

	<b>Decision of the Deputy Leader</b>
	<b>Report from the Corporate Director, Finances and Resources</b>
<b>AUTHORITY TO AWARD CONTRACT FOR NETWORK LINKS FOR THE SHARED TECHNOLOGY SERVICES BOROUGHES</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – Appendix 1 is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”
<b>No. of Appendices:</b>	Appendix 1 - Exempt
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	<p>Philippa Brewin Procurement and Contracts Manager, Shared Technology Services Mob: 07867 186778 <a href="mailto:philippa.brewin@sharedtechnology.services">philippa.brewin@sharedtechnology.services</a></p> <p>Amin Jan Assistant Category Manager, Shared Technology Services Mob: 07951 148778 <a href="mailto:amin.jan@brent.gov.uk">amin.jan@brent.gov.uk</a></p>

## 1.0 Purpose of the Report

- 1.1 This report concerns the award of a contract for Network Links for the Shared Technology Services Boroughs. This report requests authority to award a contract as required by Contract Standing Order 88. This report summarises the process undertaken in procuring this contract and recommends to whom the contract should be awarded.

## **2.0 Recommendation(s)**

That the Deputy Leader in consultation with the Leader:

- 2.1 Approves the pre-tender considerations set out in paragraph 3.19.
- 2.2 Approves the award of a contract for Network Links for the Shared Technology Services Boroughs to London Grid for Learning for a term of five years in the estimated sum of £3,267,895.

## **3.0 Detail**

- 3.1 Under the Shared Technology Services (STS) Inter Authority Agreement, Brent is the contracting authority for contracts procured for the delivery of services to the STS' partners, namely the London Boroughs of Brent, Lewisham and Southwark.
- 3.2 STS partner boroughs use network links to connect their multiple sites to the network and for internet access. The services also include some broadband lines to deliver internet connectivity to remote sites.
- 3.3 These services are currently provided through two contracts – one with Vodafone Ltd and one with the London Grid for Learning Trust (LFFL).
- 3.4 The existing contracts for Network links expired on 31 March 2023, and are now rolling. New contractual arrangements therefore need to be put in place. A new contract provides an opportunity to consolidate the two contracts into one to achieve value for money and management efficiencies.
- 3.5 Since the previous contracts were put in place, newer technologies have come to the market. SD-WAN being the leader, provides greater control and management of the network traffic. SD-WAN is not only low cost but is also provided as a fully managed service by the supplier. This will free up STS engineers' time and they will be able to concentrate on responsibilities other than maintaining the network links. It is therefore proposed to move to SD-WAN technology.
- 3.6 The existing cost of the network links is approximately £5 million over a 5-year term. The move to SD-WAN technology and consolidating two contracts into one contract will achieve significant savings of approximately £1.7m.

### **The Procurement Process**

- 3.7 The procurement is being conducted in accordance with the procurement protocols in the Inter Authority Agreement.
- 3.8 It is proposed to replace the two contracts with a single contract in order to achieve economies of scale and management efficiencies. The options available to STS for the procurement of the contract are either to make a

direct award to LGfL using their single supplier framework with Virgin Media, or to carry out a tender.

- 3.9 In order to determine the most advantageous route, a soft market testing exercise was conducted. Proposals were received from four suppliers. The information gathered from this exercise is primarily set out in Appendix 1 of this report.
- 3.10 Following this exercise, the recommendation for the desired solution is that provided by LGfL. There are a number of reasons for this:
- LGfL provided a comprehensive response to the soft-market test.
  - LGfL already has a good understanding of the STS network - being the existing provider for Southwark's network circuits.
  - LGfL uses Virgin Media (VM) as its circuit provider. VM circuits are already in place for Southwark and were previously used for many of the Brent and Lewisham sites before Vodafone became the supplier there. This means the connectivity to the bulk of sites across the partners is already in place and so will cause least disruption. It will also minimise the risk of paying for dual running over an extended period, which would happen if these circuits were to be moved to an alternative provider.
  - LGfL's cost estimate is very competitive over the 5 year period. It provides for professional services, all hardware aspects and is a fully managed service.
  - STS has a strong working relationship with LGfL, and options for streamlining services to achieve savings whilst still delivering the required quality have already been proposed by them, providing the opportunity to reduce costs further. Continuing the relationship with LGfL will enable STS to benefit from their existing understanding of the network and this collaborative approach.
  - LGfL provided a very explicit response to the request for details of social value to be included in the contract. LGfL has a comprehensive Social Value offering, including Business broadband circuits and internet access for some community premises for each borough; a digital inclusion fund to support local communities; use of Virgin Media staff volunteering hours; and access to discount schemes for council staff.
- 3.11 The award will be made using LGfL's single supplier framework with Virgin Media Business.
- 3.12 LGfL established the agreement for the provision of broadband, telecommunications and related ICT services for the benefit of schools and other educational establishments, Councils, libraries, public service organisations (specifically including public health service providers) and charities in accordance with the Public Contracts Regulations 2006.
- 3.13 LGfL is a company limited by guarantee that was founded in 2001 by a consortium of the 33 London Councils. The Councils are the sole members of

and have direct supervisory management of the company, which is also registered as a charity, making LGfL a public body subject to public law. Subsequently, LGfL has expanded to support 72 local authorities and over 3500 customer sites across the UK. As an aggregator of services regionally and nationally LGfL generates significant procurement scale saving both Councils and schools substantial amounts of money.

- 3.14 The Framework was advertised in OJEU in May 2013. The suppliers were appointed on the basis of the most economically advantageous tender.
- 3.15 The Framework runs from 1 January 2014 to 31 December 2026 (108 months).
- 3.16 There is no charge to purchasing authorities for using the Framework.
- 3.17 Other means of procuring the contract were considered by officers in STS but it was determined that use of the Framework, rather than procuring a contract by formal open tender is best in terms of the reduction in time-scales, costs and resources involved.
- 3.18 The new contract will commence on as soon as possible for a five year term.
- 3.19 The pre-tender considerations relevant to the contract are as follows:

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>	
(i)	The nature of the services / supplies / works.	Network Links for the Shared Technology Services Boroughs	
(ii)	The value.	£3,267,895 ex VAT estimated over the 5 year term	
(iii)	The contract term.	5 years	
(iv)	The tender procedure to be adopted.	Direct Award from an Agreement procured by a Central Purchasing Body	
(v)	The procurement timetable.	<b>Stage in Procurement</b>	<b>Indicative dates</b>
		Invited Bid	03 04 2023
		Checking Bid	17 04 2023
		Contract start date	10 05 2023
(vi)	The evaluation criteria and process.	Direct Award using Agreement criteria	
(vii)	Any business risks associated	No specific business risks are considered to be associated with entering into the Contract.	

Ref.	Requirement	Response
	with entering the contract.	
(viii)	The Council's Best Value duties.	For the reasons set out in Section 3, it is considered that Direct Award will result in the Council achieving best value.
(ix)	Consideration of Public Services (Social Value) Act 2012	Officers have had regard to the Public Services (Social Value) Act 2012.
(x)	Any staffing implications, including TUPE and pensions.	There are no implications for Council staff arising from the procurement.
(xi)	The relevant financial, legal and other considerations.	Financial – See Financial Implications at Section 4.
		Legal – See Legal Implications at Section 5.
		Other – N/A
(xii)	Sustainability	Given the nature and value of the Contract, it is not possible to include specific sustainability requirements.
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the Contract.
(xiv)	London Living Wage	Given the nature of the Contract it is not appropriate to include provision requiring payment of the London Living Wage
(xv)	Contract Management	A contract manager will be appointed and appropriate contract management provisions will be included in the Contract.

#### 4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for services / supplies exceeding £2 million but not exceeding £5 million shall be referred to the individual Cabinet Member for approval of the award of the contract.
- 4.2 The estimated value of this contract is £3.27 million over five years.
- 4.3 The annual costs are as follows:

	<b>Brent</b>	<b>Lewisham</b>	<b>Southwark</b>	<b>Total</b>
Year 2023/24	£106,406	£119,478	£427,714	£653,597
Year 2024/25	£106,406	£119,478	£427,714	£653,597
Year 2025/27	£106,406	£119,478	£427,714	£653,597
Year 2026/27	£106,406	£119,478	£427,714	£653,597
Year 2027/28	£106,406	£119,478	£427,714	£653,597
<b>Total</b>	<b>£532,028</b>	<b>£597,388</b>	<b>£2,138,569</b>	<b>£3,267,895</b>

4.4 The cost of this contract will be funded from the ICT budgets of all three councils.

## **5.0 Legal Implications**

5.1 The estimated value of the proposed call off contract for Network Link is above the threshold for Supplies/Services under the Public Procurement Regulations 2015 (the "PCR 2015") and the procurement is therefore governed by the PCR 2015.

5.2 Officers recommend the use of an agreement let by the LGfL acting as a Central Purchasing Body to procure the provision of the Network Links. The PCR 2015 allow the use of such agreements and prescribe rules and controls for their procurement. Contracts may then be called off under such agreements without the need for them to be separately advertised and procured through a full procurement process. Call offs under the agreement need to be carried out in accordance with the agreement rules. Agreement rules confirm that direct award is in accordance with its provisions and will use the form of award and standard call off terms and conditions prescribed.

5.3 The Council's Contract Standing Orders state that no formal tendering procedures apply where contracts are called off under an agreement established by another contracting authority, where call off under the agreement is approved by Cabinet or an individual Cabinet Member and provided that the Corporate Director, Governance has advised that participation in the agreement is legally permissible. The Corporate Director, Governance confirmed that participation in the agreement is legally permissible.

5.4 The procurement is subject to the Council's own Standing Orders in respect of High Value Contracts and Financial Regulations given the procurement has an estimated value of more than £2 million. The estimated value of this contract is £3,267,895 over five years and as it is less than £5 million, the Deputy Leader has authority pursuant to paragraph 13 of Part 3 of the Constitution to agree pre-tender considerations and award the contract in consultation with the Leader.

5.5 As the procurement of Network Links is from an agreement with LGfL, there is no requirement for the Council to observe a 10-day standstill period under the PCR 2015 although the award of the contract will be subject to the council's usual call-in process.

## **6.0 Equality Implications**

6.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

6.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

6.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

## **7.0 Consultation with Ward Members and Stakeholders**

7.1 The relevant STS Borough stakeholders have been consulted in relation to this procurement.

## **8.0 Human Resources/Property Implications (if appropriate)**

8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

## **9.0 Public Services (Social Value) Act 2012**

9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the

Social Value Act in relation to the procurement, and the Social Value proposed in the contract includes a digital inclusion fund, free of charge broadband and dedicated internet access circuits to a number of community premises.

**Report sign off:**

***Minesh Patel***

Corporate Director, Finances and Resources