

Decision Maker: **PORTFOLIO HOLDER FOR RESOURCES, COMMISSIONING AND CONTRACTS MANAGEMENT**

Date: **For pre-decision scrutiny by Executive, Resources and Contracts Policy Development and Scrutiny Committee on 22 June 2022**

Decision Type: Non-Urgent Executive Key

Title: **CONTRACT VARIATION FOR ORACLE FUSION IMPLEMENTATION**

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Chief Officer: Director of Finance

Ward: All Wards

1. Reason for report

- 1.1. This report provides an update on progress of the Oracle Fusion implementation for Finance and Procurement functions, and requests approval of a contract variation to allow the implementation of additional functionality and the provision of support days.
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2. RECOMMENDATIONS

2.1. The Executive, Resources and Contracts PDS Committee is requested to:

- (a) consider the contents of the report; and
- (b) note that a post completion report will be presented to Members by the end of the 2022/23 financial year.

2.2. The Portfolio Holder is requested to:

- (a) agree a variation of up to £150k to the Namos contract for the implementation of Oracle Fusion for Finance and Procurement functions as detailed in paragraph 3.3.4.

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal: Estimated Cost: £150k
 2. Ongoing costs: Recurring Cost: Not applicable
 3. Budget head/performance centre: Capital Programme
 4. Total current budget for this head: £1.55m
 5. Source of funding: Capital receipts
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Personnel

1. Number of staff (current and additional): Currently 4.7 FTEs
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement.
 - Section 151 of the Local Government Act 1972: "...every local authority shall make arrangements for the proper administration of their financial affairs..."
 - Regulation 6 of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016: requirement for a separate bank account for the Pension Fund
 - Regulation 3 of The Public Procurement (Electronic Invoices etc.) Regulations 2019: requirement to accept and process electronic invoices
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Around 600 Council employees and 40 Liberata employees
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1. Background

- 3.1.1. In November 2020 the Leader agreed a variation to the BT contract include the procurement of Oracle Fusion Cloud Enterprise Resource Planning (ERP) licenses for Finance and Procurement functions to replace the on-premise Oracle R12 system.
- 3.1.2. A procurement exercise was then undertaken on the G-Cloud 12 framework for a System Integrator to undertake the implementation with a contract awarded to Namos Solutions Limited agreed by the Director of Finance with a value of up to £490k.
- 3.1.3. The specification used for the G-Cloud procurement specified that the provider must implement specific modules/functionality, and that there were other areas that the Council would like to explore but were not a requirement - Narrative Reporting, Advanced Collections, Strategic Purchasing, IRFS16, Assets.

3.2. Implementation Progress

- 3.2.1. The implementation project commenced in May 2020 with initial system design workshops carried out the same month. The project progressed mainly to plan with full system testing commencing in January and completing by the end of February. Three data migration cycles were completed as planned before the final migration into the live system. The project team has worked well with Namos.
- 3.2.2. Despite the challenges of managing a system implementation entirely remotely during the COVID-19 pandemic, Oracle Fusion ERP went live on 28th April, just 3 weeks later than originally planned.
- 3.2.3. Although this was not as 'neat' as an end of financial year cut off as originally planned, it did mean that the R12 system could be made available again with less downtime for finance staff so that they could continue working on the 2021/22 outturn and final accounts.
- 3.2.4. Given that a new Chart of Accounts was implemented at the same time, as well as interim changes to the procurement approvals process until core HR system configuration has been completed, there have been relatively few issues that have arisen post go-live, and most of those have since been resolved and/or temporary workarounds put in place.
- 3.2.5. The implementation of Oracle Fusion Enterprise Performance Management (EPM) to replace the previous in-house developed Employee Budget Monitoring (EBM), Full Budget Monitoring (FBM) and Budget Estimates systems is still in progress, with Financials Application Walkthroughs taking place in June.
- 3.2.6. Go-live for EPM is currently planned for late July, which unfortunately means that the first quarter budget monitoring for 2022/23 will have to be undertaken manually as the FBM system cannot easily be updated to reflect the new Chart of Accounts and 'pull' information from Fusion.
- 3.2.7. A full post completion report including lessons learnt will be reported to Members by the end of the 2022/23 financial year.

3.3. Contract Variation

- 3.3.1. At the time of the original procurement, Oracle indicated that typical System Integrator costs would be around £450k for Financials.

- 3.3.2. In order to allow for specific configuration etc that may not be included in a typical/standard implementation, the contract was awarded for up to £490k.
- 3.3.3. All functionality in the previous R12 system has been successfully implemented in Fusion, as well as the inclusion of the following additional functionality:
- A supplier portal for suppliers to submit invoices and view payment etc (go-live is pending the next quarterly update from Oracle due in June 2022 so that it works for all suppliers, not just those registered for VAT)
 - Optical Character Recognition to help automate the processing of accounts payable invoices
 - Separation of the Pension Fund as a separate business unit
- 3.3.4. It is now requested that a variation to the contract of up to £150k, increasing the total contract value to up to £640k, is agreed to include the following potential additions:
- Advanced Collections
 - Fixed Asset Accounting
 - Narrative Reporting
 - 4-year Capital Monitoring in EPM
 - Support days
 - Any changes arising as a result of the HR/Payroll Fusion implementation
- 3.3.5. The cost of any additional work under the variation will be in accordance with Namos' published G-Cloud pricing document/rate card.
- 3.3.6. The longer-term expectation is for the Financial Systems team to require no third-party support (they have already raised a Service Request direct with Oracle for a change in ERP). However, given that the EPM set up is much more tailored to meet the Council's requirements, it is prudent to allow for a number of support days to help with any issues that arise over the first year of usage.

4. CUSTOMER PROFILE

- 4.1. The Council's main financial system and budget monitoring systems are used by around 800 staff across the Council and Liberata.
- 4.2. The system makes payments to around 6,000 employees and pensioners on average per month, 2,100 other suppliers (12,000 invoices), and raises invoices to 2,400 customers and service users (11,000 invoices).

5. MARKET CONSIDERATIONS

- 5.1. According to Oracle Partner Finder there were 30 Oracle Partners in the United Kingdom with Implementation Service Expertise (Expertise is a partner accreditation for demonstrating success and experience in a particular solution area) at the time of the original award to Namos.
- 5.2. Of those, there were only 2 with Expertise in Oracle ERP Financials Cloud. Given the knowledge Namos now have of the Council's implementation, it is proposed that the existing contract is varied rather than conduct a further procurement exercise.

6. STAKEHOLDER CONSULTATION

- 6.1. This is a corporate Council contract that does not materially affect the way services are provided to our stakeholders. No formal consultation is required in advance of a procurement exercise.

7. SUSTAINABILITY / IMPACT ASSESSMENTS

- 7.1. This proposal has been judged to have little or no impact on local people and communities.

8. POLICY CONSIDERATIONS

- 8.1. The further improvements to a fit for purpose, future proofed financial system will enable the Council to meet the Making Bromley even Bromley ambition to manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
- 8.2. The system also meets key principles of the Council's ICT Strategy.

9. PROCUREMENT CONSIDERATIONS

- 9.1. This report seeks approval for a variation of up to £150k to the Namos contract for the implementation of Oracle Fusion.
- 9.2. The contract was originally procured via G cloud through a compliant direct award.
- 9.3. The variation stated above can be completed in compliance with Regulation 72 (a) of the Public Contract Regulations which allows change to a contract without re-advertisement on Find A Tender where the proposed change, irrespective of monetary value, is provided for in the initial procurement documents in a clear, precise and unequivocal option clause which specifies the conditions of use and the scope and nature of the change.
- 9.4. The Council's requirements for authorising a variation are covered in CPR 23.7 and 13.1. For a contract of this value, the Approval of the Portfolio Holder following Agreement by the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 9.5. Following Approval, the variation must be applied via a suitable Change Control Notice, or similar, agreed with the Provider.
- 9.6. The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

10. IT AND GDPR CONSIDERATIONS

- 10.1 The Council, as part of its on-going commitment to sustaining an evolved approach to data protection and information management, requires the following to be considered and evidenced for all contractors providing a service for or on behalf of the Council;
- Privacy By design and by default – adequate system and process controls must be ensured as part of the base design and implementation of the system
 - A Data Protection Impact Assessment to be carried out to ensure the protection of the rights and freedoms of data subjects as well as protect the councils statutory and regulatory processing obligations. The assessment must address the provider's need to evidence appropriate information security and management controls to safeguard personal and sensitive personal data

- The provider is required to take all reasonable steps to assist the Council in complying with obligations regarding the rights of the Data subject – any exercise of the rights of the data subject must be actioned within 30 days where legally obliged to comply.
- All systems hosted by the provider or their subcontractors must have adequate information security and management tools and processes in place.
- Providers must be able to evidence have necessary GDPR compliance including, but not limited to; policies, training, register of processing activities and the appointment of a data protection officer where required
- Contractually SLA's must be agreed to for breach notification and reporting
- Data Sovereignty – providers that use hosted or cloud-based services must ensure they are in UK Data Centres
- Adequate Disaster recovery agreements must be in place to ensure the service reliant on the application are brought back on line in a reasonable timescale.
- Exit strategy: explicit determination of what happens to the information collected and stored by providers after the contract finishes must be identified, documented and actioned as appropriate.

10.2 Any project to implement the system must engage ISD and BT by raising a CCN in a timely manner to ensure sufficient time to manage network changes and integrations with existing applications and infrastructure.

10.3 The criteria above were all satisfied prior to the contract award to Oracle and Namos, so the proposed contract extension will continue to meet the Council's requirements.

11. FINANCIAL CONSIDERATIONS

11.1. In February 2020, Council approved the addition of £1,750k to the Capital Programme for a replacement financial system. Following the options appraisal and estimated costing for the recommended option to implement Oracle Fusion as agreed by the Leader, the total capital scheme budget was reduced to £1,550k.

11.2. Implementation costs incurred or committed to date total less than £750k, although there are some costs that are not yet known such as archiving of the old R12 system/data and decommissioning the hardware, and changes to line of business systems to reflect the new chart of accounts.

11.3. Allowing for the proposed contract variation of £150k and prudent estimates of these other costs, it is currently expected that the final scheme costs will come in at around £300k-£400k less than budgeted.

11.4. The main reasons for the lower costs are that an external project manager was not recruited, and financial systems team posts were not backfilled as planned. Full details will be provided in the post completion report.

12. LEGAL CONSIDERATIONS

12.1. The report explains that a contract has been awarded to Namos to provide the Oracle Fusion Enterprise Performance Management system by way of a compliant direct award through the use of the Crown Commercial Services Cloud 12 Framework.

12.2. The recommendation to this report is now seeking to vary the Namos Contract by adding additional Oracle Fusion for finance functions.

- 12.3. As the Namos contract was awarded through the compliant use of the Framework, the Public Contracts Regulations 2015 (the Regulations) deem the procurement under such arrangements to be in compliance with the Regulations.
- 12.4. Under the general law parties to a contract may agree to vary a contract. Clause 32 of the Call-off contract would permit a variation to be made to the contract where it isn't a material change to the framework/call-off contract. It can be reasonably argued that the proposed variation does not fall outside the permitted items available to purchase under the relevant Framework Lot. In addition, however, insofar as the Council is concerned the variation must not amount to a substantial change within the meaning of the Regulations or as may otherwise be permitted within the Regulations.
- 12.5. Regulation 72 sets out a number of circumstances and rules where a variation would be compliant with the Regulations and would therefore not require a further procurement exercise. The report has explained that in the Procurement Documents the Council stated 'There are other modules/processes Bromley would like to explore but these are not a requirement – Narrative Reporting, Advanced Collections, Strategic Purchasing, IRFS16, Assets'. Further as part of the Framework Namos include a pricing document/rate code in G-Cloud. The report has advised that these Framework rates have been used to calculate the value of the variation.
- 12.6. In addition, by taking this course the Council can benefit from the inherent knowledge and expertise that Namos have gained through the implementation of the Oracle ERP Financials Cloud, which had been designed specifically for the Council's particular requirements. As such it would make sense in terms of technical fit, convenience, and duplication of costs, not to change to another contractor.
- 12.7. These circumstances would seem to be sensible and satisfy the circumstances set out in Regulation 72 (1) (a) which would permit a modification where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses
- (i) state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
 - (ii) do not provide for modifications or options that would alter the overall nature of the contract or the framework agreement
- This ground would appear to have been met by virtue of the potential scope of further modules and processes as stated in the Procurement Document and the use of the Suppliers Framework rates.
- 12.8. The Council must still comply with its own internal rules including its Contract Procedure Rules (CPR's) and to obtain value for money in order to satisfy its fiduciary duties towards taxpayers.
- 12.9. The Council's Contract Procedure Rules (CPR 23.7 and 13.1) permit such a variation and provides that authorisation for a variation above £99,999 is with the Portfolio Holder with the agreement of the Chief Officer, Assistant Director of Governance and Contracts, Assistant Director of Legal Services and Director of Finance, and evidenced by this Member Gateway Report.
- 12.10. Should officers require assistance with regard to drafting of the variation agreement then legal assistance is available.

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| Non-Applicable Sections: | Impact on Vulnerable Adults and Children, Personnel Implications, Strategic Property |
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| Background Documents: (Access via Contact Officer) | Capital Programme Monitoring Q3 2019/20 and Capital Strategy 2020 to 2024 – Council 24 th February 2020 Formal Consultation on Outline Service Proposals and Procurement Strategy of a Replacement Financial System – Leader 25 th November 2020 |
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