

Forward Plan reference number: FP/481/07/19

Report title: To approve the Procurement of the Council's Microsoft Enterprise Licensing Agreement	
Report to: Cabinet	
Report author: John Tyreman – Interim Director for Technology Services	
Date: 17 September 2019	For: Decision
Enquiries to: Tracey Kelsbie – Chief Operations Officer	
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Confidential Appendix This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.	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. Purpose of Report

- 1.1 This report seeks Cabinet Decision to re-procure the Essex County Council (ECC) Microsoft Enterprise Licensing Agreement for a period of 3 years.

2. Recommendations

- 2.1 To agree to call-off from the Crown Commercial Services RM3733 Technology Products 2 Framework Agreement for Microsoft Enterprise Licensing Agreements for a contract of three years.
- 2.2 To delegate the decision to award a contract to the winning bidder following a mini competition to Councillor Barker, Cabinet Member for Customer, Communities, Culture and Corporate.

3. Summary of issue

- 3.1 ECC utilise Microsoft Office 365 (O365) software, under a Server and Cloud Enrolment (SCE) licence, which provides general Microsoft Office applications such as Word, Excel and PowerPoint and collaboration tools, Teams, Planner and Flow for day to day business administration and productivity.
- 3.2 Use of O365 is reliant on the End User Devices, such as laptops, desktop computers and tablets, running the Microsoft Windows 10 Operating System (OS) delivered under an Enterprise Licence Agreement (EA). If these applications were not available, the ECC business operation would be paper based and manual working.
- 3.3 The current ECC EA and SCE Agreements (Microsoft Agreements) provide licences for 8775 users and was procured through the ECC 0460 Software, Hosting and Associated Services Framework Agreement with SoftwareOne. The value of the agreements per annum is £2,389,000.

- 3.4 The current Microsoft Agreements are due to expire and must be renewed; the SCE Agreement expires on 30 November 2019; and the EA Agreement expires on 31 December 2019 and therefore the agreement must be re-procured to meet these timescales.
- 3.5 ECC intend to replace the licences using an OJEU compliant competitive process via a call off under the Crown Commercial Services RM3733 Technology Products 2 Framework Agreement to replace the SCE and EA Agreements, with the anticipation that the tender exercise should be completed by early November 2019.
- 3.6 Under the replacement Microsoft Agreement the user numbers are assumed to remain at 8,775. Licence numbers can fluctuate throughout the year. As a result, ECC provides true-up figures to the Licensing Partner to reflect the actual number of users. These figures are taken from an Active Directory Report which is run prior to the annual anniversary. These numbers are then taken forward for the subsequent year. ECC plan to optimise any new Enterprise Agreement by having a mixed licensing structure to reflect individual users who fully utilise all the Microsoft suite and those users who do not. Also, the new licensing structure to be procured will take advantage of the Educational licensing discounts Microsoft offer.
- 3.7 The approximate value of this contract for 8,775 licences is expected to be in the region of between £2,700,000 and £3,000,000 per annum, depending on the final costs after completing a mini competition and confirmation of numbers of each type of licence and storage consumption requirements. Additional products and subscriptions also may be required where there is a business need for these, such as Microsoft Project, Power BI Professional and Visio; historically these have been subject to a one-off user licence cost, however, going forward ECC will require an annual subscription under the proposed contract. Additional products and subscriptions will need to be purchased through the successful supplier; as our assigned Microsoft Reseller, it would not be possible to purchase Microsoft products and subscriptions through any other party. Any additional products and subscriptions will be purchased in line with the per user licence cost fixed at the start of the Enterprise Agreement. Any such requests will be subject to the appropriate governance. Current usage indicates a potential further annual cost of circa £80,000. As indicated above in 3.6, the agreements are subject to an annual true-up to reflect the actual number of users. A breakdown of the indicative costs is provided in paragraph 1.1 of the Confidential Appendix.

4. Options

4.1 Option 1 – Do nothing

If an Agreement is not put in place for Microsoft Licences through one of their resellers, ECC would be in breach of Microsoft Licensing Terms and Conditions and would be running with an unlicensed estate.

Use of O365 is reliant on the End User Devices, such as laptops, desktop computers and tablets, running the Microsoft Windows 10 Operating System

(OS) delivered under an Enterprise Licence Agreement (EA). If these applications were not available, the ECC business operation would be paper based and manual working. This would have a critical impact on the capability of ECC to administer business and provide services to Citizens.

4.2 Option 2 – Procure a Contract as a Call-Off under the Crown Commercial Services RM3733 Technology Products 2 Framework Agreement

This is a multiple supplier framework let by Crown Commercial services. There are 21 suppliers under Lot 2 Software including the incumbent supplier SoftwareOne.

The advantages of this approach are as follows:

- (1) CCS suppliers' margins are contractually capped (max 2.5%) and these margins can be routinely audited by CCS, with rebates imposed where required to ensure best value is maintained;
- (2) CCS negotiated an MoU directly with Microsoft;
- (3) The main Microsoft resellers are on the framework, including the incumbent supplier; and
- (4) Approaching a wider selection of suppliers could offer the Council with savings and potentially value-added services.

This is the recommended option.

4.3 Option 3 – Procure a Contract under the ECC 0460 Software, Hosting and Associated Services Framework

This is a single supplier framework let by ECC. The supplier, SoftwareOne is the current reseller who provides our Microsoft Licences for the current Agreements.

This is not the preferred option as it does not present an opportunity to test the wider market. The benchmarking, early market engagements and market research indicated a number of other Local Authorities have procured their Microsoft Licences via the Framework Agreement identified under Option 2.

From the benchmarking and early market engagement undertaken, it is felt that testing the market with multiple suppliers could offer ECC with savings and potentially value-added services, such as licensing efficiencies going forward.

5. Next steps

A Key Decision will be presented to Councillor Barker following the completion of the tender process for authority to award a Contract to the supplier with the most economically advantageous tender.

6. Issues for consideration

6.1 Financial implications

6.1.1 The 2019/20 budget within Technology Services to meet the cost of the Microsoft Enterprise Agreement licences is £3,422,000 compared to the forecast expenditure set out in the table below of £2,766,000. The current MTRS assumes £3,457,000 from 2020/21.

6.1.2 The market analysis of future pricing indicates that this will be more than sufficient to meet future costs, however, should the final cost of the procurement exceed this value then options will need to be considered with regard to managing any budget pressure within Technology Services.

6.1.3 The proposed approach set out in this report to implement a mixed licensing structure, indicates an estimated cost of circa £2,130,000 per annum, assuming the pricing and licence numbers are as set out in Table 1 in the confidential appendix; this represents a potential indicative saving of circa £259,000 per annum when compared to purchasing only the E3 and SCP (Commercial) licences, as currently and a potential on-going saving against budget of circa £601,000 to £716,000 if the Microsoft licensing discount can be applied. The potential budget impact is as set out in the table below:

Table 2: Comparison of indicative future licensing costs against available budget

	2019/20 £'000	2020/21 £'000	2021/22 £'000
Current & Forecast Budget	3,422	3,457	3,457
Indicative total cost	2,766	2,857	2,857
Indicative budget saving	656	601	601
Reduction for microsoft F1 licence discount (see note 1)	29	116	116
Indicative Saving if discount can be applied	685	716	716

Notes:

- Pricing above assumes cost per licence and user numbers, as per table 1 in the confidential appendix and that the cloud storage consumption levels do not exceed the budgeted value;
- Indicative savings will reduce if price per licence is more than estimated or user numbers and consumption levels are greater than anticipated;
- A Microsoft discount totalling circa £116,000 per annum may be applicable against the F1 licence assuming 1,875 licences are procured.

6.1.4 Additional subscriptions and products set out in table 1 in the confidential appendix that may be required, are currently estimated at circa £80,000 per annum, assuming current licence volumes are sustained; previous requirements for products such as Microsoft Project or Visio have been a one-off cost for a perpetual licence that has been met by the respective Service area requiring the product. On-going budgets to meet these costs may therefore not be in place in every instance. Where they are identified as required moving forward, the

respective service area will need to provide confirmation of the available budget, to meet the on-going cost.

6.1.5 The MTRS currently assumes a total saving of £1,250,000 from 2020/21 increasing to £1,870,000 over the medium term. The licence re-procurement is one of a portfolio of initiatives to enable achievement of these savings in Technology Services. Any overachievement beyond the £500,000 budgeted for this initiative will result in additional savings and the appropriate budget adjustment made.

6.2 Legal implications

6.2.1 ECC is a contracting Authority for the purposes of the Public Contract Regulations 2015 (PCR). It must run an OJEU complaint procurement process when purchasing good and services over EU threshold.

6.2.2 ECC is compliant with the PCR by calling off from the Crown Commercial Services RM3733 Technology Products 2 Framework (the Framework Agreement)

6.3.3 ECC must ensure that it follows the call off processes in the Framework Agreement

7. Equality and Diversity implications

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, gender, 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 equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a characteristic.

8. List of appendices

- Equality Impact Assessment

- Confidential Appendix

9. List of Background papers

None