

## REQUEST FOR DMPC DECISION – DMPCD 2015 71

**Title: Microsoft – Premier Support and Customer Support Agreements**

### **Executive Summary:**

This is a request to approve a single tender action to award a multi-year Premier Support agreement, and annual Customer Support Agreements for XP and Server 2003, to the value of £3,115k to Microsoft Limited. This support is for wide-spread, business critical applications and operating systems for which support is necessary. Whilst assurance has been received from MPS that the negotiated contracts are consistent with pricing achieved by other Government departments, MPS need to continue to challenge Microsoft on specific day rates and to work with other Microsoft customers to more fully demonstrate value for money.

### **Recommendation:**

The DMPC is asked to approve the :

1. award, without competition, of a three year 2016/17-2018/19 Premier Support agreement at a value of £1,391k ,
2. award, without competition, of an annual Customer Support Agreement for XP from April 2015 at a value of £1,080k, and
3. award, without competition, of an annual Customer Support Agreement for Server 2003 from July 2015 at a value of £644k
4. MPS to set out and present to MOPAC the plans, costs and savings arising from the migration away from XP and Server 2003 and to identify any other systems/software which may be obsolete or near to end of support.

### **Deputy Mayor for Policing And Crime**

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

**Signature**

**Date**

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. MPS has Microsoft technology at the heart of its IT infrastructure, with over 35,000 desktops/laptops using the Windows XP operating system, and over 350 server platforms running on Windows Server 2003.
- 1.2. This paper proposes the award of contracts to Microsoft to enable on-going customer support for both Windows XP and Windows Server 2003 for a 12 month period, and a three year contract for Premier Support.

#### **2. Issues for consideration**

- 2.1. Only Microsoft can provide the support as they retain the Intellectual Property Rights to the source code. Not renewing the support arrangements would expose MPS to significant risk to the stability and security of its systems and is not an option.
- 2.2. MPS needs to purchase the Premier Support agreement in order to secure a Customer Support Agreement, and to secure the proposal Microsoft requires payment in advance. Microsoft only allow one-year Customer Support Agreements.
- 2.3. In 2014/15 MPS obtained Microsoft support via the Governments Crown Commercial Service (CCS) framework. Support for 2015/16 was anticipated to be via the same approach but CCS were unable to finalise a contract with Microsoft. In April 2015 MPS (and other Government departments) were forced to negotiate directly with Microsoft. By agreeing to a three year premier support agreement a significant discount to the Microsoft list price and the current fee has been obtained. In addition, a significant discount to the list price for the customer support agreements has been achieved.
- 2.4. The MPS has provided assurance that the proposals negotiated and recommended in this paper are consistent with other Government negotiated Microsoft deals for support. However, within the overall package there are elements, which the MPS are likely to be significant users of, which provide some concern as to value for money. MPS must robustly manage the demand upon the service, and should continue to work with the Governments Crown Commercial Service and to challenge Microsoft on these issues.
- 2.5. Digital Policing now have plans to reduce the incidence of XP based desktops through the Next Generation Desktop project, however this does not yet include plans for the elimination of XP from the MPS estate by March 2016. In addition, the removal of Server 2003 from the estate is not yet planned for and in these cases a further CSA will be required.

#### **3. Financial Comments**

- 3.1. The Premier Support Agreement will cost £464k p.a. – a total of £1,391k over the three years 2016/17-2018/19. The annual cost of the XP Customer Support Agreement is £644k for 2015/16, and the 12 month cost of the Server 2003 Customer Support Agreement is £1,080k. The costs of these support agreements, in total £3,115k, will be met from within the existing MPS Digital Policing revenue budgets for the relevant years.

#### **4. Legal Comments**

- 4.1. The Mayor's Office for Policing and Crime (MOPAC) is a contracting authority as defined in the Public Contracts Regulations 2015 (the Regulations). When awarding public contracts for goods or services valued at £172,514 or above, all contracting authorities must do so in accordance with the Regulations. This report confirms the value of the proposed contract award exceeds the above threshold. Consequently, the Regulations are engaged.
- 4.2. Regulation 32 provides the MOPAC may award a public contract by a negotiated procedure without publishing a contract notice in the OJEU where the services can only be provided by a single provider due to the protection of intellectual property rights. Microsoft are the only provider legally capable of providing the service based upon their exclusive ownership in the intellectual property rights to the software source code.

#### **5. Equality Comments**

- 5.1. There are no direct equality or diversity implications arising from this report

#### **6. Background/supporting papers**

**Public access to information**

Information in this form is subject to the Freedom of Information Act 2000 (FOIA) and other legislation. Part 1 of this form will be made available on the MOPAC website within 1 working day of approval. Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of **this** form to be deferred? NO

If yes, for what reason:

Until what date (if known):

Is there a **part 2** form –NO

If yes, for what reason:

**ORIGINATING OFFICER DECLARATION:**

	<i>Tick to confirm statement (✓)</i>
<b>Head of Unit:</b> Annabel Cowell has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
<b>Legal Advice:</b> The MPS legal team has been consulted on the proposal.	✓
<b>Financial Advice:</b> The Head of Strategic Finance and Resource Management has been consulted on this proposal.	✓
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report.	✓

**OFFICER APPROVAL**

<b>Chief Operating Officer</b> I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.	
<b>Signature</b>	<b>Date</b>