

Islington Digital Services  
7 Newington Barrow Way,  
London N7 7EP

Report of: Corporate Director of Resources

Date: 8 January 2024

Ward(s): All

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## Subject: Contract award report for Microsoft Windows Software Enterprise Agreement

### 1. Synopsis

- 1.1 This contract award report is for the procurement of licenses to renew the Council's Microsoft Windows Software Enterprise Agreement ("MWSEA")
- 1.2 The MWSEA equips the Council with the latest versions of the Windows operating systems, Microsoft 365 (e.g., Excel, Outlook, PowerPoint, Teams, and Word), connects users and devices to Microsoft's most trusted communication and collaboration products (e.g., OneDrive, SharePoint, Viva Engage and Teams).

### 2. Recommendations

- 2.1 To approve the award for MWSEA, utilising the call-off procedure pursuant to the Crown Commercial Services ("CCS") Framework for Technology Products & Associated Services RM6068 – Lot 3 Software and Associated Services to Phoenix Software Ltd (supplier B – see paragraph 4.4.1) for a period of up to 36 months from 1st May 2024.
- 2.2 The estimated total aggregated value for this contract is £4,871,530 (against the original estimate of £4,834,161). This value is inclusive of projections for growth and anticipated licence cost increases of 14% in years 2025/2026 and 2026/2027.
- 2.3 The breakdown of the estimated aggregated value is as follows.

	<b>2024/2025</b>	<b>2025/2026</b>	<b>2026/2027</b>	<b>Total</b>
Annual Cost	£1,416,307	£1,614,590	£1,840,633	£4,871,530
Growth & Cost Increase	14%	14%	14%	

### 3. Date the decision is to be taken

3.1 16 January 2024

### 4. Background

#### 4.1 Nature of the service

4.1.1 A MWSEA allows the Council to legally access all the licensed software and products we require from Microsoft. These products include Windows operating system running our laptop devices, Microsoft 365 productivity such as Excel, Outlook, Word etc, and collaborative tools OneDrive, SharePoint, Teams and Viva Engage plus supporting databases services through Microsoft SQL.

4.1.2 Microsoft products are only available to be purchased from a licensed reseller, (a company that purchases them with the intention of reselling them) and cannot be purchased from Microsoft directly by the Council. The current MWSEA is due to expire 30<sup>th</sup> April 2024. The renewal is required to deliver various core IT services to businesses, partners, residents, and service users. The council must always maintain a licensed estate for its software otherwise the Microsoft 365 suite and laptop devices stop after 30 days of the MWSEA expiring with all data stored within the applications mentioned in 4.1.1 above being permanently deleted.

#### 4.2 Options appraisal

4.2.1 A full options appraisal was included in the procurement strategy, which was approved by the Executive on **7 September 2023**, which recommended the option to enter into a call-off agreement pursuant to CCS Framework for Technology Products & Associated Services RM6068 – Lot 3 Software and Associated Services should the procurement aggregation via CCS offer best value for the council and favourable commercial terms.

#### 4.3 Procurement Process

- 4.3.1 The aggregated further competition CCS reference NFC162 was issued by CCS on behalf of all participating local Authorities on 4th August 2023 to all framework Lot 3 suppliers the further competition relates to the CCS framework RM6068 which was advertised 13/06/2019 and awarded 10/12/2019.
- 4.3.2 27 organisations were invited to participate in a further competition via CCS Framework for Technology Products & Associated Services RM6068 – Lot 3 Software and Associated Services.
- 4.3.3 3 submissions were received in response to CCS aggregated further competition.

#### 4.4 Evaluation

- 4.4.1 The aggregated further competition was solely managed and evaluated by CCS. The evaluation weighting set by CCS was based on consultation with the wider public sector. The evaluation criteria were structured and evaluated as follows.:

<b>Cost/price – Commercial Envelope</b>	<b>90%</b>
<b>Technical Envelope - Social Value</b>	<b>10%</b>
<b>Qualification Envelope</b>	<b>Key Participation requirement Pass/Fail</b>

Below are the scores of the aggregated further competition:

Supplier	Overall Weighting	Technical Envelope Social Value Weighted Score (10%)	Commercial Cost/Price Commercial Weighted Score (90%)	Technical and Commercial Overall Weighted Score	Ranking
Supplier A	100	10.00	89.56	99.56	2
Supplier B	100	10.00	90.00	100.00	1
Supplier C	100	10.00	88.58	98.58	3

- 4.4.2 The commercial envelope prices received from CCS have been evaluated by the council based on the number of users and applications required for the agreement

term of three years, inclusive of reseller fees and volume discounts. The Council are satisfied that the commercial envelope cost represents value for money to the council and demonstrates a discount on supplier margins.

#### **4.5 Key considerations: outcomes, efficiencies, and savings**

- 4.5.1 The core contract deliverables are contained within the scope of requirements which is a volume licensed agreement for the councils current and future Microsoft estate. It will ensure that the council is licenced to use its core productivity IT suite for the next 3 years.
- 4.5.2 The successful supplier will provide a yearly report as part of contractual obligations to demonstrate steps taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business, along with a statement on how they are delivering on minimising carbon footprint on services delivered under the contract. Further information has been included in the appendices.
- 4.5.3 The successful provider will be providing a social value plan detailing how social value activities set out in the call-off contract will be applied to the Councils social value priorities and or objectives and targets that will be monitored against an account management plan. Pheonix Software Ltd will work with the council to refine the social value plan and tailor to our requirements.
- 4.5.4 The efficiencies of this procurement exercise focus on aggregation process efficiencies that have produced competitive lower supplier margins and process efficiencies reducing the cost of bidding for suppliers and internally reducing resource involved in tendering and formal contract procedures.
- Volume encourages lower margins.
  - Reduced cost of bidding for suppliers - single tender compared to many individual tenders.
  - Aggregations are a free of charge service from CCS.
  - Process savings - reducing your resource involved in tender and contract preparation.
- 4.5.5 The benefits and advantages of joining the aggregation process have resulted in the following:
- Supplier margin locked in duration of the 3-year Enterprise Agreement
  - Margins cannot go up, but they can come down.
  - Maximum margin of 1.00% that can be charged against any new products we add to our Enterprise Agreement, also locked in duration of our contract.

4.5.6 Phoenix is an accredited Living Wage Employer, with everyone working at Phoenix Software (above apprentice level) receiving the Living Wage as a minimum. In addition to this, when establishing partnerships with mainline suppliers they also check their status with regards to the Living Wage, as they want to ensure that the message is heard and acted upon by all. Phoenix offers all employees secure work by issuing permanent contracts, fair pay and conditions and do not operate any zero hours contracts. Phoenix has a zero-tolerance of modern slavery within its business and supply chains. This policy applies to all persons, working for Phoenix or on their behalf, in any capacity, including employees at all levels and their contractors, external consultants and suppliers.

4.5.7 TUPE will not apply for this contract.

## 5. Contract management

5.1 The timetable for implementation is dictated by the Councils Microsoft EA enrolment date in terms of delivery of licenses which will be 1<sup>st</sup> May 2024. There is a deadline of 9<sup>th</sup> December 2023 to sign the call-off contract due to the expiry of the framework under which the aggregation was run as a further competition. Work will then commence to finalise the Microsoft order and best value license mix which will happen a month before the enrolment date.

5.2 The SLAs associated with this contract will be as follows:

Licensing Advice	SLA	Contact Position
Acknowledgement	1 Hour	External Account Manager/ Sales Support
Initial Query	2 Hours	External Account Manager/ Sales Support
Licensing Advice Escalation	1 Hour	Microsoft Licensing Specialists
Licensing Advice 2nd Escalation	2 Hours	Microsoft Licensing Manager
Management Escalation	3 Hours	Sales Manager
Senior Management Escalation	5 Hours	Sales Director
Board Level Escalation	6 Hours	Managing Director
Technical	SLA	Contact Position
Acknowledgement	1 Hour	External Account Manager/ Sales Support
Initial Query	2 Hours	External Account Manager/ Sales Support
Technical Query Escalation	1 Hour	Named Helpdesk Operative Will Support Until The Query Is Closed
Management Escalation	3 Hours	Sales Manager
Sen Management Escalation	5 Hours	Sales Director
Board Level Escalation	6 Hours	Managing Director
Operations	SLA	Contact Position
Order & Quote Requests		External Account Manager/ Sales Support
Order & Quote Acknowledge	2 Hours	Email
Price Lists	2nd of Each Month	External Account Manager/ Sales Support
Purchase Reports	2nd of Each Month	External Account Manager/ Sales Support
OLS Reports	2nd of Each Month	External Account Manager/ Sales Support
Management Escalation	3 Hours	Sales Manager
Senior Management Escalation	5 Hours	Sales Director
Board Level Escalation	6 Hours	Managing Director

Invoices will as per your request contain the following information as a minimum:

- Description of purchase
- Quantity
- Price per item
- Delivery date

- 5.3 Prices will be secured for 3 years. However, they may increase by the time we go live from 1st May 2024 due to the following:
- DTA24 pricing has not been released yet, this could be released as late as March 24. DTA is the discounts that are offered to government authorities.
  - Price indexing – Microsoft have been raising their base charges year on year. This typically happens on the 1 April. It is hard to predict if their pricing will go up in 2024 or not.
- 5.4 The council and supplier will conduct regular meetings every three months to review the service quality and contract management. The purpose of these meetings is to ensure that the council is using the most suitable and cost-effective licencing options and to keep the council updated on any new opportunities or developments in the Microsoft ecosystem that could benefit the council. The meetings will also allow the council to adjust its licencing position according to its changing needs and demands.
- 5.5 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale, or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

## 6. Implications

### 6.1 Financial Implications

- 6.1.1 The budget for the Microsoft Windows Software Enterprise Agreement contract is £1.242m. This sits within the Digital Services contracts budget with the Resources directorate.
- 6.1.2 This contract award is for the supplier margin to the licenced reseller of the Microsoft products, **NOT** the Microsoft software itself. Therefore, the amount spent

on Microsoft products could still vary depending on what Microsoft declare as their prices in the new year when the contract is officially started.

6.1.3 The supplier margin differs per Microsoft product however the average margin overall is negative -2.53%. Based on the estimated contract value for next year, this would be worth -£0.033m. Phoenix hold over 2000 Enterprise Agreements with Microsoft and receive a rebate from Microsoft which has not been disclosed and will make the contract profitable to them overall. There are higher profit margins on newer Microsoft products which are expected to grow in usage. Therefore, the sustainability of this contract is not a problem at this stage.

6.1.4 It is estimated that the number of licences for the variety of Microsoft products will grow by 14% each year based on the trend over the past two years, which will increase the amount spent within this contract.

<b>Current Amount</b>	<b>Est. 2024-25</b>	<b>Est. 2025-26</b>	<b>Est. 2026-27</b>	<b>Total (3 Years)</b>
£ 1,242m	£ 1.416m	£ 1.615m	£ 1.841m	<b>£ 4.872m</b>
Est. Growth	14%	14%	14%	

6.1.5 The estimated amount that will be spent through Phoenix for Microsoft products over the next three years will be circa £4.872m. This will be subject to change as Microsoft's prices are released.

6.1.6 The additional cost for 2024-25 will be met within the market inflation allocation for digital contracts. The growth for future years will be included in future growth bids as part of the budget setting process.

## **6.2 Legal Implications**

6.2.1 The Council has the power to procure and enter into this contract pursuant to section 111 of the Local Government Act 1972, section 1 of the Local Government (Contracts) Act 1997 and section 1 of the Localism Act 2011.

The total value of this procurement is above the tendering threshold for these types of goods / services under the Public Contracts Regulations 2015 ("PCR") and so the Council is required to follow a procurement process compliance with Chapter 2 of PCR to purchase these goods / services.

6.2.2 PCR enables the Council to award a 'call-off' from a framework agreement set up by a central purchasing body (in this case CCS, a department of HM Government),

provided that the rules of the framework agreement, as set out in the framework documentation, are complied with. A framework is a is ‘*an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged*’.

- 6.2.3 The framework utilised by the Council, RM6068 (Technology Products & Associated Services) is divided into 4 lots (i.e. 4 separate categories of goods/services under the framework) and the Council is procuring from Lot 3 which has 27 supplier on it. It expires on the 9 December 2023 and the Council must therefore enter into the call-off contract with the supplier before that date for the procurement to be lawful. It is assumed that the Council’s procurement team have undertaken appropriate due diligence with CCS to ensure that there is sufficient value left within the advertised value of the framework contract to enable the Council’s purchase.
- 6.2.4 To award a call-off contract under the framework, the council may run a further mini-competition from those suppliers who are on the relevant lot. The council must set out its requirements, publish this to those suppliers and invite tenders, and then evaluate those tenders based on the criteria the council sets out in its tender documents (compliantly with the terms of the framework).
- 6.2.5 It is understood that CCS ran the mini-competition procedure (see paragraph 4.4). The Council is not required to apply a standstill period to the award of contracts under a framework agreement, but government guidance strongly recommends that they do so to protect against post-contractual ineffectiveness claims. There is no requirement to publish a contract award notice on the UK e-notification service in respect of the award of a specific contract (PCR 50(4)). The Council must however publish on Contracts Finder within a reasonable time the name of the supplier, the date on which the contract was entered into and the value of the contract (PCR 108),
- 6.2.6 Legal Services have reviewed the final call-off terms and conditions and are satisfied that these provide an acceptable balance of risk to the Council. The terms and conditions are widely used throughout the public sector.

### **6.3 Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

- 6.3.1 The main environmental impact of this contract is the electricity used by the cloud servers hosting the software. However, Microsoft Cloud services are up to 93 percent more energy efficient and up to 98 percent more carbon efficient than



traditional enterprise data centres. Compared to virtualised, high-end data centres, the Microsoft Cloud delivers big gains in energy efficiency and reductions in carbon emissions. Microsoft also made a commitment in 2020 to being Carbon 'negative' by 2030 and by 2050 to remove all the carbon the organisation has emitted since it was founded in 1975. Further detailed information is available here: [Our Sustainability Journey | Microsoft CSR](#)

The software being purchased also enables ways of working that reduce other environmental impacts. Microsoft 365 staff allows council staff to access emails and files from any location and on mobile devices, and alongside Microsoft Teams, reduces the need for staff to travel, in turn reducing travel-related environmental impacts such as vehicular emissions and contributing to congestion, while programmes such as Microsoft Forms reduce the need for paper forms, reducing material usage.

## **6.4 Equalities Impact Assessment**

- 6.4.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.
- 6.4.2 An Equalities Impact Assessment screening was completed on 16 May 2023. The main findings are: As we are simply renewing an agreement, and pursuing the renewal will not have any impacts of protected groups.

## **7. Conclusion and reasons for the decision**

- 7.1 The Council's current 3-year MWSEA expires on the 30 April 2024. To enable the council to continue using this software, a new MWSEA needs to be in place effective from 1 May 2024 to avoid any disruption in service.

## **8. Record of the decision**

- 8.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Authorised by:

**Corporate Director of Resources**

Date:

**Appendix:**

- Environment supplier statement

**Background papers:**

- None

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