

Reasons for Urgency: *The Chair has agreed to the submission of this report as a matter of urgency because the contract that is proposed to be modified expires at the end of January and because the Council has a legal obligation to comply with the Making Tax Digital regulations by April 2021 and a delay to approval could result in the Council being penalised for non-compliance.*

Committee: CABINET

Date: 18 January 2020

Wards: All

Subject: Variation of the Financial Information System (FIS) contract

Lead officer: Roger Kershaw, Resources

Lead member: Cllr. Tobin Byers, Finance

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EXEMPT OR CONFIDENTIAL REPORT

The following paragraph of Part 4b Section 10 of the constitution applies in respect of information given in appendix 1 and it is therefore exempt from publication:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Members and officers are advised not to disclose the contents of this appendix.

Recommendations:

- A. That the Cabinet approves the following modifications of the agreement between the Council and Advanced Business Software and Solutions Ltd:
- Take up the optional 2 year extension that was provided for in the original contract.
 - Add the 'Spend Analysis' and 'Business Tax Portal' modules.
 - Extend the contract by a further period of one year (2023/4).
- B. That the Resources team is authorised to raise a purchase order for the Business Tax Portal as soon as possible through January 2021 as we are mandated by HMRC to have this sub module operational by 1st April 2021.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to request authorisation to modify the FIS contract that is due to expire in February 2021.
- 1.2. The contract with Advanced Business Software & Solutions Ltd started in February 2017 with an initial period of four years and an optional two year extension period at the Council's discretion.
- 1.3. We now propose to take up the optional two year extension, modify the contract to extend it for a further year, and add the 'Spend Analysis' and

'Business Tax Portal' modules which will help to identify opportunities for savings and ensure compliance with tax regulations.

- 1.4. The total value of the 3 year extension and new modules is **£460,877** including the discount. See paragraph 6.2 for a full breakdown.
- 1.5. The supplier has offered a discount of £40,000 (£13,333 p.a.) on the hosting charges for E5 if the Council offers a three year extension.

Description of Services/Goods/Works	Provision of a hosted financial management software solution (E5)
Existing contract	<p>Original estimate of contract value: £4,000,000.</p> <p>Actual spend to date: £1,600,000</p> <p>Start and end dates of existing contract: 7th February 2017 – 6th February 2021</p>
<p>Variation/extension</p> <p>The total value of the proposed modifications is set out in Appendix 1.</p>	<p>Length of envisaged extension/variation: 3 years – Two years as provided for by the contract and a further one year by way of modification pursuant to Regulation 72(1)(b)(ii)</p> <p>Estimated savings / value of cost avoidance over the life of new the variation/extension (if none, please state why):</p> <ul style="list-style-type: none"> • Annual discount on hosting costs (£13,333 x 3yrs): £40,000 <p>Extending the contract will avoid the cost of procuring and implementing a new solution. For reference, it took 18 months to implement E5 at a cost of around £800,000 (based on a total spend of £1.6m of £800k was annual revenue costs)</p>

2 DETAILS

- 2.1. A framework agreement for the provision of a hosted financial management solution was awarded to Advanced Business Software and Solutions Ltd in August 2015 following a restricted OJEU tender. The framework agreement was in force between August 2015 and August 2019 and had an estimated total value of up to £4,000,000.
- 2.2. The council then awarded a call-off contract with a start date of 7 February 2017. The initial contract term was 4 years, with the option to extend for a further 2 years to take the final expiry date up to 6 February 2023.

- 2.3. Having considered the options we propose to activate the optional 2 year extension, add the spend analysis module and business tax portal as well as modifying the contract to extend it for an additional 12 months.
- 2.4. Implementing the E5 system took 18 months and cost approximately £800,000 and the Council does not have the capacity to repeat that process at this time. Extending the contract will allow enough time to prepare for the re-procurement.
- 2.5. The supplier has offered the Council a total discount of £40,000 for signing a three year extension, which will take the form of an annual discount of £13,333 against the hosting charges.
- 2.6. There are no additional licence charges for the optional two year extension period as these were provided for in the supplier's tender, meaning that if we were to re-procure now the Council would not benefit from services it has, in effect, already paid for.
- 2.7. The cost of the additional 12 month extension and new modules is £212,077, less than 5% of the original contract value but above the relevant OJEU threshold. Regulation 72 (1) (b) (ii) allows for contracts to be modified by up to 50% of the original value where a change of contractor would cause significant inconvenience or substantial duplication of costs for the contracting authority.
- 2.8. In preparation for the expiry of the contract we will evaluate different procurement options to determine how best to proceed. Given the costs associated with on-boarding a new supplier this evaluation will include the option to award a new contract for support and maintenance to the incumbent using an approved framework agreement.

Spend Analysis

- 2.9. The Commercial Services team has a requirement for a dedicated software solution for the purpose of analysing and categorising the council's expenditure.
- 2.10. The team currently uses an Excel spreadsheet which requires significant manual processing – at least 5 days per month. Changes made to on/off contract records one month are not automatically carried over to the next, which leads to OPG members being asked to provide information they have already provided.
- 2.11. A Gateway 1/Business Case for a Spend Analysis solution was approved by OPG and Procurement Board in October 2020, subject to funding being identified. The Resources team has agreed to fund the cost from the FIS cost centre.
- 2.12. Commercial Services carried out market research including supplier demonstrations and reviewing framework agreements and other councils' contract registers.
- 2.13. From this research it became clear that the 'Atamis' spend analysis solution is the one used by most local authorities. A comparison of prices on the G-Cloud framework agreement indicated that Atamis is also the lowest-priced option. Atamis meets the team's requirements as it provides for: a 'master' data set which retains any changes made; real time updates; dashboards

and bespoke report; and is fully hosted by the supplier with no footprint on Merton's servers.

- 2.14. Advanced Business Software and Solutions Ltd offers the Atamis software as an additional module to their E5 financial management solution.
- 2.15. The total cost of the Spend Analysis module over the 3 year contract period is shown in Appendix 1.

Business Tax Portal/Making Tax Digital

- 2.16. In preparation for the start of the new Making Tax Digital rules a Request for Quotes to supply a compliant Making Tax Digital software solution was issued to potential suppliers in March 2020. Only one compliant bid was received before the deadline, and the price quoted was four times the project budget (£160,000 vs £40,000).
- 2.17. Advanced also submitted a quote but were only willing to provide their Making Tax Digital solution (Business Tax Portal) under a variation to the main FIS contract.
- 2.18. It was decided that the best option was to abandon the request for quotes and use a contract variation to add the Business Tax Portal. The original intention was for this to be included in the wider extension/variation but it is now necessary to start the tax project as soon as possible in order to be ready for 1 April 2021, when HMRC will start applying sanctions for late or incorrect VAT returns.
- 2.19. The total cost of the Business Tax Portal is shown in Appendix 1 and will be funded from BST.
- 2.20. The solution has been approved by the Technical Design Authority (TDA).

3 ALTERNATIVE OPTIONS

Option	Advantages	Disadvantages
1. Do nothing	None	When the current contract ends in Feb 2021 the Council would be unable to use e5 and would not have a functioning financial management system.
2. Vary/extend the contract as proposed	<ul style="list-style-type: none"> • Continuity of service • Avoids the costs of procuring and implementing a new solution • Extracts maximum value from the procurement of the contract • Spend Analysis module will enhance Commercial Services' ability to analyse expenditure 	None
3. Carry out a separate procurement for the goods, services or works	<ul style="list-style-type: none"> • Opportunity to test the market and take advantage of new developments. • Competition between suppliers 	<ul style="list-style-type: none"> • Insufficient time to procure and implement a new contract before the current one expires. • Staff would require re-training • On-boarding a new supplier would be expensive and time consuming.

Recommended option:

The recommended option is to vary the contract as proposed as this represents the best value option at this time. There is now insufficient time to procure a new contract before the current one expires and implementing a new solution would be prohibitively resource-intensive.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Colleagues in Commercial Services and South London Legal Partnership (SLLP) have been consulted, in addition to discussions with the supplier.

5 TIMETABLE

Milestone	Due date
Submit report to CS OPG	31 December 2020
CS OPG Meeting	7 Jan 2021
Submit report to Procurement Board	13 January 2021
Procurement board meeting	19 January 2021
Call-in period	19-21 (noon) January 2021
Contract variation executed	29 January 2021
Extension period commences	7 February 2021
Contract expiry date	6 February 2024

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

Financial implications

- 6.1. The extension will be funded by Corporate Finance by the Business Systems team with additional funding from AD Resources.
- 6.2. The total value of the proposed modifications to the contract is shown in the table at Appendix 1.

Human resources

- 6.3. SLLP, Democratic Services and Commercial Services will be required to assist with obtaining approval and modifying the contract.
- 6.4. There are no new resource requirements for continuing to use E5 during the extension period.
- 6.5. Colleagues in Accountancy will be required to participate in the implementation of the new modules, and Commercial Services' input will also be required for the Spend Analysis module. This will involve activities such as matching supplier names and configuring reports.

7 LEGAL IMPLICATIONS

- 7.1 The extension of the call off contract for two years is permitted by its terms and therefore complies with the requirements of Regulation 72(1) of the Public Contract Regulations 2015.
- 7.2 With regards the provision of the additional services and the original services for the proposed third year of the extension (and the additional service for the initial two year extension) this would be permissible under Regulation 72 (1) (b) as it would not be practical , nor economic for another service provider to provide the solution. Alternatively, Regulation 72 (e) could be relied on as the modifications are not substantial within the meaning of Regulation 72 (8).

- 8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**
None.
- 9. CRIME AND DISORDER IMPLICATIONS**
None.
- 10. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**
None.
- 11. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**
Exempt Appendix 1 – Financial Implications

BACKGROUND PAPERS

FIS contract – Approval to Award report.

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