

Report to Cabinet

23 February 2022

Subject:	Direct Award of Microsoft Server Cloud Enrolment (SCE) License renewal using KCS framework agreement
Cabinet Member:	Councillor Maria Crompton - Cabinet Member for Finance and Resources
Director:	Neil Cox – Director of Business Strategy and Change
Key Decision:	Yes
Contact Officer:	Sue Knowles sue_knowles@sandwell.gov.uk Andy Saunders ICT Service Manager andy_saunders@sandwell.gov.uk Richard Griffiths ICT Service Delivery Manager richard_griffiths@sandwell.gov.uk Balbir Bhogal ICT Enterprise Manager balbir_bhogal@sandwell.gov.uk

1 Recommendations

That approval be given to:

- 1.1 Authorise the Director – Business Strategy and Change to make a direct award of contract using the Kent County Suppliers (KCS) framework to Phoenix Software Limited for the renewal of the existing Microsoft SCE license agreement for continued support and licensing arrangements for a three (3) year period from 1st April 2022 to 31st March 2025 at a total cost of £377,555.76.



- 1.2 Authorise the Director Law and Governance – Monitoring Officer to execute any documentation necessary to enable the course of action referred to in 1.1 above to proceed.
- 1.3 That any necessary exemptions be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in 1.1 above to proceed.







2 Reasons for Recommendations

- 2.1 Approval is sought to enable the direct contract award using the Kent County Suppliers (KCS) framework to Phoenix Software Limited for the renewal of the existing Microsoft SCE license agreement for continued support of the authorities Microsoft server estate.
- 2.2 Regulation 33(8)(a) of the Public Contract Regulations 2015 (PCR 2015) sets out the criteria for making a direct award where a framework agreement is concluded with more than one supplier. In accordance with the regulations, the Council is satisfied that following its own due diligence:
 - It has identified the supplier that offers best value for this requirement.
 - Having two different suppliers will cause an additional administrative burden for the Council and disproportionate technological difficulties
 - The chosen supplier is able to supply the required services within the Councils timescales
 - Continuity of existing services from the awarded supplier is maintained
- 2.3 The current three (3) year Microsoft SCE agreement expires on the 31st March 2022



- 2.4 Phoenix were awarded the Councils Microsoft Enterprise Agreement contract in 2021 following a full procurement process, although the EA and this SCE cannot be aligned for renewal at the same time it is beneficial to the Council that we maintain continuity between these two contracts.
- 2.5 The renewal of the Microsoft SCE license agreement is required for the continued use of the technology products being delivered through the agreement and for continued usage, vendor support and software license compliancy. These products make up a large part of existing ICT infrastructure.

3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people	<p>Most service areas rely on ICT systems to function effectively. The Microsoft based server estate provides technology platforms that enable these services to run such as application servers and database infrastructure. This contract covers licencing for ‘on premise’ servers as well as those that run from the cloud.</p> <p>This contract is necessary for the continuing delivery of council services and therefore supports the council’s ability to achieve all the outcomes detailed in the Corporate plan.</p>
	People live well and age well	
	Strong resilient communities	
	Quality homes in thriving neighbourhoods	
	A strong and inclusive economy	
	A connected and accessible Sandwell	



4 Context and Key Issues

- 4.1 The current three (3) year Microsoft SCE license agreement expires on the 31st March 2022. Approval is being sought for a direct contract award to Phoenix Software Limited using the KCS framework for a three (3) year period from 1st April 2022 to 31st March 2025.
- 4.2 The total cost of the three (3) year proposed renewal based on current usage is £377,555.76 and would be paid annually as follows:

Year 1 cost: £125,851.92

Year 2 cost: £125,851.92

Year 3 cost: £125,851.92

The cost could flex up or down on an annual basis dependent on decreases or increases in usage of the products within the Microsoft SCE license agreement.

- 4.3 Phoenix Software Limited is the current incumbent supplier for the existing three (3) year Microsoft SCE license agreement and also the Microsoft Enterprise Agreement. There have been no issues with the supplier during this time.

5 Alternative Options

- 5.1 A full tender exercise could have been conducted. However, there is an essential need to maintain service continuity across both existing Microsoft agreements with Phoenix Software Limited. Were the contract to be let to another supplier, the issues listed below could cause operational problems. A direct award through the KCS framework allows these issues to be negated in a compliant manner.
- Having multiple Microsoft agreements with different Licensing Solution Providers is against Microsoft recommendations. This is for a number of reasons including a lack of cohesion across licensing schemes, neither partner having an overall view of the licensing entitlement and



therefore the potential for neither party to be able to offer accurate and cost-effective licensing advice due to the lack of a cohesive understanding of the Council's licensing estate.

- Microsoft strongly recommend as best practice that agreements are placed with the same Licensing Solution Provider to ensure that communications and engagements are not being duplicated as this is a waste of time for the Council and the partners involved.

6 Implications

Resources:	The total cost of this renewal is £377,555.76 excluding VAT. Funding will be drawn from existing budget provision for this renewal.
Legal and Governance:	<p>Regulation 33(8)(a) of the Public Contract Regulations 2015 (PCR 2015) sets out the criteria for making a direct award where a framework agreement is concluded with more than one supplier. In accordance with the regulations, the Council is satisfied that following its own due diligence, it has identified the supplier that offers best value for this requirement.</p> <p>Legal Services Team have reviewed the KCS framework and confirmed that a direct award for the Microsoft SCE license renewal with Phoenix Software Limited is permissible under the terms of the agreement.</p>
Risk:	The corporate risk management strategy has been complied with to identify and assess the risks associated with the recommendations being sought. This has concluded that there are no significant risks that require reporting. Further measures will be put in place to ensure that the risks identified during the procurement process are considered and mitigated to levels within the Council's appetite for risk.

7. Appendices

None



8. Background Papers

None

