

**Forward Plan reference number:** FP/148/06/23

**Report title: Award of Contracts for the Provision of Microsoft Volume Licensing Agreements**

**Report to:** Cabinet

**Report Author:** Councillor Christopher Whitbread, the Chancellor of Essex and Cabinet Member with responsibility for Finance

**Date:** 10 October 2023

**For:** Decision

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**County Divisions affected:** All Essex

**Confidential Appendix**

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

**1. Everyone's Essex**

- 1.1 Whenever someone comes into contact with Essex County Council (ECC), whether to raise an issue, seek information, or, as is often the case, because they or a loved one need our help, it is essential that we are able to respond as efficiently and effectively as possible.
- 1.2 To enable that effective response, it is essential that ECC employees are equipped with a modern, high-quality IT system: designed to ensure that those who work out in communities can share information, ideas and advice instantaneously with colleagues miles away; that our workers, from Colchester to Brentwood, Saffron Walden to Rochford, can work closely and seamlessly with colleagues round the county without always having to travel long distances; sharing information and ideas in seconds, developing better services, finding innovative solutions, and ensuring value for money in today's demanding, fast-moving world.
- 1.3 The modern Microsoft 365 toolset is a system which does just that. It runs from a cloud-hosted platform, meaning no more large air conditioned IT rooms taking up office space and using electricity. It enables employees and partners to work together on projects without the constraint of being in the same physical location; seamlessly sharing ideas, communicating and collaborating in real-time, enabling them to be more productive, work remotely, save energy and reduce our carbon footprint.
- 1.4 To use this suite of products across the council, we need to have a licence, and this is acquired via a licensing solution provider, or LSP. The purpose of this paper is to award a contract to Phoenix Software to provide that licence.

- 1.5 By enabling better, more efficient, localised working, this decision helps improve the performance of ECC across the full spectrum of aims within Everyone's Essex, most notably our net-zero ambitions. Crucially it delivers better value for money for Essex residents with more efficient service delivery.

## **2. Recommendations**

- 2.1 Agree to award a call-off contract to Phoenix Software, with an estimated value of £11.083m (based on current usage), under the Crown Commercial Services (CCS) Technology Products and Associated Services Framework Agreement (RM6068) Lot 3: Software and Associated Services for the Provision of Microsoft Volume Licensing agreements to cover our current and future Microsoft estate for a period of three years, commencing on 1 January 2024 following the group purchasing arrangement run by CCS.
- 2.2 Agree to include the award of Unified Support Services from Microsoft in the contract at a total cost of £279,310 with Phoenix Software for a period of 12 months, commencing on 1 January 2024.

## **3 Background and Proposal**

- 3.1 Microsoft 365 offers a productivity suite that is cloud-based which can be accessed from anywhere, on any device with an internet connection. All the essential applications such as Word, Excel and Outlook are included and can be accessed online without the need to install any software. Upgrades are performed automatically at predetermined intervals as part of the annual licence fees. If these applications were not available, ECC's business operation would be more manual and labour intensive.
- 3.2 Microsoft volume licensing is predominantly sold via a Licensing Solution Provider ('LSP'). LSPs are service providers who are authorised to license eligible Microsoft products. ECC has previously entered into a number of subscription agreements for Microsoft Products with an LSP, Phoenix Software, as detailed below.
- 3.3 ECC currently have the following contracts in place with Phoenix Software:
  - 3.3.1 An Enterprise Agreement (being a volume licensing agreement) for Microsoft 365 subscriptions. This is the licence assigned to the majority of ECC Officers and Members network login accounts to provide access to a suite of products including:
    - Office 365, the traditional Microsoft applications, such as Word, Excel and PowerPoint;
    - Collaboration tools, such as Teams, SharePoint and Yammer;
    - Day to day tools for business administration and productivity, such as Planner, To Do, and Power BI;

- Security and compliance software to help protect ECC's data, devices and cloud infrastructure; and
  - Azure cloud consumption spend.
- 3.3.2A Master Products and Services Agreement (MPSA) for a similar suite of products as above but for employees who meet the eligibility criteria for academic licensing, which is provided at a lower cost per licence;
- 3.3.3A Schools Agreement for the subscription of Windows and Office Pro licensing for public desktop devices in Essex Libraries and Youth Centres;
- 3.3.4A Cloud Solution Programme (CSP) Agreement for the subscription of Microsoft 365 academic licenses for all ACL tutors which also enable ACL to licence up to 20,000 students at no additional cost.
- 3.4 In addition to the above contracts, ECC have entered into a separate contract directly with Microsoft for Unified Support Services. This contract expires on 31 December 2023. The Unified Support Services Contract is a technical support contract for Microsoft Cloud platforms used by ECC's Technology Service to help get the best value and technical support from our Microsoft Technology.
- 3.5 Unified Support is a modern support solution offering reactive and proactive support services designed to match business needs by covering the Microsoft Cloud platforms in a single, comprehensive support contract to gain the most value from investment in Microsoft technology. It includes:
- 3.5.1 Technical support at all times (24/7) – this provides access to Microsoft Specialist engineers for both on-premises and Cloud technologies with allocated incident managers handling escalations and supported by a named Customer Success Account Manager;
  - 3.5.2 IT health – this provides unlimited access to 30+ on-demand assessments and operational surveys;
  - 3.5.3 Account Management – designated Customer Success Account Manager;
  - 3.5.4 Advisory support – unlimited advisory phone support;
  - 3.5.5 Technical training – this provides access to on-demand learning videos, hands-on labs, learning paths and expert-led webcasts; and
  - 3.5.6 Proactive services – 20% of the contract value is provided as a flex allowance, equivalent to the value of £55k, which can be utilised for expert-led, solution-specific engagements designed to help its customers onboard and optimize their key solutions with services for well-architected, server migration, security, Teams, Power Apps, Analytics, etc.
- 3.6 If new agreements are not put in place, ECC would need to cease using the Microsoft products and services and would need to find alternatives to replace those no longer available.
- 3.7 These contracts underpin ECC's ambition to have technology infrastructure delivering faster, more flexible and highly available applications and where possible, to make the technology available at any time and from anywhere. This ambition supports ECC's "Cloud Services first" technology strategy which means

the solutions employees all depend on to carry out their job roles will be stable, always available and will offer an overall consistent experience to the end user.

3.8 The current Microsoft Agreements are due to expire within the next 12 months:

<b>Agreement</b>	<b>Expiry Date</b>
Enterprise Agreement	31/12/2023
Unified Support Services Contract	31/12/2023
Master Products and Services Agreement (MPSA)	31/01/2024
Schools Agreement	31/03/2024
Cloud Solution Programme (CSP) Agreement	30/06/2024

3.9 In March 2023, it was agreed that ECC would participate in a collective buying procurement conducted by CCS rather than run its own procurement process to bring these agreements together and ensure we are appropriately licenced when the existing contracts expire.

3.10 CCS uses collective buying, otherwise known as aggregation, to bring together customers with similar needs to attract savings and favourable terms through their increased buying power. Aggregated procurements save time and money for contracting authorities because CCS runs the procurement, so there is very little administration for buyers to deal with. As this process did not commit ECC to award a contract at the end of the process, it was agreed that ECC could join the aggregation tender process with six other buyers and would report back to Cabinet following the outcome of the process.

3.11 The Invitation to Tender was issued on 4 April 2023 to all 27 suppliers on Lot 3: Software and Associated Services of the CCS Technology Products and Associated Services framework agreement (RM6068) with a tender deadline of 27 April 2023. The evaluation criteria used was 90% price and 10% social value. The quality evaluation was pass/fail.

3.12 On 28 April 2023, ECC were notified by CCS that they had received 3 bids and would let us know the outcome of the evaluation on 18 May 2023. On the 18 May 2023, ECC were notified by CCS that the winning supplier was Phoenix Software.

3.13 The three suppliers were evaluated based on the estimated licence numbers required at the point of launching the procurement. The number of licences required by ECC varies over time but the price per licence will be fixed at the point of contract award. ECC paid £3.810m for Microsoft licences for 2023. Phoenix Software Limited have been able to substantially reduce this cost by offering a competitive mark up, in some cases applying a negative markup, which

has led to an anticipated new cost of £3.694m per annum, representing an expected saving of £116,000 per annum against the previous contract price. Further details are set out in section 6 below.

3.14 Following the outcome of this procurement process, ECC recommend the award of the following contracts to Phoenix Software for a period of 3 years for the following services and solutions:

- An Enterprise Agreement for Microsoft 365 subscriptions
- A Server and Cloud Enrolment Agreement for Azure cloud consumption spend;
- A Master Products and Services Agreement (MPSA) for Microsoft 365 subscriptions for those employees who meet the eligibility criteria for academic licensing.
- A Schools Agreement for the subscription Windows and Office Pro licensing of desktop devices in Youth Centres;
- An Enterprise Subscription Agreement – Not For Profit for Libraries Agreement for Microsoft 365 subscriptions for Essex library employees and Windows and Office Pro licensing of desktop services in Essex Libraries; and
- A Cloud Solution Programme (CSP) Agreement for the subscription of Microsoft 365 academic licenses for all ACL tutors which in turn enable ACL to licence up to 20,000 students at no additional cost.

3.15 In addition to these services, ECC recommend the award of Unified Support Services with Microsoft to via Phoenix Software for a period of 1 year. Unified Support Services are calculated as a percentage of ECC’s overall product spend with Microsoft. ECC paid £223,726 for Unified Support Services directly through Microsoft for 2023. The ability to include Unified Support Services within the new Contract attracts a 1% markup by Phoenix Software. The cost for 1 year is £279,310 inclusive of the markup from Phoenix Software. The increase in cost is attributed to an increase in ECC’s overall product spend with Microsoft, in the main as a result of the Cloud Programme which moved data from ECC’s premises to the Azure Cloud Platform.

#### 4 Links to our Strategic Ambitions

4.1 The deployment of Microsoft 365 is a key enabler in collaborative working and alignment to maximise the value with our employees, partners and communities and supports the 20 commitments outlined in Everyone’s Essex.

ECCs Strategic objective – Everyone’s Essex	Outcome
Economy	<ul style="list-style-type: none"> <li>• By leveraging the capabilities of Microsoft 365, ECC can enhance business operations, resulting in better support for the local economy's growth. The software offers powerful tools for collaboration, communication, and project</li> </ul>

	<p>management, enabling teams to work more efficiently and effectively. Its cloud-based platform also gives council employees the flexibility to work from anywhere, driving productivity and saving time. Ultimately, Microsoft 365 can help streamline processes, reduce costs, and increase capacity to deliver essential services to the community.</p> <ul style="list-style-type: none"> <li>• Supports flexible and modern working practices and contributes to the attraction of high calibre recruits into our organisation who value work life balance.</li> <li>• Cloud services and infrastructure will provide resiliency and high availability to our critical applications and services, allowing us to respond to situations quickly and effectively, all while driving better outcomes.</li> <li>• This comprehensive tool set will help shape and deliver many of the organisation strategic aims as well as being a modern digital organisation.</li> <li>• Microsoft Teams' collaboration feature enables seamless collaboration with partners outside of ECC, resulting in more efficient operations. This allows teams to work together without being in the same physical location, making it easier to share files and have discussions. With Teams, partners can communicate easily as the platform supports messaging, audio and video calls, and screen sharing.</li> <li>• Supports a productive workforce allowing the automation of straight forward tasks, releasing time to focus on higher value tasks, and streamlining of processes.</li> </ul>
<p><b>Environment</b></p>	<ul style="list-style-type: none"> <li>• Digital by default will help improve Carbon emissions releasing the need for printing.</li> <li>• Cloud tools aid in maximising the continuous effectiveness of applications while protecting the environment and promoting sustainable development. These tools enable businesses to reduce their carbon footprint by reducing the need for hardware and lowering energy consumption. Additionally, they provide scalability, automation, and real-time monitoring, allowing applications to run efficiently.</li> <li>• Collaborative tools such as Microsoft 365 are beneficial for workers as they offer accessible data, networks, and applications. These tools provide ease in working together on projects and tasks without the constraint of being in the same physical location. Workers can seamlessly share</li> </ul>

	<p>ideas, communicate, and collaborate on documents in a real-time environment. Enabling people to work remotely reduces carbon footprint of workers needing to travel to a work office.</p> <ul style="list-style-type: none"> <li>• Cloud datacentres can reduce energy consumption due to their efficient virtualisation ratios and the use of newer and more efficient equipment compared to on-premise setups. This allows for more efficient use of resources and can contribute to lower carbon emissions.</li> </ul>
<b>Health</b>	<ul style="list-style-type: none"> <li>• Microsoft 365 Dynamics is a key example of working collaboratively to setup Test and Trace to support the people of Essex during covid, working with public health England, Southend Borough Council and other local authorities and other organisations.</li> </ul>
<b>Family</b>	<ul style="list-style-type: none"> <li>• Utilise modern technology and digital trends to increase engagement within education settings, to help children’s learning through innovative use of new technology and social media platforms.</li> <li>• Using the tools to work collaboratively across the council allows all colleagues to drive better outcomes and taking collective action towards common goals.</li> </ul>

## 5 Options

### 5.1 Option 1 – Do nothing.

If an Agreement is not put in place for Microsoft Licences, ECC will need to cease using the Microsoft products and services and find alternative solutions. This would cause significant disruption across ECC and is considered a very high-risk option. It is not recommended.

### 5.2 Option 2 – Award contracts to Phoenix Software for the Provision of the Microsoft Licensing Services and Solutions set out in this report – recommended option

This will ensure that ECC are correctly licensed for the use of the Microsoft products under the Microsoft Terms and Conditions at the most competitive price with an appropriate support package. The advantages of this approach are:

- combined buying power to get the best prices
- simple tender procedure using standard processes and documents that comply with public procurement regulations
- CCS managed the process free of charge
- reduced bidder costs

Option 2 is the recommended option.

### **5.3 Option 3 – Run our own mini-competition using the CCS Framework**

This option would ensure that ECC are correctly licensed for the use of the Microsoft products under the Microsoft Terms and Conditions however it is unlikely to achieve the most competitive price as ECC would not benefit from the aggregated spend from the seven other organisations who also took part in the CCS central aggregation procurement.

## **6 Issues for consideration**

### **6.1 Financial implications**

6.1.1 This report seeks approval to award a contract to Phoenix Software under the CCS Technology Products and Associated Services framework agreement for the Provision of Microsoft Volume Licensing agreements. The contract period covers the current and future Microsoft estate for a period of 3 years, commencing on 1 January 2024.

6.1.2 The report also includes a recommendation to award Unified Support Services to Microsoft as part of the call-off contract with Phoenix Software for a period of 12 months, commencing on 1 January 2024.

#### **Provision of Microsoft Volume Licensing agreements contract**

6.1.3 The full gross value of the Provision of Microsoft Volume Licensing agreements decision over the 3-year contract period is estimated to be £11.083m, which equates to an annual contract value of £3.694m. A number of licenses are charged externally to Essex Cares Ltd (ECL) and Adult Community Learning (ACL); therefore, the net cost of the contract to Essex County Council (ECC) is **£3.563m** annually.

6.1.4 The annual gross value of the contract (£3.694m) represents a saving against the previous contract value (£3.810m) of £116,000. The confidential Appendix A contains pricing and volume details of each license type as well as the driver for change (volume or price).

6.1.5 The unit price for the majority of licenses is fixed over the 3-year contract (two types of licenses increase in price on the anniversary), however, user numbers may fluctuate as a result of organisational and service requirement need or changes to staffing levels due to post pandemic shift to more flexible /part-time working patterns. The final costs incurred per year are therefore subject to change. License numbers are reviewed with the licensing partner annually ahead of the anniversary of the contract to ensure the price and volume remains fit for purpose. Costs and usage will be monitored to ensure it remains at optimal levels. Technology Services will proactively seek mitigation to ensure no overspend occurs but ultimately cost drivers are largely out of Technology Services control. Should an unavoidable situation occur where licence costs exceed available budget in future years due to wider incremental organisational

changes and mitigation cannot be found then Technology Services should consider requesting a growth item as part of the relevant budget setting process at the time. It is to be noted that licensing costs in relation to a project with significant staffing level impact (e.g. insourcing of a service) should be factored into the related business case for the project and funding considered as part of that decision. This will require early engagement with Technology Services to ensure that services are properly understood to ensure that costs are optimised.

### Unified Support Services

6.1.6 The cost of the 12 month Unified support contract is £276,545. Awarding the contract via Phoenix Software attracts a 1% mark up of £2,765 taking the total cost to £279,310.

6.1.7 The award of the new contract represents an increase cost of £55,584 against the previous contract.

### Funding

6.1.8 The draft Technology Services budget within the Medium Term Resource Strategy (MTRS) for the Microsoft Volume Licensing agreements contract in 2024/25 is **£3.763m**. This is currently profiled to increase by an inflationary rate of 2.0% in subsequent years.

6.1.9 The draft Technology Services budget within the Medium Term Resource Strategy (MTRS) for Unified Support service in 2024/25 is **£223,726**.

6.1.10 Table 1 below details the annual profiled costs against existing MTRS budget provision.

**Table 1: Summary of the anticipated contract costs compared to the planned MTRS budget provision**

MTRS impact	2024/25	2025/26	2026/27
	£m	£m	£m
Microsoft Volume Licensing agreements contract costs*	3.563	3.563	3.563
Unified Support Services to Microsoft contract costs**	0.279	0.279	0.279
Available MTRS	3.987	4.053	4.120
<b>Pressure/(saving)</b>	<b>(0.145)</b>	<b>(0.211)</b>	<b>(0.278)</b>

\*net of licenses charged to Essex Cares Ltd (ECL) and Adult Community Learning (ACL)

\*\* 12 month contract award only. Years 2 and 3 for illustration only assuming cost remain the same however value unknown at present. New contract will be needed from January 2025

6.1.11 As set out in Table 1, the award of the new contracts results in an estimated financial saving of c.£145,000 against the draft budget in 2024/25, increasing in subsequent years due to the budgeted inflationary rate assumed within the MTRS for the Microsoft licensing budget (total saving over the 3-year period therefore equates to £634,000). Analysis of the saving in 2024/25 identifies that £116,000 is due to a lower contract price and focussed activity to manage licence volumes down where possible within Technology Services and £84,000 due to the inflation assumption already built into the MTRS that is not now needed for the licensing contract. £55,584 of the saving is being utilised to fund the increased cost of the Unified support contract giving a total net saving of £145,000 in 2024/25. The £145,000 saving plus future year increases is planned to be released on a permanent basis to partially offset the Technology Services savings target for the 2024/25 budget setting process.

## **6.2 Legal implications**

6.2.1 ECC must comply with the Public Contracts Regulations 2015 when procuring goods and services, including Microsoft products. ECC is entitled to use a framework set up by a different organisation, such as CCS, provided that ECC is clearly identified in the procurement documents as a contracting authority permitted to use it.

6.2.2 If a mini-competition is used, the call-off contract must be awarded to the supplier that submits the best tender on the basis of the award criteria specified in the contract documents based on the framework agreement.

6.2.3 The Public Services (Social Value) Act 2012 replaces a requirement on contracting authorities to consider, when procuring services, how the economic, environmental and social wellbeing of the local area may be improved and how this can be delivered through the procurement.

6.2.4 Contracts should be awarded on the basis of the most economically advantageous tender and qualitative, environmental and/or social aspects should be linked to the subject matter of the contract.

## **7 Equality and Diversity Considerations**

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.
- 7.4 The Microsoft 2022 Global Diversity & Inclusion report provides details of their workforce demographic.

## **8 List of Appendices**

- 8.1 Equality Comprehensive Impact Assessment
- 8.2 Confidential Appendix

## **9 List of Background papers**

None