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| Decision Taker: | Strategic Director of Resources |
| Date: | 17 September 2024 |
| Report title: | Delegated Officer Decision Gateway 3 – Variation Decision SAP HANA Enterprise Cloud (HEC) Support Renewal |
| Ward(s) or groups affected: | None |
| Classification: | Open |
| Reason for lateness (if applicable): | Not applicable |
| From: | Chief Digital and Technology Officer |

RECOMMENDATION(S)

1. That the Strategic Director of Resources approve the variation and three-year extension of the SAP HANA Enterprise Cloud (HEC) Support and Enhanced Managed Services (EMS) contract with SAP (UK) Limited from 19 January 2025 at the values detailed in the closed report.

BACKGROUND INFORMATION

2. Following a previous Gateway 2 approval by the then Strategic Director of Finance and Governance, SAP (UK) Limited was awarded a five-year contract from January 2017 to provide a hosted managed service for the council's financial management system – SAP.
3. The five-year contract to provide this hosted managed service contract originally expired on 18 January 2022. The contract is currently drafted so that it automatically renews for a further period of 12 months on 19 January of each year unless notice is given by the council for the contract to end.
4. Gateway 3 reports were presented and approved in subsequent years to allow the contract to be extended on the rolling annual basis. The current contract expires 18 January 2025.
5. Over the past three years, a number of options for a future Enterprise Resource Planning (ERP) solution for Southwark Council have been explored and a full programme is now underway to procure a replacement solution and manage implementation and migration.
6. Gateway 1 Procurement Strategy Approval report, dated 18 June 2024, for replacement ERP system, was approved and the proposed competitive procurement exercise is currently underway. The procurement timeline

anticipates the awarding of the contract to the successful vendor in November 2024 and subsequently appointing key system implementation partners by March 2025.

7. The implementation of a replacement ERP system is a long-term programme of work, with current timelines anticipating a phased go-live with the new ERP from May 2027, with full support services and archiving in place by December 2027. The existing SAP system will need to be maintained throughout this period.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

8. To ensure the existing SAP system continues to function with adequate support and disaster recovery safeguards, whilst the procurement and implementation of a replacement ERP system is completed, approval is sought to vary the terms of the existing contract to enable an option to extend the contact for a period of three years, as opposed to being subject to rolling annual extensions provided under the existing contract terms.
9. Approval is sought to allow extension of this contract for a period of three years, from 19 January 2025 to 18 January 2028, to ensure provision of key SAP support services.

Reasons for Variation

10. To facilitate the procurement and replacement of the current SAP system, in collaboration with departmental owners – Finance, HR, Payroll and procurement – an extension to current support arrangements is required.

Future Proposals for this Service

11. The council has commenced a wide-scale programme of work to replace the existing ERP system with a modern solution capable of meeting evolving demands and supporting Southwark's 2030 ambitions through business practice improvement.
12. The competitive tender process is currently in progress and the procurement timeline anticipates the awarding of the contract to the successful vendor in November 2024 and subsequently appointing key system implementation partners by March 2025.
13. The existing SAP solution will remain in place until the new ERP solution is procured and phased implementation is completed. Further information on implementation timelines will be available once the successful supplier is known and system implementation partners are appointed.

Alternative Options Considered

14. Do Nothing – This is not an option as the existing contract auto-renews for a 12 month term. Formal approval for the extension or notice needs to be sought in line with the council’s governance requirements and Contract Standing Orders.

15. Let existing HEC and EMS terminate – This option is not viable due to the contract being integral in supporting the existing technology, and without it, exposes the council to significant risk as it is vital to the functioning of the council’s HR and Finance functions.

Identified risks for the Variation

16.

| Risk | Risk Identified | Risk Level | Mitigation |
|-------------|---|-------------------|--|
| R1 | Risk of Legal challenge for breach of the Public Contract Regulations 2015 by extending the contract for further three years. | Low | The council shall ensure compliance with regulations 72 of the Public Contracts Regulations 2015. The risk is reduced as the council is currently undertaking a competitive procurement process for a new solution. |

17. Please note that additional risks are detailed in the Closed report.

Procurement project plan (Key Decision)

18.

| Activity | Complete by: |
|---|---------------------|
| Negotiations with SAP | 15/07/2024 |
| Place on Forward Plan for Sep (if GW3 is key decision) | 13/05/2024 |
| Brief relevant cabinet member | TBC |
| DCRB Review Gateway 3: | 12/08/2024 |
| Notification of forthcoming decision key GW3 decision | 09/09/2024 |
| Approval of Gateway 3: Contract Variation Report | 17/09/2024 |
| End of scrutiny Call-in period and notification of implementation of Gateway 3 decision | 26/09/2024 |

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|--------------------------|------------|
| Contract variation | 27/09/2024 |
| Add to Contract Register | 20/01/2025 |
| Contract start | 19/01/2025 |

Policy framework implications

19. No direct implication. This system supports the policies and management of the council's financial operation and resources in HR.

Contract management and monitoring

20. The council's contract register publishes the details of all contracts over £5,000 in value to meet the obligations of the Local Government Transparency Code. The Report Author must ensure that all appropriate details of this procurement are added to the contract register via the eProcurement System.

21. The management and monitoring of the contract and respective service is as follows:

- a. SAP HANA Enterprise Cloud (HEC) Support by Southwark's Head of Technology Transformation
- b. Monitoring reports will be presented to DCRB as required by Contract Standing Orders.

Community, equalities (including socio-economic) and health impacts Community impact statement

22. This decision has been judged to have no or very little specific impact on the local community because this is an internally used system. However, a robust, resilient, agile IT function is a key enabler for the Technology and Digital Strategy as well as the Fairer Future Promises. This means it will have a significant impact on how the community access, and where relevant pay for, council services.

Equalities (including socio-economic) impact statement

23. No direct negative impacts on equalities are envisaged, as the services under this contract are for internal use only.

Health impact statement

24. No direct negative impacts on health are envisaged for this contract.

Climate change implications

25. No direct negative impacts on climate change are envisaged for this contract.

Social Value considerations

26. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

27. The extension of this contract has little direct economic social value. However, SAP usage analysis and negotiations have been carried out with the supplier to ensure the council is achieving best value in this extension and longer-term work to rationalise Southwark Council's Data Centre footprint will aim to provide economies of scale going forwards.

Social considerations

28. The council is an officially accredited Living Wage Employer and is committed to ensuring that, where appropriate, our contractors and subcontractors pay staff at a minimum rate equivalent to the London Living Wage or Real UK Living Wage.

29. Currently there are no relevant staff employed by the supplier to whom this provision applies.

Environmental/Sustainability considerations

30. No direct social value in relation to this extension; this will be explored more fully during the programme to procure a replacement ERP solution.

Financial Implications

31. Financial implications are detailed in the Closed report.

32. The annual cost of this variation will continue to be met from revised budgets from 2025-26.

Legal Implications

33. Please see below, the legal concurrent from the Assistant Chief Executive – Governance and Assurance.

Consultation

34. Officer consultation was undertaken as part of the discussions around the extension and confirmed that budget is available.

Other implications or issues

35. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Resources (HT-ERP-11)

36. Finance concurrent is detailed in the closed report.

Head of Procurement

37. This report seeks approval from the Strategic Director of Resources for a three-year extension of the SAP HANA Enterprise Cloud (HEC) Support and Enhanced Managed Services (EMS) contract with SAP (UK) Limited from 19 January 2025.

38. The Strategic Director of Resources notes the reason for the variation is detailed in paragraph 10, the risks are detailed in paragraph 16, monitoring and management of the contract is detailed in paragraphs 20 to 21, the impact on equalities, health and climate change are detailed in paragraphs 23 to 25, confirmation of the payment of London Living Wage is detailed in paragraph 28, there are NO social value commitments.

Assistant Chief Executive – Governance and Assurance (Con/KM/20240904)

39. This report seeks the approval of the Strategic Director of Resources to the variation of the HEC and EMS contract with SAP as further detailed in paragraph 1.

40. At this contract value, it is necessary to ensure that any variation of the contract is permitted within the procurement regulations. Regulation 72 of the Public Contract Regulations 2015 (PCR15) permits modifications to be made to contracts during their term, in certain circumstances, including at Regulation 72(1)(e) where the modification is not substantial. As noted in this report, this further extension is to facilitate the procurement and replacement of the current ERP system. Having considered the conditions at Regulation 72(8) which notes those modifications which are considered substantial, and noting the reasons for this variation, it is considered that the contract can be varied under this regulation. The Strategic Director is advised that when relying on any exemption from the requirements of PCR15, there is a potential risk of challenge on the basis that the council does not have sufficient grounds to rely on that permission. Any risk is mitigated by the fact that the council has commenced the new procurement process, and this modification is for the minimum period to allow the contracts being procured to be mobilised.


41. Contract Standing Order 2.3 requires that no steps are taken to implement a variation unless the expenditure has been approved. Paragraphs 24-25 of the closed report confirms the financial implications relating to this variation.

Chief Digital and Technology Officer (For all contracts involving IT)

42. Concurrent not required as report concerns continued provision of key council-wide operational software.

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council’s Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature 

Date 17 September 2024

Designation Strategic Director, Resources

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see ‘FOR DELEGATED DECISIONS’ section of the guidance).

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| 1. DECISION(S) |
| As set out in the recommendations of the report. |
| 2. REASONS FOR DECISION |
| As set out in the report. |
| 3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION |
| N/A |

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION *

N/A

* Contract standing order 6.6.1 states that for contract Variations with an Estimated Contract Value of £100,000 or more, the lead contract officer (LCO) must consult with the relevant cabinet member before the decision is implemented.

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST

If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.

6. DECLARATION ON CONFLICTS OF INTERESTS

I declare that I was informed of no conflicts of interests.*

BACKGROUND PAPERS

| Background Papers | Held At | Contact |
|---|----------------|--|
| Gateway 2 - Contract Award Approval SAP Hosting Single Supplier Negotiation | Finance | Fiona Ives, Head of Support Services • Finance and Governance |
| Gateway 3 – Variation Decision SAP HANA Enterprise Cloud (HEC) Support Renewal- dated 18 January 2024 | Finance | Chief Digital and Technology Officer |

APPENDICES

| No | Title |
|------------|--------------|
| Appendix 1 | |

AUDIT TRAIL

| | | |
|---|--|--------------------------|
| Lead Officer | Dionne Lowndes, Chief Digital and Technology Officer | |
| Report Author | Andrew Markham, SME Analytics - Southwark 360 Team | |
| Version | Final | |
| Dated | 17 September 2024 | |
| Key Decision? | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Strategic Director of Resources | Yes | Yes |
| Head of Procurement | Yes | Yes |
| Assistant Chief Executive, Governance and Assurance | Yes | Yes |
| Director of Exchequer (for housing contracts only) | No | No |
| Cabinet Member | No | No |
| Contract Review Boards | | |
| Departmental Contract Review Board | Yes | Yes |
| Corporate Contract Review Board | Yes | Yes |
| Cabinet Member | No | No |
| Date final report sent to Constitutional Team | 17 September 2024 | |