



## London Borough of Enfield

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<b>Report Title</b>	<b>Digital Services ESA (Enterprise Subscription Agreement) Microsoft</b>
<b>Report to</b>	<b>Executive Director of Resources Fay Hammond</b>
<b>Date of Meeting</b>	
<b>Cabinet Member</b>	<b>Councillor Leaver</b>
<b>Executive Director / Director</b>	<b>Fay Hammond, Executive Director Resources/Adrian Gorst</b>
<b>Report Author</b>	<b>Brendan McGeough</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision Number</b>	<b>KD5658</b>
<b>Classification</b>	<b>Part 1 Public and Part 2 Private</b>
<b>Reason for exemption</b>	<b>Commercially Sensitive Information</b>

### **Purpose of Report**

1. This report seeks the approval to award a contract to Phoenix Software Limited via the CCS Technology Products and Associated Services (RM6068) Framework Agreement – using CCS’s Microsoft Aggregation process for the provision of Microsoft Enterprise Subscription Agreement (ESA) for 3 years to support the delivery of Digital Services for 3 years from 1<sup>st</sup> May 2024 to 30<sup>th</sup> April 2027.

### **Recommendations**

To award a 3 year contract to Phoenix Software Limited via the CCS Technology Products and Associated Services (RM6068) Framework Agreement. The expected value of the contract is as set out in the second paragraph of the Financial Implications section.

## Background and Options

2. The Digital Service strategy is based on a Corporate Enterprise-wide delivery of services in the cloud and these are based on using Microsoft Office 365 as the preferred tool. This has been in place since 2015 based on a 3-year contract, it was first renewed in 2018 and then last renewed in 2021. This report recommends a new contract award for Microsoft Licences from May 2024 to April 2027. Microsoft do not sell these contracts directly, but through re-sellers based on nationwide framework.
3. The Council's IT plan is a Cloud first, digital by design strategy using Microsoft products as its preferred hosted application and storage products. These continue to meet the 2020-2023 Digital Services Strategy and are now embedded in the organisation as its default tools. Over the next 3- year cycle, this contract will provide the basis for application rationalisation, and secure products that are supported 24/7 and will continue to be developed.
4. The current contract was awarded via G-Cloud 12 for a duration of 3 years, commencing 01/05/2021 for the Enterprise Subscription Agreement.
5. As part of the options appraisal process, research was undertaken to identify the available routes to market. The research identified a strong preference towards the CCS Technology Products and Associated Services (RM6068) Framework Agreement under Lot 3 Software and Associated Services via an aggregated process. An aggregated process brings together similar requirements from multiple contracting authorities under one procurement, thereby leveraging greater economies of scale.
6. The Council participated in the Autumn/Winter 2023 competitive, aggregated procurement, undertaken by Crown Commercial Services (CCS) under the CCS Technology Products and Associated Services (RM6068) Framework Agreement under Lot 3 Software and Associated Services. 20 other public bodies, including 11 other local authorities participated in the Autumn/Winter aggregated procurement. Following the evaluation of the tenders received, undertaken by CCS and in accordance with the published evaluation criteria, Phoenix Software Limited were identified as the winning tenderer.
7. CCS have a Memorandum of Understanding (MOU) in place with Microsoft that fixes discount levels for all Public Sector organisations for Microsoft products. Each MOU determines the discount levels for Microsoft products for a period of three years. The current MOU (Digital Transformation Arrangement 21 (DTA21) is valid and fixes prices until 31/10/2024. This offers discounts of between 10-35% across the different licence types purchased.
8. The renewal of the Council's ESA Agreement will fall under DTA21, for which discounts levels are known.
9. To participate in the current CCS Aggregation ('Autumn/Winter'). Microsoft prices are set by Microsoft, it is the reseller margin that will essentially be tendered for. On average, aggregations save 2-3.5% on the reseller markup.

However, the CCS also have a MoU with Microsoft offering discounts and limiting price increases that can be applied. The current MoU expires on 31/10/24 which doesn't allow them to increase prices before then.

### **Main Considerations for the Council**

10. The council's Digital Strategy requires its enterprise solutions to be capable and agile to deliver its services putting the customer at the heart of delivery and can continue to grow while controlling its costs. The options to use these services are via expensive pay as you go services or receiving larger discounts by a 3-year commitment that ensure existing prices are both discounted and locked in for the contract period.
11. Digital Services will ensure that its monitoring of use of products ensures that its spend remains within contract and by utilising its partnerships with Microsoft and Phoenix it will maximise the use of the products and contractual relationship to enable its Enterprise to be rationalised.

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

12. Failure to award the contract will mean that the council will be at risk at both increased financial liability by using a more expensive pay as you go model, which it does not have a budget for and in addition risks non-compliance with licencing of products in use in the organisation.
13. The framework agreement used, CCS Technology Products and Associated Services (RM6068) Framework Agreement, Lot 3 Software and Associated Services, was extended to 30<sup>th</sup> April 2024, therefore if the contract is not signed with Phoenix Software Limited before this date, the Council will not be able to enter into a contract under this route and will need to undertake a compliant procurement process itself within a very short timescale. This will have the potential to put the timely renewal of the Microsoft agreements at risk.

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

14. The key risk is that the contracted requirements change during the life of the contract. These risks are mitigated by ensuring that the upfront costs are minimised and subject to annual review and have also been aligned to the 3-year Digital Strategy.

### **Preferred Option and Reasons For Preferred Option**

#### **Options Considered**

15. To retain Microsoft

- Provides continuity
- A change of reseller is possible
- Links to the End User Computing project requirements

16. Change to a different system, such as Google or Amazon.

- Not possible in the timescales available due to the time that would be needed to research and evaluate other potential solutions, and to then implement.
- Additional cost implication to do this work.

## **Conclusions**

17. By aligning the requirements to the council's Digital Strategy and by using an organisation via CCS aggregation to ensure it gets the best deal, this enables the council to have the most appropriate and value for money contract available to it that meets its needs.

## **Relevance to Council Plans and Strategies**

18. All aspects of the plan are supported by provision of secure, robust, and flexible Digital Service provision. This enables all service provision.

## **Financial Implications**

This report seeks the approval to award a contract to Phoenix Software Limited via the CCS Technology Products and Associated Services (RM6068) Framework Agreement – using CCS's Microsoft Aggregation process for the provision of Microsoft Enterprise Subscription Agreement (ESA) for 3 years to support the delivery of Digital Services for 3 years from 1<sup>st</sup> May 2024 to 30<sup>th</sup> May 2027.

The existing contract cost is £1.4m per annum, which is being funded from the Application and software controllable budget (FG0227) of £7.4m. The new contract will cost £1.3m per annum and £4m over the 3 years life cycle of the contract.

There is no capital budget implication, this contract is fully funded from revenue.

## **Legal Implications**

19. The Council, under s.111 Local Government Act 1972 has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council also has a general power of competence under s.1(1) Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to Public Law principles. The proposals within this report are in accordance with these powers.

20. The value of the contract exceeds the relevant EU threshold, which means that the Public Contracts Regulations 2015 (PCR 2015) apply to the

procurement. The use of a framework is a compliant route to award, provided that the procurement process complies with the PCR 2015, the Council's Contract Procedure Rules (CPR), and the terms of the framework itself. The P&C Hub has carried out due diligence on the framework and confirmed that the Council can compliantly make an award under the CCS Technology Products and Associated Services (RM6068) Framework Agreement.

21. The terms of the contract procured must be consistent with the framework, and in a form approved by Legal Services on behalf of the Director of Law and Governance. Due to the value, it must be sealed by Legal Services.
22. In respect of any contract with a value of £1m and over, the Council's CPRs state that the supplier must be required to provide 'sufficient security' (which includes a performance bond or parent company guarantee). Evidence of the form of security required or why no security was required must be stored on the E-Tendering Portal for audit purposes. Where no such security is being requested from the supplier, then the Executive Director of Resources must approve the financial risk prior to any award. The relevant Authority Report must set out the reason why it is proposed that the contract should be awarded despite absence of security and what measures are to be taken to manage this risk.
23. The Council will need to ensure that it obtains Best Value for the services as required under the Local Government Act 1999.

### **Equalities Implications**

24. N/A

### **HR and Workforce Implications**

25. Not relevant to this report

### **Environmental and Climate Change Implications**

26. N/A

### **Public Health Implications**

27. Not relevant to this report

### **Property Implications**

28. Not relevant to this report

## **Safeguarding Implications**

29. Not relevant to this report

## **Crime and Disorder Implications**

30. Not relevant to this report

## **Other Implications**

## **Procurement Implications**

- 31.1 Any procurement must be undertaken in accordance with the Council's Contract Procedure Rules (CPR's) and Public Contracts Regulations (2015).
- 31.2 The Council participated in the Autumn/Winter 2023 competitive, aggregated procurement, undertaken by Crown Commercial Services (CCS) under the CCS Technology Products and Associated Services (RM6068) Framework Agreement under Lot 3 Software and Associated Services.
- 31.3 20 other public bodies, including 11 other local authorities participated in the Autumn/Winter aggregated procurement.
- 31.4 27 suppliers who are appointed to Lot 3 of the RM6068 framework agreement were invited to tender.
- 31.5 Three tenders were received and evaluated by CCS. No suppliers were rejected during the evaluation stage and all tenders were evaluated on the basis of price and quality.
- 31.6 Following the evaluation of the tenders received, in accordance with the published evaluation criteria, Phoenix Software Limited were identified as the winning tenderer.
- 31.7 Each participating authority has the option to enter into a contract with the winning supplier, Phoenix Software Limited, and is responsible for obtaining its own approval to award in accordance with its own internal procedures.
- 31.8 The necessary due diligence has been undertaken to ensure that the Council can compliantly award the contract under the Crown Commercial Services (RM6068) Framework Agreement. This Framework Agreement was due to expire on 9<sup>th</sup> December 2023, however, Lot 3 has been extended to 30<sup>th</sup> April 2024.
- 31.9 The award of the contract, including evidence of authority to award, promoting to the Council's contract register, and the uploading of the executed contract will be undertaken on the London Tenders Portal including future management of the contract.

- 31.10 This necessary information will be published on the Contracts Finder portal to comply with the Government's transparency requirements.
- 31.11 The CPR's state that contracts over £100,000 must have a nominated contract owner in LTP, and for contracts over £500,000 there must be evidence of contract management. As this contract is over £500,000, resource has been identified from within Digital Services to manage the proposed contract. Procurement will work with Digital Services to ensure the contract manager has access to LTP.
- 31.12 Procurement Services is in the process of rolling out a contract management tiering tool which will classify contracts. This contract by nature of its value and strategic importance will be deemed as a Platinum contract. It will require the most rigor in terms of contract management and Procurement Services will be available to input utilising our expertise alongside Digital Services. This framework allows for a Board to be set up to oversee this contract by the Council and the expectation is that Digital Services will create this environment.
- 31.13 A handover meeting will be set up between Procurement Service and Digital Services to support the establishment of a contract management plan for the lifetime on the contract.

### **Digital Implications**

There are no Digital implications as the service is the same as the current arrangement. The provider/reseller will be changed.

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