifax. It should also include a review of information contained at Companies House.

- **The Authority will include terms in its contracts which will require providers to provide annual confirmation of compliance and notify the council of any defined changes classed as financial distress factors (which would need to be specified) and consideration of the use of other tools and sureties to provide assurances to the Council on the financial health of all its key suppliers**
- **The Council will also review its procurement documentation to ensure that nay changes to the approaches are incorporated into pass/fail mechanisms within the documentation**

7.	WORK PROGRAMME
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Documents:

- **Audit Committee Forward Work Programme**

Outcomes:

- **Noted**

County Councillor JG Morris (Chair)

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