

## Wiltshire Council

**Cabinet**  
**15 November 2011**

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**Subject:** **Wiltshire Online Project – Update and Award of Call-Off Contract**

**Cabinet Member:** **Councillor John Thomson, Deputy Leader - Adult Care, Communities and Housing**

**Key Decision:** **Yes**

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### Executive Summary

To note the progress towards implementing a procurement solution to deliver the 'Wiltshire Online Project' and to seek Cabinet approval to delegate the award of a local call-off contract using the nationally approved Framework of Suppliers to the Corporate Director of Children's Services following consultation with the Cabinet Member for Adult Care, Communities and Housing, the Cabinet Member Resources, Solicitor to the Council and the Chief Finance Officer.

### Proposals

That Cabinet:

- i) Note the progress made towards delivering the 'Wiltshire Online Project'.
- ii) Note the use of the National Framework Contract currently being developed by Broadband Delivery UK and the subsequent local 'Call Off' contract leading to the appointment of an approved supplier.
- iii) Delegates the award of the Call-Off Contract to the Corporate Director Children's Services, following consultation with the Cabinet Member for Adult Care, Communities and Housing, the Cabinet Member Resources, the Solicitor to the Council and the Chief Finance Officer.
- iv) Authorise the relevant Officer to issue certificates under the Local Government (Contracts) Act 1997 in relation to the Call-Off Contract if required by the supplier.
- v) To authorise the Solicitor to the Council to execute under Council Seal all contract documentation in relation to the Wiltshire Online Project.

Reason for Proposals

Stimulating investment into the Wiltshire Broadband infrastructure is a corporate priority. The Council approved vision is for Wiltshire to be a digitally inclusive County, supporting infrastructure projects, access to online services and the ability of citizens and businesses to be confident users and maximise the benefits which being online can bring.

To achieve this vision it is necessary to invest in the major infrastructure delivering broadband services and the actions in the proposal will ensure that formal arrangements with a preferred supplier can be concluded to ensure the delivery of the project to the corporate target of 2015.

**Carolyn Godfrey**  
**Corporate Director**  
**Department for Children & Education**

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**Subject:** Wiltshire Online Project – Update and Award of a Call-Off Contract

**Cabinet Member:** Councillor John Thomson, Deputy Leader - Adult Care, Communities and Housing

**Key Decision:** Yes

## 1. Purpose of Report

1.1 To provide Cabinet with an update on progress to deliver the Wiltshire Online Project and to seek approval from Cabinet for the Corporate Director Children's Services, following consultation with the Cabinet Member for Adult Care, Communities and Housing, the Cabinet Member Resources, the Solicitor to the Council and the Chief Finance Officer to conclude all discussions on and agree all project documentation and enter into a contract and associated agreement on behalf of the Council following a Local Call-Off process using suppliers on the National Framework Contract.

## 2. Background

2.1 The Wiltshire Online Project aims to bring superfast broadband to homes and businesses across the County. At present, not all parts of Wiltshire have access to broadband and those that do may experience slow speeds and poor service. This means that residents and businesses in the County struggle to make full use of the internet and online services. Poor broadband services are seen as a major obstacle to sustained economic growth and investment in the County.

2.2 To support the project, at its meeting in February 2011 Council approved £16 million investment to improve access to digital services. Added to this the Government has agreed to allocate Wiltshire a grant of £4.7 million and we will be looking to industry to invest in the project making a total of at least £30 million to provide access to superfast broadband services throughout the County. The main aims of the project are:

- To improve access to broadband for citizens and businesses by providing access to broadband services of minimum of 2Mbps, with 85% of premises having access to superfast broadband.
- Encourage Wiltshire citizens to use Wiltshire services online
- To get everyone in Wiltshire feeling confident in using the internet and technology.

2.3 The programme is strongly linked to a number of key partnerships and Wiltshire Council plans and plays a strategic role in supporting many expected outcomes including:-

- Wiltshire Community Plan 2011-2026
- Wiltshire Council Business Plan 2011-2015
- Wiltshire Core Strategy

- Wiltshire Economic Strategy
- Wiltshire Local Enterprise Partnership
- Climate Change Strategy
- Wiltshire Transportation Plan

- 2.4 Wiltshire's project also meets the government priority objectives of stimulating investment in the UK's broadband infrastructure. The Government initiated a Broadband Delivery Programme covering the delivery of the Government's investment and policy approach to bring forward network infrastructure upgrades and to improve the accessibility of services in locations where there is a weak commercial investment case. Broadband Delivery UK (BDUK) has been created within the Department for Culture, Media and Sport (DCMS) to be the delivery vehicle for the government's policies relating to stimulating private sector investment using government funding.
- 2.5 As part of the development of the National Project, BDUK has undertaken detailed discussions with Local Authorities on their plans for delivering broadband in each area. BDUK identified a high level of commonality between many projects in terms of individual requirements and procurement processes. As a result of this work, BDUK has developed a framework agreement that individually, most local bodies would benefit from calling off rather than running their own procurements and in aggregate would maximise the marketplace's capacity to deliver the Government's wider broadband delivery objectives.

### **3. Considerations for the Council**

#### Procurement Project

- 3.1 After consideration of all possible procurement options for the service, the Council's Wiltshire On-line Programme Board at its meeting in June 2011 decided that the National Framework being developed by BDUK offered significant advantages including process and cost savings compared to carrying out an individual procurement exercise. As a result of this decision the Council is part of the National Framework Delivery Board and benefits from being one of three pilot schemes being used as initial 'call offs' from the Framework Contract. Working with BDUK also means the Council benefits from an umbrella 'State Aid' application to the European Commission covering the use of Public Funds in the project funding arrangements mitigating one of our major project risks.
- 3.2 The framework approach has significant benefits for bidders, and the approach will help the market reduce bidding resources and costs without compromising proposals. The framework will also allow suppliers and Authorities later in the process than Wiltshire to have a better view of the project pipeline and anticipate potential project problems and bottlenecks.
- 3.3 Once complete, the framework will allow the Council, to optimise the solution to meet our local needs through a mini competition and call-off the complete solution necessary to deliver Wiltshire's aims and objectives. The BDUK framework will act as a 'short cut' and will standardise much of the procurement process.
- 3.4 The Council will initiate the mini-competition by announcing our requirement to all suppliers on the framework. This shortlist of suppliers will have already demonstrated they have the appropriate capability and the capacity and can deploy credible solutions in order to be awarded a place on the national framework. However, not all suppliers

may have local capability or may be over-stretched and choose to qualify themselves out immediately.

- 3.5 The call-off will follow a standard process but will allow the Council to identify the important local Wiltshire objectives and any local requirements that are incremental to the pre-agreed core requirements. Suppliers on the framework will then be able to develop their 'baseline' solutions and supply chain to quickly propose a solution meeting the Council's requirements. Further work is still required to establish how community funded objectives can be secured through the Call-Off process.
- 3.6 This arrangement will allow Wiltshire to be able to have 'dialogue' with suppliers but this will be focused on identifying 'added value' and optimising solutions to meet local objectives, rather than spending time on re-opening core requirements agreed in the framework.
- 3.7 After requesting final bids, bidders will submit pricing in standard financial templates, which would be comparable between projects, to provide a level of Value for Money protection even if local competition is weak. The Council will also have a measure of confidence that some BDUK assurance has taken place on the 'baseline' solutions at least. Only following the detailed analysis of the Value for Money position and project affordability will a contract be entered into.
- 3.8 As a member of the National Framework Delivery Board, the Council has been actively involved in the procurement process and the decision making and governance of the project. The public notice to start the procurement of the National Framework commercial in September 2011, with the publication of the notice in the Official Journal of the European Union. The procurement process involves a number of key stages and following formal response, potential bidders have now already been through several stages of the procurement process including the Pre-Qualification, Invitation to Tender and nine bidders now remain in the process.
- 3.9 Following a period of dialogue, bidders are now working up detailed solutions prior to evaluation and further down selection of the current list of nine bidders. Invitation to submit final tenders will be issued in January and the completion of the process has recently been brought forward by BDUK and the proposed Framework Signature date is 2<sup>nd</sup> April 2012. A timetable for the remainder of the process is attached as Appendix 1 to this report.
- 3.10 If this date is achieved Local Authorities will be able to commence their call-off arrangements immediately after the 2<sup>nd</sup> April. A detailed project plan for the call-off process is currently being drawn up with BDUK and it is hoped to have this available in early December 2011. The intention is to complete the call-off process by the end of August 2012 to ensure a start on site in September 2012. At the end of the process the Council will be committing to use the grant funding allocated by BDUK and the £16 million allocated in to the budget to match investment by the successful bidder in infrastructure capable of bringing superfast broadband services to the majority of the County.
- 3.11 The Project has strong corporate arrangements and progress is regularly monitored by a Programme Board chaired by a Corporate Director and Board members include the Deputy Leader and the Cabinet Member Resources. To further improve governance and transparency, the Project will also be periodically reviewed by the Corporate Procurement Board and as part of the Corporate Risk Register. Updates will be

provided to the Corporate Leadership Team and Cabinet at key milestones within the project timetable.

#### **4. Environmental Impact of the Proposal**

- 4.1 There are no direct Environmental Impacts as a result of the proposals but, the roll out of superfast broadband services does have the potential to make a significant contribution to Carbon Reduction in the County. The successful Bidder will also be required to work with BDUK and the Council to meet sustainability goals within the contract, the solution provided must be capable of being upgraded as technology improves.
- 4.2 Depending on the solution offered the implementation stage will have some environmental implications. The infrastructure needed to provide improved broadband services is likely to require civil engineering and highways works and this work may require planning approval.

#### **5. Equality and Diversity Impact of the Proposal**

- 5.1 All of the services provided under the contract will be available for all residents and businesses in Wiltshire if they choose. The use of superfast broadband services will improve access to online services.
- 5.2 The Council recognises its responsibilities to comply with the requirements of the Equality Act 2010 including its general equality duty as a public authority under Section 149 of the Equality Act 2010. There are no specific equality implications relating to the proposal covered in this report. However, the Council will continue to take full account of its equality responsibilities through the implementation of any proposals and throughout the call-off process.

#### **6. Risks**

- 6.1 The Digital Inclusion Project is included on the corporate risk register and its rating is regularly reviewed. Project risks are also regularly reviewed by the Project Board set up to oversee the delivery of the project.
- 6.2 A number of major risks were identified initially relating particularly to the procurement and state aid if the Council embarked on a 'stand alone' project. These were considered by the Project Board at the meeting in June 2011 and it was decided that these could be mitigated by being part of the National Framework project. Risks considered included amongst others;
  - Resource issues in building and funding a team with the necessary capacity to manage a successful stand alone tender;
  - Supplier capacity bottlenecks delaying submissions due to suppliers responding to multiple individual projects and competing with BDUK framework as well;
  - Greater risks of challenge to a standalone procurement award or state aid award by suppliers;
  - Insufficient supplier interest;
  - 'Piecemeal' approach to solution provided (suppliers cherry picking projects).
- 6.3 It is recognised that risks do exist with the framework solution but, it is considered that these are robustly managed by the BDUK team. Risk Management remains as a high

priority for the National Framework Board and status is regularly reviewed. As stated previously, Wiltshire Council is represented on the Board by the Project Directors.

- 6.4 There are also potential risks in respect of the Council's management of the operational project including payment of 'milestone payments' within the contract. It is considered that these risks will be mitigated through effective contract management and close working with BDUK.
- 6.5 The current overall risk status of the project is 'amber'.

## **7. Financial Implications**

- 7.1 As outlined in paragraph 2.2 above project funding has been secured through the Council's budget setting process (£16m) and by securing a grant (£4.7m) from the Government. The current tender process will require suppliers to 'match fund' this investment and their proposals will form a significant part of the Tender Evaluation process within both the National Framework and the local call off.
- 7.2 In addition to the long term capital funding, a first year revenue budget of £300,000 to develop the project has been approved and this is regularly monitored by the Project Board. This is currently on forecast.
- 7.3 Members of the Corporate Finance Team are involved in both the internal Project Board and as part of the BDUK framework development team and will be able to quickly raise any concerns during the procurement process.

## **8. Legal Implications**

- 8.1 To mitigate legal risks, a member of the Council's Legal team works as part of the internal project team and advisor to the BDUK national framework project team. BDUK are represented by legal advisors from the DCMS and are also supplemented by external legal advisors.
- 8.2 The Council may rely on various powers which enable it to procure the services envisaged within the contract.

Section 2 of the Local Government Act 2000 provides that the local authority has the power to do anything which it considers likely to provide or improve the economic, social or environmental well-being of its area.

- 8.3 The power may be exercised in relation to or for the benefit of:-
  - a) The whole or any part of the local authority area or;
  - b) All or any persons resident or present in a local authority's area.
- 8.4 This includes the power to provide staff, goods, services or accommodation to any person. In exercising this power the Council must have regard to its Strategic Planning and Community Strategy and any guidance from the Secretary of State. Paragraph 2.3 above demonstrates the significance of this project in relation to the Council's corporate priorities and those of the Wiltshire Assembly.
- 8.5 Section 1 of the Local Government (Contracts) Act 1997 reinforces the power of a local authority to enter into a contract to provide assets or services in connection with, the discharge of its functions.

8.6 Due to the financial structure of the project the contract will be subject to strict EU rules on 'State Aid'. Being part of the national framework will mitigate these risks.

## **9. Options Considered**

9.1 A number of procurement options have been considered and the national framework supplemented by local call off arrangements outlined above is considered to be the most suitable for the Council. The actions outlined previously in the report will provide the most robust contracting position and will achieve the quickest delivery of the desired project outcomes.

9.2 At a high level the main options are:

- To enter into a contract on the basis set out in the report;
- Stop the framework process and start a stand alone contract or;
- Not to enter into the contract;

The Project Board is not aware of any reasons for the Council not to enter into the contract.

## **10. Conclusion**

10.1 The Council supporting BDUK believes a framework will benefit both projects and suppliers in focussing the resources of both to heighten quality, reduce cost and address market capacity. Standardisation of common and core requirements, terms and conditions, pricing, etc. increases transparency and competition and this will allow local project resources to focus on our local needs and dialoguing the very best solution for Wiltshire during our own call-off.

10.2 Cabinet approval of the proposals is required to meet internal governance requirements and to provide the market with evidence of 'high level' support for the project.

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### Background Papers

- Project files
- Correspondence with BDUK
- Broadband Delivery Programme – Delivery Model
- Broadband Grant Application

Appendix 1 – Revised Framework Timetable



## Proposed Timetable

Stage	Activity	Duration (Estimated)	Date (subject to change)
Detailed solutions	ISDS Issued (updated ITPD)	1 day	17 <sup>th</sup> Oct-11 (~13:00)
	ISDS Bidding Period	5 weeks	17 <sup>th</sup> Oct-11 to 21 <sup>st</sup> Nov-11 (09:00am)
	Mid bid CQ (face-to-face)	Clarification session (half day per bidder)	31 <sup>st</sup> Oct to 2 <sup>nd</sup> Nov-11
Evaluation	ISDS Evaluation	4 weeks	21 <sup>st</sup> Nov to 14 <sup>th</sup> Dec-11
	Notify Shortlist	-	15 <sup>th</sup> Dec-11
	Invitation to Continue Dialogue	-	15 <sup>th</sup> Dec-11
Dialogue	Dialogue Phase 2	Up to 9 days per Bidder (including parallel sessions)	20 <sup>th</sup> Dec-11 to 22 <sup>nd</sup> Dec-11 4 <sup>th</sup> Jan to 16 <sup>th</sup> Jan-12
Draft final tender	Issue draft Invitation to Submit Final Tender (ISFT)		23 <sup>rd</sup> Jan-12
	Draft final tender preparation	1 week	23 <sup>rd</sup> Jan to 27 <sup>th</sup> Jan-12
	Bidder presentation and checkpoint	Half day per Bidder	30 <sup>th</sup> Jan-12 to 1 <sup>st</sup> Feb-12
Final tender	Confirm any variations to ISFT and start bidding period (close dialogue, ~3 <sup>rd</sup> Feb-12)	3 weeks	3 <sup>rd</sup> to 27 <sup>th</sup> Feb-12 (09:00am)
Evaluation	Final tender evaluation	3 weeks	27 <sup>th</sup> Feb to 16 <sup>th</sup> Mar-12
	Notify Bidders	-	~16 <sup>th</sup> Mar-12
Framework award	Contract finalisation (includes standstill)	2 weeks	19 <sup>th</sup> Mar to 2 <sup>nd</sup> Apr-12
	Framework Signature	-	~2 <sup>nd</sup> Apr-12

### Notes:

ISDN Invitation to Submit Detailed Solutions  
ITDD Invitation to Participate in Dialogue  
CQ Clarification Questions  
ISFT Invitation to Submit Final Tender