

Report for: Cabinet Member for Finance and Local Investment

Item number: N/A

Title: Microsoft Server and Cloud Enrolment - Award of Contract to Bytes Software Services Ltd for the supply of Microsoft Server Licence Subscriptions.

Report authorised by: Jess Crowe, Director of Culture, Strategy & Engagement

Lead Officer: Glenn Mason, Head of Technology, Digital Services

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.

- 1.2 Award of contract under Contract Standing Order (CSO) 3.01(b) which states that contracts valued at £500,000.00 (five hundred thousand pounds) or more must be awarded by the Cabinet or delegated Lead Member.

- 1.3 To direct award a new contract for the supply of the Council's Microsoft (MS) cloud server licence subscriptions, under Crown Commercial Services Framework RM6098, Lot 3, through a new MS Server and Cloud Enrolment (SCE) agreement. The new SCE will be awarded to Bytes Software Solution Ltd (Bytes), an MS Licencing Solution Partner (LSP) and is eligible for the new Memorandum of Understanding (MoU) pricing structure and discounts.

- 1.4 There is currently a new Public Sector (PS) MoU, referred to as Digital Transformation Agreement 2024 (DTA24), being negotiated by Crown Commercial Services (CCS) and MS. DTA24 provides baseline pricing and significant discounts on the range of MS cloud server subscriptions required by the Council. The MoU DTA24 pricing and discounts are available through established procurement frameworks and by contracting with a MS LSP.

2. Cabinet Member introduction

N/A

3. Recommendations

- 3.1 It is recommended that the Cabinet Member approves this decision, pursuant to CSO 7.01.(b) and CSO16.02.
- 3.2 A new contract is awarded for the supply of the Council's MS cloud server licence subscriptions to **MS LSP Bytes Software Solution Ltd**, through a new MS SCE agreement and Memorandum of Understanding (MoU) over a 3-year term, commencing 1st May 2024 and until 30th April 2027.
- 3.3 A contract value of up to £720,000.00, over the 3-year term.

4. Reasons for decision

- 4.1 The London Borough of Haringey's current MS SCE agreement, for the provision of MS cloud server licence subscriptions, expires on 30th April 2024, with no option to extend. A new contract is required for the supply of MS cloud server licence subscriptions to support the continuation of digital operations within the Council.
- 4.2 If the Council does not take any action before the SCE expires, Microsoft (MS) have confirmed server licencing will be impacted as detailed below:
 - Licences will no longer be supported via an active SCE agreement.
 - Unlicensed products will not receive updates, security patches nor support.
 - The Council will be in breach of MS Licence 'Product Terms'.
 - Licences will cease to operate after approximately 30 days from the expiry date of the SCE and approximately 259 physical & virtual IT servers may cease to function effectively,
- 4.3 The MS licence subscriptions supplied through the MS SCE agreement support a total of approximately 259 physical and virtual servers. The servers enable the council to deliver critical services.
- 4.4 MS software is in strategic alignment to the Council's Digital Roadmap and is a key enabler in delivering essential services to residents.

Operating without a MS SCE in place would be unmanageable as the council requires active subscriptions to use all applications and services, as well as ensuring all MS server products are licenced in a compliant and legal way.

5. Alternative options considered.

- 5.1 **Take No Action** – Do not award a contract and allow the existing service to end (do not re-commission). Not an option as the cloud subscription licences would cease and the Council would no longer be able to deliver essential services to our residents and become non-compliant in terms of software licence agreements. Critical systems would be impacted as a direct consequence and we would be unsupported by MS with cessation of regular security updates, leaving the council vulnerable to attempted cyber-crime.
- 5.2 **Tender for a New Service Through a Further Competition** - The Council's cloud server licence subscription requirement is not a bespoke solution. Direct award offers a quick and compliant route to market which incorporates DTA24 pricing and discounts, demonstrating optimal value for money if compared to the general marketplace.
- 5.3 **Add Server Licence Requirement to MS Enterprise Subscription Agreement (ESA) contract** – The Council is able to call-off from the current ESA contract for the supply of server licences but this approach is not commercially viable. Costs for the server licence subscriptions required by the Council are approximately £50,000.00 more per annum on the ESA compared to a new SCE agreement, and server licence benefits will be lost if we move from SCE to the ESA.
- 5.4 **Use of 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 over a year and has significant risks associated with the implementation. While non-MS software is technically an option, the reality is that moving away from MS is not being adopted by other councils.
- 5.5 **Tender for a new service without the new MoU discount** – The option to undertake 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, resulting in a higher cost per licence and extending the timeframe of the procurement.

6. **Background information**

- 6.1 In 2021, a Further Competition tender process under CCS Framework Agreement RM6068 Lot 3 (incorporating 29 potential bidders under a '20% quality vs. 80% price' weighting evaluation) was completed.
- 6.2 The outcome from this successful tender process was a 3-year contract awarded to **MS LSP Bytes Software Solutions Ltd** for both MS SCE and MS ESA services (i.e. the provision & support of council Microsoft Server Licence estate). As previously mentioned, the MS SCE aspect of this contract expires on the 30th April 2024, with no option to extend.
- 6.3 Both the MS SCE and ESA aspects of the contract benefit from a current MoU (referred to as DTA21, between CCS and Microsoft), offering a baseline of MS pricing and discounts for Public Sector (PS) organisations. Discounts are fixed and represent savings of between 10% and 45%. These are the highest discount rates available to the council anywhere in the marketplace.
- 6.4 The DTA21 MoU was due to expire on 30th April 2024 with plans to replace it on 1st May 2024 with a further MoU, namely DTA24 - thus ensuring continuation of guaranteed future discounts. The migration to this refreshed MoU has now been delayed, therefore DTA21 has been extended until October 2024 whilst this issue is resolved. Once the new MoU is established, the council will become eligible for applicable discounts, although overall costs are expected to increase on this transition from DTA21 to DTA24.
- 6.4 In 2023, Cabinet approved an extension to the MS ESA tranche of the contract to 30th April 2026. This enabled transition to the Microsoft 365-E5 platform. Significantly, Microsoft did not allow an inclusive extension of the SCE aspect of this agreement within this extension, which has resulted in the MS ESA and SCE having different contract end dates.
- 6.5 The proposed new MS SCE agreement detailed herein will enable the Council to lock in subscription costs with the MS LSP using the new MoU baseline pricing and discounts. Subscription costs are locked for the 3-

year term, enabling the Council to budget accurately for the duration of the contract.

- 6.6 During the SCE term, the Council is also permitted to add MS cloud server licence subscriptions, with each anniversary allowing for the reconciliation of subscriptions through a ‘true-up or true-down’ process. Independent annual audits are also completed to ensure cost efficiency and legal compliance.
- 6.7 Historical annual costs for the Council’s current MS SCE estate are shown in the table below:

Current Microsoft SCE Annual Costs with DTA21 discount		
Year	Months	Annual Licence Subscription Charge (includes DTA21 Discount)
2021/22	12	£ 181,409.81
2022/23	12	£ 183,957.52
2023/24	12	£ 184,586.70

- 6.8 The Council has several other contracts for the supply of MS products and services. Please see Section 1 of the Exempt Report, which details each contract and how they align to support Council operations.
- 6.9 As previously described, Subscription costs for MS cloud server licences will increase under revised DTA24 terms if compared to DTA21. This is mainly due to currency alignment and annual price increases across the MS product range. This expected cost increase will affect all Public Sector organisations and therefore unavoidable from this council’s perspective.
- 6.10 Costs for the new MS SCE agreement are shown in the table below. The ‘Annual Licence Subscription Charge’ value is based on the Council’s current core licence subscriptions, with DTA24 discounts applied and includes the supplier subscription markup and expected inflationary rises. The table also includes ‘Growth’ costs, which account for additional licence subscription purchases during the contract term to allow the council to deliver new services that can be identified based on demand and change.

Annual Costs of New SCE Agreement with DTA24 Discount and Growth.				
Year	Months	Annual Licence Subscription Charge (includes DTA24 Discount)	Growth	Total

2024/25	12	£	214,120.57	£	25,879.43	£ 240,000.00
2025/26	12	£	214,120.57	£	25,879.43	£ 240,000.00
2026/27	12	£	214,120.57	£	25,879.43	£ 240,000.00
2024/27	36	£	642,361.71	£	77,638.29	£ 720,000.00

NB : Please see Exempt Report, 'Section 2, Figure 2', detailing price, supplier uplift & margins.

6.11 The total value of the new SCE contract is up to £720,000.00. The 'Annual Licence Subscription Charge' of £642,361.71, over the 3-year term, represents the current core licence agreement which is funded from within the existing Digital Services budget. A total of £77,638.29 is to provide growth over the 3-year term and is unfunded. The Council will ensure the Service requiring the additional licence subscriptions follow a process defined by Digital Services to certify funding is available to meet the additional costs, which will require approval from appropriate Business Management and the requesting Head of Service.

6.12 CCS framework Technology Products and Associated Services 2, RM6098, Lot 3 Software, permits the Council to direct award. Bytes Software Solution Ltd is a registered supplier on Lot 3. The decision to direct award is based on several considerations.

- **Bytes Software Solutions Ltd** have been the successful incumbent provider for the Council's MS ESA estate for the past three years and have ensured the most competitive marketplace rates have been made available to the council.
- They provide additional support across our MS licence subscriptions, have aided the adoption of MS products and have an understanding of the Council's digital roadmap.
- Having both an ESA and SCE agreement with a single supplier will ensure greater cohesion, intelligence and integration across our MS licence estate. This will add value when implementing future MS technologies and will support effective troubleshooting and resolution of MS related issues.

6.13 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 residents and is an essential part of realising the digital roadmap and the Council's Corporate Delivery Plan.

8. Carbon and Climate Change

- 8.1 Microsoft has a commitment to becoming carbon negative by 2030, achieving zero waste production and positive water usage, and offsetting all greenhouse gas emissions produced since our founding by 2050.
- 8.2 The MS cloud server subscriptions support the adoption of a virtualised server estate, over physical devices, which will aid the Council's commitment to be a Net Zero Carbon Borough by 2041. By adopting a virtualized estate the Council will reduce the need for physical equipment, energy demand and emissions.
- 8.3 The Council has a contract with a third party which recycles all servers that are end of life. The third party's recycling facility is fully accredited by the Environment Agency and has been awarded a Distinction from ADISA as well as industry-leading certifications from Cyber Essentials, ISO 27001 and DIPCOG.

9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

9.1 Finance

The cost of this £720,000 three-year contract award for the supply of Microsoft Cloud Server Licence subscriptions comprises £642,362 for the core licence agreement which covers the existing number of server licences, and a further £77,638 to allow for potential growth in the number of licences required during the contract term as technology requirements change.

The core agreement which incorporates a £29,534 price uplift from the 2023/24 cost will be funded from the Digital & Change revenue contracts budget which was given additional growth in the 24/25-28/29 MTFS to meet this additional cost. The £77,638 built into the contract value for potential server licence growth is currently unfunded and therefore requests from Services for additional licences will require the identification of an appropriate funding source and confirmation and approval from the Head of Technology before this expenditure can proceed.

9.2 Strategic Procurement

Strategic Procurement were consulted in the preparation of this report. CSO 7.01b) permits the selection of a contractor from a public sector framework in accordance with the rules of that framework.

Selecting the CCS framework RM6098, lot 3, allows the Council under option 2 of 'How to Buy' to make a direct award through a single supplier. The single supplier was selected based upon previous procurement activity under RM6068 which determined that the supplier recommended in section 3 of this report, would provide the best value for money. to take advantage of the new Public Sector (PS) MoU, referred to as Digital Transformation Agreement 2024 (DTA24), being negotiated by Crown Commercial Services (CCS) and Microsoft.

Strategic Procurement supports the recommendations in section 3 of this report.

9.3 Legal

The Assistant Director of Legal and Governance has been consulted on this Report and sees no legal reasons preventing the cabinet member from proceeding to approve the recommendations in this Report.

Haringey Council is eligible to use this CCS RM6098 (framework agreement).

The framework agreement allows LBH to award a contract directly to a service provider LBH has verified can meet its service requirements.

The Assistant Director for Legal and Governance sees no legal reason preventing the Cabinet Member for Finance and Local Investment from approving the recommendations in this report.

9.4 Equality

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.

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. Marriage and civil partnership status applies to the first part of the duty.

Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

In developing this programme due regard has been given to ensuring that the offices will be welcoming environments for all our staff and visitors, whether they have protected characteristics or not. Providing staff opportunities to work collaboratively with their colleagues regardless of whether they have protected characteristics enables the diversity of our workforce to be a source of ongoing strength, and to better reflect the population we serve.

There are specific issues for people with disabilities or health conditions, with regards to their working environment and provision of furniture and the ability to easily use or adjust the furniture. The programme team has been engaging on an ongoing basis with the workforce, the trades unions and staff networks - LGBTQ+ Network, Women's Network, Young Employees Network, Parents and Carers Network, EMBRACE Network, Disability and Illness Network and Social Mobility Network - to ensure we understand staff concerns and take into consideration the furniture needs of staff with disabilities or health conditions. Flexible working is also likely to benefit people with disability requirements. The

proposals within this report take account of these needs and the associate statutory duties and good practice guideline.

10 Use of Appendices / background documents

- i. Exempt Report – (Part B) Microsoft Server and Cloud Enrolment - Award of Contract - Bytes Software Services Ltd for the supply of Microsoft Server Licence Subscriptions**

11 Local Government (Access to Information) Act 1985 N/A

