

## REPORT TO CABINET

05 June 2019

<b>Subject:</b>	<b>Approval to Extend an Existing Framework Agreement for Wide Area Network Connectivity Services Contract</b>
<b>Cabinet Member</b>	<b>Cabinet Member for Resources and Core Services</b>
<b>Director:</b>	<b>Executive Director – Resources – Darren Carter</b>
<b>Contribution towards Vision 2030:</b>	
<b>Key Decision:</b>	Yes
<b>Forward Plan (28-day notice) Reference:</b>	SMBC05/05/2019
<b>Cabinet Member Approval and Date:</b>	Councillor Ali
<b>Director Approval:</b>	Darren Carter
<b>Reason for Urgency:</b>	Urgent provisions do not apply
<b>Exempt Information Ref:</b>	Exemption provisions do not apply
<b>Ward Councillor (s) Consulted (if applicable):</b>	This is a Council wide amendment therefore not applicable to individual wards.
<b>Scrutiny Consultation:</b>	Scrutiny has not been consulted
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## **DECISION RECOMMENDATIONS**

### **That Cabinet:**

1. Authorise the Executive Director - Resources to appoint Virgin Media Business Limited(VMB) for a three-year period from 17 November 2020 to 16 November 2023 to provide wide area network connectivity services to the Council.
2. Subject to (1) (above), authorise the Director of Law and Governance and Monitoring Officer to enter into, or execute under seal, any documentation in relation to the award of the framework contracts and/or other agreements with Virgin Media Business Limited (VMB), as may be deemed necessary.

## **1 PURPOSE OF THE REPORT**

- 1.1 To seek approval to award a contract which provides a range of wide area network connectivity services (e.g. the circuits that link council offices to one another plus Internet connectivity).
- 1.2 The contract will be for a three year period from 17 November 2020 to 16 November 2023 up to a maximum value of £ 900,000 over the contract period.
- 1.3 The current contract is known as West Midlands Public Service Network (WMPSN). This is a 5-year contract that was procured as a joint partnership agreement with Local Authorities, Health, Police and Fire Services organisations throughout the West Midlands. It was agreed at the time that Solihull MBC would be the Lead Authority for the partnership.
- 1.3 The current contract ceases on 17 November 2020.
- 1.4 The new procurement title is known as WMPSN2. The procurement method is a Negotiated Procedure Without Prior Publication. Solihull MBC as the lead Authority will be responsible for issuing a VEAT (Voluntary Ex Ante Transparency) Notice, in its own name, to signify its intent to enter into a new three (3) year contract extension with Virgin Media Business Limited (VMB) for WMPSN2.
- 1.5 The VEAT is to be published by Solihull MBC imminently via the online journal of the European Union (OJEU website) to start the procurement process.

- 1.6 The new contract will be based on the terms and conditions of the CCS RM1045 framework (adopted for use by Solihull MBC).
- 1.7 Sandwell MBC will be requested to sign a new back to back agreement with Solihull MBC to take advantage of the new pricing rate card by 31<sup>st</sup> May 2019.

## **2. IMPLICATION FOR THE COUNCIL'S AMBITION**

- 2.1 An ICT infrastructure that supports the delivery of modern, flexible services will be crucial to the delivery of all 10 ambitions.

## **3. BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 The council needs to achieve savings in its operational costs whilst maintaining and improving services to the people of Sandwell. ICT is a key enabler and supports the council in its endeavours by providing a more agile ICT infrastructure to deliver the systems and services that enable the workforce to operate more flexibly and efficiently.
- 3.2 To support the delivery of ICT, the council requires a single supplier to provide a range of wide area network connectivity types of service such as IPVPV, Point to Point, Managed Internet through to other connectivity services such as HSCN (Replacement Health Network), Microsoft Azure/Express Router (Secure circuit to Microsoft services), as well as optional services discussed on a case by case basis such as SD-WAN, Dark Fibre and Wi-fi.

## **4. THE CURRENT POSITION**

- 4.1 Over the past three years a considerable amount of work has been completed to refresh end user devices with Citrix and Windows 10.
- 4.2 In April 2018 Cabinet approved annual capital investment of £1.2m for ICT (Key Decision Ref. No. SMBC10/04/2018). This was a major step forward for the council and provides the means to ensure our ICT infrastructure is well maintained and refreshed and that outdated poor performing ICT becomes a thing of the past.
- 4.3 The Wide Area Network Connectivity Services hardware will be supplied through the extension of a new contract that will predominantly be used to support the on-going refresh and modernisation of ICT.
- 4.4 The current contracts costs are £361,350 per annum for WMPSN network and £27,000 relating to the various Managed Internet services.

## 5. CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 We have business partner roles in place within the ICT Service. These officers consult with services on a regular basis to understand their ICT requirements and obtain feedback on new initiatives.
- 5.2 We have also consulted with specific service areas relating to building rationalisation to ensure that any buildings identified for closure are not extended beyond their timeframe for decommission.

## 6. ALTERNATIVE OPTIONS

- 6.1 An alternative approach would be to tender and award contracts as individual circuit procurement are required. However, this would be inefficient as this would be required on an almost continuous basis leading to higher costs.
- 6.2 An alternative approach has also been considered to move away from WMP SN contract and go out for tender as a sole Local Authority. The soft market testing that has taken place shows this would be more expensive due to installation costs and the lack of negotiation compared to a joint procurement exercise. By moving to an alternative supplier, this would also mean considerable resource requirements to transition the networks in a timely manner.
- 6.3 The reason for only looking at a 3 year VEAT extension was made for several reasons.
- a. The maximum allowable extension using the Negotiated Procedure Without Prior Publication is three years. The excerpt from the Contract regulation is as follows: -

<p><i>Additional grounds relevant to public supply contracts</i></p> <p>(5) The negotiated procedure without prior publication may be used for public supply contracts—</p> <p>(a) where the products involved are manufactured purely for the purpose of research, experimentation, study or development, but contracts awarded in reliance on this sub-paragraph shall not include quantity production to establish commercial viability or to recover research and development costs;</p> <p>(b) for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;</p> <p>(c) for supplies quoted and purchased on a commodity market;</p> <p>(d) for the purchase of supplies or services on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations.</p> <p>(6) In the case of paragraph (5)(b), the duration of the contract, as well as that of recurrent contracts, shall not, save in exceptional circumstances, exceed 3 years.</p>
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- b. To enable a more cost-effective rate card for the services on offer plus in 3-years' time there will be new initiatives coming to market such as SD-WAN, LFFN, Dark Fibre and 5G which will change the way our sites connect moving forward especially as we move towards an agile workforce.
- c. The original purpose of WMPNSN was to bring Government services together to look at combined purchasing power but also to look at sharing lines in a secure manner. Unfortunately, shared services have never been realised in the West Midlands and therefore the long-term future of this group is questionable especially once the new rate card extension has ended as there will be little further negotiation in pricing.

## **7. STRATEGIC RESOURCE IMPLICATIONS**

- 7.1 The current contract expires on 17 November 2020. As this will be a contract extension at a reduced rate card with some site upgrades, there are sufficient resources available within the capital programme to support this ongoing investment.
- 7.2 The current contract costs are £353,937 per annum for WMPNSN network and £27,000 relating to the various Managed Internet services.
- 7.3 The new contract costs based on the new rate card produced will be £255,302 in year 1(one) followed by £ 245,302 in years 2(two) and 3(three) for WMPNSN2 and £25,000 for Managed Internet Services.
- 7.4 The savings and benefits being achieved in this contract will be used in the following ways: -
  - Annual savings estimated to be £ 85,000 per year that will be either be used towards ICT service improvements or if required could assist in budget reduction pressures within the Service Area.
  - Increased capacity at some remote sites where the bandwidth is exceeding the current or Internet circuit improvements. This has been looked at in terms of assisting the public in accessing on-line services or increasing resilience as more services are moving to the Cloud.

## **8. LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 The initial agreement paper between Solihull and Sandwell relating to the procurement of West Midlands Public Services Network 2 was reviewed and signed off by Legal Services and then Director of Resources (now Executive Director of Resources), to enable Sandwell to continue to be part of the working group looking at the contract specification and costs.
- 8.2 The contract to be awarded to Virgin Media Business (VMB) Limited will be under the terms of Negotiated Procedure Without Prior Publication. Solihull MBC as the Lead Authority are responsible for issuing the VEAT (Voluntary Ex Ante Transparency) Notice.
- 8.3 The new contract will be based on the terms and conditions of the CCS RM1045 framework (adopted for use by Solihull MBC). Sandwell will be requested to sign a new back to back agreement with Solihull MBC to take advantage of the new pricing rate card.
- 8.4 The VEAT is published by Solihull MBC as the Lead Authority via the online journal of the European Union (OJEU website). This will be for a 3-year extension which is the maximum allowed using the Negotiated Procedure Without Prior Publication in this instance.
- 8.5 The justification for exploring the negotiated procedure without prior publication is as follows:-
- This is based on Article 32 (5b) of the Public Contracts Regulations. In particular, a change of supplier would result in incompatibility or disproportionate technical difficulties to partners.
  - Sandwell as have all the partners invested significant capital and resource effort for the initial installation and migration to VMB over the last 5 years.
  - There is concern from partners of having to repeat the capital investment made due to alternative suppliers not being able to reuse the existing lines in the ground and therefore becoming redundant. The prohibitive cost of change for the partnership provides further justification for this option; especially as it is a maximum of a 3-year contract term. Partners have estimated it may take between 6 and 18 months to migrate to a new supplier and cause potential disruption to services.

- Furthermore, to point 9.5, while there is always the possibility of challenge to any VEAT route, this is unlikely as the main competitors would need to provide the same service at reduced pricing to what we have seen in terms of benchmarking without including their installation costs into the total rental cost. Based on a 3-year extension, no competitor would in the group's opinion plus that of Solihull procurement be able to provide a business case internally that would be cost effective in these short contract extension time frames
- Although the contract does not end until November 2020, both Solihull and VMB are asking all partners for a commitment on the new offer by 31 May 2019.

## **9. EQUALITY IMPACT ASSESSMENT**

An equality impact assessment is not required.

## **10. DATA PROTECTION IMPACT ASSESSMENT**

A Data Protection Impact Assessment has been undertaken.

## **11. CRIME AND DISORDER AND RISK ASSESSMENT**

A Crime and Disorder and Risk Assessment is not required.

## **12. SUSTAINABILITY OF PROPOSALS**

- 12.1 This proposal will help to ensure our ICT infrastructure remains fit for purpose both now and in the future.

## **13. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

- 13.1 There are no health and wellbeing implications, including social value from this renewal.

## **14. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

- 14.1 As mentioned in 5.2, we have consulted with service areas that have responsibility for building management. This has been undertaken to understand the building consolidation programme relating to sites being sold or leases agreements coming to an end.

## **15. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 15.1 The current contract expires on 17 November 2020 and this extension will allow us to continue with this service but at a reduced cost.
- 15.2 The current contract costs are £353,937 per annum for WMPSN network and £27,000 relating to the various Managed Internet services.
- 15.3 The new contract costs based on the new rate card produced will be £255,302 in year 1(one) followed by £245,302 in years 2(two) and 3(three) for WMPSN2 and £25,000 for Managed Internet Services.
- 15.4 The savings and benefits being achieved in this contract will be used in the following ways: -
- Increase capacity at sites where the bandwidth is exceeding the current capacity. This has been looked at in terms of Library locations to assist the public in accessing on-line services.
  - Due to the demand in Cloud hosted services for applications and our mail also being in the Cloud, some internet circuits will be increased in bandwidth to cater for these changes in business provision.
  - The remaining savings estimated to be £85,000 per year will be either used towards ICT service improvements or if required could assist in budget reduction pressures within the service area.

## **16. BACKGROUND PAPERS**

- 16.1 Agreement document between Solihull MBC and Sandwell in relation to the procurement of West Midlands Public Sector Network 2 as signed by Legal and Executive Director of Resources which initiated Sandwell being part of the procurement working group.

## **17. APPENDICES:**

None

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