

DELEGATED POWERS REPORT NO.**1736****SUBJECT:****Control sheet**

All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to the Governance Service for publishing

| All reports | | |
|---|----------------------------------|--------------------------------|
| 1. Governance Service receive draft report | Name of GSO Date | Paul Frost 25 June 2012 |
| 2. Governance Service cleared draft report as being constitutionally appropriate | Name of GSO Date | Paul Frost 25 June 2012 |
| 3. Finance clearance obtained (<i>report author to complete</i>) | Name of Finance officer Date | Stephen Reimer 2 July 2012 |
| 4. Staff and other resources issues clearance obtained (<i>report author to complete</i>) | Name of Resource officer Date | N/A |
| 5. Strategic Procurement clearance obtained (<i>report author to complete</i>) | Name of SPO Date | Praful Ladwa 20 June 2012 |
| 6. Legal clearance obtained from (<i>report author to complete</i>) | Name of Legal officer Date | Phillipa Dieobi 3 July 2012 |
| 7. Policy & Partnerships clearance obtained (<i>report author to complete</i>) | Name of P&P officer Date | Andrew Nathan 25 June 2012 |
| 8. Equalities & Diversity clearance obtained (<i>report author to complete</i>) | Name of officer Date | Julie Pal 25 June 2012 |
| 9. The above process has been checked and verified by Director, Head of Service or Deputy | Name Date | Craig Cooper 3 July 2012 |
| 10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing | Name of GSO Date | Paul Frost 05 July 2012 |
| 11. Report published by Governance Service to website | Name of GSO Date | Paul Frost 18 July 2012 |
| 12. Head of Service informed report is published | Name of GSO Date | Paul Frost 18 July 2012 |
| Key decisions only: | | |
| 13. Expiry of call-in period | Date | N/A |
| 14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service | Name of GSO Date | N/A |

**ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER
(EXECUTIVE FUNCTION)**

Subject **Replacement and extension of equipment within the Document Centre.**

Officer taking decision Director of Commercial Services

Date of decision 4 July 2012

Date decision comes into effect Date on Installation for new equipment
Date from original lease for retained equipment

| | |
|----------------|--|
| Summary | This report seeks authority for the upgrade of existing Xerox machinery with 1 x Xerox D125 EPS machine, over a 3 year term, starting lease date from installation of the machinery and to extend the lease for 1 year the 4110 machine. |
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Officer Contributors Simon Hime

Status (public or exempt) Public

Wards affected None

Enclosures Appendix A – Cost comparison

Reason for exemption from call-in (if appropriate) Not applicable

Key decision N/A

Contact for further information: Simon Hime Document Centre Manager 020 8359 2046

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| Serial No. 1736 |
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1. RELEVANT PREVIOUS DECISIONS

- 1.1 Cabinet Resources Committee Decision 21 March 2007 - Item 6 - authorised that the Council to enter into a contract with Xerox for the rental of a 6135 Digipath and 4110 EPS plus associated software, which will be purchased through the Office of Government Commerce framework agreement the contract being for a 5 year term, at a rate of approximately £116,000 p/a and the terms and conditions to be agreed by the Corporate Governance team.

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The machines have the potential to receive work across all mediums. It is the latest technology in digital black and white printing and copying. The proposals in this report are in line with the corporate priority of, “an efficient council with services designed to meet the changing needs of residents”

3. RISK MANAGEMENT ISSUES

- 3.1 The issues involved have been considered and it has been concluded that they are not likely to raise significant levels of public concern or give rise to policy considerations.
- 3.2 The existing 6135 Docutec machine is nearing the end of its lifecycle and the lease ran out in Apr 2012 and as such, it is becoming less reliable which can cause issues with meeting production deadlines.
- 3.3 The Council will retain one of the Council's existing machines, as the back-up / disaster recovery in the event of machine breakdown and will extend the lease for a further one year. A backup machine is essential for the service to enable deadlines to be met.
- 3.4 There is a risk that the volume may decrease depending on the outcomes of the New Support and Customer Service Organisation and other projects.

4. EQUALITIES AND DIVERSITY ISSUES

- 4.1 The supplier was been approved by the Government Procurement Service (GPS), a public sector body set up by Central Government to provide framework contracts and guidance for Public Contracting Authorities, in accordance with the relevant equality and diversity criteria.
- 4.2 The contractual terms of the framework agreement state the following :

The Service provider shall not unlawfully discriminate within the meaning and scope of the provisions of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Sexual Orientation) Regulations 2003,

the Employment Equality (Age) Regulations 2006 or any statutory modification or re-enactment thereof or any other Law relating to discrimination in employment.

5. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 5.1 The equipment is supplied to the Council by Xerox, under a quarterly rental contract. The charges are in 2 parts. A base rental and maintenance figure with a separate charge for copy volume charged in arrears.
- 5.2 As shown in Appendix A the replacement of the machine and retaining an existing machine will lead to reduced costs to the Authority of approx £8000 per quarter over the 3 year term, based on current volumes. These savings generated will be kept within Commercial Services budgets.
- 5.3 The decision is to purchase the machine, via direct award / single source through the Government Procurement Service, contract RM1599, an approved Public Sector consortia contract. This is because the software that is currently used, Laserserve is fully configured and operated using Xerox hardware platforms. If the Council decided to award a contract to an alternative framework supplier, and in order to achieve the same solution on the Council's existing operating system many additional hours of analyst time would be required and reformatting of all of the existing templates, which in turn will increase the costs significantly. This extra work will have the potential for significant downtime, which would affect the business and service areas print deadlines.

For information, the Council conducted a competitive tendering process in accordance with the rules of the older OGC framework agreement, RM450 during December 2011, which proved that additional cost would be incurred by the Council and that most of the other framework suppliers, on the old framework suggested the Council should invest in new software. Unfortunately this framework agreement expired before the Council could finalise the authority to enter into a contract and place an order with Xerox. Xerox would have been the preferred supplier on overall evaluation.

- 5.4 Market opinion suggests that the equipment supplied by Xerox is the market leader in laser / copying field and is best fit for purpose, and meets the specification that is required by LBB. The maintenance service the Council has received over the years has been both reliable and timely.
- 5.5 Below is a statement about the possibility of returning the machine back to Xerox before the end of the lease in case of a PFI programme, like New Service Customer Support Organisation contract.

The Awarding Authority expects flexibility from the Supplier in the management of the customer fleet, without payment of a settlement charge, where the product is redundant due to re-organisation; merger or closure and all reasonable efforts have been made to re-site the product within the location concerned. In addition, defined flexibility is needed:

- (i) Where a customer has a product that does not match the output requirement, i.e. a different product is required. The Awarding Authority does not intend that this is an open ended commitment for the Supplier.
- (ii) Where funding is withdrawn and a customer is no longer able to meet its obligations under the lease agreement.
- (iii) Where a PFI (or similar) programme comes into effect.

6. LEGAL ISSUES

- 6.1 The Public Contracts Regulations 2006, applies to contracts for works, services and supplies over particular financial thresholds. It also requires contracts above the threshold to be advertised and the current threshold for supplies and services contracts under the Regulation is £173,934. In addition, to offer equal opportunity in line with the general principles of non-discrimination, equal treatment, transparency, proportionality and mutual recognition as set out in the TFEU (Treaty on the Functioning of the European Union) contracting authority should consider whether there is a market for the service/supplies they require in other member states prior to award of contract and if there is, they are required to appropriately advertise before awarding the contract.
- 6.1 Reg 2(1) of the Public Contracts Regulations 2006 (as amended) defines a Framework Agreement and the main operative provisions for Framework Agreements are contained in Regulation 19; Regulation 19 sets out the requirements for establishing a Framework Agreement. Rule 6.9 of the Council's Contract Procedure Rules sets out the Council's requirements for utilisation of a Framework Agreement.
- 6.2 The total value of the rental of the Xerox one D125 EPS machine plus associated software is above the threshold but as the Government Procurement Service framework agreement RM1599 was established following a procurement process undertaken in accordance with OJEU regulations the procurement complies with the requirements of the framework itself and, also, with the Council's Contract Procedure Rules.
- 6.3 With regards to the extension of the 4110 machine, although the contract was procured through a framework, the procurement regime prohibits splitting contracts with the intention of evading the application of the procurement rules. However, it permits a repetition of similar works or services under the original contract where the works or services relate to the project for the purpose of which the original contract was made and where the contract notice for the original contract expressly mentioned the possibility of the additional works/services being awarded to the same provider. The new award must also commence within three years of the date of the original contract being entered into.
- 6.4 The contract extension will be on the terms and conditions of the original contract unless other terms and conditions of contract are approved by the Director of Corporate Governance.

7. CONSTITUTIONAL POWERS

- 7.1 The Council's Constitution in Part 3, Responsibility for Functions, Paragraph 6.1 states that Chief Officers can take decisions in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget and policy to discharge functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to Executive Members, Cabinet meetings, Cabinet Committees, Committees or Council and in all matters where they have managerial or professional authority.
- 7.2 Contract Procedure Rules – section 5.6 – Acceptance Parameters for Contract Extension for the existing equipment
- 7.3 Contract Procedure Rules – Table 5.2 – Acceptance thresholds for contracts extensions and variations.
- 7.4 Contract Procedure Rules – Table 5.2 - Enables Directors/Heads of Service to authorise, based on estimated contract value, contracts/works up to the value of £173,934 for the new equipment.
- 7.5 Contract Procedure Rules – Table 5.1 – Authorisation (where not previously Authorised by the budget and supporting plans and strategies) and Acceptance Thresholds for Works , Supplies and Services does not exceed £173,934.
- 7.6 Contract Procedure Rules – section 6.17 – Where a Director / Assistant Director is satisfied, following the making of suitable investigations, that there is only one supplier in the market for the required supplies/services/works, the competitive tendering provisions will not apply providing that:
 - 6.17.1 the Director / Assistant Director and the Director of Commercial Services approve the entry into the contract with a single source provider; and
 - 6.17.2 should the Director / Assistant Director and the Director of Commercial Services be one and the same the approval for entry into the contract with a single provider requires Deputy Chief Executive concurrence, and
 - 6.17.3 there is compliance with the Authorisation and Acceptance procedures.

8. BACKGROUND INFORMATION

- 8.1 The Document Centre is responsible for the complete lifecycle of a document from initial concept to destruction. It currently provides a full document production service to all parts of the Council for litho printing and high volume copying.
- 8.2 This new machine produces work for all Service Areas within the Council and some external bodies, Schools and Barnet Homes.
- 8.3 The Council have been using High Volume Xerox equipment for over 15 years without any problems and have found the quality of work produced and the maintenance service provided has been excellent. Xerox are the proven market leaders in this field which is why the Document Centre have continued to use their equipment. The new

machine would continue to provide the quality and service our clients expect combined with being able to maintain the variable data centre work.

- 8.4 Xerox is also our current approved supplier for MFD copier equipment at LB Barnet
- 8.5 The current machine has reached the end of a 5 year contract, which ended in April 2012 and it is becoming less reliable as it has reached its recommended lifespan. As shown in Appendix A, retaining both machines on their current yearly expenditure is uneconomical in terms of servicing and rental.
- 8.6 The PFI clause for the new machine and the one year extension for the 4110 will allow the OneBarnet NSCSO project to reach its conclusion and hence allow the incoming supplier the opportunity to re-configure the print functionality within Barnet.

9. LIST OF BACKGROUND PAPERS

- 9.1 None

10. OFFICER'S DECISION

I authorise the following action:

- 10.1 That the Council be instructed to enter into a contract with Xerox for the rental of one D125 EPS machine plus associated software, which will be purchased through the Government Procurement Service framework agreement RM1599 for a term of 3 years, at a rate of approximately £ 65,000 per year and the terms and conditions (see item 5.5 about the funding clause) to be agreed in association with Corporate Governance team.
- 10.2 that the contract between the Council and Xerox for the 4110 machine and associated software be extended for a period one year starting from original lease date.

Signed Director of Commercial Services

Date 4 July 2012

Appendix A

Existing 5 year contract

| Machines | Rental / lease cost per quarter | Software support per quarter | Volume commitment basic charge | Actual Volume | Inclusive Volume | Run on charge | copy cost per quarter |
|------------------|---------------------------------|------------------------------|--------------------------------|---------------|------------------|---------------|-----------------------|
| Xerox 6135 | £9,578.53 | £1,022.50 | £2,273.02 | 1,046,620 | 600,000 | £0.00215 | £3,233.25 |
| Xerox 4110 EPS | £4,826.01 | £562.38 | £0.00 | 739,586 | 0 | £0.00368 | £2,721.68 |
| Xerox Make Ready | £1,951.53 | £511.26 | | | | | £0.00 |
| | £16,356.07 | £2,096.14 | | 1,786,206 | | | £5,954.93 |
| | | | | | | | £24,407.14 |

Extended 1 year contract

| Machines | Rental / lease cost per quarter | Software support per quarter | Volume commitment basic charge | Mono Average | Inclusive Volume | Run on charge | copy cost per quarter |
|-------------------------|---------------------------------|------------------------------|--------------------------------|--------------|------------------|---------------|-----------------------|
| Existing Xerox 4110 EPS | £4,826.01 | £562.38 | 0.0000 | 893,103 | 0 | £0.00368 | £3,286.62 |

New 3 year contract

| | | | | | | | |
|--|-----------|---------|--------|-----------|---|---------|-------------------|
| Xerox D125 FreeFlow FreeFlow Print Server Dual A4 feeder Booklet maker finisher LCDS License (for variable data) | £2,738.73 | £150.00 | 0.0000 | 893,103 | 0 | £0.0032 | £2,857.93 |
| Xerox FreeFlow Make Ready 9.0 Dell PC Server | £1,604.00 | £250.00 | | | | | £0.00 |
| | £9,168.74 | £962.38 | | 1,786,206 | | | £6,144.55 |
| | | | | | | | £16,275.67 |

Saving £8,131.47