

SUPPLEMENTARY 1

THE CABINET

Tuesday, 13 December 2022

**Agenda Item 10a Procurement of Additional IT Cyber Security
Software (Pages 1 - 8)**

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CABINET**13 December 2022**

This report is submitted under Agenda Item 10. The Chair will be asked to decide if it can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency in order to avoid any delay in the procurement of IT cyber security software.

Title: Procurement of Additional IT Cyber Security Software	
Report of the Cabinet Member for Finance, Growth and Core Services	
Open Report	For Decision
Wards Affected: None	Key Decision: No
Report Author: Ben Davis, IT Project Manager	Contact Details: E-mail: ben.davis@lbbd.gov.uk
Accountable Director: Paul Ingram, Chief Information Officer	
Accountable Strategic Leadership Director: Philip Gregory, Strategic Director, Finance and Investment	
Summary:	
<p>The cyber security threat level has continually risen over the past few years. The Council has a robust cyber security stance but it is necessary to improve its ability to respond more rapidly to any compromises on its servers and laptops. The most effective way to do this is to add an AI capability to the tools already in place to block attacks in real time rather than needing to wait for a human response.</p> <p>The Council currently has a three-year contract with Darktrace for their Detect product, via a G-Cloud Contract with resellers iSystems Integration, which has entered its second year with the anniversary of the contract coming in April 2023. The most cost-effective way to acquire the AI leading-edge technology is to procure an additional product from Darktrace. This additional capability is called Respond. Implementing the two products together from Darktrace will ensure resident and staff data across the board is more secure, whilst also allowing the Council to react to threats in a more efficient and dynamic way.</p> <p>IT Services currently have methods of dealing with threats but the additional software will improve overall threat detection and response significantly i.e.: from hours or even days to seconds. Recent ransomware attacks on other Councils have left them to rely on pen and paper systems due to IT systems being so heavily affected. In some cases, the cost to those organisations to recover data and replace the affected systems has exceeded £10 million.</p> <p>The chosen route to market is via the Kent Commercial Services (KCS) Software Products and Associated Services Framework (Framework number Y20011). This Framework is available to all central and local government bodies and allows for direct award based on meeting one of a list of criteria. This route would allow the Council to</p>	

take advantage of reduced product prices this calendar year and ensure that market leading cyber security software is in place for the foreseeable future.

The new contract will acknowledge the current contract with iSystems Integrations by only billing for the Detect products at the end of the current Detect contract in March 2024. To ensure both products co-term successfully, IT Services are seeking to obtain an initial three-month contract for Respond, from January 2023 to March 2023, with the annual Respond contract then running from April 2023 until March 2027.

Recommendation(s)

The Cabinet is recommended to:

- (i) Agree that the Council proceeds with the procurement of Darktrace Detect and Respond products from Softcat Ltd on the Kent Commercial Services Software Products and Associated Services Framework for a term of four years and three months, in accordance with the strategy set out in the report; and
- (ii) Delegate authority to the Strategic Director, Finance and Investment, in consultation with the Chief Legal Officer, to award and enter into any contract(s) and agreement(s) with the chosen supplier in accordance with the strategy set out in the report.

Reason(s)

The primary driver for this decision is to improve overall Council cyber security detection and response times and effectiveness. This decision has been born out of the increased number of cyber-attacks against local government organisations and to prevent a comparable situation to what has happened in other local authorities.

1 Introduction and Background

- 1.1 In 2021 the Council entered into a contract with Darktrace, via iSystems Integrations, for the use of their Detect product, which was acquired with the purpose of improving the Councils overall cyber threat detection, allowing us to respond more efficiently to threats against the organisation. This product uses a self-learning AI which overtime becomes more disposed to how attacks are made and from what kind of behaviours they originate, it manages this by monitoring user and server behaviour and identifying abnormalities.
- 1.2 The purchase of this product was grounded in the Cyber breach of Hackney Council in 2020, this data breach was so severe that multiple systems were crashed, and large quantities of resident data was stolen, leaving many vulnerable individuals at risk. The effects of this data breach were so severe that as of 2022 the estimated spend to replace the systems, recover the stolen data and pay for expert consultancy has amounted to £12 million.
- 1.3 The Detect product has proven to be an asset to IT services, however, to continue the improvement of overall cyber security and utilise the full extent of the Darktrace product, it was decided to add the Respond product to the estate. Respond, much like Detect, is a self-learning AI which automates the responses to cyber and

ransomware attacks against the Council. The addition of this product would reduce the amount of manual prevention the IT Services technical teams would have to illicit to counteract the ever-growing number of attacks against the organisation.

- 1.4 This procurement exercise aims to obtain a 4-year and 3-month contract with Softcat Ltd for the Darktrace Respond and Detect products. This contract would be structured slightly differently to normal, due to the existence of our current Detect contract. This would result in the original contract being honoured for Detect specifically with that element only being activated in the new contract at the end of the original one in March 2024. Between January 2023 and March 2024 this contract would only provide the Council with the Respond product, with both products being provided as of April 2024 until March 2027.
- 1.5 IT Services will acquire this contract via the KCS – Software Products and Associated Services Framework, and will complete it via Direct Award as per the Frameworks T&Cs.

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured.

- 2.1.1 This procurement will be looking to obtain both the Detect and Respond products from Darktrace. These products aid with the detection and elimination of cyber-attacks against the organisation.
- 2.1.2 Both Detect and Respond are self-learning AI systems, Detect prioritises the detection of abnormalities, it does this by monitoring user behaviour and picking up variations which don't fit the norm, along with this it carries out estate wide investigations for any ransomware or potential cyber-security threats. Respond, however, prioritises automated response to any cyber-attacks in which the Council may receive. Once Respond has dealt with a threat, the method for counteracting it is then shared across any organisations using the tool.

2.2 Estimated Contract Value including the value of any uplift/extension period.

- 2.2.1 The table below illustrates the estimated value of the Respond and Detect contract with Darktrace, it is important to note that due to an existing Detect contract via iSystems Integrations which was procured via the G-Cloud 12 Framework, the Council will not be billed for Detect until the end of that contract in March 2024. Below is a table outlining the structure of the contract and the cost to the Council:

Period	Darktrace - Respond	Darktrace - Detect
Jan 23 – March 23	£33,089.00	-
April 23 – April 24	£132,354.00	-
April 24 – March 25		£259,206.00
April 25 – March 26		£259,206.00
April 26 – March 27		£259,206.00
Total		£943,062.00

2.3 Duration of the contract, including any options for extension

2.3.1 IT Services would like to enter a 4-year contract with Darktrace via a reseller, however, to begin using the Respond product prior to the anniversary of the current Detect contract, IT Service would look to purchase 3-months of the Respond product prior to April 2023.

2.3.2 The overall contract length would be four years and three months.

2.4 Is the contract subject to the Public Contracts Regulations 2015? If Yes and the Contract is for services, is it subject to the light touch regime?

2.4.1 Yes, this is subject to the thresholds for goods and services which are currently £213,477 (inc VAT) in contract value.

2.5 Recommended procurement procedure and reasons for the recommendation

2.5.1 IT Services would like to proceed with a Direct Award to Softcat Ltd for the aforementioned Darktrace products, who are a recognised reseller, via the KCS – Software Products and Associated Services Framework. This Framework allows for Direct Award based on fulfilling one of a set number of criteria, these criteria are as follows:

1. Customer is satisfied that, following their own due diligence, they can identify the supplier that offers best value for their requirement
2. The supplier is able to supply the required goods/services within the customers timescales
3. The supplier scored the highest mark for price/quality in the framework agreement evaluation
4. Goods/services required are unique/exclusive to one vendor/supplier
5. Continuity of existing goods/services from an awarded supplier

2.5.2 IT Services believe there are grounds to Direct Award based on points 2 and 4 above. To guarantee a cost avoidance on the two products of around 26%, the Council must enter into contract with Darktrace via a reseller prior to the end of the calendar year, furthermore the products being procured are specialist in nature.

2.6 The contract delivery methodology and documentation to be adopted

2.6.1 This contract will be managed on a day-to-day basis by IT Services.

2.6.2 The management of the contract will be as per the T&Cs of the KCS – Software Products and Associated Services framework as well as the Darktrace T&Cs which will form as part of the contract generated from the Framework.

2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

2.7.1 By obtaining the products this calendar year, there is a significant cost avoidance of 26%. Although there is cost growth with the addition of a new product to the contract, this product would have been procured at a later date, with permission, and would have been subject to any price inflations or fixed pricing which would

have applied to the route to market chosen at the time. The overall cost avoidance of procuring the contract now would amount to £96k per annum, and a total of £384,370.80 over the 4-year period.

- 2.7.2 Specifically, the Respond product, will allow for IT Services technical teams to spend less time manually dealing with cyber-threats by automating much of the response. This will allow Technical Teams with IT to work on other areas of the estate, increasing the team's overall efficiency.
- 2.7.3 Obtaining both products will improve the Councils overall position regarding cyber-security, making Council data more secure and by proxy the data and information surrounding our residents.

2.8 Criteria against which the tenderers are to be selected and contract is to be awarded

- 2.8.1 This is a Direct Award to Darktrace via their Reseller Softcat Ltd, as such no evaluation criteria will be used.

2.9 How the procurement will address and implement the Council's Social Value policies

- 2.9.1 Due to the urgency involved in completing this procurement and the nature of it, being Direct Award. IT Services would look to waive the requirement of obtaining Social Value.

3. Options Considered

3.1 Option 1 – Do nothing (Rejected)

- 3.1.1 IT Services already have the Detect product, and to utilise its full effectiveness the Respond product would have been purchased later down the line with permission from the relevant governing bodies. Doing nothing now would result in a substantial increase in purchase price.
- 3.1.2 Furthermore, the more time in which goes by without the Respond product, the improved likelihood of the Council being subject to cyber-threats and attacks.

3.2 Option 2 – Alternative Frameworks (G-Cloud 12, G-Cloud 13) (Rejected)

- 3.2.1 The original Darktrace contract, which is held with iSystems Integrations, was procured on the G-Cloud 12 Framework. This Framework has been rejected for this procurement due to it coming to an end of life on the 27th of November 2022. There was not sufficient time available to any parties to complete a procurement on this framework compliantly and as such was rejected.
- 3.2.2 With G-Cloud 12 coming to an end of life, G-Cloud 13 became live. G-Cloud 13 although similar to G-Cloud 12, had several changes which made it a more attractive proposition, such as contract length and the ground to Direct Award if necessary. However due to the fixed pricing component of the framework, this would make it impossible for the Council to acquire the products at the proposed rate we currently are and would have been subject to the frameworks fixed pricing.

3.3 Option 3 – Open Market (Rejected)

3.3.1 Due to the sheer number of resellers of Darktrace and the extremely limited time available to the Council to acquire the products, an open route procurement would not provide us with the efficiency needed to get the contract over the line.

3.3.2 Due to the limited time, and the existence of compliant frameworks such as KCS and G-Cloud, Open Market was rejected.

4. Waiver

4.1 Not applicable.

5. Equalities and other Customer Impact/GDPR

5.1 At the time of writing this report an EIA Screening Tool has been requested but the results have not been acquired. This will be added to the document retrospectively before any significant meetings.

5.2 The current Darktrace DPIA (Data Protection Impact Assessment) will be updated to reflect the addition of the Respond product to the estate.

6. Other Considerations and Implications

6.1 Risk and Risk Management

Risk Description	Mitigating Actions	RAG Status
Not acquiring the contract now, and at a later date.	Subject to price increases, the current price will see a cost avoidance per annum of £96k per annum.	A
Not adding the Respond product to our estate.	The Council will not receive the benefit of automated cyber-security, which will aid IT in eliminating threats more effectively against the estate. Safeguarding from circumstances such as that experienced in Hackney Council.	A

7. Consultation

7.1 The proposals in this report were considered and endorsed by the Council's Assurance Board and Procurement Board on 8 December 2022

8. Corporate Procurement

Implications completed by: Euan Beales, Head of Corporate Procurement

8.1 The Council's Contract Rules currently require all spend over £50,000 to be procured in the open market, however this requirement can also be met by using an open and accessible framework.

- 8.2 This report seeks to direct award to SoftCat by using the Kent Commercial Services framework Y20011 – Software Products and Associated Services. The framework allows for a direct award if a minimum of 1 out of the 5 base criteria can be met. The detail contained in this report supports that the base requirement has been met.
- 8.3 As this is a direct award there is no other cost data to baseline against, however the report states that as the 2 products will be supplied under one service contract there would be improved costs which can be shown as a cost avoidance on this occasion.

9. Financial Implications

Implications completed by: Sandra Pillinger Group Accountant

- 9.1 The total cost of this procurement over the three months and four-year period from January 2023 to March 2027 is £943,062 as set out in the table at paragraph 2.2 above. The IT revenue budget is funded for the existing Dark Trace Detect product at £140,000 pa.
- 9.2 The additional cost for Dark Trace Respond is £33k in 2022/23 and £132k in 2023/24. At the end of the current Detect contract, the combined cost of Respond and Detect will be £259,206 pa. This will be an additional cost of £119,206 pa from April 2024.
- 9.3 The Corporate Strategy Group is in support of IT's growth bid for the allocation of the necessary revenue funding for this priority project as part of the budget setting process, which will be determined by Cabinet and Assembly in February / March 2023.

10. Legal Implications

Implications completed by: Kayleigh Eaton, Principal Contracts and Procurement Solicitor, Law & Governance

- 10.1 This report is seeking approval to use the KCS – Software Products and Associated Services Framework (Framework number Y20011) owned by Kent County Council to procure a Darktrace product called Respond from Softcat Ltd which aims to increase security of the Council's IT systems and reduce the effects of cyber-attacks.
- 10.2 This report states that the total value of the procurement will be £943,062.00, which is above the threshold for goods contracts means that there is a legal requirement to carry out a tender exercise in accordance with the Public Contracts Regulations 2015 (PCR). Using an already established framework is a compliant route to market under the PCR. This will also satisfy the Council's Contract Rules. Rule 5.1 (a) advises that it is not necessary for officers to embark upon a separate procurement exercise when using a Framework Agreement providing the Framework being used has been properly procured in accordance with the law and the call-off is made in line with the Framework terms and conditions.
- 10.3 The use of the KCS framework will satisfy the above requirements as the Council is permitted to call off from the framework, which has been set up following a

compliant process for all local authorities in the country and is valid until 31 March 2024. It is noted that the framework also permits direct awards.

- 10.4 Contract Rule 28.8 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval. In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contracts following the procurement process with the approval of Corporate Finance.
- 10.5 The Legal team will be able to assist the client department with putting in place the contract with the supplier.

Public Background Papers Used in the Preparation of the Report: None

List of Appendices: None