AWARD OF CONTRACT - BROADBAND DELIVERY UK (BDUK) SUPERFAST EXTENSION PROGRAMME (SEP) – BDUK PART 2 (REF: CU2415)

Responsible Cabinet Member: Councillor Middleton (Responsible Cabinet member for Resources and Commercialism)

Report Sponsor: Anna Rose, Service Director (Planning and Transport)

Author and contact: Martyn Smith (Infrastructure Programme Manage)
Tel: (01908) 252056

Executive Summary:
This report is seeking approval to award the contract for the Superfast Extension Programme – SEP under Broadband Delivery UK Part 2 (BDUK 2) for the provision of further superfast broadband infrastructure (fibre optic cables in the ground etc.) in areas across Milton Keynes Borough. The forecast coverage will increase from 96.1% under the current contract to 97.8%.

The contract will further enable the delivery of the Council’s strategic vision for Digital Infrastructure provision in Milton Keynes, adopted by Cabinet on 28 September 2010 and updated on 29 January 2014, which is based on the following 5 strands:

- UK leadership;
- Ubiquitous coverage;
- Competitive market;
- Future-proof infrastructure; and
- High take-up of digital services.

The SEP contract term is for 3 years, expiring on 30/06/18. The term value of this contract across the Central Superfast partnership is £9,319,599, with the value for Milton Keynes being £880,000. This is made up of £370,000 MKC capital resources to match BDUK allocation of £370,000 and a Supplier contribution of £140,000. Procurement & Commissioning previously agreed that the tender could progress at its meeting on 15/09/2014 (Minute PC29 refers).

1. Recommendation:

1.1 That the contract for the Superfast Extension Programme (SEP) be awarded to the Supplier who scored the highest in accordance with the Most Economically Advantageous Tender evaluation.
2. **Context**

2.1 This procurement is managed jointly with our Central Superfast Local Body partners, Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council. As with the current BDUK contract Central Bedfordshire Council is the lead agent for this procurement. Luton Borough Council has joined the Central Superfast partnership for BDUK 2 and is not a party to the current contract. The Partner Authorities have already agreed to award the contract to Supplier A. This decision will however, need to be confirmed by the Central Superfast Joint Strategic Management Board at its next meeting. The Council’s representative on that Board is the Portfolio Holder for Resources and Commercialism.

2.2 Through this procurement Supplier A will contribute an additional 19% of the Central Superfast partnership’s combined capital investment. For Milton Keynes this represents an additional £140k to bring the total investment for BDUK 2, including Council and BDUK contributions, to £880k.

2.3 Supplier A will also identify a suitable mix of technologies designed to achieve superfast broadband in the designated State Aid Intervention Areas of the Borough and in this way the contract will directly benefit some of the most rural areas of the Borough that have so far been too remote to benefit from previous initiatives.

2.4 Through the current BDUK contract (BDUK 1), and this new contract, it is anticipated that the overall percentage coverage of superfast broadband infrastructures across the Borough will be 97.8% by 2017/18. This equates to an additional 1801 premises across Milton Keynes that will be served by superfast broadband fibre infrastructure for the first time. It means that to achieve the Council’s ambition of 100% coverage of premises we will still need to reach a further 2510 premises at some point as finances permit.

3. **Background**

3.1 **Decision to Proceed to Tender**

3.2 This procurement was considered at officer level by the Capital Programme Review Panel (CPRP) on 20 August 2014 and was approved to proceed to Tender stage by the Cabinet Procurement Committee on 15 September 2014 (Annex A).

3.3 A successful procurement of further infrastructure provision helps to deliver several Council policies including: the Corporate Plan and the Economic Development Strategy and particularly the Council’s Digital Infrastructure Strategy, adopted by the Cabinet, on 28 September 2010 and by full the Council on 12 July 2011, which

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Amount (£ ‘000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milton Keynes Council - Capital</td>
<td>370</td>
</tr>
<tr>
<td>Broadband Delivery UK (BDUK)</td>
<td>370</td>
</tr>
<tr>
<td>Supplier</td>
<td>140</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>880</strong></td>
</tr>
</tbody>
</table>
supported motion 5(b)(i) to develop a Local Broadband Plan as part of the BDUK requirements in order to bring better broadband to MK. This was followed by the delegated decision to approve the submission of the Joint Local Broadband Plan to BDUK on 20 March 2012.

4. **Social Value**

4.1 This contract will not directly provide apprenticeship or work experience opportunities for local residents as all recruitment is undertaken by Supplier A and its contractors is at a national level. However, by improving the availability of superfast broadband across Milton Keynes the contract will help to provide:

   (a) Economic growth and Job creation - Recent research by BDUK has indicated that public sector investment provides a 20:1 increase in economic growth.

   (b) Education – the ability to access information quickly, work online and access information held in cloud-based services.

   (c) Crime prevention – better availability of web-based systems and wider availability of CCTV.

   (d) Reductions in digital exclusion – particularly in rural areas and with specific groups such as the elderly.

   (e) Better prospects for people living in areas of high social deprivation by ready access to web-based public services and ability to manage job applications online (and thus help to eradicate social exclusion),

   (f) Health services and improve the quality of life, for example through greater opportunity to provide tele care and tele health.

   (g) Increases the scope for economic development and revenue generation in Milton Keynes and will provide many opportunities for the Council to make more services available online.

   (h) Reduced travelling as more residents are able to work from home thus reducing congestion and providing associated environmental benefits.

5. **Consultation**

5.1 A formal consultation on the proposed State Aid Intervention Area for this procurement was held over the four week period from 6 October 2014 to 7 November 2014. This consultation followed the form prescribed by BDUK and complied with Ofcom requirements. One response was received from an infrastructure supplier which resulted in a slight change to the Open Market Review documentation that underpins the Invitation To Tender (ITT) for this procurement.

5.2 The specification and MEAT evaluation criteria for this contract are set by the national BDUK Procurement Framework on which this procurement is based - the evaluation matrix used to assess Supplier A’s tender is attached as a Exempt Paper (Annex B)
6. **Market Engagement and Lessons Learnt**

6.1 Only a single supplier remains on the BDUK Procurement Framework. Once the ITT had been issued supplier engagement sessions were held with them to ensure the tender requirements were fully understood.

6.2 The existing BDUK contract (BDUK 1) is due to expire in 2016. If awarded the SEP tender will result in a separate contract with Supplier A.

7. **Tender Evaluation**

7.1 As with the initial BDUK procurement, in 2013, the lead Council for this procurement is Central Bedfordshire Council. The Invitation To Tender was posted on their E-Tendering system (Intend) on 30 November 2014 and one tender was returned, from Supplier A, on 6 March 2015.

7.2 The Tender was evaluated by a suitably qualified and experienced panel of officers who received support and advice from BDUK.

7.3 The Evaluation criteria and Supplier A’s tender are attached as an Exempt Paper (Annex B) to this report. A summary of the Risk Assessment is set out in section 4.2 of this report. The full risk assessment is available to MKC Members on request or via direct access into GRACE (the Council’s Risk Management System).

7.4 The MEAT evaluation of tenders resulted in the following results (note the actual name of the supplier, their pricing and a breakdown of the Quality will be detailed in the Exempt Annex B and Annex D to this report). The full tender response is detailed in the Exempt Paper (Annex F).

<table>
<thead>
<tr>
<th>Total score</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplier A</td>
<td>79%</td>
</tr>
</tbody>
</table>

7.5 Public Services (Social Value) Act 2012 – This contract will help to deliver significant social value in terms of:

(a) Reduced digital inequality resulting from greater availability of superfast broadband;

(b) Enhanced business opportunities resulting in the growth of the SME sector within Milton Keynes and increased employment as a result and;

(c) Lower carbon emissions resulting from more residents being enabled to work from home and thus there being less need to travel to work.

8. **Contract Management**

8.1 The Senior Client Officer within MKC for this contract is Service Director Planning and Transport. The contract adheres to the BDUK Procurement Framework which was also used for the BDUK 1 contract in 2013 and been approved by the Council’s Legal Services team.
8.2 The key governance processes include oversight by the Central Superfast Joint Strategic Management Board which comprises the MKC Portfolio Holder, Resources and Commercialism: and the relevant Portfolio Holders for the other partner councils.

8.3 The contract will be managed in strict accordance with the contract management policy and approach that forms an integral element of the BDUK Procurement Framework.

(i) Review frequency, weekly team meetings with Supplier A and quarterly Programme Board meetings.

(ii) Performance measurement is by means of quarterly milestones which require Supplier A to deliver an agreed number of Total Homes Passed (THP). This is verified by assessment of the Supplier A Milestone Performance Certificate (MPC) by the Central Superfast Contract Manager. No payments to Supplier A are authorised unless the MPC has been agreed and delivery of infrastructures assured. A report on this process provided for all Central Superfast Joint Strategic Management Board meetings.

(iii) Asset Management / ownership – all assets remain the property of Supplier A.

(iv) Escalation process – Issues are dealt with at team, then Central Superfast Joint Strategic Management Board levels. If this doesn’t provide a satisfactory outcome serious issues are escalated to BDUK and, if required Ministerial level.

(v) Public Services (Social Value) Act 2012 – Supplier A will not guarantee job creation as part of the contract as they recruit trainees and other staff at a national level. However, the benefits of superfast broadband in facilitating job creation and business growth and reducing digital exclusion should outweigh any weakness in direct recruitment opportunities.

9. Implications

9.1 Resources and Risk -

(a) The costs of the contract are already contained within the revenue budget for 2016/17 and the capital costs were agreed by the Council / Cabinet on 18 February 2015.

(b) Delivery of the project in Milton Keynes will be monitored by the Council’s Infrastructure Programme Manager.

(c) The key OPPORTUNITY secured by this contract is greater availability of superfast broadband across Milton Keynes. It is assessed that the delivery of this contract provides a HIGH likelihood that a HIGH impact will secure the opportunity defined.

(d) The key THREATS for this contract have been assessed as:
<table>
<thead>
<tr>
<th>Risk</th>
<th>Likelihood</th>
<th>Mitigation</th>
<th>Likelihood after mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inability of Supplier or Sub contractors to deliver proposed coverage</td>
<td>M</td>
<td>Effective monitoring of contract delivery and proactive contract management</td>
<td>L</td>
</tr>
<tr>
<td>Inability of technology available to provide superfast broadband to all premises in deployed areas.</td>
<td>M</td>
<td>1) Effective contract monitoring and management.</td>
<td>L</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2) Use of most appropriate technologies available.</td>
<td></td>
</tr>
<tr>
<td>Technical solutions proposed are unaffordable</td>
<td>L</td>
<td>A range of technologies are available to deploy in particular circumstances to ensure premises cost cap of £1800 is not breached.</td>
<td>L</td>
</tr>
</tbody>
</table>

9.2 The governance measures set out in 3.5 above provide a basis to conclude that these threats, properly managed represent a LOW likelihood or a MEDIUM impact.

10. Resources and Risk Implications

<table>
<thead>
<tr>
<th>Y</th>
<th>Capital</th>
<th>N</th>
<th>Revenue</th>
<th>N</th>
<th>Accommodation</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>IT</td>
<td>N</td>
<td>Medium Term Plan</td>
<td>N</td>
<td>Asset Management</td>
</tr>
</tbody>
</table>

11. Legal

11.1 The BDUK framework agreement is in place until 26 June 2015. This contract must be executed prior to this date to ensure the Council has procured this service in accordance with EU Regulations.

11.2 BDUK has obtained State Aid exemption from the European Commission that enables the procurement of broadband equipment and services for Milton Keynes and its partner authorities.

11.3 Fujitsu did not agree to their framework agreement of the BDUK framework agreement. Supplier A is the remaining supplier on the framework. There is no legal reason not to procure this contract under the framework and the report indicates the safeguards the Council and its partners have undertaken in ensuring value for money and good quality of service provision.
12. **Other Implications –**

<table>
<thead>
<tr>
<th></th>
<th>Equalities/Diversity</th>
<th>Sustainability</th>
<th>Human Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>E-Government</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Y</td>
<td>Carbon and Energy Policy</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Background Papers:**
Decision to Proceed to Tender - Cabinet Procurement Committee on 15 September 2014 (Annex A)

**Exempt Papers:**
SEP Tender Moderated Evaluation (Annex B)
Tender Clarification Questions (CQs) (Annex C)
MKC Briefing on Expected Coverage under SEP (Annex D)
BDUK Value for Money Considerations Report (Annex E)
Full Supplier A Tender Response (Annex F)

¹ Contained in the Digital Infrastructure Strategy for Milton Keynes, [March 2010], Analysis Mason Ltd.