

Forward Plan reference number: N/A

Report title: To approve the Procurement of the Council's Microsoft Enterprise Licensing Agreement	
Report to: Councillor Barker, Cabinet Member for Customer, Communities, Culture and Corporate	
Report author: Tracey Kelsbie – Chief Operations Officer, Technology Services	
Date: 7 th November 2019	For: Decision
Enquiries to: Tracey Kelsbie – Chief Operations Officer	
County Divisions affected: All Essex	
Confidential Appendix	

1. Purpose of Report

- 1.1 This report seeks approval from Councillor Barker, Cabinet Member for Customer, Communities, Culture and Corporate, to award the contract for the Essex County Council (ECC) Microsoft Enterprise Licensing Agreement following a procurement exercise

2. Recommendations

- 2.1 To approve the contract award to Phoenix Software Ltd and to enter into a contract for a period of 3 years, commencing on 1st December 2019.

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) 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.
- 3.5 On Tuesday 17th September 2019 Cabinet agreed that ECC should undertake an OJEU compliant competitive process via a call off under the Crown Commercial Services RM3733 Technology Products 2 Framework Agreement to replace the Microsoft Enterprise Agreement and delegate approval for the contract award to Councillor Barker.

3.2 ECC have now undertaken the OJEU compliant competitive process via a call off under the Crown Commercial Services RM3733 Technology Products 2 Framework Agreement and successfully identified a preferred supplier Phoenix Software Ltd

3.3 Four suppliers responded to the competitive process and were evaluated on both cost and quality, the evaluation scores being:-

	Supplier A	Supplier B	Supplier C	Phoenix Software Ltd
Quality	18.00	15.80	18.60	18.00
Price	52.44	52.70	61.39	70.00
Total Score	70.44	68.50	79.99	88.00

3.4 The suppliers were evaluated based on the licence numbers required at the point of launching the procurement. The number of licences required does vary over time but the price per licence will be fixed at the point of contract award. ECC paid £2,389,000 for the Microsoft EA licences for 2019/20. Phoenix Software Limited have been able to substantially reduce this cost by offering a competitive licence price and making use of differential licences, including Academic licensing where appropriate. The Phoenix cost is within the agreed financial envelope and significantly less than ECC are currently paying. Further details are set out in section 6 below.

3.5 Support from Microsoft for the Microsoft Agreements is currently provisioned through the Microsoft Premier Support arrangement. Microsoft have replaced this with their Unified Support offer which is a fixed percentage of an Organisation's Enterprise Agreement costs (usually 10%). These arrangements will need to be renewed in due course and will be subject to a separate decision paper and procurement exercise.

3.6 ECC now wish to award the contract to Phoenix Software limited and enter into contract with them.

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.

4.2 Option 2 – Award the Microsoft Enterprise Agreement contract to Phoenix Software Ltd.

This will ensure that ECC are correctly licensed for the use of the Microsoft products under the Microsoft Licensing Terms and Conditions at the most competitive price.

This is the recommended option.

5. Next steps

Once approved, the contract award will be announced to Phoenix Software Ltd and to the unsuccessful bidders. ECC will then place the appropriate orders with Phoenix Software Ltd, the first is due on the 1st December 2019. This will confirm the contract costs for Year 1, these will vary as we move into Year 2 based on the number of licences required of each licence type.

6. Issues for consideration

6.1 Financial implications

6.1.1 Tables 1a and 1b, set out below, provide a comparison of the current and proposed budget provision, within Technology Services, with the costs proposed by Phoenix Software Ltd in their bid for the Microsoft Enterprise Agreement and the Server Cloud Enrolment Agreements.

6.1.2 The proposed option enables a mixed licensing structure to be implemented that reflects current anticipated user requirements and volumes.

Table 1a: Comparison of Bid Price to Budget for the Microsoft Enterprise Agreement

Microsoft Enterprise Agreement	2019/20 £'000	2020/21 £'000	2021/22 £'000
Current & Forecast Budget	2,754	3,100	3,100
Indicative total cost	2,530	1,856	1,856
Indicative budget saving	(225)	(1,244)	(1,244)
Less savings already identified in MTRS		500	500
Net indicative budget saving	(225)	(744)	(744)

Table 1b: Comparison of Bid Price to Budget for the Server Cloud Enrolment

Server Cloud Enrolment	2019/20 £'000	2020/21 £'000	2021/22 £'000
Current & Forecast Budget	358	358	358
Indicative total cost	358	373	373
Indicative budget impact	-	16	16

6.1.3 The costs set out in tables 1a and 1b reflect the user numbers and volumes included within the Procurement. Based on these volumes, a potential saving

against the 2020/21 MTRS for the Microsoft Enterprise Agreement of £1.244m is identified; this is offset by a pressure of £16,000 for the Server Cloud Enrolment Agreements - a net saving of £1.228m. Of this saving, £500,000 is already assumed within the MTRS, giving a net additional saving of £728,000.

6.1.4 It should be noted, however, that although the unit costs, as set out in table 2 in the confidential appendix, will be fixed for the three years of the proposed contract, overall costs will vary to reflect changes in user numbers and Cloud consumption requirements; this will impact on the potential saving set out above.

6.1.5 It is expected that, as the Authority moves more data into the Cloud environment, the consumption requirements will increase. Work is underway to establish the likely profile and cost impact of increased consumption requirements, and the impact of this on the Medium Term Resources Strategy (MTRS).

6.1.6 Additional subscriptions and products set out in table 2 in the confidential appendix that may be required, are currently estimated at circa £75,000 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. Budgets to meet these costs may not be in place in future years and where they are required moving forward, the respective service area will need to provide confirmation of the available budget.

6.1.7 It should be noted that the costs and budgets set out above do not include provision to replace the Microsoft Premier Support Agreement that is due to expire in June 2020. Historically the cost for this support has been met through one-off project funding, however, this has not addressed the on-going budget position; work is now underway to review the future requirements in respect to this agreement and to consider the on-going budget impact. If necessary, a separate decision will be sought in this respect.

6.2 Legal implications

6.2.1 ECC is a contracting Authority for the purposes of the Public Contract Regulations 2015 (PCR). It has now 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 has followed the call off processes in the Framework Agreement and will need to enter into contract based on the terms of the call off contract for 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

Confidential Appendix Included

9. List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
	7 Nov 2019
Councillor Susan Barker, Cabinet Member for Customer, Corporate, Culture and Communities	

In consultation with:

Role	Date
Executive Director, Finance and Technology	7 Nov 2019
Nicole Wood	
Director, Finance (Deputy S151 Officer)	7 Nov 2019
Stephanie Mitchener	

Director, Legal and Assurance Laura Edwards (On behalf of Monitoring Officer)	7 Nov 2019
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