

## Contract Variation Report

Date of meeting	May 2021
By	Rachel Carse Head of Employment and Skills Delivery
Title	CALAT Management Information System Contract Variation
Project Sponsor	Stephen Tate Director - Growth Employment and Regeneration
Executive Director	Executive Director of Place
Lead Member	Cllr Flemming Cabinet Member for Children, Young People & Learning
Key Decision	N/A

### 1. Recommendations

The Leader of the Council has delegated to the Cabinet Member for Children, Young People & Learning in consultation with the *Cabinet Member for Resources and Financial Governance* the power to make the decisions set out in the recommendations below

#### 1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Children, Young People & Learning in consultation with the Cabinet Member for Resources and Financial Governance is recommended to approve the variation of the contract with Education Software Solutions (ESS) for support and maintenance of the CALAT management information IT system for an additional contract term of 6 years at a further cost of £305k for a maximum aggregated contract value of £578k

### 2. Background & strategic context

Croydon Adult Learning & Training (CALAT) is the adult education provider for Croydon. The service uses a Management Information system to run the business, set up courses, programme tutor pay, enrol learners in person and online, run management information reports and submit learner and enrolment information to our funders which is currently the Education and Skills Funding Agency, and from 2019/20 this will include the GLA. It is an integral system to the operational delivery of the service.

#### Croydon Renewal Plan

*"We will live within our means, balance the books and provide value for money for our residents."*

This cloud hosted solution is used to manage a service offer to residents, and to provide savings through the negotiated contract savings ensuring our external funding can go further on delivering priorities for Croydon.

*"We will focus on tackling ingrained inequality and poverty in the borough."*

By delivering Adult Education services across the borough to local residents who may not have had access to education opportunities and to broaden the skills and knowledge needed to be able to secure employment and providing learning opportunities for all of our residents particularly young people, homeless, care leavers and people living with disability or long term health conditions in some of our most disadvantaged areas of the borough.

The Council is facing significant budget pressures and has embarked on a programme of work to elicit contract savings. The Council has written to suppliers asking for ideas to reduce contract costs. The result of those discussions is an offer from ESS to lower the cost to the Council in exchange for committing to the contract for 6 years. This will yield a real reduction to contract charges of 7.5% and avoid project costs of more than £204k.

Note that ESS were owned by Capita business services who are selling this side of their business to other Tiger UK Bidco Ltd who will be seeking at extract profit and a return on investment. By securing this discount the Council is protecting its position in respect of future price increases and additional indexation charges and obtaining a genuine contract saving.

Continuing support and maintenance allows the council to take advantage of upgrades and enhancements as part of the ongoing development of the system by the supplier.

In August 2015 a new 5 year contract was entered into for annual maintenance and support running to 31 July 2020 at a contract value of @£60,423 as a direct under Directors Delegated Authority. Software upgrades, a post code module and disaster recovery capability have all been added to the core product. A further extension was taken up in 2020 to extend the contract to July 2021. It should be noted that the award did not comply with PCR and the subsequent variations have not been through CCB.

There is a PCR risk in respect of the proposed extension set out in section 4 of the report.

The contract was varied in 2019 to extend the support to July 2021 at an additional cost of @£43k as staffing pressures within the CALAT MIS team impacted the ability to conduct a re-procurement. The service have been planning a re-procurement in partnership with CDS and C&P with a view to go to market early 2020 however further staffing pressures within the service meant the project did not progress as planned.

Acquisition of the additional modules and upgrades have brought total contract expenditure to £244,000 plus non contract spend on support for upgrades.

The current Covid-19 crisis has placed further pressures on CALAT, CDS, ESS (Capita) and Little Fish. In order to extend the online capability of the current solution during the current situation, a variation of @£18k was enacted to implement an on line payment facility.

#### *GDPR*

The contract contains GDPR provisions and there will be a continued requirement for data sharing agreements in place with suppliers and CALAT customers. DPIA has been partially completed with Louise Edwards (Information Management)

#### *Key Risks*

The main risk relates to the variation not falling within one of the permitted modifications under the PCR regulation 72 as set out in section 2 of this report.

#### *HR*

There is no immediate HR impact in regards to this paper. None. ESS serve multiple customers, there are no staff dedicated to the Council – and as there is no change to supplier there are no TUPE issues. For Croydon any requirements to retrain staff to learn new IT systems and processes are avoided.

#### *PSP*

The supplier has not signed up to the scheme

#### *Value for Money*

Market testing was undertaken through high level requirements with suppliers and checking G Cloud framework rates. Six year costs were assessed to include onboarding and exit charges based on published day rates:

Tribal six year total £348k + indexation Gcloud prices

OLM could not meet requirements

Advanced Compass £290k + indexation Gcloud prices. Although six year price is lower based on the current published price, indexation would need to be factored into the total cost.

### 3. Financial implications

#### Section 114 Essential Spend

The requirement is considered to meet the essential spend criteria and *has been approved by the Executive Director. Shifa Mustafa on 2<sup>nd</sup> February 2021 at Place DLT.*

- *Expenditure to prevent the financial situation getting worse:*

A) The contract costs are externally funded and the variation will reduce the contract costs by 7.5%

B) CALAT is funded externally, the funding covers the ongoing system costs and should cover costs to change although that impacts the best use of the funding on service delivery. There is a risk that the funding does not cover all costs to change and implement alternate solutions such as internal costs, or charges from our other IT suppliers such as Capita SIS or Littlefish which would be needed as part of systems migration and implementation. Therefore there would be additional capital and revenue consequences which will require a business case for bidding should the system be reprocured rather than enact the extension. Continuation of the agreement will ensure the IT system which is used to administer and manage the delivery of the adult education services to Croydon residents.

The contract extension will commit the council to expenditure of @£51k pa (total £305.7k) over the term of the contract costs of which will be funded by the external income.

	<b>Annual Before discount</b>	<b>6 years Before discount</b>		<b>Annual after discount</b>	<b>6 years after discount</b>	<b>% Saving</b>
Annual support & Maintenance	£31,787	£190,722		£30,164	£180,984	5.1%
License	£6,579	£39,474		£6,243	£37,458	5.1%
AFD Postcode	£4,963	£29,778		£4,710	£28,260	5.1%
Consultancy days for upgrades	£11,760	£70,560		£9,840	£59,040	16.3%
<b>TOTAL</b>	<b>£55,089</b>	<b>£330,534</b>		<b>£50,957</b>	<b>£305,742</b>	<b>7.5%</b>

Savings of £24.7k will be achieved over the term of the contract. Project costs of £204k for which there is no currently allocated funding will be avoided.

revenue budget (C10627-681140-0000)

*Details of implementation project costs are set out in Annexe 2 of this report*

The supplier is undergoing a £400m investment by a private equity company (Montagu) who are acquiring Capita ESS and taking on all the company debt as Tiger UK Bidco Ltd and will trade as ESS, retaining the name used by Capita. A further £45m will also be invested after the company is merged with another specialist supplier of education software. The company will become a private limited company. This investment provides for financial stability in relation to the contract value and risk and will ensure an appropriate economic and financial standing and capability of the supplier to meet the financial obligations under the contract.

Note contract spend to date £272, 904. An additional module needed for online bookings was taken on as part of the Covid response. The annual renewal cost quoted for the coming year 2021-22 is £44,592 which would have taken spend to £316,686. The commitment to a longer term has reduced that initial year and future years and avoided indexation rises.

Additional spend outside of the contract (which has not been included in the stated contract costs) of £70,000 on consultancy days to support software upgrades will be avoided by committing to the consultancy days at a discounted rate (£59,000) and including in the contract going forward.

Details					External		Period of funding
					Capital	Revenue	
Cost of original contract (C10627-681140-0000)						£272,904	6 yrs Education and Skills Funding Agency
Additional spend on support for upgrades (not part of contract)						£70,000	6 yrs Education and Skills Funding Agency
						£342,904	TOTAL to date
Cost of contract variation (C10627-681140-0000)						£305,742	6 yr Education and Skills Funding Agency Note this includes an additional module acquired in 2020.
Aggregated value						£648,646	

#### 4. Supporting information

##### *Performance of the contract*

Supplier performance has been acceptable with no major concerns and no escalations. The service manage the contract and relationship with support from the Category Manager as required. Meetings take place with the account manager.

##### *Options considered (including going out to tender)*

A draft strategy was being prepared for CCB in order to recommend going to tender, however with the impact of the pandemic and the financial position of the Council the focus changed to securing a contract saving and avoiding the costs of implementing a different IT solution. Although the external funding should cover the implementation any internal and third party resource costs which would require a bid for capital funding. The additional burden on the funding would be reduced and instead committed to service delivery.

##### *Proposed extension value & term including the aggregated value and % increase to the value of the original award*

The current contract dates from 2015

The proposed 6 year extension will increase the value by @£305k, providing an aggregated value of £648k including the original contract sum and previous additions.

This is a percentage increase over the original award value exceeds PCR regulation 72 thresholds.

##### *Regulation 72 PCR analysis*

Although there is an argument that conducting a procurement is not preferred for technical reasons in respect of the requirement to potentially change IT systems and would cause significant inconvenience and duplication of costs to dual run an existing system until a new system goes live, the value of the variation does exceed 50% of the original contract value.

The risk of challenge is considered low. There have been no FOI requests about the system and no approaches from other suppliers. This is a specialist area

Re-procurement is not recommended at this time for the reasons of both securing a real reduction in contract charges and the avoidance of project and implementation charges of £204,000. Details of implementation costs are set out in Annexe 2.

### *Impact, consequences and benefits*

The council will save 7.5% on current contract charges

The current provider has agreed in principle to the proposal and suggested the discounted charges in response to the council approach to suppliers seeking ideas for contract savings.

There is always a risk of challenge in respect of PCR r72

Project costs and resource implications of over £204k for a large programme of work and dual running costs are avoided.

External funds will be better used to provide services instead of funding costs of change.

Costs to perform in year patches and upgrades have been negotiated down as part of the agreement

No disruption to service

The service will be committed to the system for a further 6 years.

Retaining the solution for a longer period will allow CALAT to establish a stable and secure system for the service as investment will have been made by CALAT to customise forms, train staff, write process documents, design reports and invest in resources to develop an online enrolment website which is a back end function of the Management Information System.

### *Future commissioning plan and timescales*

The current system will remain with nothing to decommission. The exit provisions and obligations to secure council data and ensure appropriate disposal and destruction where necessary will be included in the contract. The service will prepare for recommissioning before the end of the extended contract period.

## **5 Conclusion and reasons for recommendations**

### *A summary of the purpose of the report and reasons for recommendations*

The report recommends the variation of the contract to extend the contract for a further 6 years in order to yield a saving in contract charges as part of the councils savings programme.

#### **options considered:**

1. Do nothing - this would result on the contract expiring and use of the solution to administer adult education would cease, severely impacting ability of the council to maintain a service. This option is considered not viable.
2. Engage the market through a formal tender process - running a procurement would cost additional money in order to pay for project costs and third party costs as they will not be totally covered by the external funding.
3. Vary the contract and negotiate a saving on contract costs in exchange for a longer term commitment.

## **6. Outcome and approvals**

<b>CCB outcome</b>	<b>Date agreed</b>	
<i>Insert outcome of CCB discussion</i>	Service Director <i>Stephen Tate</i>	<i>2/2/21 Place DLT</i>
	Cabinet Member for Resources & Financial Governance (C&P to action)	<i>briefed</i>
	Finance Geetha Blood	<i>8.3.2021</i>
	Legal	<i>16.2.2021</i>
	Lead Member ( <i>for values +25% contract value</i> ) Cllr Fleming	<i>17/3/2021</i>
	CCB	<i>CCB1677/21-22 (13/04/2021)</i>

## 7. Comments of the Director of Law and Governance

Legal considerations are as set out in the report

Approved by Sonia Likhari behalf of the Director of Law and Governance

## 8. Chief Finance Officer comments on the financial implications

*There are no direct financial implications on LBC revenue budgets as this project is funded wholly by the GLA.*

Approved by Geetha Blood, Interim Head of Finance, Place and Resources on behalf of the Chief Finance Officer

## Annexe 1 Risks

<p><b>Existing contract expiry date</b> - Risk to service delivery and funding for the service if new contract not delivered to start 1<sup>st</sup> August 2021 COVID-19 impacted ability of service and suppliers to deliver in timescales</p>	<p>Ensure procurement meets deadlines, but due the need to get approval, procure and then implement in 12 months might not be enough time so this is a risk and the mitigation is to extend the current contract although discussions with the supplier show this would not result in any discount or saving.</p>	<p>High Risk</p>
<p>Integration with existing ICT estate</p>	<p>Ongoing engagement with Digital Business partner, Technical architecture group. NOTE a change to another system would make this a high risk.</p>	<p>Low risk</p>
<p>New MIS - transfer of data, risk to business continuity and funding for CALAT – MIS system is used to submit funding returns to ESFA and this will include funding returns to the GLA (Greater London Authority), training of staff for new business.</p>	<p>Engagement of trainers, Digital service and recruit a MIS project manager to work with new supplier to transfer data and set up new systems.  Controls on recruitment will impact ability to recruit and train.</p>	<p>High Risk</p>
<p>Costs of MIS system and resources</p>	<p>Additional budget will be needed and more resource is required for any change of system.</p>	<p>High Risk</p>
<p>If new MIS system not ready – risk to service delivery and of sessional tutor pay not being up and running for when the current contract expires.</p>	<p>Extension of current MIS system ensures tutors get paid</p>	<p>High Risk</p>
<p>Incumbent supplier is aware of the upcoming expiry of the contract and has discussed alternative approaches to the market with CALAT.</p>	<p>Ensure contract management is stepped up to monitor performance of incumbent during procurement period.</p>	<p>Low</p>
<p>Extension option</p>	<p>PCR compliance – risk of challenge</p>	<p>Low</p>
<p>External funding stream could be reduced or withdrawn in future.</p>	<p>External funds might be reduced or withdrawn leaving to pay full contract costs. Maintain close relationship with GLA, Skills Fund and supplier to manage expectations.</p>	<p>Medium</p>

## **Annexe 2 COSTS FOR IMPLEMENTATION**

- Project Management - 2 weeks full time up front, 2 days a week for 6 months - £35,000
- Technical Architect 650 per day – 1 week upfront – 1 day a week for duration - £25,000
- Business Analyst - 2 weeks full time up front, 2 days a week for 6 months - £35,000
- Data Technician – 1 week - £5,000
- Network / Infrastructure Architect – 1 week - £5,000
- 3rd Party / Client Liaison – 1 week - £3,000
- Applications Analyst -1 week £3,000

**Total CDS Cost: £111,000**

- New supplier staff training = £1,000 x 10 days = £10,000
- CALAT project manager to implement new MIS system if changed from current system – NJC Scale 11 £37,000
- Parallel running of 2 systems – potential for 1 year £44,000
- Legal cost at least £2,500

**Estimated Total Implementation Costs: £204,500 (+ costs of the IT system)**