Wiltshire Council

Cabinet

14 December 2021

Subject:	**Procurement of Microsoft Licencing and Support**
Cabinet Member:	**Cllr Pauline Church Cabinet Member for Finance & Procurement, Commissioning, IT, Digital and Commercialisation**
Key Decision:	**Key**

Executive Summary

The Council uses Microsoft software across the organisation for end user computing and the ICT infrastructure like servers. This needs to be licensed and supported through an Enterprise Agreement, usually for 3 years. The cost around £2.7m per annum; £2.1m for licensing and £0.6m for software support. Our current 3 year agreement ends in June 2022 and we need to consider re-procurement so we can continue using & supporting these licences. This report requests permission to go ahead with that procurement by competitive means and delegated permission to award a contract when an outcome is clear as well as purchasing appropriate licence support. The overall total value over 2 years will be c£5.4m and c£8.1m if a 3 year contract is chosen.

Proposal(s)

1. Approval to enter into a competitive procurement process for a Microsoft Licence Re-seller agreement for licences and support, contracted for up to 3 years
2. Delegated permission to the Corporate Director for Resources, in consultation with the Cabinet member for Finance, Procurement, Commissioning, IT, Digital and Commercialisation to award a contract for both software licences (Enterprise Agreement) and support following competitive process

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Reason for Proposal(s)

1. Microsoft licensed software is used throughout the Council and is pivotal to virtually all computer services. If we were not licensed much of the work of the Council would grind to a halt.
2. Our licence re-seller contract expires in June 2022 and we need to start work now to ensure we have a replacement contract ready. Suitable competitive routes are available to use.
3. The complex software needs a support agreement to ensure best use and rapid remediation of faults when they occur.
4. We have not previously competed both provision of licences and support and not via an aggregated Crown Commercial route. It is hoped this may deliver a best value solution.

Terence Herbert
Chief Executive

Wiltshire Council

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Purpose of Report

1. This report seeks permission to re-procure, by competitive process, the Microsoft licences agreement needed to operate Council ICT systems for the next 2-3 years. It is also a request to procure the software support necessary for smooth operation and fault finding which is sometime necessary.
2. It is planned to re-procure via a Crown Commercial Services aggregated tender.
3. Specific approvals requested are:
    - Approval to enter into a competitive procurement process for a Microsoft Licence Re-seller contracted for up to 3 years
    - Delegated permission to the Corporate Director for Resources to award a contract for both software licences (Enterprise Agreement) and support following competitive process

Relevance to the Council's Business Plan

5. This proposal has general relevance to the whole of the Council Business Plan and activities providing services to residents and visitors. Without the ICT infrastructure, for which this licensing and support and required, many Council activities could not progress.

Background

6. Microsoft licensed software is used throughout the Council and is pivotal to virtually all computer services – even specialist proprietary software like childrens care systems need forms etc which are Microsoft Office. Virtually all local government organisations and central government are in this position and a periodic negotiation takes place between Microsoft and Government to establish a public sector price tariff.
7. If we were not licensed much of the work of the Council would grind to a halt. In theory, over a period of years, some Microsoft licensing could be engineered out of the system in favour of open source software but this is a significant piece of work and generally local authorities that have tried this route have not succeeded in the long term due to Microsoft general market dominance and compatibility issues - the effort and disbenefits exceed the savings.

8. The only route for purchase of Microsoft licences is via authorised re-sellers and there are a number in the market. Once contracted for a period, of say 3 years, annual reviews take place and licence requirements are minimised so there is no excess licensing. For instance between the years 19-20 and 20-21 a saving of circa £250,000 was made by careful management and culling of excess licensing. However licence costs will rise when the size of the organisation grows or Council needs change.

Main Considerations for the Council

9. There are no realistic options for the Council to avoid this spend. Moving away from Microsoft products would take several years to achieve and even then is unlikely to be wholly achievable. It is illegal to use the software without being licensed.
10. A procurement plan is being prepared for this work and, if authorised, the planned route to market is that we would join a Crown Commercial Services tender on behalf of a number of government bodies. This would establish the best value re-seller and then we could enter into our own contract with that re-seller – this is called an aggregation.
11. The outcome of that aggregated tender is a winner who would then contract independently, at the agreed price, with all the participants – we would hold our own Wiltshire Council contract.
12. In addition to licence costs it is most advisable to have support. The criticality of Microsoft products within the Wiltshire ICT estate cannot be underestimated and often we need to draw on Microsoft expertise to resolve issue promptly or tune our use of the products. This support is has previously been purchased directly from Microsoft alongside services such as Cloud computing facilities like storage. However it is planned on this occasion to compete for these support services across re-sellers via the same aggregated procurement. It is like this will deliver a suitable solution but in case this is not the case permission is also sought in this report to make a direct award to Microsoft as in previous years.
13. The overall value of licensing is c£2.1m per annum and support can be up to £600,000 per annum. The support figure includes some software support and some Cloud computing in the Microsoft Cloud called Azure.

Overview and Scrutiny Engagement

14. None

Safeguarding Implications

15. No direct implications. Loss of computing services would have an implication.

Public Health Implications

16. No direct implications. Loss of computing services would have an implication.

Procurement Implications

17. Procurement advisors have been involved in every stage of this proposal and the suggested course of action complies with advice received to achieve maximum value for money and a compliant procurement.

Equalities Impact of the Proposal

18. A full EqIA has not been completed. There are some aspects of equalities in terms of accessing Microsoft software but this is not the focus of the report – the focus is about reprocurement so is not a decision with impact.

Environmental and Climate Change Considerations

19. No direct implications

Risks that may arise if the proposed decision and related work is not taken

20. If we do not reprocure licences we will be in breach and forced to stop using that software. If we do not have software support there is a risk of loss of service or interruption to ICT service.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

21. There is a risk that the re-procurement will complete but costs that are returned are higher than existing. It is known that Microsoft do intend to raise software costs in 2022. The risk can only be mitigated by broad competition (like this aggregation) to secure the best possible price and ensuring that after the procurement we buy only what is essential. This financial risk has been discussed with Finance.

Financial Implications

22. It is a reasonable assumption at this time that we can procure licences and support within the current budget and forecast budget for next financial year, 22/23. Therefore there is no change from current situation and any foreseen changes will be reflected in budget planning.

Legal Implications

23. Legal Services is fully engaged in this process. Crown Commercial Services (CCS) is a legally compliant route to market in regard to this exercise. Any procurement exercise should be conducted in accordance with the requirements of the Public Contracts Regulations (2015) and in accordance with Part 10 of the Council's Constitution, and therefore legal and procurement advice will need to be sought on the final tender pack before release. Legal Services will also be consulted to review the final contract documentation before execution.

Workforce Implications

24. There are no workforce implications.

Options Considered

25. There are 3 main procurement options (rationale in brackets):

    - Direct award (lacks competitive element)
    - Wiltshire Council competitive process (high effort required and risk of low response rate)
    - Aggregated Crown Commercial procurement (low effort required, high participation and competition anticipated)

For the reasons in brackets above the third option has been proposed.

Conclusions

26. In order to safeguard the operations of the Council the spend on Microsoft licensing and support cannot be regarded as optional in the short or medium term. The route proposed to re-procure is the best option and responses to the tender will enable the Council to assess the best value option.

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Appendices

Background Papers

The following documents have been relied on in the preparation of this report:

None