

**Report for:** Cabinet – 16/03/2021

**Item number:** N/A

**Title:** **Microsoft Enterprise Contract - Award of Contract under CSO 3.01 b, for the Provision of Microsoft License Subscriptions**

**Report**

**authorised by:** Richard Grice Customer, Transformation and Resources

**Lead Officers:** **Paul Dooley & Matthew Middup**

**Ward(s) affected:** N/A

**Report for Key/**

**Non Key Decision:** Key Decision set out in the Council's Constitution

## **1. Describe the issue under consideration**

- 1.1. This report seeks Cabinet approval under CSO 3.01 b, which provides that contracts valued at £500,000.00 (five hundred thousand pounds) or more may only be awarded by the Cabinet. To award a contract for the provision of the Council's Microsoft (MS) license subscriptions, through a MS Enterprise Agreement, to a MS Licencing Solution Partner (LSP), for a 4-year term from 01/05/2021 to 30/04/2025.
- 1.2. There is currently a new Public Sector (PS), Memorandum of Understanding (MoU), being negotiated by Crown Commercial Services (CCS) and MS to provide discounted pricing on the range of MS products required by the council. To access these discounts, the council is required to contract with a MS Licencing Solution Partner.
- 1.3. Strategic Procurement has undertaken a compliant procurement to select a MS Licencing Solution Partner, using a further competition under the CCS Framework Agreement RM 6068, lot 3, which has 29 suppliers. The winning bidder is selected based on 20% quality scored, on service levels, and added value, and 80% price scored based on the supplier price uplift margins on the CCS MS Enterprise licencing discounted price.

## **2. Cabinet Member Introduction**

- 2.1. This report proposes for the Council to continue its use of Microsoft products and that these are purchased via the successful Microsoft reseller supplier as indicated in the report. This will mean we can maintain the familiar software that is the backbone of our IT infrastructure and is used by an overwhelming number of Authorities across the country and by 32 of 33 London Boroughs.

- 2.2.** There is a price increase associated with the award which is explained by the supplier as being associated with exchange fluctuations and a cost of living increase. The prices only change every three years and so reflect cost changes over that period. The prices we are paying are the lowest available in the public sector as we are entitled to the British Government deal on contract prices, as negotiated by Crown Commercial Services, with Microsoft. The increase costs of the contract are budgeted for within current budget limits of the relevant department.

### **3. Recommendations**

It is recommended that:

- 3.1.** Cabinet approves the contract award to the supplier identified within the exempt report (paragraph 1) for a MS Licensing Solution Partner, for the provision of MS license subscriptions, for Haringey Council and Homes for Haringey, for a term of 4-years from 01/05/2021 to 30/04/2025, at a contract value of up to £4,500,000.00.
- 3.2.** A further report be brought to Cabinet with a business case and funding for the approval of additional functionality licenses MS 365 E5 referred to in Paragraphs 6.13. to 6.15. of this report.

### **4. Reasons for decision**

- 4.1.** Haringey Council and Homes for Haringey's current MS Enterprise Agreement contract, for the provision of all MS software and technology subscriptions, expires on 30/04/2021, with no option to extend. Without a new contract in place, the council will no longer be able to use any of its MS subscriptions to deliver essential services within the borough.
- 4.2.** MS products and services affected should a new contract not be awarded.
- MS Servers, Active Directory, Windows 10 Laptops (including remote working), MS Office Applications, Office 365 (Outlook, One Note, Teams, Collaboration, SharePoint, Security), email on mobile phones, hosting of any application or database system
  - Build and security patch management
  - External services provided to the council
- 4.3.** MS software is in strategic alignment to the Council's Digital Roadmap and is a key enabler in delivering essential services to our citizens. Operating without a MS Enterprise Agreement in place would be unmanageable as the council requires active subscriptions to use all applications and services listed above, as well as ensuring all MS products are licensed in a compliant and legal way.

### **5. Alternative options considered**

- 5.1. No action** – Do not award a contract and allow the existing service to end (do not re-commission). Not an option as the council would no longer be able to deliver essential services to our citizens and be non-compliant in terms of software license agreements. Critical systems would be impacted as a direct consequence and we would be unsupported by MS and be unable to deliver security updates, leaving the council vulnerable.
- 5.2. Non-MS software** - The council has a major investment in MS technologies which align to the Council's Digital Roadmap, moving to another platform, e.g., Google or Open Source, would require major rework of not only IT systems, but also business operational processes, and would be a major disruptor for the council. Delivering a new operating platform would take more than a year and has significant risks associated with the implementation. While non-MS software is technically an option, typically the reality is that moving away from MS is not being adopted by other councils.
- 5.3. Tender for a new service without the new MoU discount** – The option to undertaking an open tender was rejected. This route offers no advantage over procurement via the CCS framework and would not allow us to access the new MoU discounts, therefore pay a higher cost per licence and extend the timeframe for the procurement process.
- 5.4. Purchase from a framework agreement with the new MoU discount** – This is the recommended route to market, completing a competitive procurement tender using the PS discount pricing for the new contract award.

## **6. Background information**

- 6.1.** Haringey Council's current contract, for the provision of MS license subscriptions will expire on the 30/04/2021. It is a 3-year contract with no option to extend and the current incumbent is Insight Direct UK Ltd.
- 6.2.** The current contract was procured under Shared Digital tri-borough agreement, with cabinet approving delegated authority, assigned to the joint Shared Digital board. The contract is from a CCS Framework Agreement which benefits from a MoU, referred to as the Digital Transformation Agreement (DTA), offering discounts between 10% and 45% to the PS on MS subscriptions. The proposed new contract, for the provision of the MS subscriptions, will be sovereign to Haringey Council and benefit from the new MoU PS discounts. There will be no disadvantage to the council procuring the agreement as a sovereign borough.
- 6.3.** CCS and MS are currently in negotiation to replace the existing MoU which is out of scope for this contract as it expires on the 30/04/2021. CCS are acting on behalf of central government, and all bodies across the PS, in negotiating the new MoU.

The negotiations align with the Government's 'Cloud First' policy and the Council's Digital Roadmap, and offer the greatest discounts available on cloud subscriptions for the PS. The new MoU is expected to be finalised in March 2021.

- 6.4.** Annual costs for the council's current MS Enterprise Subscriptions are shown below. Detailed figures showing approx. gross annual charge without the DTA discount, approx. current DTA discount amount applied each year and actual annual charge are included within the exempt report (Paragraph 2).

Current Microsoft Enterprise Subscription - Annual costs with DTA discount		
Year	Months	Annual Charge (with DTA Discount)
2017/18	10	£ 485,549.61
2019/20	12	£ 801,794.87
2020/21	12	£ 878,161.22

- 6.5.** The cost increase in the table over consecutive years is due to additional fundamental services and linked to the council's increasing digital workforce and adoption of those services. The significant increase from the first to second year is a result of the term length increasing from 10 months to 12 months and moving from unsupported perpetual licenses to a complete cloud subscription model.
- 6.6.** During the term of the proposed MS Enterprise Agreement, MS products and services can be added and adjusted, and each anniversary allows the reconciliation of subscriptions through the true-up or true-down process. Annual audits are completed to ensure cost efficiency and legal compliance.
- 6.7.** Subscription costs for MS products will increase on the new MoU, compared to the current DTA, this is down to currency alignment owing to the fall in value of sterling and price increases from MS on some of their products. These increases have resulted in a higher price point for subscriptions, so when the new MoU discount is applied, there is an overall cost increase.
- 6.8.** The new MS Enterprise agreement will enable the council to lock in subscription costs with the LSP using the new MoU discounts. Subscription costs are locked for the 4-year term, enabling the council to budget accurately for the duration of the contract.
- 6.9.** The value of the new contract is expected to increase to approximately £1.1M per year to meets current subscription usage and includes a £100K tolerance allowing for future demand and changing business requirements. Price modelling for the annual figure is based on the discounts MS have provided which are detailed in the exempt report (Paragraph 3).

- 6.10.** Costs for the new MS Enterprise contract have been estimated and are based on the council's current subscription usage, figures are included within the exempt report (Paragraph 4). The table shows; year, approx. gross annual charge without the MS discount, approx. MS discount, 100K tolerance, approx. annual subscription charge with MS discount applied for all subscriptions currently used within the council.
- 6.11.** The new MoU is yet to be announced so approximate costs are based on discounts MS have provided to the Council which are the minimum expected through the new MoU. MS have agreed to honour the discounts should they offer greater cost savings compared to the new MoU which is expected to be announced in March 2021. The MS discounts are detailed within the exempt report (paragraph 3).
- 6.12.** There is an increase in subscription costs compared to the current Enterprise Agreement and funding has been identified within existing Digital Services budgets up to approx. £1.15M to cover the estimated annual subscription charges and future demand. The contract value over the 4-year term is approx. £4.5M. Budget funding for the future demand annual tolerance, of approx. £100K, will be identified on a case-by-case basis and may not derive from Digital Services funds. Additional adoption of subscriptions and technologies will be driven by changing business requirements that require a business case for evaluation and sign off at director level. If additional services are implemented the reconciliation of existing contracts is applied wherever possible.
- 6.13.** The discounts MS have provided offer the opportunity to enhance our current subscriptions to include increased functionality for security, compliance, voice and analytics. The subscriptions offering additional functionality are a suite of licenses referred to as MS 365 E5. While there is a cost increase associated with the adoption of MS 365 E5, the additional functionality provided will enable the retirement of existing contracts, so any additional uplift in cost is expected to be met from savings achieved by reconciling existing contracts to the MS Enterprise model.
- 6.14.** The adoption of MS 365 E5 will require a comprehensive business case for evaluation, with budgets being identified through cost savings to meet increased charges and sign off by Cabinet. If adopted it will be an ongoing strategy that will take several years to implement, with the uptake of MS 365 E5 subscriptions aligned to the retirement of existing systems and contracts.
- 6.15.** The discounts for MS 365 E5 decrease over the contract term so funding will align to the discount structure. If adopted, the move to MS 365 E5 will not start until the 1<sup>st</sup> year anniversary of the new MS Enterprise agreement. Additional costs for MS 365 E5 are estimated to be up to approx. £1.1M over the contract term, increasing the total MS Enterprise contract value up to approx. £5.6M. A table showing the cost breakdown for each year is included within the exempt report (Paragraph 5). The table shows; year, approx. annual subscription charge with

the MS discount applied, 100K tolerance, approx. annual charge for subscriptions and tolerance.

**6.16.** There is concern over the extremely challenging timeframes associated with this award and the following key milestones should be noted.

- MoU yet to be published, expected March 2021
- The current MS Enterprise Subscription Agreement does not allow for an extension to the contract past 30/04/2021
- MS require 30 days to transition the council's current Enterprise Agreement to the new supplier. The deadline for the council to confirm with MS the new contract award, to ensure transition of the MS Enterprise Agreement, is the 01/04/2021
- Fixed date of 01/05/2021 to commence new MS Enterprise Agreement
- Critical impact to the council's IT systems should the 01/05/2021 deadline not be met. MS have confirmed there is no option to extend the current contract.
- Pre-election purdah, no Cabinet meetings from April to June

**6.17.** There are no identified negative equality implications. This is a renewal of an estate of existing software subscriptions.

## **7. Contribution to strategic outcomes**

**7.1.** The MS technologies used within the council are vital in the fulfilment of the borough plan and align to each of the priorities. The platform which MS subscriptions provide is fundamental in the successful delivery of critical services and outcomes for our residents and is an essential part of realising the digital roadmap for the council.

## **8. Statutory Officers comments**

### **Finance**

**8.1.** The costs of the new MS Enterprise Agreement have not been finalised due to ongoing discount negotiations between Microsoft and the Crown Commercial Service. The annual figures set out in the tables above have been modelled based on a minimum discount commitment from Microsoft (detailed in the Exempt Report) and therefore represent a worst-case scenario.

**8.2.** The estimated cost of the new MS Enterprise Subscription Agreement (i.e., without transitioning to the MS 365 E5) based on current subscription levels is £1.015m pa which represents an increase of £0.137m on the current cost. The service has estimated a further £0.1m may be required for increased demand



from subscription growth within services and/or new technologies giving a total cost of £1.115m pa (c.£4.5m over the period of the contract award). A review of the 2021/22 Digital Service budget has identified sufficient headroom from previously realised contract savings to meet this higher cost although it is expected the increase in demand will be largely mitigated by specific service funding for new user growth supported by business case and savings from retiring existing technologies where applicable.

- 8.3.** Funding for a move to MS 365 E5 has not been identified within the 2021-2026 Medium Term Financial Strategy (approved by Full Council on 1<sup>st</sup> March 2021). As set out above the decision to move to MS 365 E5 will require a comprehensive business case including details of realisable cost savings from retiring existing technologies that are being replaced by E5 licenses. The full financial implications will be addressed in the decision report presented to Cabinet at that time.

#### **Strategic Procurement**

- 8.4.** CSO 9.07.1d) permits that contracts with a value at £500,000 or more may be awarded by the Cabinet. CSO 9.01.2 f) permits that a contract may be awarded based on a framework agreement. The further competition was conducted under the rules of the CCS framework and the winning bidder selected in accordance with the framework rules
- 8.5.** Strategic Procurement support the contract award as it provides the best value for money.

#### **Legal**

- 8.6.** The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.
- 8.7.** The services described in this report are above the threshold where the tendering requirements set out in the Public Contracts Regulations 2015 (PCR 2015) apply. Legal Services has been advised that the Council has procured for the MS Licensing Solutions Partner via a Framework Agreement. Framework Agreements are an approved method of procurement under the PCR 2015 (see Reg 33).
- 8.8.** The award of this contract is a Key Decision as it involves expenditure of more than £500,000. The Council must therefore comply with its governance requirements in respect of Key Decisions including publication in the Forward Plan (see CSO 3.01 (d)).
- 8.9.** The Cabinet has power to approve the award under CSO 3.01 (b) (award of contracts over £500,000).
- 8.10.** The Head of Legal and Governance (Monitoring Officer) notes the recommendation in Paragraph 3.2 that a further report may be brought to Cabinet once a business case has been made and funding identified for additional functionality licences.
- 8.11.** The Head of Legal and Governance (Monitoring Officer) confirms that there are no legal reasons preventing Members approving the recommendations in this report.

## **Equality**

- 8.12.** The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
  - Advance equality of opportunity between people who share protected characteristics and people who do not
  - Foster good relations between people who share those characteristics and people who do not.
- 8.13.** The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. The first part of the duty applies to marriage and civil partnership status only.
- 8.14.** The proposed decision is to approve an award of contract with Microsoft Enterprise Subscription Agreement. This will affect all Haringey residents, with those who are particularly reliant on the council for essential services particularly impacted, amongst whom there are a disproportionate number of people with protected characteristics.
- 8.15.** The objective of the proposed decision is to ensure continuity of digital service and support the Council's Digital Roadmap. This proposal will enable the council to continue to deliver essential services for all residents. Without this continuity, it is likely that those with protected characteristics or on low incomes would be particularly negatively impacted by the subsequent disruption to council operations. This proposal will also enable the council to continue its digital uplift, which is essential for the delivery of the Borough Plan, in which reducing inequality amongst residents is a central objective. As such, this proposal stands to positively impact those with protected characteristics.
- 8.16.** As an organisation carrying out a public function on behalf of a public body, Microsoft will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements will be established to ensure that the delivery of the service does not result in any preventable or disproportionate inequality.

**9. Use of Appendices / background documents N/A**

**10. Local Government (Access to Information) Act 1985 N/A**

- This report contains exempt and non-exempt information. The exempt information is not publication as it contains information classified as exempt under the following categories (identified in the amended Schedule 12A of the Local Government Act 1972):  
  
(3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).