

DISM 11/24

DEVIATION: APPOINTMENT OF MICROSOFT IRELAND TO PROVIDE MICROSOFT AZURE SERVICES FROM 01 JANUARY 2024 TO 31 DECEMBER 2024 TO STELLENBOSCH MUNICIPALITY



MEMORANDUM

CORPORATE SERVICES

CHECK BEFORE SUBMISSION	YES	NO
REGISTERED ON CSD DATABASE		
LETTER - SOLE SUPPLIER if applicable.		
CSD		
MUNICIPAL ACCOUNTS		
MBD 8,9 & 10		
QUOTE/INVOICE ATTACHED		
BUDGET (SAMRAS)		
CASHFLOW		
SIGNATURES		

To Aan: MUNICIPAL MANAGER
From Van: CORPORATE SERVICES
Job Title: DIRECTOR: CORPORATE SERVICES
Date Datum: 15 DECEMBER 2023
Re Insake: DEVIATION: APPOINTMENT OF MICROSOFT IRELAND TO PROVIDE MICROSOFT AZURE SERVICES FROM 01 JANUARY 2024 TO 31 DECEMBER 2024 TO STELLENBOSCH MUNICIPALITY

1. PURPOSE:

To obtain approval in terms of Supply Chain Management Policy, to deviate from the official procurement process, 36.1(a)(i) and 36.1(a)(v).

REASON FOR DEVIATION: (Mark with x where applicable)	
1. Emergency.	
2. Goods or services are produced or available from a single provider.	X
3. Acquisition of special works of art or historical objects where specifications are difficult to compile.	
4. Acquisition of animals for zoos and /or nature and game reserves.	
5. Exceptional case and it is impractical or impossible to follow the official procurement processes.	X

2. SUBSTANTIATE WHY SCM PROCESS COULD NOT BE FOLLOWED (TO BE REPORT TO COUNCIL)

A normal SCM process could not be followed to appoint Microsoft Corporation for provision of the Microsoft Azzure licences as Microsoft is a sole provider of the Microsoft Azzure solution. The Stellenbosch Municipality has an agreement with Microsoft for the provision of the other Microsoft Services, but this solution had to be procured separately. The municipality was not aware that it was not included in the agreement under BSM 29/19 when the solution was obtained in March 2020. Although this solution formed part the section 116 approval by Council on 26 May 2021. The forensic investigation by

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Nexia SAB&T found that the procurement of the Microsoft Azure Software License was irregular, and the related expenditure was disclosed and reported as such.

The irregular expenditure was reported to the MPAC committee and after an investigation found that although seen as irregular expenditure the municipality did get the value for money and there was no financial loss to the municipality. The irregular expenditure was subsequently written-off by Council.

A letter to proof that Microsoft is the single service provider is attached.

3. BACKGROUND

The Stellenbosch Municipality currently has a 3-year Microsoft Enterprise Agreement with Microsoft Corporation for Office 365 E3 software licenses and services that was approved via deviation DSM 29/19 based on it being procured from a single provider. The Microsoft Enterprise Agreement is valid until 30 June 2024.

A 3-year enterprise agreement was signed during the 2018/2019 financial year with Microsoft Ltd. During the financial year 2019/2020, the ICT steering committee approved the implementation of Office 365 including all the components of 365 applications such as MS Teams, One Drive and SharePoint to best enable the organisation access to municipal systems and services. from anywhere and anytime. With the hard lockdown that followed the Covid outbreak in March 2020 it was urgent that staff can work from home and that the Municipality find a way to communicate and consult with its residents on the IDP and Budget. The Azzure Application also known as the citizen app was seen as the perfect solution and as we had an agreement with Microsoft was procured and implemented. The municipality has been paying the licence fees from March 2020 and the solution is still used for IDP purposes. The traffic department also uses the application for the renewal of car licences and for residents to make appointments for learner licences and drivers licence renewals. The municipality is in the process to procure a new comprehensive app for various services, but in the meantime cannot stop the usage of the Azzure application and payment for the services as it is still in use. The Azzure Software License is Microsoft specific software and it is the only provider of the software. It is impractical to go out on tender for the licences as Microsoft is the sole provider of this solution.

4. DISCUSSION

The Citizen app (Azzure solution) was implemented in March 2020 following the lock down after the Covid outbreak and has been in use ever since. This solution is only provided by Microsoft and must be procured separate from the current Microsoft Enterprise solution. As the application needs to continue until another solution is procured through a tender process to enable the municipality and citizens to continue it's use it can only be done through a deviation referred to in the Supply Chain Regulations when there is a single service provider. In such situations it is impractical to use the normal tender process as no other provider can provide the licences for the Azzure solution. The Azzure Application also known as the citizen app was seen as the perfect

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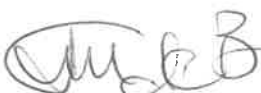
The municipality is in the process to procure a new comprehensive app for various services for the municipality, but in the meantime cannot stop the usage of the Azzure application and payment for the services as it is still in use. It is impractical to go out on tender for the licences as Microsoft is the sole provider of this solution.

5. FINANCIAL IMPLICATIONS

The estimated cost for the provision of Microsoft Azure Subscription Services which based on the pay-per-use model is \$20,055.11 per month which amounts to \$240 661.32 for 12 months starting from 01 January 2024. The amount is in dollars since this will be a foreign transaction. The fluctuation in price will be due to the foreign exchange rate in rand to dollar in order to pay the international company this is where the exchange rate will play a role in our payment. Sufficient funding has been made available under UKEY NO. 20220630080172 for Software Licences in order to pay for the Microsoft Azure Subscription Services.

6. RECOMMENDATION

1. That the Stellenbosch Municipality enter into an Enterprise Agreement with Microsoft Corporation for the provision of Microsoft Azure Subscription services for from 01 January 2024. As a single service provider for this solution;
2. That Microsoft Corporation submit an annual true-up invoice in January for the EA services and then submit monthly invoices for Microsoft Azure Subscription Services till 31 December 2024
3. That the agreement be approved under section 4.36.1(a)(i) of the supply chain regulation as Microsoft Corporation is the sole service provider for Microsoft software licenses and services.
4. That it be noted that the estimated fee of \$20 055.11 per month for Microsoft Azure Subscription Services includes cloud migration, and support services and is only payable monthly and is based on usage.
5. That the exchange rate may differ, and the Rand value will be adjusted with the exchange rate at the date of payment.
6. That the expenditure be financed from UKEY NO. 20220630080172;
7. That provision be made for this expenditure on the operational budget.



DIRECTOR: CORPORATE SERVICES

DATE: 15 DECEMBER 2023

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7. SUPPLY CHAIN MANAGEMENT COMMENTS:

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8. APPROVAL:

REQUEST SUPPORTED / NOT SUPPORTED BY THE STELLENBOSCH MUNICIPAL BID ADJUDICATION COMMITTEE		
Name	Signature	Date

Comments: *Support the deviation*

CHAIRPERSON: *[Signature]* DATE *22/12/2023*

RECOMMENDATION FROM BID ADJUDICATION COMMITTEE APPROVED BY THE ACCOUNTING OFFICER

Comments:

ACCOUNTING OFFICER: *[Signature]* DATE *21/01/2024.*

Microsoft Ireland Operations Ltd.
Microsoft Building 3
Carmahall Road
Sandyford Business Park
Dublin 18
Ireland



Date: 13/11/2018

MOPET Ref: SPL-SM

Attention to : Brian Mkaza
Job Title : Senior Manager: ICT

Company : Stellenbosch Municipality
Address : Plein Street
Stellenbosch
Western Cape
7600

RE: MIOL's Exclusive Right to Distribute and Sell in

In response to your request for information, we confirm that:

- Microsoft Ireland Operations Limited (MIOL) is a wholly owned subsidiary of Microsoft Corporation, a United States entity that creates and owns Microsoft products.
- Microsoft Corporation has granted MIOL the exclusive right to distribute and sell Microsoft products in Europe, Middle East and Africa (EMEA) through its Volume Licensing Channel.
- MIOL is the only entity that may enter into a direct transaction with the customer in South Africa for Microsoft's Volume Licensing Enterprise offering.
- Microsoft South Africa (Pty) Ltd, as a wholly owned subsidiary of Microsoft Corporation, is responsible for marketing activities in South Africa and is not authorised to license, sell, receive payments, or otherwise distribute Microsoft products in South Africa.
 - Pricing and any other information relating to Microsoft's Volume Licensing Enterprise offering is available through customer's Microsoft Account Manager: Ntokozo Phakathi.

If any further clarification or additional information is needed, please contact MIOL directly.

Kind Regards,

MICROSOFT IRELAND OPERATIONS LIMITED



Microsoft Ireland Operations Ltd.
Directors: Benjamin Orndorff (US), Keith Dolliver (US), Fergus Lynch (US), Terry Netherland (US).
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Registered Office: 70 Sir John Rogerson's Quay, Dublin 2, V23 1V25. Reg No. IE 8256796 U

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