

Review Point 2: How We Buy Report

1. Project Details

Project Title:	One Oracle Data Archiving
Name, role and contact of report author:	Vicki Richardson Head of HR and Finance Service Centre, Customer and Corporate Services. Ext 62460
Directorate:	Resources
Service Area:	All
Date RP1 – Make or Buy report approved:	TBC
Date of Commissioning and Contracts Board:	VIRTUAL

2. What are the outcomes we are seeking to achieve?

The required high level outcomes as set out in RP1 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.

Outcome Details:

Shared Archive of One Oracle Outcomes

- Councils keep their data in a shared system
- Easy to implement - clone
- No data extraction required
- No risk to Oracle EBS integrity and security
- Little testing required
- Minimal migration costs
- Single support and hosting contract should we stay with Capgemini
- UK Cloud hosting and storage of data accessed by UK security cleared staff
- No changes to security or connectivity
- Most cost effective/economically advantageous

3. Croydon Policies and Corporate Priorities

These requirements meet the Council's Corporate priorities to:

- Provide Value for Money to its residents through the joint procurement of services with other Councils.
- Improve our Assets through investment in our ICT

3.1 Social Value

There are no social value provisions in the current arrangements as the services were tendered prior to the introduction of The Public Services (Social Value) Act 2012. The incumbent service provider does pay the London Living Wage. The partnership has been asked to request a definitive social value offer from the supplier as part of the contract negotiations in order for a social value offer to form part of new contract deliverables.

3.2 Equalities analysis

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.

3.3 Other (applicable other policies that are relevant to this project)

The main policies relate to information management as personal data is being held and processed under the arrangements. The Council's records retention policy states that Finance records and Human Resources records will be retained for a period of 6 years and then destroyed.

Part 1: Delivery strategy

4 Resource Implications: Internal & External

- 4.1 The resources required to deliver the project are expected to be minimal. There may be some minimal testing of the archived solution which can be delivered using existing Oracle support resources within the Finance Service Centre.
- 4.2 The resources required once the project has been established into part of business as usual will be limited to user administration and reporting any issues with system availability to the Contractor. The demand on resources is expected to be minimal and will be delivered using existing resources in the Finance Service Centre.
- 4.3 The estimated cost of this contract is a total of £1,660,000 (£590,000 for Croydon) for an eight year contract (seven years for Lambeth and Lewisham from 2017 with Croydon joining and finishing a year later). These costs are based on a joint procurement between London Boroughs of Croydon, Lambeth and Lewisham. The annual cost to Croydon will need to be met from existing revenue budget in the Finance Service Centre.
- 4.4 Employment Considerations

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

4 Risk Management

The Joint Management Board maintains a combined risk register as there are dependencies across the partners. Croydon specific risks and issues are managed by the Service Manager in conjunction with the programme manager and Systems Implementer. Risks and issues are monitored at the project board and escalated to the programme board.

Issue and Risk Profile to be managed	Likelihood	Impact	Rating	Mitigation
Risks to service delivery from non-availability	3	3	9	KPI-SLA regime. It is a read only archive system so impact is low.
Risk of challenge from other providers.	3	3	9	Risk deemed low. It should be noted that if the procuring local authority were to make a direct award to Cap Gemini it would be unlikely that any challenger would win significant (or any) damages as it would face serious difficulties in proving that it could or would have won the contract, owing to the additional costs it would have to bear. However, the authority might still be liable to fines and any legal costs incurred by a challenger.
The need for Partnership wide recognition that their data cannot be purged from a data base clone provided by Cap Gemini. (CG) There will be several clones that will be taken by Councils as part of their Data Archive Strategy and this needs to be managed carefully.	3	3	9	Chosen solution will reduce instances and mitigate risk
In terms of data extraction and archiving each Council needs to clearly define exit strategy and plan with CG for post July 2018 activities	3	4	12	Being planned by project team
The Data Sharing Agreements(DSA) need to be positioned so that there is a review point Q1 2018 to incorporate any changes emanating from the GDRP	3	3	9	Planned in

legislation being introduced May 2018.				
The Brent programme is targeted to be delivered February 2018 and any delays caused as a result of CG failure to deliver will have a consequence on post July 2018 services.	3	3	9	LBC risk is lower as we have longer (to 2019) before we need the services
Possible delays caused as a result of Data Clone not being available to Croydon, Lambeth and Lewisham to allow them to proceed with their data extraction to support CRP's and testing.	3	4	12	LBC risk is lower as we have longer (to 2019) before we need the services
The need for the nominated System Implementor to align themselves to the requirements of the DSA agreements and sign off.	3	3	9	To be managed via supplier contract management
Need for comprehensive data cleansing exercise with target areas identified and business resources allocated.	3	4	12	Early engagement to identify need and resource impact
HR/TUPE	3	3	9	Low. Services are shared

Has this project been put on the corporate risk register? YES

5 Performance Management

The performance indicators for this project will be based on system availability and incident resolution, for example:

- 99.9% system availability between 08:00 and 18:00 Monday to Friday;
- Target timescale for resolution of 100% priority 1 (system unavailable or critical) incidents – 4 hours.

6 Decommissioning strategy

At the end of the contract arrangements will be made with Capgemini to decommission the service and securely destroy the data. It is not anticipated that data should be retained beyond the end of the contract period. However should there be a requirement then reports will be written to extract the required data which can then be securely stored locally. GDPR compliance will be taken into consideration and a GDPR review is planned. (as referred to in the risk matrix)

7 Financial Resources

Details	Internal		Period of funding	External		Period of funding
	Capital	Revenue		Capital	Revenue	
Hosting and support costs for legacy archiving solution		590.0	July 2019 – July 2025	N/A	N/A	N/A

The cost will be met from existing revenue budget in the finance service centre.

Jul-19	Jul-20	Jul-21	Jul-22	Jul-23	Jul-24	Jul-25
(2019-20)	(2020-21)	(2021-22)	(2022-23)	(2023-24)	(2024-25)	(2025-26)
£000s	£000s	£000s	£000s	£000s	£000s	£000s
75.0	75.0	75.0	75.0	75.0	75.0	140.0
						590.0

8 Saving opportunities

There are no savings opportunities attributable to this contract.

8.1 Premier Supplier Programme (PSP)

If the Project involves outsourcing part or all of the service, will the Premier Supplier Programme (PSP) be included in the Tender? Yes

Although this is recommended to be a direct award, the supplier will be invited to participate in the Premier Supplier Programme. Based on the maximum 2%, PSP savings over the contract term could be £11,800 should the supplier sign up to the programme.

9 Other Considerations

If your commissioning decision is not a formal tender has it been registered with the Corporate Programme Office as a project? [Project registration](#) Yes.

10 Proposed Timetable (can be amended to meet project requirements)

Activity	Proposed Date
Partnership governance and Decisions	Dec 2017
Make or Buy CCB	Feb 2018
Strategy	Feb 2018

Supplier Negotiations & Evaluation	Feb 2018
Award CCB	March 2018
Cabinet Member Decision	March 2018
Contract Award	April 2018
Service Start	July 2019

Part 2: Procurement Strategy

11 Proposed Procurement Route

The proposed procurement route is a direct award of this contract to Capgemini for a period of up to a maximum of 8 years. This option offers value for money as it covers the cost of multiple data extracts (different start dates), and provides data security as additional copies of data and further set of data sharing agreements do not need to be established.

The Public Contracts Regulations permit the award of a contract for services by a negotiated procedure without prior publication only in limited circumstances, including where competition is absent for technical reasons. There is no clear exemption for circumstances in which the public contracting body considers that the selection of an operator other than the incumbent would create technical and logistical difficulties and/or additional cost.

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 be costly and is unlikely to derive a competitive outcome.

It should be noted that if the procuring local authority were to make a direct award to Cap Gemini it would be unlikely that any challenger would win significant (or any) damages as it would face serious difficulties in proving that it could or would have won the contract, owing to the additional costs it would have to bear. However, the authority might still be liable to fines and any legal costs incurred by a challenger.

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 to the Council.

12 Contract Terms and Conditions

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.

13 Tender Details

13.1 Tender Process

A direct approach will be made to the supplier. The procurement and supplier negotiations will be led by Lambeth Council's Procurement team on behalf of the three participating councils, with support from the Oracle upgrade project team. A joint evaluation panel has already been established to assess the supplier submission and will be evaluated in accordance with the Tenders and Contracts Regulations to ensure probity, value for money and that the most economically advantageous contractor is chosen.

13.2 Tender Evaluation

The supplier will be issued a detailed technical specification and asked to submit a priced proposal. Evaluation and due diligence including testing will be undertaken to ensure acceptability of the storage facilities, data security; access mechanisms and provision for Oracle patches and support.

Evaluation panel members for Croydon will consist of:

Head of Finance Service Centre

ICT Category Manager

13.3 Financial evaluation

The Council will conduct a financial health check to ensure the economic and financial standing and the capability in meeting the financial obligations anticipated under the contract.

14 Proposed Procurement Timetable (can be amended to meet project requirements)

Activity	Proposed Date
Pre-tender market engagement	December 2017
Specification raised & approved	January 2018
Approach to supplier	Jan 2018
Evaluation	Feb 2018
Commissioning and Contract Board for award	8th Feb 2018
Cabinet meeting (if applicable) <i>Cabinet Member Delegated Decision</i>	March 2018
Contract award	March/ April 2018
Contract commencement	July 2019 for LBC

15 Consultation

Name of person consulted	Department or organisation	Date sent	Date Received
Ian Geary	Finance	25/1/18	7/2/18
Sue Moorman	HR Team	25/1/18	4/2/18
Shaun Murphy	Legal Team	25/1/18	6/2/18
Simon Hall	Cabinet Member	25/1/18	25/1/18

Richard Simpson	Executive Director of Resources and s151 Officer	25/1/18	2/2/18
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16 Legal Comments

- 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.

HR Comments

There are no immediate HR implications that arise from the report for the workforce at LBC.

Approved by: Sue Moorman Director of Human Resources

17 Finance Comments

There are no immediate financial implications that arise from the report.

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

18 Approval

This report must first be approved by the Category Manager's Head of Service. The officer must present the signed report to the Commissioning and Contracts Board for approval to tender.

I have seen the post Board report and approve it for onward submission:

Signature: Charlotte Rohan Date: 13/02/18
Head of Commissioning and Improvement, Place and Resources

19 Commissioning and Contract Board: _____

- Approved
- Declined
- Deferred