

Procurement of a Microsoft Licensing Solutions Partner

REPORT TO; Madeline Hoskins, Assistant Director, Technology

DECISION DATE: 13th November 2024

SUPPORTING ANNEX; This report includes a supporting Annex which contains exempt information as described in paragraphs 1, 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

PROPOSED RECOMMENDATION

It is recommended that the Authority proceed with a direct award of a Microsoft Licensing Solutions Partner to facilitate the transfer of the licensing on the old County Councils Enterprise Subscription Agreement (ESA) to the enterprise subscription agreement headed by the ex-borough of Scarborough.

The proposed contract duration is:

- 1 January 2025 – 30 June 2025

This approach represents best value for the Authority they will be renewed on the lower fixed pricing on the Crown Commercial Services 2021 Digital Transformation Arrangement pricing instead of the more expensive Crown Commercial Services 2024 Digital Transformation Arrangement, it will also align the ends dates of the ex-NYCC ESA licenses with the former district and borough ESA licenses (already on the Scarborough agreement) for future procurement exercises.

BACKGROUND TO SUPPORT THE RECOMMENDATION

The Authority currently purchases a wide range of Microsoft licences that underpin and support all services and functions of the Authority. Microsoft have an Enterprise Agreement with the Authority for the licences, however, to ensure compliance with the Public Contract Regulations, Microsoft do not directly contract with public bodies.

Microsoft licences are sold by Microsoft Licencing Solution Partners, a shortlist of pre-approved re-sellers who must apply and meet certain eligibility criteria to become an approved Partner.

Enterprise Agreements are three years in duration (aligning with the Digital Transformation Arrangement signed with the Government every three years), and procurement contracts (with the Licencing Partner) are then co-termed.

As part of the LGR merger the individual councils each had their own licensing arrangements, with multiple Enterprise Agreements and License Solution Providers (LSP). To align the end dates of those agreements Scarborough Borough Council (who's renewals was the first to occur prior to the merger) procured a "multi-tenant" agreement through their appointed Microsoft LSP and as subsequent agreements expired those licenses were transferred to that agreement. The North Yorkshire County Council ESA agreement is the

last to expire and it is proposed to transfer those to the Scarborough contract for the final 6 months, before finally renewing all ESA licenses on a North Yorkshire Council agreement, by an open tender process thereafter.

LEGAL AND GOVERNANCE COMPLIANCE

As per the Council's Procurement and Contract Procedure Rules, Where the estimated value of the Contract exceeds the WTO GPA Threshold, Above Threshold Tenders:

17. EXCEPTIONS TO PROCUREMENT AND CONTRACT PROCEDURE RULES: See highlighted below:

17.2 A Director does not need to invite bids in accordance with Rule 9 in the following circumstances: -

(a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the Council. Contracts awarded from such Framework.

Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or

(b) the contract is to be awarded to the Council's teckal company which is legally controlled by the Council; or

(c) the instruction of Counsel by the Monitoring Officer; or

(d) where funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms; or

(e) purchases at public auctions (including internet auction sites, e.g., Ebay) where the Director is satisfied that value for money will be achieved; or

(f) the purchase of Supplies, Works, Services or Social and Other Specific Services which are of such a specialised nature as to be obtainable from one Contractor only; or

(g) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such supplies from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or

(h) Social or Other Specific Services Contracts where: -

(i) the service is currently supplied by a Contractor to the satisfaction of the relevant Director, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further bids, or

- (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the NYC Constitution - Version 6 - April 2024 Page 336 Director Health and Adult Services and the Director Children and Young People's Service considers it inappropriate for bids to be invited, or
- (iii) where the relevant Director is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or
- (i) in relation to Pilot schemes for a proof of contract/trialling a product or area of innovation.
- (j) Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies.

17.3 Where any of the exceptions set out in (e) to (j) above are applied a Directors Recommendation, in consultation with the relevant SCMs, shall be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule.

Waivers

17.5 Specific exceptions to these Rules are permitted in such other circumstances as the S151 Officer and the Monitoring Officer may agree.

17.6 Requests for waivers shall be made using the Waiver Request Form prescribed by the S151 Officer which shall specify the reasons for the request.

17.7 Any requests for waivers shall be made in consultation with the relevant SCM's, and be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all waivers made under this Rule.

RECOMMENDATION

It is recommended that the Authority proceed with a direct award to allow the transfer of the licensing on the ex-NYCC's Enterprises subscription agreement to the LSP of the enterprise subscription agreement headed by the ex-borough of Scarborough.

The proposed contract duration is:

- 1 January 2025 – 30 June 2025

The estimated value of the contract would be £1,000,000.