

Central Government Shared Services

April 2008

Guidance for Customers and Providers



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government
work better**

Software Licence Transferability

Introduction

The purpose of this section is to assist buyers of shared services to understand the options available regarding the acquisition/transfer of software licences as they migrate to cross-government shared corporate services environments. The content provides a snapshot of the ongoing bi-lateral discussions between the providers (DWP, HMRC) with their respective software vendors, a description of activity underway with OGC and essential inclusions in future contracts.

Guidance regarding the treatment of legacy application licences is also provided.

To date individual Departments have acquired software licences on their own behalf, and transactions between vendors and Departments have not always made provision for the wider Government shared services agenda, nor to provide flexibility for the transfer of licences through changes in machinery of Government. In some cases Departments have previously bought more licenses than they have consumed. Any such volume of licences which are currently unused could be redeployed to the benefit of the tax payer should the principle of transferability be established.

Considerations

Vendor Overview

Oracle

With the greater share of licence and maintenance revenue from Central Government Departments, Oracle has continued to develop its offering through development of the core product (Oracle eBusiness Suite), in parallel with the acquisition of Peoplesoft, JD Edwards, Siebel and others. The new combined suite – branded Fusion – is due for release on 31st December 2008. Full product descriptions including functionality, product lifecycle, migration and support are described on Oracle's website (<http://www.oracle.com/applications/home.html>).

There are multiple bilateral commercial agreements between Oracle and Central Government Departments. Given the nature of engagements, there is substantial variation between the commercial agreements, generally based on volume, breadth of functionality, competitive environment and timing within the financial year. It is generally reported that each contract carries a surplus of licences, and as such there is a high volume of Oracle licences (at varying release) across Central Government.

SAP

Although it has less market share in Central Government than Oracle, SAP has expanded its footprint in recent years. SAP's product suite has developed to cover broader functionality

beyond the core of finance and HR, and is now delivered on an open architecture technology stack branded 'Netweaver'. Full product and lifecycle information is available at

<http://www.sap.com/solutions/index.e px>.

Given the more recent engagement with Central Government, and with less coverage, there is less of an issue with respect to licences on the shelf. As with Oracle, SAP is well equipped to provide an assessment of licence take up across Central Government customers. There has been no activity by Government to date to quantify this issue/opportunity with respect to SAP licences.

Central Guidance on ERP licence procurement

OGC Memoranda of Understanding (MoU)

In order to support the shared services agenda across Government, OGC recently took the initiative to work with the vendors to establish MoUs. The objectives of the MoUs were:

- To position preferential procurement terms to Government organisations
- To signal commitment by the vendor to Government, while not eliminating appropriate OJEU process
- To underpin the vendor's relationship with 'one Government', recognising the spending power of the whole rather than the individual organisations

The MoUs are available for review by Government Departments on the

OGCbuying.solutions website.

Departments must be registered on the OGCbuying.solutions website in order to view full details of the MoUs. Each MoU is built around three main areas:

- Discount structure and aggregation
- Enterprise agreement
- Transferability of licences

While it is not appropriate to state explicitly the content of each in this document due to commercial sensitivity, the MoUs are similar between the vendors in most aspects.

To date very few Government Departments or agencies have reviewed the content of the MoUs, nor applied the content to their specific circumstances. It is strongly recommended that all customers and potential customers review these documents with some urgency in order to take advantage of the opportunities therein.

OGC is investigating how suppliers can help to improve their track record of delivery to Departments and to identify where they can improve procurement outcomes for Government. OGC also intend to develop a Common Assessment Framework with which to measure supplier performance on behalf of the CIO Council. Performance within the shared services arena will form a component of this framework.

Extensible Contracts

Notwithstanding the above, there will be situations where Departments need to upgrade licence status, procure additional licences or switch between vendors. For all of these situations appropriate procurement mechanisms

must be deployed, with full justification should a single tender action be executed. Each such procurement represents the opportunity to build extensibility into future contracts such that favourable terms may be used by other parts of Government as appropriate.

With the experience gained through project ISAAC - which delivered Public Sector Flex - precedent was set for establishing framework contracts which may be used by Departments over and above the initial procuring Department. In order to achieve the same flexibility going forward it is recommended that for future contracts, the following be addressed:

- To ensure that the original OJEU notice is sufficiently wide in scope, section 1.2 of the notice should be used to indicate that "The contracting authority is purchasing on behalf of other contracting authorities".
- In order to present the vendor with the opportunity to provide commercial arrangements which reflect the opportunity for the whole of Government, under the section entitled "Quantity and scope" it is suggested that the following form of words be applied:

"The XYZ Department's current ERP software licence spend is approximately XXX GBP per year. The minimum scope for the framework agreement will be the replacement of this solution and a significant reduction in cost per licence for like-for-like solutions

is anticipated. Government ERP licence expenditure is approximately YYY GBP a year. Shared services will form an increasing part of this in future years. The eventual scale of spend within the proposed agreement is difficult to estimate due to its shared nature and because we seek scalable and extensible solutions that will go beyond the organisational boundaries of the XYZ Department."

- It is also recommended that the OJEU Notice, PQQ (Pre-Qualification Questionnaire) and ITT (Invitation to Tender) include the following statement:

"The Contracting Authority intends to award a Pan Government Framework Agreement available for use by all UK contracting authorities including but not limited to Government Departments and their Agencies, Non-Departmental Public Bodies, NHS Bodies, Local Authorities, Police Authorities, Emergency Services, Educational Establishments and Registered Social Landlords who have a need to purchase this software"

- To reduce ambiguity and the risk of any potential legal challenge, it is also recommended that the lead authority includes either within the OJEU Notice or in a supplementary Information note, a list that enables potential suppliers to identify the

bodies that will be able to access the framework.

- Lead authorities may also opt to include a definition of the types of contracting authorities who may access the framework, e.g. Non-Departmental Public Bodies. An example form of wording might be:

“The term ‘public body’ is a general one which includes: Non-Departmental Public Bodies (NDPBs); Public Corporations; NHS Bodies and Public Broadcasting Authorities. There are four types of NDPB. These denote different funding arrangements, functions and types of activity. They are Executive NDPBs, Advisory NDPBs, Tribunal NDPBs and Independent Monitoring Boards. In 2006 there were in excess of 800 NDPBs in existence. For the most current information go to <http://www.civilservice.gov.uk/other/agencies/>”

Overall guidance on the roles and responsibilities of central purchasing bodies is contained in an OGC document entitled ‘Central Purchasing Bodies in the New Procurement Regulations’ (http://www.ogc.gov.uk/documents/Guide_central_purchasing.pdf)

Customer Review of Licence Requirements

During the Business Case Phase customers should undertake a stock take of current licences, maintenance agreements and user categories. This should include a review of current software usage and assessment of future requirements and the

development of a de-commissioning plan.

DWP Approach

During the feasibility stage of the Cabinet Office and DCSF acquiring corporate services from DWP’s shared service centre, the DWP engaged with Oracle to discuss new licence arrangements. DWP is very keen to ensure that during these discussions, precedent is established for a repeatable process which ensures benefits across Government during future such discussions.

Despite DWP’s extensive Oracle footprint and the groundbreaking nature of Cabinet Office’s move to DWP shared service centre, early indications are that Oracle has a preference for continuing to deal with individual Government Departments as separate contracting authorities without transfer of licences, rather than treating Government as a single entity.

With respect to implementation of new licences, Departments are advised to assess carefully whether it is binding or cost effective for this to be delivered by the extant DWP/IBM contract.

This section will be updated as the negotiation between DWP and Oracle progresses.

HMRC Approach

To date there have not been specific negotiations between HMRC and SAP to discuss the allocation of software licences for a specific Department to join HMRC’s shared services offering. However, conditions appear to be advantageous due to the vanilla

implementation approach adopted by HMRC, which will support standardisation of processes, efficient upgrade and transparency of process design. Additionally, the OGC-SAP MoU further supports the shared services initiative.

It is anticipated that as additional Departments and agencies join, then they will participate through the HMRC software contract, which already carries substantial volume based discount. Specific terms of the HMRC contract, and comparison with the terms within the MoU, may be accessed through appropriate channels.

With respect to implementation of new licences, Departments are advised to assess carefully whether it is binding or cost effective for this to be delivered by the “Aspire” contract with HMRC’s IT partner CapGemini.

This section will be updated as the negotiation between HMRC and SAP progresses.

Other Examples of Good Practice

To date there appears to be no examples of where SAP and Oracle have contracted with Central Government in a way in which the contract may be accessed across Government.

The information and opinions which this guide contains are not intended to be a comprehensive study and should not be relied upon or treated as a substitute for specific legal or policy advice concerning individual situations.