

Subject:	Software Licensing Procurement		
Date of Meeting:	28 April 2016		
Report of:	Executive Director for Finance & Resources		
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report seeks approval for the procurement and award of agreement/s for Microsoft software licensing to support Brighton & Hove City Council's (the 'Council's') ICT services working in collaboration with the Orbis Partnership.
- 1.2 Officers have participated in a selection and evaluation process for a Licensing Solutions Partner under lot 2 of the government Crown Commercial Service, Ministry of Defence and Pro5 technology products framework agreement (RM1054), led by its partner East Sussex County Council ('ESCC') alongside Surrey County Council ('SCC') as part of the Orbis Partnership.

2 RECOMMENDATIONS:**That the Policy & Resources Committee:**

- 2.1 Delegates authority to the Executive Director Finance & Resources to select a suitable procurement route and to enter into Microsoft Software Licensing agreement/s with a Microsoft Licensing Partner for a three year period.
- 2.2 Delegates authority to the Executive Director Finance & Resources to extend the agreement/s referred to in 2.1 for up to two periods of one year following the initial three year term, should such extensions be deemed necessary.

3 CONTEXT/ BACKGROUND INFORMATION**Overview**

- 3.1 Brighton & Hove City Council, in common with most local authorities, makes use of Microsoft software licensing in the delivery of its ICT services to staff, Members and its traded services to schools. This ensures that the authority is accurately and compliantly licensed for a variety of Microsoft software including but not limited to: operating systems, productivity systems, security, server and database systems. Collectively, these services form the foundation for the day to day use of ICT by all ICT users.

- 3.2 ICT delivers services for nearly 5,000 corporate users and devices, alongside several hundred physical and virtual servers and a traded ICT service to schools across Brighton & Hove. Ongoing Microsoft licensing is required for any device/user or combination which accesses ICT desktop, laptop and core services including email, file storage and application delivery.
- 3.3 The Council purchased a Microsoft Enterprise Subscription Agreement (ESA) five years ago under the Public Service Agreement 2009 (PSA09). This agreement and the associated pricing terms are no longer available and the existing Microsoft ESA will terminate at the end of June 2016. The current licensing agreement is purchased on a subscription basis. If this were to lapse and no new agreement was in place the Council would be un-licensed for the products and services it uses. This would place the organisation at very serious risk of litigation and substantial damages.

Orbis Partnership

- 3.4 The Council is developing its collaboration arrangements with ESCC and SCC under the Orbis Shared Service Partnership. A common approach to Microsoft software licensing has been developed and agreed as a key ICT enabler of the partnership. However, it should be noted that each sovereign authority will enter into its own licensing arrangement to support its needs; this is a requirement of the Orbis shared service model as Orbis itself cannot enter into contracts.
- 3.5 To this end ESCC led a procurement exercise on behalf of ESCC, SCC & the Council, through the CCS, MoD and Pro5 Framework (RM1054) for a Microsoft Licensing Solutions Partner to provide both advice and the procurement route for Microsoft software licensing for all three authorities for an initial three year period, with the potential to extend for two further periods of one year. The intention was to ensure that both the sovereign needs of the authorities and the common opportunities within the Orbis Partnership were identified and procured effectively and efficiently.
- 3.6 Further, if the Orbis partnership is to operate a joined up service it is important that it has effective tools and systems for collaboration and shared technologies which can be jointly supported. The alignment of Microsoft licensing will enable this approach.

Licensing Requirements & Budget

- 3.7 All Microsoft licensing agreements are now offered for a three year period with licensing reviewed on a combination of annual and/or monthly renewal depending on licence type and need. This can be affected by the number of users, type of software required, or the implementation of those services. This licensing approach, set by Microsoft, combined with the variable number of users and the rapid pace of change (through both the Orbis Partnership and Customer First in a Digital Age programme) means that it is impossible to predict the exact value of the contract over the period as the number and type of licences will flex up and down. This will lead to a combination of reductions (fewer users and desktop computers) and significant increases (mobile devices, data and content storage).

- 3.8 The current ICT budget of £420k per annum for Microsoft licensing has been increased for 2016/17 to accommodate the expected rise in cost from both the reductions in discount available and the increased requirements across the user base. The exact levels of spend will be subject to advice received from the appointed Microsoft Licensing Partner and more detailed review of both the current licence estate and requirements. Based on initial early review, evaluation and soft market analysis the annual cost is expected to be in the range £500-£600k, with potential to rise to £700k by year 3 of the agreement. The unit pricing and discount levels have already been negotiated at a national level, so the options to reduce the costs are through the selection of licensing options, not negotiation.
- 3.9 Over the three year term of the licensing agreement the range of contract cost is likely to be £1.5 to £2 million. The current budget over the 3 year period based on agreed 2016/17 budget levels is 3 years x £594k or £1.782 million.
- 3.10 This will provide not just the server end licensing requirements, but also existing software and updates for Windows, Office (Word, Excel, Powerpoint etc.). In addition the licensing will provide users with Skype for Business (messaging, video calls), OneDrive file storage, Yammer social collaboration, unlimited email archiving and a number of other benefits. The solutions will be licensed per user, which will have the advantage of containing costs where staff use multiple devices (smartphones, tablets, laptops etc.), but will also mean that where staffing numbers reduce the software costs will reduce at the same rate.

Governance & Direction

- 3.11 Microsoft software licensing will continue to be managed as part of the ICT Service and operated from within the ICT Services budget. If the needs of the authority exceed the agreed budgeted levels, a business case would be put to the council's Modernisation Programme for the additional revenue requirement. This has been allowed for within the investment levels of the Modernisation Programme, in support of both staff mobility/productivity and the delivery of the Orbis shared service.
- 3.12 The Procurement Advisory Board has reviewed the report and approach as part of its progress to Policy and Resources Committee.

Procurement Strategy and Approach

- 3.13 The Council, ESCC and SCC have worked together under the South East 7 group of authorities ICT strand for a number of years with the aim of delivering savings and developing opportunities for joint working. Effective examples of joint procurement have included; The Link Public Service Network and joint procurement of Management Information System software for schools.
- 3.14 As outlined above, the Orbis founding partners (ESCC, SCC & the Council) subject to due diligence are proposing a common approach to procure the services of a Microsoft Licensing Solutions Partner. The key benefits of having the same partner are; economies of scale for margin and services supplied and the ability to explore licensing opportunities of benefit to the wider Orbis partnership as well as supporting the sovereign ICT Strategies.

- 3.15 ESCC led a procurement exercise through an existing government framework and all three authorities were represented in the development of the requirements, the setting of the evaluation criteria and the evaluation of the tenders. Although there is no obligation on the Council to use the outcome of this procurement as its route to buy Microsoft licensing, it is considered that this vehicle represents the best value for money approach available to the Council.
- 3.16 Independent advice was sought from Crown Commercial Services in the development of both the approach and the tender. Further quality assurance of the tender responses was also sought.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Analysis has been undertaken by all authorities of their individual licensing requirements and the best fit procurement model to meet their individual and collective needs. Collective technical agreement was reached that both individually and collectively Microsoft solutions presented the most appropriate choice for each partner council, as opposed to other commercial or non-commercial alternatives. Each of these alternative options would have a significant cost of change, learning curve for users and are known to have compatibility issues with existing council systems.

4.2 Options Appraisal

In analysing the proposed approach to delivering the requirements, the following options were considered

- 4.2.1 **Option 1 – Do Nothing** – Under this option (included for completeness) the Council would cease its Microsoft licensing agreements at the end of the existing licensing term

Advantages –

- No new direct licensing costs

Disadvantages –

- This approach would either leave the Council exposed to immediate legal and compliance action by Microsoft for breach of its licensing terms, or with no access to the majority of the ICT core service for any of its users. This would risk either substantial cost and reputational damage or catastrophic business continuity issues with many services unable to operate.

- 4.2.2 **Option 2 – Procure Microsoft Licenses via a new Microsoft Licensing Solutions Partner (MLSP)** – Under this option the Council would independently

procure its licenses through tendering for a Licensing Solutions Partner via a government framework.

Advantages –

- Ensures that the MLSP is working exclusively for the benefit of the Council in all advice it provides.
- Requirements and evaluation criteria are solely set by the Council

Disadvantages –

- Any economies of scale available are only at the Council licensing level.
- No possibility of realising opportunities presented by the the Orbis partnership as a whole.
- Evaluation criteria would so closely match that used within the joint procurement, this option would end up duplicating the work carried out by Orbis

4.2.3 Option 3 – Procure Microsoft Licenses via the ESCC led MLSP tender – *This was the preferred option – This is the option described in the main body of the report*

Advantages –

- Available economies of scale are gained on margin and service delivery costs.
- MLSP can provide advice to individual sovereign authorities
- MLSP can also provide advice on opportunities for the Orbis Partnership as a whole.
- Collective resources of the Orbis partnership can be used to ensure that the maximum value is extracted from the contract and the relationship with the MLSP.

Disadvantages –

- There is a small risk that if the needs of the other Orbis partners become significantly different over the term of the contract that the Council will not be able to derive added value from this approach.
- Working in partnership with other authorities will require time and resource to ensure best value is gained.

4.3 Preferred Option – Option 3

Option 3 was selected and recommended as the most appropriate to the current need providing both local and partnership benefits for procuring required Microsoft licensing.

5 COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Not applicable

6. CONCLUSION

- 6.1 The council is required to ensure that its systems and software are appropriately licensed. The proposed approach provides the best balance for ensuring sovereign requirements are met, while also enabling the opportunities presented through the Orbis partnership.
- 6.2 This is a relatively low risk procurement approach which means that the Council benefits not only from the necessary specialist advice on Microsoft licensing, but also ensures that the partners within Orbis are best placed to drive collective benefit for the public sector.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 As mentioned in the body of the report, it is expected that licensing costs will increase for the council over the next few years. The budgetary costs are stated in sections 3.8 and 3.9, with the increased costs of approximately £0.5m anticipated to be met within the future level of service budget approved at the recent budget council. Should further funding be necessary then a further allocation would be accessible from the council's modernisation fund subject to business case approval.

Finance Officer Consulted: Peter Francis

Date: 31/03/16

Legal Implications:

- 7.2 The authority of Policy & Resources Committee is required for matters with corporate budgetary implications, such as the award of the Microsoft Software Licensing agreement/s by the Council for which the costs are going to exceed £500,000. Accordingly the committee is entitled to agree the recommendations at section 2 above.
- 7.3 Further, the Council's contract standing orders require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant committee.
- 7.4 The procurement of contracts through framework agreements must comply with all relevant European and UK public procurement legislation as well as the council's contract standing orders. The Council are entitled to access the framework agreement set up by the Crown Commercial Service, and may use this to purchase Microsoft software licences in accordance with its call off arrangements.

Lawyer Consulted: Isabella Sidoli

Date: 4/4/16

SUPPORTING DOCUMENTATION

Documents in Members' Rooms

1. None

Background Documents

1. None

