

Item 13.**Tender - T-2023-992 - Microsoft Enterprise Agreement****File No: X096889****Tender No: T-2023-992****Summary**

This report provides details of the tenders received for the City's Microsoft Enterprise Agreement.

Every three years, the City enters into an Enterprise Agreement with Microsoft under which the City is entitled to use and deploy Microsoft software such as Windows 10 (laptop and desktop operating system), Office 365 (Word, Excel, PowerPoint, Teams) and server-based products such as Exchange and SQL Server and Azure cloud resources.

Previous agreements have been procured via the Local Government Procurement panel (LGP) contract. However, at this time, the best financial outcome for the City was not to use LGP but to seek pricing via Request for Tender (RFT) directly with Microsoft licensing partners.

While the Enterprise Agreement will be with Microsoft, payments and fulfilment services are supplied through Microsoft Licensing Solution Providers, who act as agents for Microsoft.

This report recommends that Council accept the tender offer of Tenderer A for tender - T-2023-992 Microsoft Enterprise Agreement.

Recommendation

It is resolved that:

- (A) Council accept the tender offer of Tenderer A for T-2023-992 Microsoft Enterprise Agreement in accordance with the approved annual budget for a period of three years;
- (B) Council note that the total contract sum and contingency for T-2023-992 Microsoft Enterprise Agreement is outlined in Confidential Attachment A to the subject report;
and
- (C) authority be delegated to the Chief Executive Officer to finalise, execute and administer the contracts relating to the tender.

Attachments

Attachment A. Tender Evaluation Summary (Confidential)

Attachment B. Licensing Schedule of Rates (Confidential)

Background

1. Since 2014, the City has entered into an Enterprise Licensing Agreement with Microsoft. The terms are for three years, with the current agreement ending on 31 July 2023.
2. The Licensing agreement covers the City's use of all Microsoft products, including Windows 10 (laptop and desktop operating system), Office 365 (Word, Excel, PowerPoint, Teams) and server-based products that underpin all the application infrastructure within the City's IT environment.
3. Pricing offered to the City is Government Level D, as per previous Local Government Procurement and State Government pricing levels.
4. The previous three Enterprise Agreement renewals (in 2020, 2017 and 2014) were procured via Request for Quotation (RFQ) under Local Government Procurement panel contract conditions between Local Government Procurement and Microsoft, which expired on 31 March 2023.
5. In April 2023, the City was advised that Microsoft did not renew its agreement with L Local Government Procurement and a different commercial model was introduced by Local Government Procurement for the procurement of Microsoft Licenses through the Local Government Procurement panel.
6. The City undertook pricing analysis between the updated Local Government Procurement panel pricing data and the pre-tender market-scan price data and identified a significant cost-saving opportunity for the City to go direct to Microsoft License Solution Providers via a Request for Tender instead of contracting via Local Government Procurement.
7. In May 2023, the City issued a tender to procure the Microsoft Enterprise Agreement from the pool of Microsoft Licensing Solution Providers.

Invitation to Tender

8. A Request for Tender was issued on 10 May 2023 via the City's e-tendering portal, Tenderlink. The tender was open for one week and closed on 17 May 2023.
9. Microsoft licensing partners were contacted in advance and when released to market to ensure they were aware of the tender and shortened timeframe.

Tender Submissions

10. Two submissions were received from the following organisations:
 - Data#3 Limited (ABN 31 010 545 267)
 - Datacom Systems (AU) Pty Ltd (ABN 39 135 427 075)

Tender Evaluation

11. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
12. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.
13. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) Pricing.
 - (b) Differentiated value-add items.
 - (c) Contract acceptability.
 - (d) Financial and commercial trading integrity including insurances.

Financial Implications

14. There are sufficient funds allocated for this project within the current year's operating budget and future years' forward estimates.
15. The total contract sum and contingency for Microsoft Enterprise Agreement is detailed in Confidential Attachment A.

Relevant Legislation

16. The tender has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
17. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
18. Attachments A and B contain confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
19. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

Critical Dates / Time Frames

20. 31 July 2023 - current Microsoft Enterprise Agreement expires.

Options

21. No other alternative viable options have been identified during the tender process.
22. The impact of not proceeding with the Enterprise Agreement is that the City would no longer be able to use any Microsoft products and, therefore, the applications that run on them.

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