



**Open Report on behalf of Andrew Crookham,
Executive Director – Resources and Deputy Chief Executive**

Report to:	Councillor R G Davies, Executive Councillor for Highways, Transport and IT
Date:	27 February - 10 March 2023
Subject:	Procurement of a Software (including Microsoft) Reseller Contract
Decision Reference:	I028204
Key decision?	Yes

Summary:

This report sets out and seeks approval for the procurement of a reseller of software and related services including Microsoft services.

Recommendation(s):

That the Executive Councillor

1. approves the award of a contract with a reseller of software and related services with an initial period of 3 years with options to extend for a further 2 periods of 12 months, and for the continued purchase of Microsoft Licensing and Azure services through that re-seller through the contract term: and
2. delegates to the Deputy Chief Executive and Executive Director – Resources in consultation with the Executive Councillor for Highways, Transport and IT authority to determine the identity of the successful reseller and approve the entering into of a contract with that re-seller.

Alternatives Considered:

Do Nothing	This alternative is not recommended 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 with the resultant failure of critical local services.
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Reasons for Recommendation:

This enables the Council to continue to use Microsoft products and services to effectively deliver on its statutory functions. Inclusion of other software within the scope of the procurement allows an efficient route to market without obliging the Council to carry out further and unnecessary procurements.

1. Background

1. The Council utilises an extensive range of software including Microsoft technologies, products and software services. The predominant area of spend on software is on Microsoft products which underpin the Council's major software infrastructure.
2. The Council's current Microsoft software estate was procured via the Council's software reseller contract with Softcat which will expire on 30th June 2023 with no options to extend. This contract was procured for a single year in May 2022 utilising the CCS RM6194 Back Office Software (BOS) framework agreement to be able to take advantage of the final year of a tapered discount scheme known as RAMP (Rapid Modernisation Programme) which was entered into in 2020 due to the Council requiring additional functionality (via 'E5' licences) in Microsoft Teams and cybersecurity as a result of staff working from home due to Covid.
3. The Council's current Microsoft software estate is encapsulated in two agreements: the Enterprise Software Agreement (ESA) which expires on the 30th June 2023 and the Service and Cloud Enrolment (SCE) which expires on 30th June 2025. In the months leading up to 1st May 2023, IT in conjunction with business stakeholders will undertake a rationalisation exercise to make sure the Council are procuring the correct type and quantity of Microsoft subscription products.
4. 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 organisations.
5. Due to Microsoft's commercial strategy the Council cannot procure Microsoft products directly from Microsoft, all Microsoft licencing is facilitated via a Microsoft Licencing Solutions Partner (the Reseller).
6. In order to ensure that the Council continues to receive the Microsoft services that it needs beyond June 2023 the Council is required to procure a new Reseller contract with a Microsoft Licencing Solution Partner. There is other software that the Council needs a reseller to access on its behalf and that is included within the scope of the procurement.
7. Over the past 12 months the Council has spent circa £3,580,000 on Microsoft Licencing and Azure services and circa £924,000 on other non-Microsoft software.
8. A pre-market engagement exercise was concluded in December 2022 for the re-seller procurement which demonstrated that

- The Council's requirements as explained in the brief to the suppliers are practical and deliverable by the market, and are attractive to suppliers of an appropriate size
 - That a wide variety of software-related services are possible and that optimising the Council's software estate is deliverable by the market
 - That a payment mechanism based on cost plus markup is preferred by the market and the most appropriate for our requirements
 - It is common for local authorities to commission software reseller 'partnerships' with resellers providing software and licence management services to local authorities in addition to providing the licences. Devon and Norfolk County Councils have gone down this route.
9. The procurement route is a further competition exercise through the Crown Commercial Service TePAS framework for a contract with an initial period of 3 years with options to extend to a maximum contract term of 5 years.
 10. The 28 eligible providers on the framework submit proposals.
 11. The Council establishes its own award criteria and weightings enabling us to place most significance on the areas important to the Council.
 12. Bidders' submissions are evaluated on a 50% Price, 50% Quality split which demonstrates the importance of the quality aspects below to the Council, whilst recognising the majority of the products under the MOU are fixed.
 13. Assessment of bidder's commitments assists the Council to:
 - Find the best and most cost-effective software taking into consideration existing usage of software and potential economies of scale
 - Manage licence types and levels, rationalising where possible
 - Provide the Council with best-value software products and services
 - Benchmarking
 - Provide the Council with market intelligence and expertise
 14. Price is assessed on the basis of the mark-up on the MOU-agreed costs submitted by bidders for Microsoft products. This markup is then be applied to Microsoft and non-Microsoft products procured through the contract.
 15. To ensure that deadlines can be met the procurement process will have been commenced prior to this report being published. However, prior to the contract being entered into this Report seeks approval to the award of a contract and the necessary delegation to the Executive Director – Resources to determine the successful tenderer and approve the entering into of the contract

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 but do not 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 but do not 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 but do not have any implications for this decision.

3. Conclusion

Awarding the proposed contract will enable the Council to continue to use Microsoft products and services to effectively deliver on its statutory functions. Inclusion of other software within the scope of the procurement allows an efficient route to market without obliging the Council to carry out further and unnecessary procurements.

4. Legal Comments:

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

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

5. Resource Comments:

The proposal represents a more efficient and streamlined route to market with no additional spend anticipated with this proposal. In effect, the decision enables the Council to continue to utilise software already in use within existing budgets.

6. Consultation

a) Has Local Member Been Consulted?

N/A

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The decision will be considered by Overview and Scrutiny Management Board at its meeting on 23 February 2023 and the comments on the Board will be reported to the Executive Councillor

d) Risks and Impact Analysis

See the main body of the report

7. Background Papers

No Background Papers under Section 100D of the Local Government Act 1972 have been used in the preparation of this Report

This report was written by Steven Campbell, who can be contacted on Steven.Campbell@Lincolnshire.gov.uk.