

Cabinet

30th October 2018

**Name of Cabinet Member:**

Cabinet Member for Strategic Finances and Resources – Councillor J Mutton

**Director Approving Submission of the report:**

Deputy Chief Executive (People)

**Ward(s) affected:** All

**Title:**

Microsoft Enterprise Agreement

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**Is this a key decision?** Yes as it has expenditure in excess of £1m per annum

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**Executive Summary:**

The Microsoft Enterprise Agreement (EA) is a volume licensing agreement that allows the Council to legally access all of the licenced software products we obtain from Microsoft. These products include Windows, Office 365 (including SharePoint and OneDrive) and the licensing for all of our back-end infrastructure supporting the systems in use across the organisation.

The maximum licence period for the EA is three years and the Council cannot procure direct from Microsoft. For this reason, the Council must engage with a Microsoft reseller for transacting our EA. The Council's current reseller is Bytes Software Services Ltd and our existing 3 year EA transacted through them expires on the 31<sup>st</sup> March 2019.

ICT have been working with Microsoft and Bytes to audit our existing EA to ensure we only purchase the number of licences we require for the new agreement. Our requirements have not changed significantly but the cost price has increased since 2015. The current indication is that the like for like renewal will be £1,073,000 per annum which represents a 30% increase.

Since the previous EA was procured, the Council has also taken the decision to move our corporate telephony solution from Mitel to Microsoft Skype. Skype licences can be procured as part of the EA agreement and so this cost will also be added to the new EA. This equates to approximately £365k per annum for the new contract. Work is underway with regards to procuring a specific telephony solution for the Customer Service Centre and the new solution will be in addition to Skype for Business and therefore the potential costs for that sit outside the scope of this report.

So, the indicative total at the time of this report for the EA is £1.4m per annum (£4.3m for the 3-year contract).

Microsoft have confirmed there will be another 6% increase to its public sector pricing in October 2018. The Council has agreed an extension to this deadline to allow for further audit work to be concluded. By committing to our new EA before the 30th November 2018, the Council will avoid a further approx. £86k per annum increase in cost.

Although we are not in a position to compete for an alternative licence, we can still compete the spend to appoint the reseller. By completing a further competition through a national procurement framework, it will ensure we pay the lowest possible margin whilst giving compliance for our spend. The resellers also offer added value to the Council in terms of auditing our requirements and offering guidance and support as required.

Procurement intend to complete the further competition under Kent Commercial Services (KCS) Central Buying Consortium (CBC) Software Products and Associated Services framework (Y170358) Lot 1 - Microsoft. The framework has several approved Microsoft approved resellers including our existing reseller Bytes that will allow for a competitive procurement process.

**Recommendations:**

Cabinet is requested to:

1. Authorise the procurement of a new three year contract to appoint a reseller for the renewal of the Council's Microsoft Enterprise Agreement.
2. Delegate authority to the Deputy Chief Executive (People) and Director of Finance and Corporate Services to agree the award of contract(s) following the procurement process.

**List of Appendices included:**

None

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or body?**

No

**Will this report go to Council?**

No

## **Report title: Microsoft Enterprise Agreement**

### **1. Context (or background)**

- 1.1. Coventry City Council (CCC) currently has a contract with Bytes Software Services Ltd for transacting our Microsoft Enterprise Agreement (EA).
- 1.2. The Enterprise Agreement (EA) is a volume licensing agreement that allows the Council to legally access all of the licenced software products we obtain from Microsoft. These products include Windows, Office 365 (including SharePoint and OneDrive) and the licensing for all of our back-end infrastructure supporting the systems in use across the organisation.
- 1.3. Microsoft have a UK Public Sector Memorandum of Understanding (MoU). This is negotiated by the Crown Commercial Service (CCS) to provide special pricing for UK public sector customers who purchase Microsoft products and services. The new MoU was introduced on the 1st May 2018 and is called the Digital Transformation Arrangement (DTA). The Council's EA pricing indicated in this report is based on the DTA pricing available to UK public sector.
- 1.4. The Council's current EA was procured in 2016 following a further competition using a CCS framework.
- 1.5. The current EA commenced on the 1st April 2016 and is due to expire on the 31st March 2019. A procurement for a new contract is now required.
- 1.6. The maximum contract length for the EA is 3 years. Taking a shorter term increases the costs significantly.
- 1.7. The previous EA cost was £823k per annum and the indication from the initial audit work of our EA requirements is that the cost will increase to £1.073m per annum.
- 1.8. Since the previous EA was procured, the Council has also taken the decision to move our corporate telephony solution from Mitel to Microsoft Skype. Skype licences can be procured as part of the EA agreement and so the cost of Skype will also be added to the new EA going forward. The cost of Skype adds approximately £365k per annum to the new contract.
- 1.9. Work is underway with regards to procuring a specific telephony solution for the Customer Service Centre. This new solution will be in addition to Skype for Business and therefore the potential costs sit outside the scope of this report. We are currently undertaking soft market testing for the Customer Service Centre telephony solution and will follow the relevant due process and governance as part of that procurement exercise.
- 1.10. At this time the anticipated cost of the new 3 year EA will be £4.3m although this is still subject to change as audit work on our requirements is ongoing.

### **2. Options considered and recommended proposal**

- 2.1. Microsoft software products have been in place at the Council for over 20 years. Microsoft are a market leader in office-based software with public and private sector organisations heavily reliant on their products.

- 2.2. There are few alternative competitors in the market. Tendering to the market would require a significant procurement process which would require a huge amount of time and resource. Any potential move to a new supplier would require a huge organisational change, moving from Microsoft products to an alternative. It would cause a significant amount of disruption to the Council.
- 2.3. For the appointment of a reseller to continue with Microsoft, the Council has options for its procurement route. The Council could complete its own EU procurement process, but this would result in a timely procurement process requiring a large amount of resource. It would also mean that we would not meet our extended deadline of the 30th November 2018 for committing to our renewal, to avoid the upcoming 6% price increase. This would mean a significant additional direct cost (£86k per annum) would be applicable by following this procurement route.
- 2.4. There are 2 public sector procurement frameworks that could be used for a further competition to award the new contract that allow for a shorter and less resource intensive, compliant procurement process. The frameworks are KCS CBC Software Products and Associated Services framework (Y170358) Lot 1 - Microsoft and Crown Commercial Services (CCS) Technology Products 2 framework (RM3733) Lot 2 - Software. Both frameworks have pre-vetted, Microsoft approved suppliers who can meet the Council's requirement.
- 2.5. KCS CBC Software Products and Associated Services framework (Y170358) Lot 1 - Microsoft is the recommended procurement route for the further competition. This is due to the framework having a more manageable amount of Microsoft resellers for the evaluation and that the framework lot has been specifically procured for Microsoft products. The further competition will be evaluated 100% on cost.

### **3. Results of consultation undertaken**

- 3.1. Not required.

### **4. Timetable for implementing this decision**

- 4.1. The current licences under the EA expire on the 31st March 2019. The intention is to publish the further competition for returns to be received early November 2018. The Council intends to award the reseller contract in November 2018 to allow for the Council to confirm its renewal commitment to Microsoft before the 30th November 2018 to ensure we avoid the further 6% Microsoft price increase.

### **5. Comments from the Director of Finance and Corporate Services**

#### **5.1. Financial implications**

The final outcome of the tender will not be known until November 2018, however as indicated above in para 1.7 and 1.8, there is an expectation that there will be an additional cost of £615k per annum over and above existing budgets which cannot be mitigated.

As described in paragraph 2.3 above, by confirming the renewal commitment by 30th November 2018 this mitigates a further 6% price increase. Funding for the procurement will be built into budget setting proposals for future years, as whilst the procurement is taking place in this financial year, the increased cost will not come into effect until 1st April 2019.

## **5.2. Legal implications**

Due to the potential value of the contract, the procurement in financial terms exceeds the threshold for a full OJEU competition and as such is subject to the Public Contracts Regulations 2015 (PCR 2015).

The procurement which is the subject of this report will also be subject to the EU procurement principles and the Council's Rules for Contract. There is therefore a requirement that it be tendered competitively and that the process be transparent, non-discriminatory and ensures the equal treatment of bidders. In compliance with the principles, there is also the expectation that the procurement will be advertised widely enough for interested bidders to be aware of the contract (s).

In section 2.4 of this report it sets out the procurement strategy for this contract, that it will be procured by a further competition using KCS CBC Software Products and Associated Services national framework. This allows a compliant procurement route in accordance with the PCR 2015.

## **6. Other implications**

### **6.1. How will this contribute to the Council's priorities?**

The Microsoft technology is a fundamental building block of the entire ICT infrastructure providing functionality to directly enable work across all of the Council's priority activities.

### **6.2. How is risk being managed?**

As this is a renewal of existing licences, there is no significant risk to the Council from the procurement or the renewal.

The further competition will be amongst Microsoft approved resellers only meaning that all of the resellers can access and transact the required licences on behalf of the Council.

### **6.3. What is the impact on the organisation?**

As the further competition is limited to official Microsoft approved resellers appointed to a national procurement framework, there is no risk in the awarded reseller being unable to transact our requirements with Microsoft and so the renewal should be seamless.

### **6.4. Equalities / EIA**

The resellers will have already had an equality evaluation as part of their appointment to the framework to ensure they meet and have not broken any qualitative legislation.

### **6.5. Implications for (or impact on) the environment**

Due to the nature of the contract there are no implications on the environment.

### **6.6. Implications for partner organisations**

None

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