

Single Tender Actions Final Internal Audit Report August 2021

Hywel Dda University Health Board

NWSSP Audit and Assurance



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Acknowledgement

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Executive Summary

Purpose

The purpose of the review is to establish whether appropriate arrangements are in place for the use of single tender actions.


Overview

A significant proportion of our audit work involved assessing compliance with policies and procedures and appropriateness of STAs (Assurance Objective 1). We identified one high and two medium priority matters, all relating to this same objective. Consequently, we have concluded an overall rating of Reasonable assurance.

Key matters arising concerned:

- Incomplete STA Request forms in line with the stipulations of the STA Procedure;
- Appropriate use of the STA route and effectiveness of Executive review /approval; and
- Appropriateness of Board Secretary involvement in the STA approval process.

Report Classification

		Trend
 <p>Reasonable</p>	Some matters require management attention in control design or compliance.	n/a
		Low to moderate impact on residual risk exposure until resolved.

Assurance summary¹

Assurance objectives	Assurance
1 Compliance with Policies & Procedures including Appropriate Use of STA's	Reasonable
2 The number and value of STA's is not excessive compared to previous years	Substantial
3 Declarations of Interest, Gifts and Hospitality relating to STA's	Substantial
4 Reporting to the Audit, Risk and Assurance Committee	Substantial

Matters Arising

		Control Design or Operation	Recommendation Priority
1	Completion of STA Forms	Operation	Medium
2	Appropriate Use & Executive Review of STA Forms	Operation	High
3	Board Secretary Involvement in STA Approval	Design	Medium

¹ The objectives and associated assurance ratings are not necessarily given equal weighting when formulation the overall audit opinion

1. Introduction

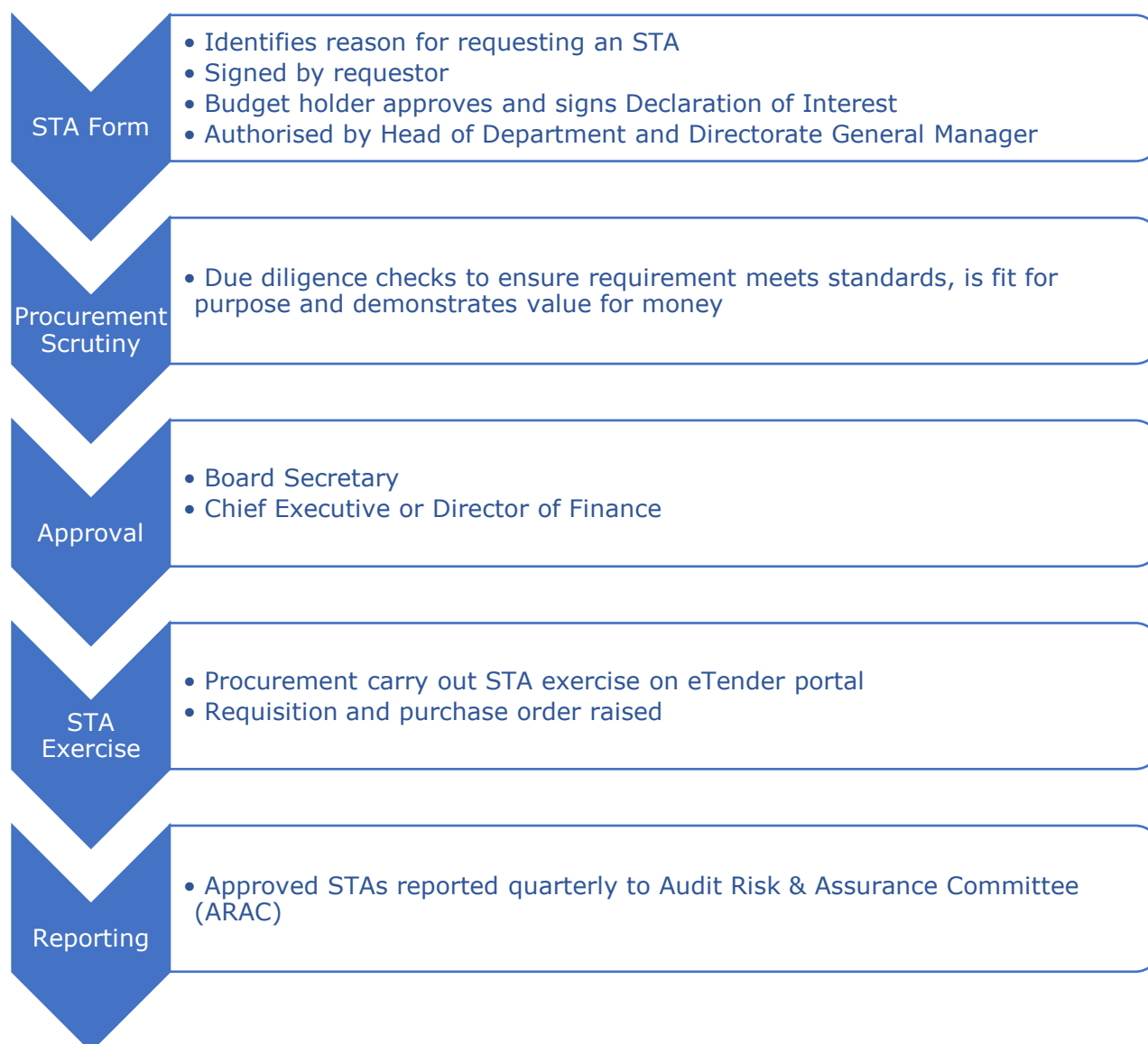
- 1.1 The review of the Single Tender actions was completed in line with the 2021/22 in line with the 2021/22 Internal Audit Plan. The relevant lead Executive Director for the assignment was the Director of Finance.
- 1.2 The Welsh Government stipulates that public sector bodies should acquire goods and services through fair and open competition, to ensure value for money, propriety, and regularity. However, when situations arise where a single tender action (STA) may be more appropriate, robust policies and procedures should be followed to ensure transparency and value for money.
- 1.3 The Single Tender Action procedure was reviewed and approved by the Finance Committee in February 2021. During 2020/21 there have been 53 single tender actions.
- 1.4 The potential risks considered in the review are as follows:
 - non-compliance with Health Board policies and procedures;
 - failure to obtain value for money as a result of weak procurement processes; and
 - potential for collusion or fraud.

2. Detailed Audit Findings

Objective 1: Procedures for undertaking single tender actions have been established and are complied with.

Policies & Procedures

2.1 The Health Board’s Standing Orders and Standing Financial Instructions require that the purchase of all goods and services be subject to competition in accordance with good procurement practice. Recognising that there may be situations where it is necessary to approach a single supplier, the Health Board’s Single Tender Action (STA) Procedure sets out the circumstances under which a STA can be actioned and the process to be followed:



2.2 The STA Procedure was revised and approved by the Finance Committee on the 25th February 2021. Key changes include a more robust review and approval process:

- Board Secretary to undertake checks against relevant registers including Declarations of Interest and Gifts & Hospitality prior to approval
- In addition to approval by the Director of Finance, the Chief Executive Officer / designated deputy must approve all STAs exceeding £25,000

The revised procedure document including the STA Request Form is available on the Health Board intranet site.

STA Register

2.3 A central record of STAs is maintained by NWSSP Procurement Services (NWSSP-PS) on behalf of the Health Board. Each STA is allocated a sequential reference and key information recorded includes the supplier details, description of the goods/service, total cost and the date the request was received and approved. We have highlighted opportunity to further enhance the register to NWSSP-PS, with the inclusion of additional key information such as the corresponding purchase order number in order to maintain a full audit trail of the procurement process.

Completion of the STA Request Form

2.4 The STA Request Form encapsulates the information and approval requirements of the STA Procedure and must be completed for all STAs. A sample of 25 STAs was selected from the STA register and reviewed to assess compliance with the requirements of the pre-2021 STA Procedure, which was operational during the period under review (2020/21).

2.5 Only six of the 25 forms reviewed had been fully completed and signed as required. The remaining 19 forms were incomplete to varying extents – some missing relatively minor information but others missing signatures (further detail is provided within the relevant sections below). Notwithstanding this, all forms had received final approval from the Director of Finance (or deputy). **[See Matters Arising 1]**

2.6 All 25 STA forms reviewed had been approved prior to the requisition and purchase order being raised on Oracle.

Appropriate Use of STA Procedure

2.7 Prior to the completion and submission of the STA Request Form, the requestor will discuss their requirements with NWSSP-PS in order to ascertain whether the STA process is the most appropriate route to follow. We were advised that various checks are undertaken to ascertain whether alternative suppliers or procurement routes are available, although these checks are not recorded.

2.8 The STA Procedure and Request Form identify the acceptable reasons for requesting a STA and should identify which one is applicable to the request:

- There is genuinely only one supplier
- Compatibility with existing equipment
- Interim arrangement pending tender exercise
- Maintenance of existing equipment (e.g. to comply with a warranty cover clause)

- Technical grounds
- Continuity of service/supply of goods – there is a need to retain a particular contractor for real business continuity issues (not just preferences)
- The service/item is follow-up work where a provider has already undertaken initial work in the same area, and where the initial work was awarded from open competition

2.9 Although this section had only been completed for thirteen of the STA Request Forms reviewed, in most cases the narrative sections of the form documented the valid reasoning behind their requirements, decision, the availability of alternative options, together with a detail justification as to why this route is deemed the most appropriate. Furthermore, the level of detail provided to support the use of a STA was in line with the stipulated criteria of the STA Procedure.

2.10 However, we identified two examples where use of the STA was not considered appropriate:

STA	HDD537 Mental Health Locums	HDD553 Behavioural Change Training
Rationale	Existing supplier unable to fulfil demand for Mental Health Locums	Sole supplier
Issues	<p>STA value was based on the annual cost for six locums (just over £1.5m) but should have been restricted to the period required to conduct a formal procurement exercise.</p> <p>The STA was approved but subsequently cancelled as the supplier was unable to fulfil requirements.</p>	The STA was approved although queries were raised about the availability of alternative suppliers and the need to test the market to ensure value for money.

[See Matters Arising 2]

2.11 Presenting the Financial Assurance report to the Audit & Risk Assurance Committee (ARAC) in April 2021, the Director of Finance acknowledged that greater user of singlet tender actions was necessary during the COVID-19 response. However, the Committee was assured that there will be a focus on communicating the need to tighten processes going forward. In May 2021 a letter was issued to all budget holders highlighting that the overuse of STAs is no longer justified and that NWSSP-PS must be engaged in procurement plans at the earliest opportunity to ensure that the market can be tested appropriately.

Procurement Scrutiny

- 2.12 The new procedure explicitly states that NWSSP-PS must be consulted prior to any STA application being submitted for approval. The NWSSP Head of Procurement Services advised that checks are undertaken to determine the availability of alternative suppliers, evaluate costs, and assessing the rationale to justify use of the single tender action route.
- 2.13 Section 4 of the STA form is completed by the NWSSP Head of Procurement Services to confirm that specified checks have been carried out and indicate whether a STA is an appropriate course of action, or an alternative option could be pursued.

- 2.14 All 25 STA forms had been signed by the NWSSP Head of Procurement Services or Senior Procurement Business Manager. However, in all 25 cases the relevant sections of the form (as outlined above) had not been completed or confirmation provided that the STA is an appropriate course of action. In many cases an 'electronic signature' (name typed on the form) had been provided so we were unable to verify that the form had been signed by the NWSSP Head of Procurement Services. We recognise that this was unavoidable whilst remote working during the COVID-19 pandemic.

Approval

- 2.15 Nine of the 25 STAs reviewed had not been signed by the requestor, budget holder, Head of Department and/or Directorate General Manager. The STA Procedure explicitly states that the same person cannot request and approve an STA form. We identified a number of instances where the requestor was also an approver (as budget holder, Head of Department and/or Directorate General Manager), but recognise the presence of other independent approvals in all but one instance where the only independent approval was that of the Board Secretary and Director of Finance. **[See Matters Arising 1]**
- 2.16 Following review by NWSSP-PS, procedure stipulates that:

"the form will be submitted to the Chief Executive's office or Director of Finance in his absence, confirming the reasons for waiving competition and requesting Board approval prior to the award of contract. The form is reviewed and approved by the Board Secretary, prior to final approval by the Chief Executive/Director of Finance".

The revised procedure further states that the Board Secretary will undertake checks against relevant registers including Declarations of Interest and Gifts & Hospitality prior to approval. The involvement of the Board Secretary in operational processes such as the approval of STAs is unusual and unique to the Health Board. **[See Matters Arising 3]**

- 2.17 Final approval by the Chief Executive was evident for only one STA reviewed, with all 25 approved by the Director of Finance (or deputy, in one instance). We recognise that the revised procedure now requires Chief Executive approval for all STAs.

Conclusion:

- 2.18 Many of the STA Request Forms we reviewed had not been completed in full and in some cases there was no segregation between the requestor and approver, as required by procedure. Whilst we are satisfied that in most cases the rationale for using the STA route was adequately justified on the STA Request Form, two examples were identified which do not demonstrate appropriate use of the STA route, and call into question the efficacy of the scrutiny and approval process. We also question the appropriateness of Board Secretary involvement in the approval process. Consequently, the overall assessment for this objective is Reasonable assurance.

Objective 2: the number of single tender actions for the period is not excessive in comparison to previous years

2.19 The table below illustrates that the number and value of non-COVID related STAs in 2020/21 is not excessive compared to 2019/20:

STAs ²	2019/20		2020/21	
	Number	Value	Number	Value
Non-COVID Related	24	£2,298,527	25	£3,924,961
Cancelled/Rejected	4	-£155,842	6	-£2,182,014
Subtotal	20	£2,142,685	19	£1,742,947
COVID Related	-	-	10	£2,120,224 ³
Total	20	£2,142,685	29	£3,863,171

Benchmarking

2.20 Analysis undertaken as part of the 2020/21 NWSSP Procure to Pay audit identified that the average number and value of STAs by NHS Wales health boards was 39 and £7.5m.

Conclusion:

2.21 We have concluded Substantial assurance for this objective.

Objective 3: appropriate procedures have been established for declaring interests, gifts and hospitality relating to single tender waivers

2.22 The registers in relation to members interests, staff interests, gifts, hospitality, sponsorship and honoraria were ascertained and reconciled to the organisations noted on the selected sample of STA proformas. Testing confirmed there to be no association or relationships declared between the board members, staff and the selected sample.

2.23 We note that the revised STA Procedure states that the Board Secretary will undertake checks against relevant registers including Declarations of Interest and Gifts & Hospitality prior to approval.

Conclusion:

2.24 We have concluded Substantial assurance for this objective.

Objective 4: the reporting of the single tender actions to the Audit, Risk & assurance Committee (ARAC) is complete, accurate and timely

2.25 The Financial Assurance Report presented at each ARAC meeting summarises the number and value of STAs during the period, with a description and justification of each STA

² Number and value of STAs as per the NWSSP-PS STA register

³ Includes six months-worth of two STAs valued collectively at £15k per week with an indeterminate end date (relate to field hospitals)

included in the appendix. Reconciliation of the NWSSP-PS STA register and Financial Assurance reports confirmed completeness of reporting to ARAC.

Conclusion:

2.26 We have concluded Substantial assurance for this objective.

Appendix A: Management Action Plan

Matter Arising 1: Completion of STA Forms (Operation)	Impact	
<p>Only six of the 25 sampled STA forms had been fully completed and signed in line with the requirements of the STA Procedure document. The remaining 19 STA forms were incomplete to varying extents.</p> <p>Nine of the 25 STAs reviewed had not been signed by the requestor, budget holder, Head of Department and/or Directorate General Manager. The STA Procedure explicitly states that the same person cannot request and approve an STA form. We identified a number of instances where the requestor was also an approver (as budget holder, Head of Department and/or Directorate General Manager).</p> <p>All 25 STA forms had been signed by the NWSSP Head of Procurement Services or the Senior Procurement Business Manager. However, in all 25 cases the relevant sections of the form had not been completed or confirmation provided that the STA is an appropriate course of action.</p>	<p>Potential risk of:</p> <ul style="list-style-type: none"> • Non-compliance with SFIs, the STA Procedure and procurement guidance. • Failure to obtain value for money. 	
Recommendations	Priority	
<p>1.1a STA Request Forms must be fully completed. Incomplete forms should be rejected and returned to the requestor for completion.</p> <p>1.1b Current approval requirements should be reviewed with a view of simplifying them, with any amendments reflected accordingly in the STA procedure and STA Request Form.</p> <p>1.1c Management must ensure that NWSSP-PS fully complete the relevant sections of the STA Request Form prior to Executive approval.</p>	<p>Medium</p>	
Agreed Management Action	Target Date	Responsible Officer

1.1a The STA Procedure/Request Form will be reviewed in order to simplify requirements and allow easier adherence. Forms will be rejected where key information or signatures are missing.	30/09/2021	Huw Thomas, Director of Finance
1.1b as per 1.1a above		
1.1c We will refer this to NWSSP for action.		






Matter Arising 2: Appropriate Use & Executive Review of STA Forms (Operation)		Impact
<p>We identified two examples where use of the STA route was not considered to be appropriate, based on the information available to us, due to the length the agreement or rationale for using the STA route. One was rejected and the other was not reviewed by the Board Secretary prior to final approval. Nevertheless, both STA Request Forms had received final approval by the Director of Finance.</p>		<p>Potential risk of:</p> <ul style="list-style-type: none"> • Non-compliance with SFIs, the STA Procedure and procurement guidance. • Failure to obtain value for money.
Recommendations		Priority
<p>2.1a The appropriateness of STA requests should be assessed as part of the review and approval process. Any requests not meeting the criteria set out within the STA Procedure should be rejected.</p> <p>2.1b STA's should be escalated for review in accordance with the approval hierarchy set out within the STA Procedure. Rejected requests should either not be escalated for final approval, or if final approval is granted justification should be noted on the STA form. It may be appropriate to highlight such exceptions to the Audit & Risk Assurance Committee as part of the Financial Assurance Report.</p>		<p>High</p>
Agreed Management Action	Target Date	Responsible Officer
<p>2.1a Agreed and this requirement has already been reinforced across the organisation in a letter sent by the Director of Finance and Board Secretary in April 2021</p>	<p>Implemented</p>	<p>Huw Thomas Director of Finance</p>
<p>2.1b Both these instances were reported to ARAC and have been discussed at ARAC. We will review our reporting to ARAC in light of the revised STA Request Form.</p>	<p>30/09/2021</p>	

Matter Arising 3: Board Secretary Approval (Design)		Impact
<p>The STA procedure requires all STAs to be reviewed and approved by the Board Secretary prior to contract award. The procedure was updated in February 2021 to state that the Board Secretary will undertake checks against relevant registers including Declarations of Interest and Gifts & Hospitality prior to approval. The involvement of the Board Secretary in operational processes such as the approval of STAs is unusual and unique to the Health Board.</p>		<p>Inappropriate governance arrangements for the approval of STAs</p>
Recommendations		Priority
<p>3.1 Management should consider the appropriateness of the Board Secretary role in the existing STA approval arrangements, specifically whether sign off in an advisory capacity is more suitable.</p>		<p>Medium</p>
Agreed Management Action	Target Date	Responsible Officer
<p>3.1 As per 1.1a above the STA Procedure/Request Form will be reviewed in order to simplify requirements. As part of this, the form will be updated to make the role of the Board Secretary clear with regards to the completion of checks against the DOI register.</p>	<p>30/09/2021</p>	<p>Huw Thomas, Director of Finance</p>

Appendix B: Assurance opinion and action plan risk rating

Audit Assurance Ratings

We define the following levels of assurance that governance, risk management and internal control within the area under review are suitable designed and applied effectively:

	Substantial assurance	Few matters require attention and are compliance or advisory in nature. Low impact on residual risk exposure.
	Reasonable assurance	Some matters require management attention in control design or compliance. Low to moderate impact on residual risk exposure until resolved.
	Limited assurance	More significant matters require management attention. Moderate impact on residual risk exposure until resolved.
	No assurance	Action is required to address the whole control framework in this area. High impact on residual risk exposure until resolved.
	Assurance not applicable	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

Prioritisation of Recommendations

We categorise our recommendations according to their level of priority as follows:

Priority level	Explanation	Management action
High	Poor system design OR widespread non-compliance. Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in system design OR limited non-compliance. Some risk to achievement of a system objective.	Within one month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. Generally issues of good practice for management consideration.	Within three months*

* Unless a more appropriate timescale is identified/agreed at the assignment.



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