

**Open Report on behalf of Andrew Crookham, Executive Director - Resources**

Report to:	<b>Executive</b>
Date:	<b>04 May 2022</b>
Subject:	<b>Award to Reseller for provision of Microsoft Subscription Agreement and related services</b>
Decision Reference:	<b>I026022</b>
Key decision?	<b>Yes</b>

**Summary:**

This report sets out and seeks approval for the proposed procurement route for the provision of Microsoft software and services.

**Recommendation(s):**

That the Executive

1. approves the direct award of a one-year contract, via the CCS RM6194 Back Office Software (BOS) Framework Agreement, to the incumbent reseller Softcat, for the provision of Microsoft software and services; and
2. delegates to the Executive Director – Resources in consultation with the Executive Councillor for Highways, Transport and IT authority to take all decisions necessary to carry out the procurement up to and including the award of contract

**Alternatives Considered:**

1.	Process 2022/23 Microsoft Subscription order via existing contract This alternative should be discounted because it will not be possible to complete the order process before the existing contract expires.
2.	Do Nothing This alternative should be discounted because it provides no security of supply for vital software and services used by over 6000 Council employees. Licenses will lapse placing access to these services at risk and the potential failure of

critical local services.
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**Reasons for Recommendation:**

The CCS RM6194 BOS framework is an established and compliant procurement route facilitated by the Government Commercial Function. Use of the Framework will allow the award of a one-year contract to the Council's existing reseller for 2022/23. This route allows the Council to process an order for the 2022/2023 agreement and thereby to retain the terms of the Rapid Modernisation Plan (RAMP) tapered discount scheme. This provides licencing cover whilst the Council plans a strategically relevant procurement competition for 2023/24 onwards in line with Microsoft's Enterprise Subscription Agreement pricing cycle

**1. Background**

- 1.1 Lincolnshire County Council's IT systems are predominantly based on Microsoft software and services. For context, as of March 2022, LCC utilised 6256 active Microsoft 365 user licences.
- 1.2 Due to the complexities of the software market LCC cannot procure Microsoft products directly from Microsoft and all Microsoft licencing is facilitated via a reseller.
- 1.3 The Council's incumbent reseller for Microsoft software and services is Softcat.
- 1.4 This contract was procured in 2018 via a Crown Commercial Services (CCS) framework agreement and expires on 30th June 2022.
- 1.5 This contract consists of two licencing agreements, which are:
  - Microsoft Enterprise Subscription Agreement (ESA); the software and systems covered by this agreement are predominantly supporting desktop / laptop user applications. Annual value is circa £1,163,534.
  - Microsoft Service and Cloud Enrolment (SCE); the software and systems covered by this agreement are predominantly supporting database servers. Annual value circa £144,819.
- 1.6 Standard industry practice is for Microsoft licencing to run in 3-year cycles, starting in July, with the order for each year being placed by the end of the prior May. There follows a 'true-up' process to confirm licence usage and the transaction is finalised in July.
- 1.7 LCC's licencing level is reported by Serco Software Asset Management (SAM). The Council's corporate services contract with Serco ends in March 2024 and any future software reseller relationship needs to fit strategically with LCC's longer term software management requirements.
- 1.8 There are a number of procurement instruments which can be utilised for the provision of such software and services. For example, the CCS RM6194 'Back Office Software' framework agreement and CCS RM6068 Technical Products & Associated Services framework.
- 1.9 Pricing of Microsoft products procured via CCS Framework Agreements is controlled by a Government Memorandum of Understanding (MoU). The MoU was negotiated between Central Government and Microsoft resulting in discounted prices for public

sector organisations. Microsoft has therefore fixed the price of their licensed products which means there is little difference on price between resellers.

- 1.10 Due to increasing network access and security demands resulting from the significant shift to home working during the COVID pandemic LCC made the decision to migrate the ESA agreement from Microsoft 365 'E3' to Microsoft 365 'E5' to take advantage of enhanced network access, security and bundled applications.
- 1.11 The price-point for E5 is higher than E3 and to incentivise migration to the higher specification and make the transition less financially onerous upon the buyer, Microsoft provide a tapered discount over three years as part of a program known as RAMP (Rapid Modernisation Plan).
- 1.12 LCC agreed with Microsoft in 2020 to accept the RAMP pricing, however, the three-year term extends beyond the current reseller agreement by one year and so it is necessary to put in place a short-term contract to cover this period prior to procuring the next three-year licencing cycle.
- 1.13 The CCS RM6194 Back Office Software (BOS) allows the Council to do this via a direct award to the incumbent reseller which is preferred as it means there's no need to change supplier and relationships near to a licencing deadline. Doing so risks the licence ending during this transition period which could result in mass service outages and penalties.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

The requirements of the Equality Act have been considered not to have any implications for this decision.

#### Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The requirements of the JSNA and JHWS have been considered not to have any implications for this decision.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The requirements of Section 17 of the Crime and Disorder Act 1998 have been considered not to have any implications for this decision.

### 3. Conclusion

Under the current circumstances and available timeframe, the pragmatic solution is procurement of a one year contract with the incumbent reseller via the CCS RM6194 Back Office Software framework (award via CCS eMarketplace catalogue), which offers a regulatory compliant route to market, continued commitment and benefit of the final year of the RAMP, and provides licencing cover whilst planning a strategically relevant procurement competition for next year in line with Microsoft's ESA pricing cycle.

#### 4. Legal Comments:

The Council has the power to enter into the contract proposed.

The use of the recommended Framework is consistent with the Council's procurement obligations.

The decision is consistent with the Policy Framework and within the remit of the Executive.

#### 5. Resource Comments:

The expenditure arising from the proposed contract award is budgeted for in the Council's approved revenue budget. In contracting with the incumbent reseller, the remaining year of the existing tapered discount arrangement is secured and the level of risk remains unchanged.

### 6. Consultation

#### a) Has Local Member Been Consulted?

N/A

#### b) Has Executive Councillor Been Consulted?

Yes

#### c) Scrutiny Comments

The report will be considered by the Overview and Scrutiny Management Board on 28th April 2022. Any comments of the scrutiny committee will be provided to the decision-taker, prior to them making the decision.

#### **d) Risks and Impact Analysis**

See the body of the Report

#### **7. Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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