

PRIME MINISTERE(A)(85)16th MEETING AT 10.30 AM ON MONDAY, 29 JULYDHSS LOCAL OFFICE PROJECT (LOP)

(Minute from the Secretary of State for Social Services of FLAG A 19 July; Minute from the Solicitor General of 24 July; FLAG B, Minute from the Secretary of State for Trade and Industry FLAG C of 25 July)

BACKGROUND

The Secretary of State for Social Services seeks agreement to purchase the main frame computers for LOP (initial contract value about £30 million) from ICL by single tender. This would not be in accord with normal Government policy of open tender, or with the EC or GATT rules. Mr Fowler argues, however, that technical considerations justify this course and should be sufficient to defeat a legal challenge if one were mounted.

2. The Solicitor General had originally advised that the circumstances of this case could justify exceptional single tender procurement under EC and GATT rules. In his Minute of 24 July, however, he explains that his advice was given upon certain premises about Government Policy on the integration of all DHSS benefit systems which are now in doubt. The Treasury are clear that the Government are not yet committed to this integration. Although this may be the present DHSS intention, each stage of further development will need to be properly cost justified at the time.

MAIN ISSUE

3. It is unsatisfactory that DHSS should have brought this issue forward without adequate consultation and with continuing dispute on

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even on facts eg what is settled policy on integration of benefit computation.
key elements in the argument. However, Mr Fowler is pressing for a decision before the recess and you will wish to see whether it is possible to reach agreement in discussion on the proposal for single tender procurement from ICL.

The DHSS Computer Strategy

4. The DHSS computerisation programme, which was outlined in the June Social Security Green Paper, will stretch over 20 years, producing estimated savings of about £1800 million by the year 2000 for an investment of about £700 million. The aim is to facilitate wider, quicker and easier access to records on all aspects of the social security system, and to make it possible for local office staff to deal with the whole of an individual's business on the spot (the so called "whole person approach"). This approach, if followed to the limit, would require full integration of the various DHSS computer systems, which is DHSS' long-term strategic objective.

5. The LOP is one aspect of this strategy. It will provide comprehensive automated assistance to the income support system which will replace Supplementary Benefit. It will require terminals in local offices, a communications network, and central mainframe computers. It is the procurement of these computers which is at issue. A number of manufacturers would in principle be interested, including ICL, IBM, Honeywell, and Sperry and Amdahl. Normal Government procurement policy and the EC and GATT rules, requires open competition between manufacturers. But DHSS believe they should procure ICL equipment because:

(a) other DHSS systems, including unemployment benefit, child benefit, retirement pensions, and National Insurance contribution records, are held on ICL equipment. Full integration of these could only be achieved if local offices have equipment from the same manufacturer;

(b) DHSS staff are trained in and use ICL software. Operating different systems in parallel would stretch scarce

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technical resources. Although it would be possible for DHSS progressively to change to another computer supplier, starting with the machines for the LOP, and so eventually build up a compatible integrated network, the burden on the Department of developing and acclimatising to an entirely different range of software would be considerable;

(c) if DHSS know at the outset that ICL equipment will be used, they can begin the detailed preparations now. They argue that with an open tender it would not be clear until the very last stage what equipment would be used, so that detailed implementation work would be delayed by 12 months, at a cost of £8 million a month. *why has it taken so far longer to bring this issue forward?*

6. The LOP contract would also have major commercial significance to ICL (which is why Mr Tebbit supports Mr Fowler's proposal), although this is obviously not a point the Government could use to justify a decision to allow only ICL to tender.

7. However, there are risks in going to ICL. Even as a subsidiary of STC, it is small compared with IBM; and their latest products are less powerful than those of their competitors and as yet unproven. ICL have a good reputation for well engineered and designed products, but have often delivered late and with many software faults. It is not obvious in any case that the best way to help ICL improve their performance is to hand them this contract without competition. Moreover, an open competition might produce a keener price for the taxpayer, and ICL might still win it. DHSS argue that any saving from open competition would be outweighed by the costs of the delay involved. But if a single tender procedure were (as seems most likely) challenged by IBM or others, the delay could be even longer.

The Legal Argument

8. The Solicitor General had advised that if it was settled Government policy that all DHSS systems should be progressively linked, and that it

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was not technically possible to achieve full integration with existing systems and software unless future machines were ICL, there would be sufficient grounds for the exemptions set out in the EC and GATT rules. The key issue is whether the Government are actually committed to full integration. The Solicitor General has, in his minute of 24 July, qualified his advice to make it clear that if the Government's position is only to keep open the possibility of integration if it proves cost effective when the precise costs and benefits are clear (which the Treasury asserts to be the case), this would not be a sufficient basis for single tender action.

9. Given that DHSS computerisation is the biggest such project in Europe there must be a serious risk of challenge in the courts by IBM or another company, or by the Commission in the European Courts, if DHSS proceed by single tender. IBM wish to be loved by European Governments, but if ICL win this contract their position as sole supplier to DHSS is assured. If legal proceedings were instituted before a contract had been awarded, the Government would have to stay its hand. But DHSS could continue system planning and design and not too much time would be lost if the Government won the case. The key issue, therefore, is not so much the risk that action might be started, but that action might succeed.

HANDLING

10. You will wish to ask the Secretary of State for Social Services to introduce his paper, and to address the issue of the extent to which the Government is committed to the integration of the benefit systems (I understand that he may send a further short minute on this over the weekend). The Chancellor of the Exchequer or Chief Secretary will wish to comment on this and also, as Ministers responsible for the CCTA and for procurement procedures, on the technical arguments and the case for departing from normal procurement procedures. The Solicitor General will wish to speak on the legal issues and the Secretary of State for Trade and Industry on the implications for ICL.

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CONCLUSIONS

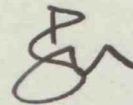
11. You will wish to reach conclusions on:

(i) whether a defensible open tender could be held which ICL would win;

(ii) if not, the degree to which the Government are committed to full integration of all the DHSS benefit systems;

(iii) the risk that a successful court action might be launched against the Government if it proceeds by single tender;

(iv) in the light of (i) and (ii), whether the proposal to proceed by single tender action should be endorsed.



J B UNWIN

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--- PS Since the above was prepared Mr Fowler has sent you a further minute (26 July) on the DHSS' future policy on full integration. He states that they have the "firm intention" of moving towards integration of all the major benefit systems. You will wish to ask the Solicitor General whether in his view this satisfies the legal requirements. His original advice rested firmly on the premise that it was settled Ministerial policy that all the DHSS computer systems will be progressively linked.

Cabinet Office
26 July 1985

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MR WIGGINS

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Note: - Spoke to JB
and agreed that it was
important to
discuss this
with Treasury
for ICL.

cc Mr Turnbull - No 10
Mr Roberts

DHSS: COMPUTER SYSTEM FOR LOCAL OFFICE PROJECT (LOP)

Mr Fowler's minute to the Prime Minister of 19 July seeks agreement to a single tender procurement of the proposed new LOP computer system with ICL. He suggests discussion at the E(A) meeting arranged for 29 July if the matter cannot be settled in correspondence.

2. This is an extremely difficult one. It is difficult to believe that IBM and possibly other interested companies will not challenge such a decision in the European or domestic courts. The European Commission might also take the matter to the ECJ. Nor is it by any means certain that, if so challenged, the Government would win. As I understand it, since no final decision has yet been taken on whether to move to the concept of 'Full integration', the case for going now to ICL rests primarily on the need to keep the integration options open. It may be difficult to demonstrate that this could not be achieved by other means. Further, if the decision were challenged, this would presumably cause further delay which could eliminate the savings at present estimated to accrue from early procurement with ICL.

3. I understand that there are divided views within the Treasury; CCTA generally support the DHSS line, but the expenditure division are not convinced that what is proposed is the most cost-effective course for DHSS. If Treasury Ministers take the latter view, then Ministers will need to discuss this. I think, therefore, that, subject to any comments Mr Turnbull may have, we had better pencil this in for E(A) next Monday.

J B UNWIN

24 July 1985

