

REPORT FOR: **CABINET**

Date of Meeting:	19 March 2015
Subject:	ICT Procurement – Award of Contract
Key Decision:	Yes
Responsible Officer:	Tom Whiting Corporate Director of Resources
Portfolio Holder:	Councillor Graham Henson – Performance, Corporate Resources and Policy Development Councillor Sachin Shah – Finance and Major Contracts
Exempt:	Appendices 1, 3, and 6 to this report are exempt under paragraph 3 of Schedule 12a of the Local Government Act 1972 as they include information relating to the financial and business affairs of the Council and the bidders.
Decision subject to Call-in:	Yes.
Wards affected:	All
Enclosures:	Appendix 1 – Analysis and evaluation of tenders (Part II) Appendix 2 – Evaluation template Appendix 3 – Bidders Tender Contract Documentation (Part II) Appendix 4 – Evaluation Overview Appendix 5 - Equalities Impact Assessment Appendix 6 – Financial Implications of Successful Supplier’s Tender (Part II)

1. Summary and Recommendations

This report requests authority to award a contract for the provision of ICT Services, as required by Paragraph 6.4 of the Contract Procedure Rules.

This report summarises the procurement process for this contract and, following the completion of the dialogue and the evaluation of final tenders, recommends that the contract should be awarded to Sopra Steria.

Recommendations:

Cabinet is requested to:

1. Note the analysis and evaluation findings set out in Appendix 1 of this report.
2. Approve the appointment of Sopra Steria for the provision of ICT Services to enable contract documentation to be finalised expeditiously and to permit an effective transition of the ICT service to enable operational commencement from 1st November 2015.
3. Approve the appointment for an initial term starting on the date of contract signature (which is anticipated to be in April 2015) and ending on 31st October 2020 (therefore representing a period of five years of service provision from the anticipated 'go-live' date of 1st November 2015) with an option, at the Council's discretion, to extend for up to a maximum of a further three years from the end of the initial term.
4. Delegate authority to the Corporate Director of Resources following consultation with the Portfolio Holder for Performance, Corporate Resources and Policy Development and the Portfolio Holder for Finance and Major Contracts to finalise any outstanding contractual matters.
5. Agree that the Director of Legal & Governance Services can seal the contract on the Council's behalf when the contract documentation has been prepared.
6. Approve the use of £2.854m from the MTFS Implementation Reserve to fund implementation costs.
7. Note that the estimated capital required over the five year term of the contract is £3.688m which is significantly under the provision in the current Capital Programme.

Reason: (For recommendation)

Cabinet approved the re-procurement of the Council's ICT Service on 15th January 2014 with a view to establishing new contractual arrangements from April 2015 and an operational commencement date of November 2015.

Following a comprehensive Competitive Dialogue tender procedure as set out in Appendix 1 of this report, an analysis and evaluation of each bidder's final tender was undertaken. Based upon these results, the above recommendations are proposed.

2. Report

2.1 Introductory paragraph

The existing ICT Service contract with Capita Business Services Limited will cease on 31st October 2015. This follows a decision by Cabinet on 15th January 2014 not to exercise an option to extend the existing contract and instead to retender the service. This decision was taken as the market had fundamentally changed in the three years since the contract was let and future changes in the delivery of ICT services were anticipated with the need to achieve significant savings between 2015 and 2020 being a material consideration.

The Council invited tenders for the provision of ICT Services using the Competitive Dialogue procedure under the Public Contracts Regulations 2006.

The Competitive Dialogue Procedure was used as there was more than one potential approach to delivering the functional requirements as well as the legal and financial composition for achieving these. The Council considered this to be a 'particularly complex contract' (as that term is defined under Public Contract Regulations 2006) and therefore unsuitable for an Open or Restricted procedure procurement.

The scope of the contract is broadly comparable with that for the existing ICT Service and is scheduled to commence from April 2015 with an operational commencement date of 1st November 2015. It is for a five year term with an option to extend for up to a further three years (and a minimum extension period of three months, should the option to extend be utilised).

At the time of the Cabinet decision in January 2014, the Council had a balanced budget for 2013/14 and 2014/15. However, it was anticipated that national 'austerity' measures already in place to address the national budget deficit were likely to continue up to 2020 and possibly beyond.

Since that time, the medium term financial strategy (MTFS) has been updated to reflect the final 2015/16 Local Government Financial Settlement announced on 3rd February 2015 and the revised projections of Revenue Support Grant (RSG) from London Councils for 2016/17 to 2018/19. The effects of these together with additional funding pressures anticipated for homelessness and the impact of welfare reform have increased the overall indicative savings target for the above four year period 2015/16 to 2018/19 to £83m.

It is within this overall context that the retender of the ICT service has been conducted.

2.2 Options Considered

The following options have previously been considered in relation to provision of the ICT service:

- Continue with the existing ICT contract,
- Return the ICT service to in-house provision,

- Re-tender the ICT service,
- Re-tender the ICT service with additional back office services included in the contract package.

2.2.1 Background

Since 2010 the ICT Service has been outsourced to Capita under the Council's Incremental Partnership Agreement with Capita that was let in 2005. This was one of the first major Local Government incremental partnership agreements. The objective was to have a transformation partner within the Council that could contribute towards ideas and innovation and provide a faster route to implementation through commercial mechanisms designed to share and transfer risk.

Consideration was previously given as to whether the future ICT Service could be delivered internally rather than through an external supplier. However, the rationale applied in outsourcing the service in 2010 retained its validity and in particular the following key issues were considered to be fundamental reasons for continuing this particular strategic approach:

- An in-house service would not support the underwriting of any solution design;
- There would be an absence of expertise and capability to deliver and meet both current and future requirements;
- The Council would still have a significant reliance on external organisations to deliver change and achieve expectations;
- It would be difficult to recruit and retain staff in the ICT Market;
- The ability to respond flexibly to changes in the size of the organisation (increasing or contracting) and keeping abreast of developments in changes in the ICT market and environment generally;
- The Council may be limited to recruiting short-term available resources from the agency market for delivering ad-hoc projects whereas an external provider could draw upon wider available resources from within their organisation and more promptly;
- The Council has a lesser ability to achieve economies of scale or exploit supplier benefits with suppliers and the market place; and
- The Council has lower levels of access to innovation to improve services.

An external ICT Supplier would be able to provide greater assurance to the Council in terms of the following:

- Cost certainty – Transition, Service and Performance would be underwritten;
- Delivery of the ICT Service in accordance with contractual performance standards;
- Assuming full responsibility and associated risk for the provision of the ICT Service without significant reliance on third parties and external organisations;
- Delivery of investment and improvement in accordance with contractual timetables;

- Provision of the necessary staffing resource – Quality, Quantity and Responsiveness;
- Ensuring the necessary ICT Support for delivery of business cases is available;
- Providing relationship management;
- Provision of a service that is ITIL compliant (i.e. the integrated delivery of all aspects of ICT services by an ICT Service Provider provider);
- Provision of a service that is designed and delivered upon Industry Best Practice; and
- Can avoid, mitigate and reduce risks that an internal service provider may create / experience.

Further changes in the delivery of ICT services were anticipated as the Council moved forward and existing contractual arrangements provided little financial “headroom” in which to address these. The requirement for the Council to achieve significant savings targets between 2015 and 2020 as described within this report was also a material consideration.

The inclusion of other non ICT services such as Finance, Payroll, Collections and Benefits and HRD, in the ICT contract package was also previously considered. However, it was determined that such an approach could present a greater risk to the Council in terms of selecting the right partner for delivering ICT services. The conclusion of the market testing was therefore to deliver the internal option and seek potential shared service partners. The procurement of ICT Services only through an approach to the market therefore represented the best opportunity to secure the best supplier for delivery of these services.

At the time of commencing procurement, the ICT market was generally moving towards a “Tower Model” particularly for large value central government contracts. This model effectively disaggregates more traditional ‘Single Supplier’ ICT service delivery into a multi-sourced ‘Tower’ model. Each ‘Tower’ may comprise a discrete element of the overall ICT service (e.g. helpdesk support, desktop support, etc) with contracts awarded to Managing Agents who:

1. Take the risks for “end to end” delivery and operations;
2. Provide full 24/7 service desks to support customer requirements; and
3. Work closely with the Council.

To gain detailed market knowledge and establish the case for moving towards a “Tower Model”, the Council undertook “soft market” testing with the participation of a number of ICT suppliers. From this research, the following key conclusions were determined:

- The size of the “Towers” is critical with larger suppliers less likely to be interested in bidding for these if they are not financially significant. Consequently, the Council did not have the scale to be sufficiently attractive to suppliers applying the “Tower Model” approach.

- A requirement to transition to a “Tower Model” within a short timescale from an operational commencement date could be commercially challenging.
- Service requirements should not be over complicated and should not be dis-aggregated too much under a “Tower Model” as this could have the effect of deterring some suppliers from bidding.

Given the above and the fact that the market for the “Tower Model” was immature with no working examples available for reference, the Council determined that this would not be achievable immediately and to this extent, a hybrid version was determined as being an effective incremental step.

The hybrid model enables a disaggregation of discrete ICT services to be achieved during the contract term such that either a “Tower Model” or multi-sourcing approach may be achieved at the contract expiry date if required.

This decision has subsequently been proven as the Deputy Director and Chief of Staff in the Office of the CTO has published an article concerning the Tower Model on the Government website “governmenttechnology.blog.gov.uk” stating that the model is not condoned and not in line with Government policy; Government should use the best of what is already out there – not develop its own model.

2.3 Current situation

The ICT service is currently outsourced to Capita in a contract that was scheduled to expire in October 2020 but with a break clause permitting earlier cessation from October 2015.

The annual revenue expenditure for outsourced ICT services based upon the 2014/15 budget is £7.7M excluding capital expenditure and special projects.

The contracted services currently provided by Capita include Business Transformation under a partnership agreement. The objective was to have a transformation partner within the Council that could contribute towards ideas and innovation and provide a faster route to implementation through commercial mechanisms designed to share and transfer risk.

In 2010, the ICT Service was incorporated within the existing partnership agreement as a contract variation with one of the key contractual requirements being a major IT upgrade programme. The ability to transfer risk to the supplier was a key factor in this decision.

2.4 Why a change is needed

It was recognised however, that the achievement of further significant savings could only be realised by making fundamental changes to the way in which the ICT services were to be provided and delivered.

Consequently, the timing of the break clause within the existing ICT Services contract and the need to achieve further revenue budget savings presented an

opportunity to consider and evaluate alternative options for service delivery in order to address the financial challenges ahead.

Additionally, as the future shape of the organisation was subject to continuing change and uncertainty, scalability and flexibility were needed to meet the changing needs of services particularly in terms of addressing variations to ICT support levels that may be required.

Consultation was undertaken as part of the procurement process with the following key stakeholders to ensure that their views and comments were obtained and given due regard accordingly:

- Minerva Cross Party Member Steering Group;
- Overview and Scrutiny Committee;
- Corporate Strategy Board;
- Internal Operations Board;
- Stakeholder Consultative Group;
- IT Board; and
- Trade Unions (GMB and UNISON).

2.5 Implications of the Recommendation

2.5.1 Resources and Costs

The appointment of a new Service Provider for the provision of the ICT Service will have resourcing implications for the Harrow Council client team. In particular, the transition from the existing Service Provider (i.e. Capita) to the new Service Provider will entail effective project management and planning arrangements incorporating the client team and both Capita and Sopra Steria to ensure that “set-up” and implementation is effectively tested and operational by the 1st November 2015. To facilitate the achievement of this, it is intended that the new Service Provider shall commence implementation arrangements as soon as contract signature has been achieved. To this extent, it is intended that contractual documentation shall be finalised expeditiously to mitigate the potential risks that would otherwise arise from a short transition period.

2.5.2 Staffing and Workforce Considerations

It is recognised that there will be a need to create additional contract management capacity to effectively manage the ICT contract going forward. It is therefore anticipated that a review of the existing ICT Client Team structure shall need to be undertaken. A revenue provision for this has been included within the Financial Implications shown in Appendix 6 of this report.

Please see the Legal Implications in paragraph 2.9 below.

2.6 Performance Issues

The new contractual arrangements provide for a number of key ICT performance targets and subsidiary performance targets concerning provision

of the service. The following key benefits shall be obtained through the new contractual arrangements:

- Key systems to be maintained in a supported state throughout the contract term;
- Service Desk hours are to be extended – now 10 hours, 8am to 6pm
- Service Model facilitates the future disaggregation of specific ICT services at the end of the term;
- Service Delivery takes advantage of the desirable features of the Tower model as set out in Section 2.2.1 of this report;
- There is a unitary pricing model that supports transparency and scalability;
- There is a reduction in price over the contract term,
- Cloud based infrastructure is available as a peripheral optional service,
- Citrix and middleware is to be refreshed and storage may be refreshed if required,
- Better Performance Indicators for measuring availability and incident resolution;
- A tangible and contractual commitment to Social Value.

The successful supplier has agreed to all of the Council's proposed performance indicators for the ICT Service.

2.7 Environmental Implications

The key environmental implications arising from the Sopra Steria proposal are set out in Appendix 1 to this report.

2.8 Risk Management Implications

Risk included on Directorate risk register? No

Separate risk register in place? Yes

Risks associated with the ICT procurement have been effectively managed through the project controls established at the commencement of the project. These were documented on the project risk register and proactively managed through the Project Reporting arrangements.

Risks associated with the transition phase of the procurement shall now be determined in conjunction with the successful supplier and documented and controlled applying a similar approach to the above.

2.9 Legal Implications

The value of this contract over its lifetime is higher than the current EU financial threshold for Part A Services and the tendering and award of the contract therefore is governed in full by the Public Contracts Regulations 2006 ("PCR").

The Council's legal advisors, Eversheds, have been involved in the project since appointment in December 2013 and have advised on the choice of procurement route, the structuring of the Competitive Dialogue, the procurement documentation and the contractual documentation. It is Eversheds view (on the basis of the information reviewed by and meetings attended by Eversheds) that the Council has run the procurement in accordance with the letter and spirit of the PCR. Eversheds have also produced a separate legal report on the final tender contractual documentation submitted by each of the bidders, which is attached to this report as Appendix 3. An overview of the evaluation approach has also been attached to this report as Appendix 4.

The award of the contract is also subject to the Council's Contract Procedure Rules and Financial Regulations. As a result, Cabinet approval is required for the award of the contract.

As the procurement is governed in full by the PCR, following Cabinet approval the Council must observe a mandatory minimum 10 day standstill period before signing the contract. Additionally, contract finalisation arrangements will also need to be made **before** the contract can be signed.

The timetable based upon the current schedule of activities is set out below:

Cabinet meeting and decision – 19th March 2015

Contract documentation finalised – 20th March 2015 to 6th April 2015

Alcatel "standstill" period – 20th March 2015 to 30th March 2015

Contract signature – 13th April 2015

Publish OJEU Award Notice – by 7th May 2015

Transition period – 14th April 2015 to 31st October 2015

Operational Service Commencement Date – 1st November 2015

Following award of the contract, the Council must publish a contract award notice in the Official Journal of the European Union within 48 days of the contract award.

The retendering of the ICT contract is a relevant transfer under The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (TUPE) and those Capita staff at the time of the transfer who are part of an organised grouping of employees whose principal purpose is the carrying out of the ICT services to the Council will transfer to the new Service Provider.

Those Capita staff that were previously employees of the Council at the time of the original outsourcing and who are now being transferred to the new Service Provider under TUPE have a statutory right to either remain within the Local Government Pension Scheme (LGPS) or be offered a broadly comparable pension scheme. The new Service Provider will offer continued membership of the LGPS for these staff by becoming an Admitted Body to the LGPS. It is currently anticipated that there will be 11 staff that may fall into this category with a further one that may opt into the scheme at a later stage.

It is the considered view of officers in compliance with financial regulations and having assessed the potential risk involved, that there is a low risk to the pension fund arising from an early termination of the service contract. Consequently, a pension bond has not been required from the proposed new Service Provider.

Under TUPE Capita is responsible for consulting with their employees, and providing the relevant employee liability information to the new Service Provider.

Equality implications are addressed within section 2.11 of this report.

2.10 Financial Implications

The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500,000 or works contracts exceeding £1million shall be referred to the Cabinet for approval of the award of the contract. The estimated revenue value (i.e. excluding the cost of capital) of the ICT contract is over this threshold.

The contract includes three key elements that will incur a cost to the Council as listed below:

- Core Price for provision of ICT service;
- Transition of existing to new service;
- Transformation of existing service;

The contract provides the Council with the opportunity to undertake projects that will deliver business benefits and has a flexible pricing structure that enables service volumes to be varied in accordance with changes to the structure and number of ICT users.

Additionally, there is anticipated to be an impact on the Council's resources in terms of ICT contract management capacity.

The cost of this contract will be funded from within existing budgets held by both the ICT Department and other service areas that access the procured services for this purpose subject to the details outlined in this section of the report.

A provision has been made within the contract terms for annual indexation to be applied using the public sector pay award and consumer price index (CPI) capped at 1.3%. Any requirement above this cap would be subject to a formal business case to be submitted from the successful supplier in order for Council consideration and is aligned to the Council's budget planning timetable.

The requirement for a parent company guarantee and performance bond was considered as part of the final stage of dialogue process but not required, as each of the three remaining bidders in the process were assessed as having sufficient financial resources.

Provision has been made within the contract for key performance targets with service credits in place to address variations, should these occur.

Information concerning the current ICT infrastructure and performance was conducted by a third party procured by the Council on behalf of the bidders to ensure that bid prices submitted were representative of the current ICT service and infrastructure. This has minimised the risk of a post appointment due diligence activity identifying issues that could result in a change in the price.

The Council's financial advisor, New Networks (engaged through Eversheds), has been involved in the project since appointment in December 2013 and has advised throughout the dialogue process.

The services provided through this contract will have implications for the Council's Revenue Budget, Capital Budget and Reserves. These are set out in Appendix 6 to this report.

2.11 Equalities Implications / Public Sector Equality Duty

Decision makers must have due regard to the public sector equality duty in making their decisions.

Consideration of the duties must precede the decision. Section 149 of the Equality Act 2010 sets out the equality duty as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This duty is extended to a person that is not a public authority but who exercises public functions.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

During the dialogue, bidders were asked to address equalities issues in their tenders and these have been considered as part of the tender process.

An Equalities Impact Assessment for this procurement has been attached at Appendix 5 to this report.

2.12 Council Priorities

The recommendations contained within this report support the corporate priorities for the following:

- Making a difference for communities
- Making a difference for local businesses
- Making a difference for the vulnerable

By making efficiencies and improvements through more automated and integrated processing, it is anticipated that the effects of any changes on “front line” resources may be minimised thus ensuring seamless service provision and safeguards for those customers most in need.

Further details of how Sopra Steria’s bid addresses the above priorities are contained within Appendix 1 to this report.

Section 3 - Statutory Officer Clearance

Name: Simon George	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 10 March 2015		
Name: Stephen Dorrian	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 9 March 2015		

Ward Councillors notified:	NO, as it impacts on all Wards
EqIA carried out:	YES
EqIA cleared by:	The EqIA for the ICT procurement was considered and approved by the Quality and Assurance Group on 2 nd March 2015.

Section 4 - Contact Details and Background Papers

Contact: Rob Bonneywell, Project Minerva Project Manager, x8902, rob.bonneywell@harrow.gov.uk

Background Papers: Report from the Corporate Director Resources to Cabinet dated 15th January 2014.

<http://modern.gov:8080/documents/g61435/Public%20reports%20pack%20Wednesday%2015-Jan-2014%2018.30%20Cabinet.pdf?T=10>

Call-In Waived by the Chairman of Overview and Scrutiny Committee	NOT APPLICABLE [Call-in applies]
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