



<b>Report for:</b> <b>ACTION</b>
<b>Item Number:</b>

<b>Contains Confidential or Exempt Information</b>	Yes - Confidential Appendices A, specification, and B, Tender Report, contain Exempt Information by virtue of Paragraph 3 of Schedule 12A to the Local Government Act 1972
<b>Title</b>	Microsoft Enterprise Agreement Licence Renewal
<b>Responsible Officer(s)</b>	Ed Axe, Director ICT, IDM & Property Services (CIO) Peter Greenham, Head of ICT
<b>Author(s)</b>	Alec Joynson, ICT Service Expert Avneet Johal, ICT Service Specialist (Commercial)
<b>Portfolio(s)</b>	Cllr. Steve Donnelly, Portfolio Holder for Inclusive Economy
<b>For Consideration By</b>	Cabinet
<b>Date to be Considered</b>	13 <sup>th</sup> July 2021
<b>Implementation Date if Not Called In</b>	26 <sup>th</sup> July 2021
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Microsoft Enterprise Agreement, Licence Renewal

**Purpose of Report:**

This report is to ensure continued access to Microsoft Licences, the rights to use Microsoft software, Office 365 Tenancy and Telephony, when the current Enterprise Subscription Agreement with Microsoft expires on 30<sup>th</sup> September 2021.

This report seeks approval from Cabinet to award a direct call off contract for Microsoft Licences to Phoenix Software Limited under the KCS (Commercial Services Kent Ltd) Framework, for a period of three years.

**1. Recommendations**

1.1 It is recommended that Cabinet:

1.1.1 Awards a direct call off contract to Phoenix Software Limited (a Microsoft Licence Solution Provider (LSP)) from the KCS Software Products & Associated Services 2 Y20011 Framework Agreement, the "Framework Agreement", for the provision of Microsoft licences through the Enterprise Subscription Agreement for three years, which includes the purchase of O365

suite of licences with a value of £1.410m per annum (£4.230m the three year cost of the contract).

- 1.1.2 As part of the contract award, appoints Phoenix Software Limited as the Council's Microsoft Licence Solution Provider and enters into an Enterprise Subscription Agreement with them for Microsoft licences for O365 tenancy.
- 1.2 A full specification of the required licences are referenced in confidential Appendix A.

## **2. Reason for Decision and Options Considered**

- 2.1 At its meeting in March 2016 Cabinet resolved, as part of a wider decision on Information and Communications Technology Managed Services, to authorise the Director of Business Services, following consultation with the Portfolio Holder, to either invite and evaluate tenders under a procurement procedure or make call offs from framework agreements or Dynamic Purchasing Systems and award contracts for voice services provision (mobile and fixed telephony) for 5 years, with an option to extend for 1 or 2 years, with the new contract commencing in Spring 2016.
- 2.2 The solution was Microsoft Skype Licences. To be compliant with Microsoft licences, the Council is required to appoint a Licence Solution Provider. The Skype Licences, together with a call bundle, were purchased from the Council's License Solution Provider at the time.
- 2.3 At its meeting in March 2017, Cabinet resolved to authorise the Director of Business Services Group to make a direct call off from the Cabinet Office Public Services Agreement framework for a new Microsoft Enterprise Agreement for a period of 3 years at an annual cost of £556,000 per annum.
- 2.4 In September 2018, the Portfolio holder for Finance and Leisure awarded a call off contract to Phoenix Software Limited for the provision of Microsoft licences through the Enterprise Subscription Agreement for 3 years until September 2021.
- 2.5 As part of the contract award Phoenix Software Limited were appointed as the Council's Microsoft Licence Solution Provider and the Council entered into an Enterprise Subscription Agreement with them for Microsoft licences for O365 tenancy.
- 2.6 To be compliant with Microsoft licences, the Council is only allowed to have one Licence Solution Provider. The Portfolio Holder therefore agreed to the transfer of Skype for Business and the call bundle to Phoenix Software Limited in accordance with Microsoft licensing requirements.

- 2.7 Since the current Enterprise Subscription Agreement started in 2018, Microsoft stopped supporting the Skype platform and this product has since been retired. Microsoft has moved the Council's telephony solution onto its Teams platform. Teams is part of the O365 Enterprise suite but still requires a call bundle.
- 2.8 The decision to award a call off contract for the provision of Microsoft licences through the Enterprise Subscription Agreement for three years, brings together both the Council's requirement to purchase O365 suite of licences and the Council's requirement for a telephony solution.
- 2.9 To be compliant with Microsoft licences, the Council is still required to appoint a Microsoft approved Licence Solution Provider and may only appoint one. By awarding this call off contract, the Council shall appoint Phoenix Software Limited as the Licence Solution Provider.
- 2.10 The London Borough of Ealing uses a number of Microsoft software which are critical to the operation of the organisation (used by all staff for their Surface Pro devices) and supporting server infrastructure. These licences include Microsoft O365, Sharepoint, Teams, including Telephony, Project, Visio, SQL and Azure. The current Microsoft Enterprise Licence Agreement is due to end 31<sup>st</sup> September 2021. As the licensing is subscription based, it is imperative to secure a new contract from 1<sup>st</sup> October 2021 to ensure continued access to the products and negate any loss of data. Without the Microsoft subscription Ealing would lose its rights to operate Microsoft software within its ICT estate. A contract will need to be awarded before 1<sup>st</sup> September to ensure business continuity.
- 2.11 By awarding a call off contract through the Framework Agreement, the Council will access the discount arrangements available through the Digital Transformation Agreement 2021 (DTA 21) Memorandum of Understanding between the approved Licence Solution Provider and Microsoft.
- 2.13 After consultation with Procurement, a direct award from the KCS Software Products & Associated Services 2 Y20011 Framework Agreement was identified as the most appropriate procurement route:
- All public bodies have access to this Framework Agreement with the agreement of the Contracting Authority;
  - KCS Professional Services is one of the largest trading organisations of its kind in Europe;
  - KCS Professional Services are also a member of the Public Sector Buying Organisation (PSBO) Central Buying Consortium (CBC), a group of County, Borough and City Councils, including Kent County Council, the purpose of which is to improve the effectiveness, by co-ordination, of local authority purchasing with the object of effecting savings in public expenditure;

- Using the Framework Agreement avoids the need for consultancy services to oversee and project manage an in-house tender process, thus saving time and money;
- the Framework Agreement is national, fully OJEU compliant and adheres to the latest Public Contracts Regulations (2015).
- The Framework Agreement has been established with a maximum percentage on cost price for each organisation, ensuring value for money is obtained.
- The Framework Agreement provides quality assurance through having already assessed suppliers based upon their price modelling, quality of service offer, and other key contractual criteria.
- Framework Agreement provides access to the discount available through the Digital Transformation Agreement 2021 Memorandum of Understanding provided by Microsoft.

2.14 In accordance with Regulation 33(8)(a) of the Public Contracts Regulations 2015 (PCR 2015) Direct Award Orders may be placed under this Framework Agreement provided the Customer can meet any one of the following objective conditions:

- Customer is satisfied that, following their own due diligence, they can identify the Supplier that offers best value for their requirement;
- The Supplier is able to supply the required Goods/Services within the Customers timescales;
- The Supplier scored the highest mark for Price/Quality in the Framework Agreement evaluation;
- Goods/Services required are unique/exclusive to one Vendor/Supplier;
- Continuity of existing Goods/Services from an awarded Supplier.

2.14 The onus is on the Customer to carry out their own due diligence before selecting whether they conduct a Further Competition or choose to Direct Award with any of the awarded Suppliers. The result of the Council's due diligence evaluation is shown in confidential appendix B.

### 3. Key Implications

- 3.1 Microsoft do not provide licence products directly and their products are provided through a third-party Licence Solution Provider. The Council can only select a Licence Solution Provider recommended by Microsoft.
- 3.2 Microsoft will only allow a customer to have one Licence Solution Provider for the provision of their licence products.
- 3.3 The existing Microsoft Enterprise Agreement that provides access to the O365 suite of licences for all the Council's Microsoft products will be expiring on 30<sup>th</sup> September 2018. The previous cost was £1.545m over three years.
- 3.4 Prices secured through the Enterprise Subscription Agreement are fixed for the duration of the contract.
- 3.5 Microsoft have advised that the cost of licences will be increased by up to 22% in the future, so securing a price now provides best value for money.
- 3.6 Phoenix Software Ltd provide a complimentary consultancy alongside the provision of the Microsoft Enterprise Agreement. The Council has benefitted from Phoenix Software Ltd providing expert guidance on the complexities of Microsoft licensing, which can lead to purchasing more expensive licenses than are required if not managed correctly.
- 3.7 Phoenix Software Ltd provide licensing expertise to advise on the correct product licensing to ensure that the Council procures only what is needed and that maximum value is achieved.
- 3.8 Phoenix, through their consultancy, have assisted in analysis of the Council's licensing preventing the Council from being:
  - under licensed, causing additional pressure and compliance issues, which could result in hefty fines; or
  - over licensed and not utilising the licenses we have, resulting in unnecessary over expenditure.

## 4. Financial

- 4.1 The contract spend for the Microsoft O365 Licences for 2021/22 onwards is shown below.

Contract Element	2021/22	2022/23	2023/24	2024/25
	£m	£m	£m	£m
O365 licences	0.419	0.838	0.838	0.419
SQL licences	0.084	0.168	0.168	0.084
Skype/ Teams tariff	0.196	0.393	0.393	0.196
<b>Subtotal: New Contract Cost</b>	<b>0.700</b>	<b>1.399</b>	<b>1.399</b>	<b>0.700</b>
Current Contract (Apr-Sep)	0.545	0.000	0.000	0.000
Full Year impact (Oct-Mar)	0.000	0.000	0.000	0.700
<b>Total Cost</b>	<b>1.245</b>	<b>1.399</b>	<b>1.399</b>	<b>1.399</b>

### Approval to spend

- 4.2 The contract starts on 1 October 2021, but the full year is shown in the table above as funding is required to cover April 2021 to 30 Sept 2021. Similarly, the contract will end on 30 September 2024, but the full year is shown for 2024/25
- 4.3 The number of staff requiring licences has not fallen since 2018 and the quantity of O365 licences required has remained fairly static over the last 3 years. With more remote working and staff working from home, additional windows remote desktop licences are required. There has also been an increase in demand for MS Vision and MS Project licences.
- 4.4 Microsoft have increased the price of O365 licences by 10% since 2018.
- 4.5 The Council now has a requirement for SQL licences within its portfolio of licences procured under the Enterprise Subscription Agreement at a cost of £170k. Projects undertaken by ICT on behalf of the Council has increased demand. Microsoft have changed the licencing model from a per instance model to a per core model which has impacted on costs.
- 4.6 With the move to more remote working, the demand for audio conferencing has increased driving the cost of Telephony licencing.
- 4.7 The cost of the contract in 2021/22 will be managed within existing budgets with a view to funding the cost increase in 2022/23 through the annual MTFS process.
- 4.8 An audit is being carried out with Microsoft to review the current portfolio to ensure that we are not over licensed nor under licenced and the quantity of licences required can vary over the 3 year period up to September 2024.

## **5. Legal**

The award of a direct call off contact from the KCS Framework has been made in compliance with the rules of the KCS Framework Agreement which complies with the Public Contract Regulations 2015.

## **6. Value for Money**

The procurement will be through appropriate framework arrangements in place with Microsoft, securing the discounted price reductions available to the public sector.

## **7. Sustainability Impact Appraisal**

This renewal will enhance the Council's existing assets and create service improvements that will enable the Council to become more efficient.

## **8. Risk Management**

The Enterprise Subscription Agreement is core to the Council business and is central to the Council's ICT strategy. Without it, all Microsoft 365 Services will cease and the Council will be unable to operate as currently. ICT would need to find another way of providing core services

## **9. Community Safety**

ICT underpins the operation of all Ealing departments, including all services related to community safety.

## **10. Links to the 6 Priorities for the Borough**

Efficient delivery of ICT in a cost effective way supports the delivery of all the council's priorities. ICT failure would affect the Council's ability to deliver the outcomes it has prioritised.

## **11. Equalities, Human Rights and Community Cohesion**

There are no implications.

## **12. Staffing/Workforce and Accommodation implications:**

The Enterprise Subscription Agreement will facilitate the ability for staff to work at Ealing sites and remotely.

### 13. Property and Assets

There are no property implications in this report.

### 14. Any other implications:

Not applicable.

### 15. Consultation

There is no requirement for external consultation at this stage

### 16. Timetable for Implementation

The Enterprise Subscription Agreement will be effective on 1 October 2021.

### 17. Appendices

Confidential Appendix A - Licence requirement.

Confidential Appendix B – Tender Report

### 18. Background Information

September 2018 ICMD Key Decision Microsoft Enterprise Agreement

March 2017 ICT & Data Management Capital Funded Schemes 2017/18

March 2016 Information and Communications Technology Managed Services

### Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
<b>Internal</b>				
Chuhr Nijjar	Senior Contracts Lawyer	10/06/2021	14/06/2021	Throughout
Darren Sullivan	Category Lead Corporate	10/06/2021	17/06/2021	Throughout
Shabana Khausar	Assistant Director-Finance	10/06/2021	24/06/2021	Throughout
<b>External</b>				
Not applicable at this stage				