

SURREY COUNTY COUNCIL**CABINET****DATE: 26 FEBRUARY 2019****REPORT OF: MS CHARLOTTE MORLEY, CABINET MEMBER FOR CORPORATE SUPPORT****LEAD OFFICER: MICHAEL COUGHLIN, EXECUTIVE DIRECTOR C, D & T****COMMUNITY COUNCIL****VISION****OUTCOME:****SUBJECT: MICROSOFT ENTERPRISE LICENSE AGREEMENT RENEWALS****SUMMARY OF ISSUE:**

Currently Surrey County Council uses Microsoft software licence agreements to provide Council employees with access to software productivity packages such as Word, Excel, Email, Calendar and Skype. The licencing also covers IT infrastructure elements used in the delivery of business applications to the organisation.

The current Microsoft agreements will expire during May and June 2019 and there is no option to extend these beyond this term, requiring re-procurement of these agreements.

This report sets out recommendations arising from work on options for the provision of Microsoft Enterprise License Agreement Renewals and outlines a competitive procurement process which was carried out in order to select a supplier to deliver the service.

The procurement has been carried out to find a single Microsoft Licence Solution Partner for Surrey County Council and their Orbis partners, East Sussex County Council and Brighton and Hove City Council. This approach will secure the expertise and services of a single Microsoft Licence Solution Partner across all three Councils to assist in developing and enabling the IT strategy for Orbis.

The procurement process is at the stage where Cabinet approval is required in order to award the contract to Phoenix Software Limited to commence the service from 1 March 2019.

Due to the commercial sensitivity the procurement assessment results these details have been provided as a confidential Part 2 of this report.

Microsoft have agreed to provide additional support for five Councils, including Surrey County Council. These five Council's will be used as case studies to showcase how public sector authorities can optimise their investment in Microsoft products and services and realise value for money and efficiencies.

RECOMMENDATION:

It is recommended that Cabinet approves the award of contract for the provision Microsoft Enterprise License Agreement Renewals to Phoenix Software Limited.

REASON FOR RECOMMENDATIONS:

The three existing Surrey Microsoft agreements will expire on 31 May 2019 and 30 June 2019. A competitive mini-competition process in compliance with the requirements of Public Contract Regulations and Procurement Standing Orders has been completed. The recommended supplier offered overall best value for money in the procurement process. Detailed assessment of the offers received is circulated in Annex 1 Procurement process and in confidential Part 2 of the report.

The recommendation to award this contract in February will enable the Council to remain compliant with their Microsoft licensing requirements. By awarding the contract and committing to the new agreements before 31 March 2019 the Council will avoid the October 2018 price rise and any further price rises prior to the commencement of the new agreements. This action will avoid the October price rise of £79,000 per annum, £237,000 over the three year term of the new agreements.

DETAILS:**Background**

1. To deliver easy to use, responsive public services to residents, the Council needs to provide easy to use, modern and efficient digital technology tools to its staff. Surrey has chosen to adopt a Microsoft-based software approach, in line with many partnering authorities.
2. The new Microsoft Enterprise Subscription Agreements will replace the current three year agreements, which expire in 2019, and ensure the most appropriate, cost effective, flexible and compliant licensing solution is implemented to meet the current and future needs of the organisation.
3. The new agreements will provide the licence coverage for the Microsoft end user applications and back office server infrastructure used to deliver business applications to the Council. This includes Operating System, user access licences and other software such as Microsoft Office providing email, word processing and spreadsheet functionality all critical for the Council to carry out its functions.
4. Surrey County Council entered into three separate three-year enterprise licencing agreements with Microsoft via software reseller Phoenix Software in 2016. This contact fixed the pricing for the three year term, avoiding year on year Microsoft price increases.
5. During this time, Microsoft pricing for the UK Public Sector increased significantly due to currency exchange rates and a drop in the value of the

pound, with Microsoft harmonising pricing across six different currencies. The most recent of these Microsoft increases came into effect on 1 October 2018.

6. By committing to new Microsoft enterprise licencing agreements by the end of March 2019, three months earlier than the renewals are due, Surrey County Council will benefit from the pre-October 2018 Microsoft pricing.
7. This action will avoid additional spend of £79,000 per annum, £237,000 over the three year period of the new agreement term, based on the October pricing.
8. Even when taking advantage of the pre-October 2018 Microsoft pricing the cost of the Microsoft license renewals will still equate to a 41.94% increase when compared with the cost of the current license agreements.
9. In parallel to running a mini-competition to identify the preferred reseller, Orbis Procurement have initiated a piece of work challenging Microsoft on the price increases and are pushing for the Public Sector to be treated in a similar way to educational institutes and the third sector. Educational and third sector licenses cost a third of the price of public sector licenses, with the public sector standard price negotiated on behalf of authorities by the Crown Commercial Service (CCS).
10. The group challenging and negotiating with Microsoft includes a Crown representative, CCS, Local Government Association (LGA) and the Society of Information Technology Managers (SOCITM).
11. This process is ongoing, but so far has resulted in the following results:
 - The deadline for signing up to the pre-October pricing has been extended from 31 December 2018 to 31 March 2019 – this also avoids any further price rises prior to the start of the agreements.
 - Microsoft have agreed to provide additional support for five Councils, including Surrey County Council. These five Council's will be used as case studies to showcase how public sector authorities can optimise their investment in Microsoft products and services and realise value for money and efficiencies.

Any further savings identified through the Microsoft intervention, or as a result of the challenge process, will be included in the new agreements.

12. Council staff who fully perform a role that meets one of the Microsoft definitions of an educational user qualify for a 'Microsoft Faculty License'. These cost approximately £100 per user per year less than a standard user license. Some examples of these types of users are staff who work in libraries, museums and LEA support teams such as school admissions.
13. Work to identify users who could be categorised as educational is underway with the expected number to be approximately 800 users which would result in an £80,000 reduction in the annual user license cost.
14. The range of functionality included in Microsoft license agreement will increase under the renewal. This and improvements in existing functionality will mean that 3rd party solutions previously used to provide specific functionality can now be replaced by Microsoft functionality resulting in a reduction in 3rd party costs.

Examples of this extra / improved functionality is device encryption, anti-virus software and mobile device management.

Software Strategy

15. The Microsoft product suite represents a significant contribution to Surrey's organisational productivity as well as the software being the basis of the Council's core infrastructure.
Microsoft is the preferred operating platform of choice due to the following rationale:
 - It is well established in all sectors but especially strong in corporate environment and across local government. All Surrey partner organisations at county, borough and district level are either on premise with Microsoft or using O365 at this time. This has made convergence easier; examples being with the NHS, East Sussex Country Council and Brighton and Hove City Council.
 - The vast majority of business Software vendors build integration with Microsoft in mind and alternative products would cause issues for a number of council services.
 - A substantial vendor support ecosystem provided lots of choice of applications and people to work with (over 30,000 suppliers).

16. Prior to the migration from Lotus Notes to Microsoft O365 a detailed review was undertaken to compare Microsoft with the comparative products provided by Google. The review of the market including potential alternatives is an on-going activity carried out by IT & Digital. The findings from the analysis conducted for the original business case for Microsoft O365 remain valid.

17. There are some key business, financial and technical reasons which currently still support the business case for remaining with Microsoft as our chosen collaboration suite partner of choice:
 - Moving to Google G-Suite as an alternative to Office 365 would work out more expensive if the aim was to still maintain Microsoft Products on our laptop, desktop and server estates.
 - The way in which the licensing works – not renewing the O365 licencing would mean the Council would have to license the Office suite 'on-premises' or seek alternatives (such as Open Office) which would have a significant 'cost of change', impact to productivity of our customers and cause problems for line of business systems which exclusively integrate with Office.
 - Furthermore, the licensing for each individual device (client access license) is bundled up within the current O365 offer. Therefore, we would need to either seek to license devices 'on-premises' at higher cost or we would need to consider alternative desktop operating systems such as Ubuntu or Redhat. This would present a significant cost of change and familiarisation challenge for our customers whilst severely reducing our interoperability with the majority of the rest of the world.

18. In summary, five years ago the decision was made to move to O365 from Lotus Notes based upon a balanced assessment of pedigree, interoperability, the likelihood that Surrey would maintain the need for the Office productivity suite and Windows platform, against how that would impact the total costs including cost of change and loss of productivity to the organisations against the base costs of G-Suite. This position has not changed and is compounded by the fact

that any change of direction would take time and therefore still require a renewal with Microsoft to allow for the time required for the relevant implementations / migrations to happen. Google G-Suite does not offer certain features by default that our customers have come to expect such as single sign on from Outlook or via G-Suite's web interface. To implement such functionality in a meaningful way would still involve licensing Microsoft cloud licensing in the form of Azure AD to make this work and would result in additional cost and complexity.

Procurement Strategy

19. The decision was taken that there should be a single Microsoft Licence Solution Partner for Surrey County Council and their Orbis partners, East Sussex County Council and Brighton and Hove City Council. This will secure the expertise and services of a single Microsoft Licence Solution Partner across all three Councils to assist in developing and enabling the IT strategy for Orbis.
20. Microsoft license pricing is negotiated at a national level by Crown Commercial Service on behalf of the whole of the Public Sector in the UK and even a collaborative procurement activity such as this does not influence the base level Microsoft Public Sector discounts applied to the resulting agreements.
21. The current contract had a term of three years, with the option to extend for a further two years to enable new three year enterprise agreements to be entered into.
22. Following the receipt of a quote from our current provider, a benchmarking exercise was carried out. The results of this benchmarking indicated that the Council would be able to make further savings and deliver best value through running a competitive process.
23. An invitation was issued on behalf of the three Councils through the Microsoft Lot of the KCS National Software Products and Services framework in compliance with the requirements of Public Contract Regulations and Procurement Standing Orders.
24. The use of a framework will deliver the benefits of reduced timescales, compared to running a full EU tender. The framework only includes those resellers who have been pre-qualified as technically capable of providing the required services and licensing advice, along with most favourable discounting levels and terms.
25. Seven responses were received from the mini-competition and following the evaluation Phoenix Software Limited was identified as offering overall best value for money.
26. Detailed assessment of the offers received is circulated in confidential Part 2 of the report.
27. The detailed information about the procurement process is contained within background paper Annex 1.

Key Implications

28. By awarding a contract to a Microsoft Licensing Solution Partner for the provision of Microsoft Enterprise Agreement Subscriptions, the first of which will commence on 1 June 2019, the Council will ensure it is fully compliant under Microsoft licensing terms.
29. The additional £0.4m cost is not included in the 2019/20 budget and is therefore a budget pressure to be managed by Customer Digital & Transformation.
30. Performance will be monitored and benchmarked through a series of Key Performance Indicators as detailed in the contract and reviewed at regular operations meetings.
31. The management responsibility for both the Microsoft Licensing Solution Partner contract and the Microsoft Enterprise Agreement Subscription itself lies with IT&D Contract Managers and will be managed in line with the Contract Management Strategy and plan as laid out in the contract documentation which also provides for fixed annual licence charges at the commencement of the subscription agreement, flexibility to increase and decrease licence subscription volumes annually on anniversary, and capped mark-up on any additional types of licences that may be required.

CONSULTATION:

32. The stakeholders that have been consulted in relation to this project are as follows.
 - Matt Scott, Chief Information Officer
 - Michael Brett, Core Infrastructure Manager
 - Andy Grogan, Head of Enterprise and Technology
 - Morgan Rees, Enterprise Infrastructure Delivery Manager

RISK MANAGEMENT AND IMPLICATIONS:

33. The Microsoft Enterprise Subscription Agreements allow for decreases in license numbers as part of an annual declaration and true-up activity, which will allow the Council to reduce license subscriptions should the opportunity arise.
34. There is ongoing work, which will continue throughout the contract, looking at the licenses we hold and ensuring that we have the right levels and types (including full licenses and educational licenses), with a view to reducing quantities and costs.
35. The award will be to a reseller via a public procurement framework, which means they will have successfully completed satisfactory financial checks as well as checks on competency in delivery of similar contracts at the pre-qualification stage.
36. The recommended tenderer successfully completed satisfactory financial checks.
37. The following key risks associated with the contract have been identified, along with mitigation activities:

Category	Risk Description	Mitigation Activity
Financial	Additional licences required due to growth in user population or back office infrastructure.	Where possible IT&D will fund within existing resources. If this is not possible it will be addressed through the budget planning process.
Reputational & Financial	Incorrect licensing in place and risk of audit and fines from Microsoft.	Regular monitoring by IT&D and Microsoft Licensing Solution Provider to ensure Council is fully compliant, alongside engagement with Microsoft directly.

Financial and Value for Money Implications

38. Spend on the three existing Surrey three-year Microsoft enterprise agreements has been approximately £1.55m per year (£4.65m total value over the three year term).
39. Since the start of the current agreements in July 2016 Microsoft pricing for the UK Public Sector has increased, due to inflation, exchange rates and the harmonisation of pricing across Europe.
40. Prior to going out to tender, indicative quotes were obtained from three Microsoft License Partners and the average pricing received was £2.2m per year (£6.6m over the three year term). This pricing represented an increase of around £0.65m per year (a 41.94% increase).
41. Following the mini-competition tendered pricing from the preferred reseller, Phoenix Software Limited, suggests expenditure for Surrey County Council under the new enterprise agreements will be in the region of £1.97m per year (£5.91m over the three year term).
42. These figures are likely to vary during the term of the agreements. Variations will be based on the specific mix and quantity of licences required to meet any changes to the Council's needs, including changes to the available license types, staffing levels and user types.
43. The first piece of work the preferred reseller will carry out will be to review the user base, license types and quantities to identify any opportunities for further savings.
44. As part of the work to challenge Microsoft on the pricing being offered to the Public Sector, initiated by Orbis Procurement and involving a Crown representative, CCS, LGA and SOCITM, Surrey County Council have been selected to be used as a case study to demonstrate how the Council can optimise their investment in Microsoft products and services and to realise cost-effectiveness and efficiencies. As part of the work to inform the case study Microsoft will be providing additional support to identify the best value mix of licenses.
45. The tender pricing represents an overall cost increase of 27.16% (£0.42m per year). This increase is not included in the Customer, Digital and Transformation

2019/20 budget as the amount was not known at the time. It is therefore a budget pressure of £0.4m.

46. By entering into the Microsoft agreements by the end of March 2019, the October price increase (and any further increases before the new agreements commence in June 2019) can also be avoided.
47. This is an early commitment to enter into new three-year enterprise agreements with Microsoft, and raise orders before the end of March 2019. The first payments will fall due in June / July 2019, when the current agreements expire, and then payments will be due on the subsequent anniversaries.
48. The IT & Digital service are currently reviewing IT infrastructure arrangements, with savings forecast. These savings will be used to off-set some of the increased costs of the Microsoft Enterprise Subscription Agreements.
49. In parallel to securing approval for the new three year agreements, as detailed above, Orbis IT & Digital and Procurement personnel are working with a number of other Public Sector organisations and bodies to leverage our collective buying power with assistance from the Crown Commercial Service (CCS) and members of the Local Government Association (LGA). An initial meeting took place in October 2018 and as a result of this meeting Microsoft extended the deadline for signing up to the pre-October pricing from December 2018 to March 2019.

Section 151 Officer Commentary

50. The Section 151 Officer recognises that this cost increase is a public sector wide issue which unfortunately the sector has not been able to challenge and reduce. As the value of the increase was previously unknown it was not included as a 2019/20 budget pressure. The 2019/20 IT&D budget includes £1.6m for the annual cost of Microsoft, based on the previous price, however it does not provide for the additional £0.4m increased cost. As Customer, Digital & Transformation already has a challenging savings target of £9.9m next year there is a risk that further savings will not be achievable to off-set this increased cost.

Legal Implications – Monitoring Officer

51. The Council is a 'best value authority' by virtue of Section 1 of the Local Government Act 1999. This means the Council 'must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness'. The proposals in this report are intended to meet this duty through the Council's status as a case study for the public sector and combining re-procurement activities together with Brighton & Hove City Council and East Sussex County Council.
52. A procurement of services of this value must be undertaken in accordance with the requirements of the Public Contracts Regulations 2015 ('PCRs'). The procurement route utilised was a call off against the Microsoft Lot of the KCS National Software Products and Services Framework. Legal Services reviewed this framework and confirmed it complies with the requirements of the PCRs.

53. In reaching its decision, Cabinet will need to determine whether the proposed award is an appropriate course of action for the Council. Cabinet should be cognisant of its fiduciary duties to Surrey residents in managing the Council's limited resources.

Equalities and Diversity

54. The Council has been mindful of its equalities duties under the Equality Act 2010 in carrying out the tender process and letting the contract with due regard to the need to eliminate discrimination in age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
55. Surrey County Council is committed to providing its services in a way, which promotes equality of opportunity at every possibility. The contract document stipulates that the supplier will comply with the relevant Equality and Diversity legislation. It is expected that the appointed suppliers will be fully committed to equality and diversity in their service provision and will ensure compliance with all anti-discrimination legislation.
56. There are no TUPE implications as a result of this contract and Microsoft agreement.

WHAT HAPPENS NEXT:

57. The timetable for implementation is as follows:

Action	Date
Cabinet decision to award	26/02/2019
Contract Signature	01/03/2019
Contract Commencement Date	01/03/2019
Review license types and quantities	01 to 15/03/2019
Submit required agreement license quantities	18/03/2019
Sign Microsoft Agreements	25 to 29/03/2019

Contact Officer:

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Consulted:

- Matt Scott, Chief Information Officer
- Michael Brett, Core Infrastructure Manager
- Andy Grogan, Head of Enterprise and Technology
- Morgan Rees, Enterprise Infrastructure Delivery Manager

Annexes:

Annex 1 – Procurement process
Confidential Part 2 Annex

Sources/background papers: