

For General Release

REPORT TO:	Cabinet Member for <i>Finance and Treasury</i> 19 March 2018
SUBJECT:	One Oracle Data Archiving Contract
LEAD OFFICER:	Richard Simpson Executive Director of Resources
CABINET MEMBER:	Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: These requirements meet the Council's Corporate priorities to: <ul style="list-style-type: none">• Provide Value for Money to its residents through the joint procurement of services with other Councils.• Improve our Assets through investment in our ICT Corporate Plan 2015-18	
FINANCIAL IMPACT: The estimated cost of this contract is a total of £590,000.	
KEY DECISION REFERENCE NO n/a	

The Leader of the Council has delegated to the nominated Cabinet Member the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Finance and Treasury in consultation with the Leader of the Council is recommended to approve the award of contract for One Oracle Data Archiving to Cap Gemini as a single source under Regulation 18a of the Tenders and Contract Regulations for a period of 7 years at a total contract value of £590,000 and upon the terms detailed in the report.

2. EXECUTIVE SUMMARY

- 2.1 This report sets out a contract award recommendation to directly award contract to Cap Gemini for the provision of data archiving services for the legacy Oracle enterprise resource system.
- 2.2 The required high level outcomes are:

- An ongoing, secure, read-only access to all Oracle R12 data for Croydon and the partners post the 2019 migration to Oracle Cloud to meet legislative requirements.
 - Legacy Database maintained and patched as appropriate and according to patch availability from Oracle
 - Ongoing Technical and functional support.
- 2.3 The Contracts and Commissioning Board approve the strategy with this award report.
- 2.4 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
08/03/2018	CCB1328/17-18

3. DETAIL

- 3.1 The One Oracle system is an Enterprise Resource Planning (ERP) IT solution that allows Croydon to automate core functions such as finance payroll and HR. Croydon is part of the OneOracle partnership that includes seven Councils (the other six being Barking & Dagenham, Brent, Croydon, Havering, Lewisham, and Newham) that currently have a contract in place with Capgemini for the provision of a hosting and support service for the current One Oracle solution. Lambeth led the initial procurement of the Capgemini arrangement in 2012 on behalf of the partnership. The solution hosts a shared data infrastructure.
- 3.2 Migrating to the cloud solution will leave behind a shared dataset which needs to be retained for read only access in order to meet legislative requirements. Lambeth and Lewisham are due to migrate the the cloud solution in April - June 2018 and Croydon by July 2019. A Business case has been put forward to work with Lewisham and Lambeth to retain a common shared database archived in the UK Cloud or Oracle Cloud hosted by Capgemini.
- 3.3 The Council will enter into a direct contract with Cap Gemini as part of a multi partite arrangement with cross references to the other partners. Cap Gemini will issue their standard contract (which is based on the G Cloud Framework terms and conditions) to be used for the contract terms. Lambeth will review the terms initially on behalf of the partnership against their standard council terms.
- 3.4 More detail is set out in the attached strategy report.

4. CONSULTATION

- 4.1 Engagement has taken place with the service users to establish that data will need to be retained and identify preferred methods of access. That engagement established no desire to change how to access the existing data as this avoids re-training.

75.0	75.0	75.0	75.0	75.0	75.0	140.0
						590.0

3 Risks

Consideration needs to be given to the financial health of the supplier and regular monitoring undertaken to enable early intervention if required.

4 Options

No other options were considered

5 Future savings/efficiencies

No future savings have been identified

Approved by: Ian Geary, Head of Finance, Resources & Accountancy

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council comments in respect of the recommendation to make a direct award to Capgemini for a duration of 8 years would require to come within Reg 32 (2) (b) of the PCR 2015 where the services can be supplied only by a particular economic operator and the waiver (clauses 18a and b of the Tenders and Contracts Regulations May 2016) when a single source supplier could be used if it can be sufficiently proven that there is only one provider who can feasibly deliver the services and this is clearly demonstrated in the report to the CCB and it is demonstrated that this will achieve value for money.
- 6.2 There is a risk therefore that a direct award of the contract will be challenged even if the light touch threshold set out in PCR 2015 Schedule 3 applies. The Light touch regime threshold from 1st January 2018 is £615,278. However even if having valued the contract this is below the threshold the Council should still observe EU Treaty principles on equal treatment and a degree of advertising and transparency. This would be absent if the direct award route is chosen through the use of the negotiated procedure without prior publication.
- 6.3 Authorities that wish to procure for services on a direct award basis may be challenged by a third party in this respect as there is a risk that the contract award might be found to be ineffective. The risk of challenge may be mitigated by publishing a voluntary transparency notice (VEAT notice) in which the Council sets out why it considers the award of the contract, without prior publication of a contract notice, should be permitted and is not ineffective by Part 2 PCR 2015. The Council should then wait at least 10 days before entering into the contract award. However, a VEAT notice is only effective in providing protection where the legal justification for the direct award is sound and able to withstand any increased scrutiny that may be brought about by its publication. A VEAT will not offer the intended protection where it is issued in bad faith or where the proper due diligence is lacking, regardless of whether in good faith or not.

Approved by: Sean Murphy, Head of Commercial and Property Law & Deputy Monitoring Officer, on behalf of the Director of Law & Monitoring Officer.
Comments provided by Legal

7. HUMAN RESOURCES IMPACT

- 7.1 There are no TUPE considerations with the service. The external supplier operates on a shared service basis across multiple customers. The risk of TUPE applying is considered very low

(Approved by: Sue Moorman, Director of Human Resources)

8. EQUALITIES IMPACT

- 8.1 An Initial Equality Analysis was undertaken to assess the likely adverse impact the contract award would have on protected groups compared to non-protected groups. The analysis concluded that a full equality analysis was not required due to the fact that the procurement of the Oracle suite of applications would not have any adverse impact on protected groups compared to non-protected groups. The

hosting of the legacy data as a result of the migration to Cloud does not change that assessment.

9. ENVIRONMENTAL IMPACT

9.1 The archive solution will have a smaller technology footprint than the existing live system, requiring fewer computer servers and therefore consuming less power within the data centre.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 No impact identified.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The stated justification in this instance is that it is common for archiving to be provided as a continuation of hosting and support services. It might fairly be characterised as a natural adjunct rather than an integral part of the hosting service. In the circumstances it would be difficult to safely deem the archiving service as meeting the criterion 'where competition is absent for technical reasons'. However - and so long as value for money has been secured from Cap Gemini - it would be highly unlikely that another economic operator could provide the service and cover the costs of the migration and transition for Cap Gemini's price, and in those circumstances putting the contract opportunity out to competition would not yield a best value result

12. OPTIONS CONSIDERED AND REJECTED

12.1 A make or buy assessment was made but there was no realistic alternative. As a general observation it is noted that there is also a risk consequent on tendering the contract opportunity in that if, as seems quite likely, no other operators will bid because of the incumbent provider advantage, that the incumbent may not be willing to offer the same price as if it had been given the direct award. There is also a possibility that, if there are more than one bid, that they will all (including the incumbent's bid) be higher than the price now being offered.

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BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

Make or Buy Assessment

APPENDIX

Strategy Report

