

	Officer Key Decision
	Report to the Corporate Director, Finance and Resources
AUTHORITY TO AWARD CONTRACT FOR MICROSOFT LICENCES FOR THE LOCAL GOVERNMENT ASSOCIATION AND TERMINATION OF EXISTING CONTRACT	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers¹:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Amin Jan Assistant Category Manager, Shared Technology Services Amin.jan@brent.gov.uk 07951148778

1.0 Purpose of the Report

1.1 This report concerns the termination of an existing contract for Microsoft Licences for the Local Government Association and the award of a new three year contract. This report requests authority to terminate a contract and award a contract as required by Contract Standing Orders 113 and 88 respectively. This report summarises the process undertaken in procuring this contract and recommends to whom the contract should be awarded.

2.0 Recommendation(s)

That the Corporate Director, Finance and Resources:

- 2.1 Approves the termination of the existing contract with Bytes Software Services Ltd that includes E3 Microsoft Licences for the Local Government Association.
- 2.2 Approves the award of a new contract for a term of three years to include Microsoft E5 Licences for the Local Government Association to Bytes Software Services Ltd in the sum of £523,442.40.

3.0 Detail

- 3.1 The Local Government Association (LGA) has a contract with Bytes Software Services Ltd for Microsoft E3 licensing for all of its staff. This gives each staff member access to Outlook, Teams, Yammer, Word, Excel and Powerpoint as standard.
- 3.2 The LGA now wishes to move to Microsoft's E5 licensing model.
- 3.3 By moving to a different type of licensing, Microsoft E5, LGA will be able to leverage their commitment to Microsoft's services, allowing staff to access PowerBI, Teams Telephony and Audio Conferencing as part of their standard licensing, with no additional cost to business areas.
- 3.4 Microsoft has provided LGA with a promotion, known as 'E5 Ramp', providing a discount on the E5 licence cost of 45% in Year 1, 39% in Year 2, and 32% discount in Year 3. This allows LGA to move E5 for a significantly reduced cost and removes the inefficiency of recharging elements such as PowerBI costs to business areas, as these will now be part of every user's licence.
- 3.5 As part of the 'E5 Ramp Promotion', LGA will have Audio Conferencing, Phone System and PowerBI free for all users. There are also Additional Security, Compliance and Protection (SCP) products and features included.
- 3.6 By purchasing the Microsoft E5 bundle, the necessary cyber security tools required to ensure that we protect the LGA's IT systems from being breached will be included. E5 Security and Compliance protection allows LGA to further protect its directory services which manage the usernames and passwords for council staff, and it further improves the controls for applications in the cloud and endpoints such as laptops and mobile devices.
- 3.7 The current contract for Microsoft Licensing has a three year term, from 01/02/22 to 31/01/25. This contract is with Bytes Software Services Ltd.
- 3.8 In order to be able to take advantage of the Microsoft 'E5 Ramp' offer, it will be necessary to commit to a three year term. Whilst there are two years remaining of the current agreement, a further one year is needed. It is therefore proposed that the current contract is terminated and a new three contract is entered into.

The Procurement Process

- 3.9 It is proposed that the new contract is procured by making a direct award using the 'Y20011 KCS Professional Services Software Products and Associated Services 2' framework established by Kent County Council trading as KCS Professional Services (the "KCS Framework Agreement"), using the form of award and standard call off terms and conditions prescribed under the KCS Framework Agreement.
- 3.10 The KCS Framework permits a direct award provided that the Customer can meet any one of the following objective conditions:
- "Customer is satisfied that, following their own due diligence, they can identify the supplier that offers best value for their requirement
 - The supplier is able to supply the required goods/services within the customer's timescales
 - The supplier scored the highest mark for price/quality in the Framework Agreement evaluation
 - Goods/services required are unique/exclusive to one vendor/supplier
 - Continuity of existing goods/services from an awarded supplier"
- 3.11 It is proposed that the direct award is made to the current contractor, Bytes Software Services Ltd, on the basis, inter alia, that this will allow the continuity of existing goods/services, by terminating the existing contract with Bytes' consent, and entering into the new three year contract with them.
- 3.12 KCS have confirmed that awarding the new contract on this basis is a compliant use of the KCS Framework.
- 3.13 The new contract will commence on 1 February 2023, with the existing contract terminating on 31 January 2023.

4.0 Financial Implications

- 4.1 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 / supplies valued at less than £2 million.
- 4.2 The estimated value of this contract is £523,442.40. This is a total uplift of £247,167.39 over the 3 years.

4.3 The annual costs are as follows:

Year	Licences	Cost	Uplift
2022/2023	Current E3 costs (without E5 Ramp)	£99,344.80	
2023/2024	E5 Ramp Y1	£156,550.80	£57,206.00
2024/2025	E5 Ramp Y2	£173,512.80	£74,168.00
2025/2026	E5 Ramp Y3	£193,378.80	£94,034.00
3 Year Totals		£523,442.40	£225,408.00

5.0 Legal Implications

- 5.1 It is proposed to terminate the existing contract for Microsoft Licences with Bytes Software Services Ltd. Termination of the existing contract is agreed with Bytes Software Services Ltd. The Corporate Director has delegated power pursuant to paragraph 9.5 of Part 3 of the Constitution to terminate contracts.
- 5.2 The value of this contract over its lifetime is in excess of the threshold for Services and the award of the contract is therefore governed by the Public Contracts Regulations 2015 (the “PCR 2015”). The award is subject to the Council’s own Standing Orders in respect of Medium Value Contracts and Financial Regulations.
- 5.3 Officers recommend the use of a framework to procure the Microsoft Licences. 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 need to be carried out in accordance with the framework rules, to include using evaluation criteria specified in the framework and utilising the terms and conditions set out in the framework. Officers have indicated in paragraphs 3.9 – 3.12 inclusive that direct award is in accordance with KCS framework rules and will use the form of award and standard call off terms and conditions prescribed.
- 5.4 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 Chief Officer and provided that the Corporate Director, Governance has advised that participation in the framework is legally permissible. The Corporate Director, Governance confirms that participation in the Framework in respect of the proposed procurement is legally permissible.

5.5 As the proposed Contract is classed as a Medium Value Contract pursuant to the Council's Contract Standing Order 82, the relevant Chief Officer has delegated authority to award the Contract under Contract Standing Order 88, in accordance with section 3(a) of the table at paragraph 9.5 of Part 3 of the Constitution, subject to the Chief Officer being satisfied there is sufficient budgetary provision in accordance with Financial Regulations.

6.0 Equality Implications

6.1 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,

6.2 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.

6.3 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.

6.4 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.

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

7.0 Consultation with Ward Members and Stakeholders

7.1 The Local Government Association has been consulted in relation to this procurement.

8.0 Human Resources/Property Implications (if appropriate)

Not Applicable.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

Report sign off:

FABIO NEGRO
Managing Director
Shared Technology Services