

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CABINET ON 19 OCTOBER 2020

SUBJECT: Renewal of the Maintenance Contract for the HR/Payroll IT System

REPORT AUTHOR: Karen Pearce

DATE: 2 September 2020

EXTN: 37807

PORTFOLIO AREA: Corporate Support

EXECUTIVE SUMMARY: The maintenance contract for the Council's HR/Payroll IT system (SumTotal) is due for renewal. The Council has the option of agreeing an ongoing 'evergreen' maintenance contract without undertaking a tender process as permitted by Regulation 32(2)(b) of the Public Contract Regulations 2015.

RECOMMENDATIONS:

Cabinet is requested to:

- (1) Agree to the renewal of the maintenance contract for the HR/Payroll IT system with SumTotal, on an 'Evergreen' basis, subject to the procurement requirements being met, as set out below; and
- (2) Give delegated authority to the Group Head of Corporate Support to sign and enter into the renewal contract on behalf of the Council.

1. BACKGROUND:

The Council has been using SumTotal as its HR/Payroll IT system for many years. In 2013, the Council purchased perpetual licenses for the system, which in effect, means that we have bought the system and there are no ongoing costs incurred in relation to the licenses. The system remains fit for purpose and at this stage, the Council does not wish to procure a new system due to the potential costs and resources needed to implement a system of this complexity.

There are, however, ongoing maintenance costs associated with this system at a cost of approximately £34k per annum. The current maintenance contract is due to expire in February 2021 and contract renewal costs have been provided. SumTotal has offered an 'Evergreen' contract which provides the Council with a capped increase in costs of 1% per annum, for the life of the contract. The contract runs on a 3-year rolling programme, renewed annually, therefore, if we wanted to bring the maintenance contract to an end, we would need to give 2 years' notice.

We anticipate that the value of this contract will exceed the relevant EU threshold of £189,330 and the Council would therefore normally be required to procure the maintenance service by way of a tender process. However, we are also aware that there are unlikely to be any other IT providers who can maintain this system because SumTotal retain all intellectual property rights to the system and have not provided any other provider with licences to allow them to maintain it. As a result, competition for this service is absent so a tender process would result in only a single acceptable tender. This situation is covered by Regulation 32(2)(b) of the Public Contracts Regulations 2015, which permits the direct award of a contract where competition for the services sought is absent for reasons such as these. It is on this basis that we intend to lawfully award the contract to SumTotal without undertaking a tender process.

In order to protect the Council, it is our intention to place a Voluntary Ex-Ante Transparency Notice (VEAT) in the European Journal (OJEU) and wait for a period of 30 days from publication of the VEAT notice before entering into the contract with SumTotal. This will protect the Council from legal action at a later date, if other IT providers choose to challenge our decision to renew our contract with Sum Total without a tender process.

1. PROPOSAL(S):

To agree to the renewal of the maintenance contract for the HR/Payroll IT system with SumTotal, on an 'Evergreen basis', subject to the procurement requirements being met.

2. OPTIONS:

1. To agree to the renewal of the maintenance contract for the HR/Payroll IT system with SumTotal, on an 'Evergreen basis', subject to the procurement requirements being met.
2. To agree to the renewal of the maintenance contract for the HR/Payroll IT system with SumTotal for a period of one year, accepting a 5% increase in cost and uncapped increase in future costs.
3. To procure a new HR/Payroll system, however, this is likely to be expensive, there is no in-house project management support available and probably unachievable in the timescale available.
4. To do nothing. However, this would leave the Council without any product support for a business-critical system, a situation which would become untenable very quickly.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify)		✓

5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6. IMPLICATIONS:

As stated in the report the cost of the ongoing maintenance contract is already included in the base budget and increases will be capped at 1% (lower than the anticipated rate of inflation).

The delegated authority for the Group Head of Corporate Support to award the contract is required to avoid unnecessary delay once the 30 day period after the issue of the VEAT notice has passed.

The potential challenge to the award of this contract has been mitigated by the publication on the VEAT Notice.

7. REASON FOR THE DECISION:

The award of contracts above the European tender threshold require Cabinet approval

8. EFFECTIVE DATE OF THE DECISION: 28 October 2020

9. BACKGROUND PAPERS:

N/A