

|  |  |
|--|--|
|                       | <b>Officer Key Decision</b>  |
|  | <b>Report to the Corporate Director,<br/>Finance and Resources</b> |
|  | <b>Lead Cabinet Member for Finance,<br/>Resources and Reform</b>   |
| <b>AUTHORITY TO AWARD CONTRACT FOR MICROSOFT DYNAMICS LICENCES FOR THE LONDON BOROUGH OF SOUTHWARK</b> |  |

|   |   |
|---|---|
| <b>Wards Affected:</b>  | All   |
| <b>Key or Non-Key Decision:</b>   | Key Decision  |
| <b>Open or Part/Fully Exempt:</b><br><small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small> | Open  |
| <b>No. of Appendices:</b>   | None  |
| <b>Background Papers:</b>   | N/A   |
| <b>Contact Officer(s):</b><br><small>(Name, Title, Contact Details)</small>   | Name: Amin Jan<br>Job Title: Assistant Category Manager, Shared Technology Services<br>Email: amin.jan@brent.gov.uk |

## 1.0 Executive Summary

- 1.1 This report concerns the procurement of Microsoft Dynamics Licences for one of the Shared Technology Services boroughs, namely the London Borough of Southwark. This report requests authority to award contracts as required by Contract Standing Order 88. This report summarises the process undertaken in procuring a contract and recommends to whom the contract should be awarded.

## 2.0 Recommendation(s)

That the Corporate Director, Finance and Resources, in consultation with the Cabinet Member for Finance, Resources and Reform:

- 2.1 Approves the pre-tender considerations set out in paragraph 3.11.

- 2.2 Approves the award of contract for Microsoft Dynamics Licences for Shared Technology Services borough the London Borough of Southwark to Bytes Software Services Limited for 5 years in the sum of £1,023,787.80.

### **3.0 Detail**

#### **Contribution to Borough Plan Priorities & Strategic Context**

- 3.1 Under the Shared Technology Services' Inter Authority Agreement, Brent is the contracting authority for contracts procured for the delivery of services to the Shared Technology Services' partners, namely the London Boroughs of Brent, Lewisham and Southwark.
- 3.2 The current contract for the provision of Microsoft Dynamics Licences for the London Borough of Southwark (Southwark) expires at the end of March 2024, and it is therefore necessary to procure a new contract. The award of the contract for the provision of Microsoft Dynamics Licences is for the sole use of Southwark but will nonetheless help to ensure the effective operation of the Shared Technology Services which in turn assists with the Borough plan priority of Prosperity and Stability in Brent.

#### **Background**

- 3.3 Under the Shared Technology Services' Inter Authority Agreement, Brent is the contracting authority for contracts procured for the delivery of services to the Shared Technology Services' partners, namely the London Boroughs of Brent, Lewisham and Southwark.
- 3.4 The current Microsoft Dynamics Licences agreement expires on 31/03/24 and it is therefore necessary to procure a new contract. The award of the contract to Bytes Software Services Limited enables the continued provision of Microsoft Dynamics Licences for Southwark.
- 3.5 Microsoft Dynamics is used by Southwark to carry out case management and deliver customer portal functions, in order to enhance the customer experience and deliver efficiencies.
- 3.6 The three year contract for Microsoft Licences for Southwark has been awarded to Bytes Software Services Limited through a mini-competition under the Y20011 KCS Professional Services Software Products and Associated Services 2 framework. To take advantage of Microsoft discount offers for Dynamics licences, and allow the consistent provision of services under contract for Microsoft Licences and Dynamics Licences, it is recommended that Southwark's Microsoft requirements are provided through one contractor.

## The Procurement Process

- 3.7 The Contract will be called off from the Y20011 KCS Professional Services Software Products and Associated Services 2 framework (the “Framework”), using the form of award and standard call off terms and conditions prescribed under the Framework with no amendments.
- 3.8 The Framework permits award by way of a further competition and by way of direct award and sets out rules for the identification of the most economically advantageous contractor under both procedures. Officers consider that identification of the most economically advantageous contractor using the Framework’s direct award procedure is most appropriate for the procurement. Officers have confirmed that Bytes Software Services Limited is the most economically advantageous contractor under the Framework for Microsoft Dynamics licences, with discounted pricing for Microsoft Dynamics licences being available given Microsoft licences are also procured through the same re-seller. Procuring both Microsoft licences and Microsoft Dynamics licences from Bytes Software Services Limited also has the advantage that both contracts will be managed by the same contractor.
- 3.9 KCS, the organisation that established and operates the Framework, have confirmed that awarding the new contract on the basis set out in paragraph 3.8 is a compliant use of the KCS Framework.
- 3.10 As the procurement of Microsoft Licences is from a framework, there is no requirement for the Council to observe a 10 day standstill period under the PCR 2015 although the award of the contract will be subject to the council’s usual call-in process.

## Pre-tender Considerations

- 3.11 The pre-tender considerations relevant to the Contract are as follows:

| Ref.  | Requirement                                    | Response                      |
|-------|--|-------------------------------|
| (i)   | The nature of the services / supplies / works. | As detailed above             |
| (ii)  | The value.                                     | £1,023,787.80                 |
| (iii) | The contract term.                             | 5 Years                       |
| (iv)  | The tender procedure to be adopted.            | Direct Award from a Framework |

| Ref.   | Requirement   | Response  |                         |
|--------|---|---|-------------------------|
| (v)    | The procurement timetable.                                |   | <b>Indicative dates</b> |
|        |   | Contract start date   | 25 March 2024           |
| (vi)   | The evaluation criteria and process.                      | N/A – Direct Award  |                         |
| (vii)  | Any business risks associated with entering the contract. | No specific business risks are considered to be associated with entering into the Contract.                               |                         |
| (viii) | The Council's Best Value duties.                          | For the reasons set out in Section 3, it is considered that Direct Award will result in the Council achieving best value. |                         |
| (ix)   | Consideration of Public Services (Social Value) Act 2012  | Officers have had regard to the Public Services (Social Value) Act 2012.  |                         |
| (x)    | Any staffing implications, including TUPE and pensions.   | There are no implications for Council staff arising from the procurement.   |                         |
| (xi)   | The relevant financial, legal and other considerations.   | Financial – See Financial Implications at Section 5.  |                         |
|        |   | Legal – See Legal Implications at Section 6.  |                         |
|        |   | Other – N/A   |                         |
| (xii)  | Sustainability  | Given the nature and value of the Contract, it is not possible to include specific sustainability requirements.           |                         |
| (xiii) | Key Performance Indicators / Outcomes                     | Appropriate Key Performance Indicators / Outcomes will be included in the Contract.                                       |                         |
| (xiv)  | London Living Wage  | Given the nature of the Contract it is not appropriate to include provision requiring payment of the London Living Wage.  |                         |
| (xv)   | Contract Management                                       | A contract manager will be appointed and appropriate contract management provisions will be included in the Contract.     |                         |

#### 4.0 Stakeholder and ward member consultation and engagement

- 4.1 The relevant Shared Service Borough stakeholders have been consulted in relation to this procurement.

## **5.0 Financial Considerations**

- 5.1 Part 3 of the Council's Constitution states that the Corporate Director, Finance and Resources has delegated authority to approve the award of contracts for services valued at less than £2 million. The estimated total value of the Contract is £1,023,787.80 which is under this threshold.
- 5.2 The cost of the Contract will be funded from The London Borough of Southwark's ICT budget.

## **6.0 Legal Considerations**

- 6.1 The estimated value of the Contract over its lifetime is in excess of the Public Contracts Regulations 2015 (the "PCR 2015") threshold for Services and the award of the Contract is therefore governed by the PCR 2015.
- 6.2 Officers recommend the use of a framework to procure the Contract. The PCR 2015 allow the use of framework agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such framework agreements without the need for them to be separately advertised and procured through a full procurement process. Call offs under the framework agreement need to be carried out in accordance with the framework rules, to include using evaluation criteria specified in the framework agreement and utilising the terms and conditions set out in the framework agreement.
- 6.3 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under a framework agreement established by another contracting authority, where call off under the framework agreement is approved by the relevant Corporate Director or Director and provided that the Corporate Director, Governance has advised that participation in the framework is legally permissible. The Corporate Director, Governance has confirmed that participation in the Framework is legally permissible.
- 6.4 The award of the Contract is subject to the Council's own Standing Orders in respect of Medium Value Contracts. The Corporate Director has delegated power to award Medium Value Contracts in accordance with paragraph 9.5 of Part 3 of the Constitution.
- 6.5 The decision to award the contract will be subject to call-in as provided for in the Council's Constitution. As the procurement of the Contract is from a framework, there is no requirement for the Council to observe a

10 day standstill period under the PCR 2015. Subject to no challenge preventing award, Officers will seek to implement the decision to award.

## **7.0 Equality, Diversity & Inclusion (EDI) Considerations**

7.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

7.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

7.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

7.6 Given the nature of the contract, there are no direct health equalities implications arising from the recommended contract award.

## **8.0 Climate Change and Environmental Considerations**

8.1 Given the nature of the contract and the fact it is for the benefit of Southwark, it is not considered that the recommendation to award has any direct impact on Brent’s environmental objectives and climate change strategy.

## **9.0 Human Resources/Property Considerations (if appropriate)**

9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the Contract.

## **10.0 Communication Considerations**

10.1 Given the nature of the contract and the fact it is for the benefit of Southwark, it is not considered that the recommendation to award has any communication considerations for Brent.

**Report sign off:**

***Minesh Patel***

Corporate Director Finance and Resources