

<b>Report for:</b>	Cabinet Member Signing	<b>Item Number:</b>	
<b>Title:</b>	Microsoft Enterprise Agreement for Software Licensing		
<b>Report Authorised by:</b>	Chief Operating Officer Signed _____ Dated _____		
<b>Lead Officer:</b>	David Hatley – Head of Supplier Management		
<b>Ward(s) affected:</b> All		<b>Report for Key/Non Key Decisions</b>  Key:	

## 1. Describe the issue under consideration

- 1.1. This report seeks the approval of the Cabinet Member for Resources and Culture to award a contract under the Crown Commercial Services Technology Products Framework lot 2 (RM1054) for Microsoft software licenses (an Enterprise Subscription Agreement) before the 30<sup>th</sup> June 2015, due to a price increase of some 47% after this date.
- 1.2. It is proposed to award the Microsoft Enterprise Subscription Agreement (ESA) for a period of 3 years with the option to extend for a further period of 3 years.

## 2. Cabinet Member introduction

- 2.1. Since the early 2000s the Government procurement body, currently called the Crown Commercial Services (CCS), have had a memorandum of understanding (MoU) with Microsoft Corporation. This has entitled the UK Public Sector to receive a significant pricing discount on software licenses compared to that available to non UK Public Sectors. In February 2015, Crown Commercial Services (CCS) and Microsoft unexpectedly announced that this MoU would expire, resulting in the current iteration known as the Public Sector Agreement 12 (PSA12) expiring on the 30<sup>th</sup> April 2015.



- 2.2. As a result this discount will stop and the pricing for UK Public Sector bodies will rise to be in line with that charged to non UK Public Sectors, between a 15% and 60% price increase depending on product, with an overall average increase of about 47%. To ease this change Crown Commercial Services has negotiated a bridging arrangement with Microsoft termed the Cloud Transformation Agreement, to be in place until 30<sup>th</sup> June 2015. This will allow UK Public Sector bodies currently not in an Enterprise Agreement to sign up to an ESA on similar pricing discounts as PSA12, under the same terms and with the same associated benefits.
- 2.3. An ESA is a 3 year licensing contract which includes a core set of Microsoft desktop and data centre software products (including Office, Lync, SharePoint, and Windows Server). It allows for the inclusion of additional nominated products, including cloud computing products. It is a rental licensing model and therefore the subscription charge will reduce or increase to reflect a reduction or increase in the Council's IT user base.
- 2.4. The fulfilment of the ESA is via a 3<sup>rd</sup> party Microsoft Licensing Solutions Provider (LSP).

### **3. Recommendations**

- 3.1. That the Cabinet Member, in accordance with CSOs 9.06.1(e) and 16.02, approves the award of a Microsoft Enterprise Subscription Agreement under the Microsoft Cloud Transformation Agreement by way of a call off from CSS framework RM1054 to the most economically advantageous bidder, Comparex UK Ltd.

That the contract be awarded for a period of 3 years with an option to extend for a further period of 3 years based on Comparex UK Ltd's tendered unit price list. The indicative annual spend is £350,000 resulting in a total indicative spend of £1,050,000 over the initial 3 year contract term or £2,100,000 over the maximum 6-year extended term.

### **4. Alternative options considered**

- 4.1. Enter into a Microsoft ESA after the 1<sup>st</sup> July 2015;
- 4.2. Buy piecemeal from the Microsoft Volume License Agreement & the Cabinet Office Digital Marketplace Service;
- 4.3. Switch to alternative software vendors' products;
- 4.4. However, none of the above will offer best value to Council as outlined in 5.6-5.12 below and which explains why the alternative options are not recommended.

### **5. Background information**



- 5.1. In common with other public and private sector marketplaces, the largest percentage of IT infrastructure software products consumed within the local government marketplace are Microsoft on-premise based products; Windows Desktop & Server, Office, Exchange, SharePoint. A good illustration of this penetration is that all London Local Authorities utilise the Microsoft products, with all but two (Haringey being one) in an active Enterprise Agreement with Microsoft.
- 5.2. This demand is reinforced by the local government business application vendors who tend to develop primarily for the Microsoft software platform. During the past 10 years open source software alternatives have had limited success in displacing the Microsoft dominance; the most common product take-up being Linux server. The last 5 years has seen the emergence of cloud computing as an alternative deployment model to the traditional on-premise IT infrastructure deployment model.
- 5.3. All major software vendors, including Microsoft, see cloud computing as the strategic direction for their software product delivery and are focusing on their product offerings to fit this direction. A major change associated with this is vendors replacing perpetual “right to use” software licenses with rental/subscription software licenses, for existing on-premise products the vendors are increasing the pricing differential between perpetual and rental licenses in favour of rental licenses; for cloud-based products and services, subscription licensing is typically the only option available.
- 5.4. For most organisations with an existing IT infrastructure, the move from on-premise software to cloud-based software will be a gradual transformation. A hybrid mix of on-premise, private cloud and public cloud will be the predominant model for the next 5 years. Therefore, the council should expect future expenditure on both on-premise and cloud software licenses, the change being the shift from a capital expenditure model to a revenue expenditure model.
- 5.5. The council had previously been in an Enterprise Agreement which it exited in 2007. The resulting licenses accumulated through the previous agreement along with subsequent tactical software purchases have limited the council’s need for major spend on Microsoft software product licenses over the last 8 years. However, within the next 2 years a number of these products will be out of support and require replacement. In parallel there is the need to have new products to support the council’s “Digital Transformation”.
- 5.6. One of the objectives of the CCS Cloud Transformation Agreement is to provide a pathway for Public Sector bodies to move from on-premise software to cloud-based products. There has been an understanding that a 3 year timescale for many organisations may be too short. As a compromise, CCS have negotiated with Microsoft the option for organisations signing up to an Microsoft ESA under Cloud Transformation Agreement to renew the ESA in 2018 on the same pricing, terms & benefits for a further 3 years, if appropriate at the time.



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5.7. An additional benefit delivered under a CCS Cloud Transformation Agreement ESA is the provision of the “CROWN CAL” license right. This is a concession to remove/reduce Microsoft software license compliance issues for public sector bodies when moving to a more cross-body collaborative or shared service working model, for example with the NHS.

5.8. The current procurement options for purchasing new Microsoft licenses are:

- 5.8.1. Enter into an Enterprise Subscription Agreement under CCS Cloud Transformation Agreement before the 30th June 2015;
- 5.8.2. Enter into an Enterprise Subscription Agreement after 1st July 2015;
- 5.8.3. Purchase piecemeal from a Microsoft Volume License Agreement and the Cabinet Office Digital Marketplace Service.

Procurement options	Indicative Costs (£000)	
	Annual Costs	3 Year Costs
ESA (CCS CTA) pre 30 <sup>th</sup> June 2015	350	1050
ESA 1 <sup>st</sup> July onwards 2015	600	1800
MVLA/Digital Marketplace (piecemeal)	1063	1658

The above estimated costs assume an unchanging IT user base count of 3800. Future reduction in the Council staff headcount should reduce the IT user base count, which in turn should reduce licensing count and consequently cost. However, as the council continues to transform its operations, increased use may be made of collaborative Microsoft products such as Sharepoint and Office 365 which may counterbalance the savings. Rental-type licensing agreements such as an ESA are the most responsive to reflect the reduction in licensing charges, delivering the quickest savings and tailoring the actual spend most closely to the council's changing business needs..

5.9. Switching to alternative software vendor products has been considered. Due to heavy reliance on Microsoft products for use in the IT infrastructure the only realistic option currently would be to move to the Google App product set for the office suite, email, sharing and collaboration services. Unfortunately this would only partly remove the dependency on Microsoft products in these service areas.

5.10. Therefore this, plus the need of IT infrastructure service areas not supported by the Google App product set, will result in significant continued expenditure on Microsoft licenses, so eroding any cost saving made by switching. Under an ESA Cloud Transformation Agreement the cost of a Microsoft Office 365 license (Microsoft's equivalent product to Google Apps) is 50% less than the cost of a Google Apps license. In this scenario there is a clear cost premium incurred with moving to an alternative vendor.

5.11. Outside the Cloud Transformation Agreement the cost of Microsoft Office 365 licenses significantly increases. Based on the current Cabinet Office Digital Marketplace pricing it is 100% greater than a Google Apps license. In this scenario the move to mixed vendor model becomes more viable.

5.12. In order to ensure best value to the Council a competition under CCS Technology Products Framework RM 1054, lot 2 (packaged software) was considered the best option. There were 15 suppliers with a mixed economy of large corporations as well as SMEs which enabled competitive pricing and reduced the time required for a standard competitive process with organisations that have already been pre-assessed as suitable commercial vehicles which are able to provide the requisite software solution to the Council.

### **Procurement Process**

5.13 On 13<sup>th</sup> May in order to source a suitable supplier Central Procurement invited all 15 suppliers under CCS framework RM 1054 lot 2 'packaged software' to bid via the Council's e-tendering portal, Delta e-sourcing.

5.14 By tender return date 19<sup>th</sup> May 5 bids were received and a team from Corporate IT evaluated bids in line with the evaluation criteria outlined in tender documents on a 70:30 price quality basis. The quality assessment included inter alia, the availability of technical resources, account management and knowledge of the industry in relation to Public Sector /Local Government environment,

5.15 Price was assessed based on an indicative basket of licenses to which bidders' submitted unit prices were applied - see bidders' comparative price submissions based on the indicative basket in paragraph 3 of the Exempt Information. This method ensured that a fair and equitable pricing comparison could be made between suppliers.

It should be noted that the actual costs per annum are likely to differ in line with the Council's staffing strategy and IT requirements in the coming years. While staff numbers may reduce, the increased use of collaborative tools such as Microsoft Sharepoint, Office 365 and Yammer, and implementation of other new transformational technologies are likely to offset those savings. Therefore a prudent estimated annual cost envelope of £350k is proposed to allow for the variances that will undoubtedly occur.

5.16 The outcome of the evaluation is contained in the table below:

<b>Bidder</b>	<b>Price</b>	<b>Quality</b>	<b>Total</b>
Comparex UK Ltd	696.41	252	948.41
Bidder A	693.49	145	838.49



Bidder B	694.34	164	858.34
Bidder C	687.50	206	893.50
Bidder D	700.00	189	889.00

- 5.17 It is recommended that the most economically advantageous bid based on the above submitted by Comparex UK Ltd is awarded the contract.
- 5.18 It should be noted by undertaking this process expeditiously and seeking a Member decision it has potentially saved the Council £140,320 pa or £841,920 over the life of the contract.

## **6. Comments of the Chief Finance Officer and financial implications**

- 6.1 The Chief Finance Officer supports the proposed procurement for the varied reasons set out in this report, predominately value for money and ability under this contract for costs to flex quickly in response to changes in organisational manpower.
- 6.2 The Chief Finance Officer can confirm that on-going revenue budget of £322k has been identified within AD Corporate Programme Office & Chief Information Officer which can be used to fund the revenue costs associated with this procurement. Section 3.1 suggests an indicative maximum annual spend of £350k; the actual sum will depend on size of the workforce and the additional software rolled out but IT officers consider £350k as a maximum annual spend. Whilst only £322k budget has been identified to fund this procurement, the Chief Finance officer does not think it unrealistic for IT to be able to identify a further £28k pa across all their budgets should the final cost reach £350k and therefore this should not preclude approval of this contract.

## **7. Comments of the Assistant Director of Corporate Governance and legal implications**

- 7.1 This report is recommending the award of a contract, called a Microsoft Enterprise Subscription Agreement, to the provider in paragraph 3 of this report. As the value of the contract is above the EU threshold for goods and services (£172,514), it would normally be subject to EU tendering.
- 7.2 The report is recommending that the contract should be procured by way of a call off from a framework agreement set up by the Crown Commercial Services (CCS). The CCS is a central purchasing body ("CPB") as defined under the Public Contract Regulations 2006 ("PCR"). The PCR allows contracting authorities to buy goods or services through a CPB. Once the CPB's procurement arrangements are carried out





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in accordance with EU procedures, a purchase by the contracting authority through the CPB is considered to be consistent with EU procedures.

- 7.3 The CCS has set up the framework agreement through a tender under EU procedures. The award by the Council of a call off contract under this framework is therefore consistent with EU procedures.
- 7.4 Under Contract Standing Order (CSO) 7.01(b), where the Council procures goods or services by selecting a contractor from a framework set up by a public sector body in accordance with EU rules, CSOs do not apply except that the contract award must still be made in accordance with usual CSO award procedures.
- 7.5 As the value of the proposed Microsoft Enterprise Subscription Agreement exceeds £500,000, the award of this contract is a key decision and must be published in the Forward Plan, which has been done. The decision must also be made at Cabinet level under CSO 9.06.1(e) or, under CSO 16.02, the Leader or Cabinet Member may also take the decision in between Cabinet meetings.
- 7.6 There are no legal reasons preventing the Cabinet Member from approving the recommendation in paragraph 3 of this report.

## **8. Equalities and Community Cohesion Comments**

- 8.1 Approval of this report has no implications for equalities or community cohesion.

## **9. Head of Procurement Comments**

- 9.1 The economic situation of the Council requires staff to be vigilant and to respond to value for money. The unexpected announcement of Microsoft regarding licence cost inflation of approx. 47% will adversely affect the costs of IT in the Council unless the Council acts to secure unchanged Microsoft licence cost before June 30<sup>th</sup>.
- 9.2 The results of procurement options shown at paragraph 5.6 above demonstrate that accessing the Crown Commercial Services Technology Products Framework, RM1054 will ensure best value to the Council.
- 9.3 A competition under Crown Commercial Services Technology Products Framework RM 1054 has been performed so that a provider for the necessary licences can be appointed before June 30<sup>th</sup> and while the bridging arrangement with Microsoft (the Cloud Transformation Agreement), remains available.

## **10. Policy Implication**

- 10.1 Approval of this report has no direct impact on Council policy.



## **11. Reasons for Decision**

11.1 Microsoft products are a key component of the Council's IT service; entering an enterprise agreement enables the Council to leverage developments in software and new versions of software. The Government agreement is expiring and procuring the enterprise agreement now fixes the prices for the period of the contract and protects the Council from planned increases as outlined in paragraph 5 above.

## **12. Use of Appendices**

12.1 Not applicable.

## **13. Local Government (Access to Information) Act 1985**

13.1 This report contains exempt and non-exempt information. Exempt information is contained in Part B and is not for publication. The information is exempt under the following category (identified in the amended Schedule 12 A of the Local Government Act 1972):

- (3) Information relating to financial or business affairs of any particular person (including the authority holding that information).