

Dear Mr Rennie

Re: Follow up to G2009 Microsoft negotiations

This email is to seek your advice on government agency procurement of software products following the recently concluded G2009 Microsoft negotiations.

We would like your confirmation that government agencies are required to tender for software procurement so that our member companies and others have the opportunity to tender open source products and services.

We note that

(<http://www.nbr.co.nz/opinion/chris-keall/christie-microsoft-shaking-down-ignorant-govt-agencies>)

SSC spokeswoman Marian Mortensten told NBR: "Microsoft has agreed to provide recommended retail price certainty for agencies as a basis for their individual negotiations.

"The SSC will now provide support for agencies following the cessation of the negotiations.

"Presentations will be run to advise agencies of the outcome of the negotiations, ways agencies can maximum their investment and achieve value for money in their spend on Microsoft products during the coming years, and opportunities for gaining the best value for money from alternative sources."

In a reflection of the state of communication between the two agencies, the SCC says agencies could take advantage of any Microsoft deals they liked during 2006 and 2009, and that time pressure is on.

Ms Mortensen says that as each agencies' agreement expires between now and October (various agencies opted into the 2006 agreement at different times), each will have to sign with Microsoft within 30 days to qualify for the cheap pricing promised in its letter.

We have reviewed the Mandatory Rules for Government Procurement

([http://www.med.govt.nz/templates/ContentTopicSummary\\_\\_\\_20913.aspx](http://www.med.govt.nz/templates/ContentTopicSummary___20913.aspx)) and the recent report on the 'Inquiry into the Procurement and Contracting Arrangements Between the State Services Commissioner and Voco Ltd and the Performance of the Commission in Relation to Those Arrangements' ([http://www.ssc.govt.nz/display/document.asp?docid=7122&pageno=3#P78\\_2507](http://www.ssc.govt.nz/display/document.asp?docid=7122&pageno=3#P78_2507)).

The rules make it clear that tendering is mandatory and the inquiry reinforces the view that compliance is mandatory.

Accordingly, then, it seems clear that each agency will be required to tender for its software procurement and to comply with all other aspects of the rules.

Would you please confirm that our interpretation is correct. If not, would you please explain why an exception is permitted under the rules.

And further, pursuant to the statement that "The SSC will now provide support for agencies following the cessation of the negotiations", would you please advise all agencies accordingly and provide us

with a copy of that advice.

We note that "Ms Mortensen says that as each agencies' agreement expires between now and October (various agencies opted into the 2006 agreement at different times), each will have to sign with Microsoft within 30 days to qualify for the cheap pricing promised in its letter." Accordingly, please act on this request as a matter of urgency.

Please note that some of our members and other providers of open source software and services are able to respond to a short notice tender if required to ensure that agencies have access to alternatives to Microsoft software.

We look forward to receiving an urgent reply.

Thanks and regards,  
Don Christie - President, NZ Open Source Society