



Report of: **Executive Member for Finance and Performance**

<b>Meeting of:</b>	<b>Date:</b>	<b>Ward(s):</b>
<b>Executive</b>	<b>18 June 2015</b>	<b>All</b>

<b>Delete as appropriate</b>	<b>Exempt</b>	<b>Non-exempt</b>
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## **SUBJECT: Approval of the Procurement Strategy for Wireless Concession Contract**

### **1. Synopsis**

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of a Wireless Concession in accordance with Rule 2.5 of the Council's Procurement Rules.
- 1.2 This contract would be for a concession that will seek to lease the Council's existing wireless network and / or part of the rooftop spaces currently owned by LBI. The lease would be of commercial value to mobile operators, network infrastructure providers, or Wireless Internet Service Providers.

### **2. Recommendations**

- 2.1 To approve the procurement strategy for a Wireless Concession as at paragraph 1.1.
- 2.2 To delegate the key decision of the award of the contract to the Corporate Director of Finance & Resources.

### **3. Background**

#### **Nature of the service**

- 3.1 Over a number of years LBI has built a wireless network on a number of its rooftops. It is a wide-area Radio Frequency Network that is currently used for transporting images from

2000 plus CCTV cameras located across the borough to centralised recording and monitoring stations. The network also provides wireless building to building links. Capacity normally runs at 50%, and it is estimated that 25% should be kept for resilience. This means there is substantial capacity in the existing network that would be of interest to commercial operators. The Council's own requirements will be kept under review to ensure that we are able to meet our own future capacity needs from our network.

- 3.2 The radio technology used on the network resides within the Free or 'Lite' licensed spectrum, thus the network does not require the issuing of an OfCom licence.
- 3.3 The overriding factor in any concession to utilise the spare capacity within the network will be the need to ensure the integrity of the Council network. This will be achieved through segregation of the network, keeping the Council part of the network physically separate from the network utilised by any third party.
- 3.4 Some early soft market testing has identified a significant interest from the market to engage with LBI to realise the commercial and operation potential of the network infrastructure. There is also market interest in making use of LBI rooftop space, both those spaces already supporting the network, and rooftop spaces not currently used for the network.
- 3.5 Letting out the network/rooftop space could provide a direct revenue stream. In addition to this there are cost saving opportunities through using the network in place of networking arrangements currently leased by the Council from commercial network providers.
- 3.6 In addition, there may be the added option to enhance and increase digital social inclusion by delivering cheaper and faster broadband to social housing and community spaces in Islington in keeping with the council's fairness agenda. This will require some trade off against the potential revenue stream available but could be a very cost effective way of acquiring such services. This will be explored as part of the competitive dialogue with providers. There may also be the opportunity to support / provide connectivity for other services and organisations such as healthcare providers, blue light emergency services, and locally based small businesses and organisations.
- 3.7 To determine the merit in seeking a concession the Council engaged Regional Network Solutions (RNS), experts in wireless networks to conduct an audit of the current network/rooftop assets and undertake initial soft market testing in order to establish the viability of the network and the appetite for its use by commercial partners. They have identified that there is significant capacity within the existing network that can be made use of, and that there is interest from commercial operators in utilising that spare capacity.
- 3.8 As part of the initial soft market testing seven companies were invited to participate and the response was keen. The companies expressed an interest in the potential value of the infrastructure and understanding in more detail the opportunity from a commercial and technical perspective.
- 3.9 The council has recently let a concession for a wireless network installed at near ground level on street furniture such as lamp posts. This proposed network concession will exist on rooftops and provides the communications industry with different functionality to that of the street level network.
- 3.10 There is the potential to build a multi-borough or pan-London network with other authorities should they catch us up and develop similar networks.

## **Estimated Value**

- 3.11 The network/rooftop assets will be let and LBI will seek an income stream derived from:
- Leasing of the roof space
  - Leasing of the network
- 3.12 The Council will be able to determine whether it receives a flat fee or takes a share of profits during the competitive dialogue process. No capital investment will be required from the Council, all investment will be made entirely by the service provider, and this will be agreed during the competitive dialogue process.
- 3.13 It is not possible at this stage to make any meaningful estimate of revenue streams arising from letting this concession. There are no such concessions currently let for which the revenue generated is publicly known. A pan London exercise to let such a concession across a number of boroughs was established shortly after Islington established this project. That pan London project has now ground to a halt and is unable to provide us with any indication of likely income streams.

## **Procurement Route and Timetable**

- 3.14 A Competitive Dialogue is the preferred procurement route, as this will give us the opportunity to make the process as flexible as possible to ensure we maximise benefit for the Council. A competitive procurement process will also open the opportunity to the widest possible market thus ensuring we obtain the best value for the Council.
- 3.15 Using this procedure, any organisation can submit a request to participate in response to a published advert. The advert will include the award criteria to be used in assessing tenders, and will be accompanied by a document setting out the needs and requirements of the contract. Requests to participate will be in the form of a pre-qualification questionnaire (PQQ), which will assess selection criteria required for inclusion in the competitive dialogue. A minimum of three organisations will be selected on the basis of these PQQs to take part in a dialogue with the Council, with the aim of identifying and defining the means best suited to satisfying the Council's needs. During this dialogue, all aspects of the procurement can be discussed, and the number of participants may be reduced in successive stages by applying the award criteria set out in the advert. On conclusion of the dialogue, remaining tenderers will be asked to submit their final tenders, containing all the elements required for the performance of the contract. These final tenders can be clarified, specified and optimised, without changing the essential aspects of the tender or the procurement. Final tenders will then be evaluated against the award criteria published in the initial advert.
- 3.16 The proposed award criteria are:

1. Revenue 50%

There is significant commercial value in the network, especially as it rests above ground so is increasingly attractive to providers as they will not have to undertake expensive digging, or try and navigate underground obstacles of London.

Furthermore, the height of the buildings that the main hubs are on provide good coverage and reach from the south of the borough (near the city) to the more residential north.

## 2. Social Benefits 25%

There is huge potential to increase digital inclusion through this concession. Not only could digital inclusion for those from deprived socio-economic backgrounds be improved, but also for voluntary organisations and SME's within reach.

## 3. Competent technical knowledge and skills 25%

As the network is used to transfer important and critical Council data it is important that the company awarded the concession has a high level of technical skill and knowledge to maintain the network to a high standard and ensure that data is kept secure. This will be a pass or fail criteria, anyone unable to demonstrate competence will not be successful however well they score on other areas.

### **Timetable**

#### 3.17 Executive approval – June 2015

Advert published, with requirements brief and PQQ – 1 July 2015

Deadline for submission of PQQs – 2 August 2015

Dialogue with short listed applicants opens – 20 August 2015

Dialogue concludes – 18 January 2016

Final tender submissions – 8 February 2016

Award report approved under delegated authority – 7 March 2016

Contract signed – 1 April 2016

## **4. Implications**

### **4.1 Financial implications:**

This is an innovative way of creating revenue through better utilising council assets. At this stage the financial benefits are hard to determine due to this being a new idea and the actual type of operation needing to be determined through dialogue with suppliers. Our previous experience of tendering the street wireless concession resulted in the revenue stream arising slowly in steps over a number of years. It will be some years yet before the street concession generates its full income. Thus we should be prudent in our estimates for the rooftop concession for financial planning purposes. The size of the revenue stream will become clearer as we progress through the procurement process.

### **4.2 Legal Implications:**

The council has power to enter into a concession contract for the provision of a wireless network under the general power of competence (Localism Act, section 1).

The procurement of service concessions are not subject to the provisions of the Public Contracts Regulations 2015 (Regulation 117). However the concession contract is subject to the EC treaty principles of equal treatment, transparency, proportionality and mutual recognition. Directive 2014/23/EU on the award of concession contracts (the Directive)

requires the establishment of minimum coordination of national procedures for the award of such contracts based on the principles of the TFEU so as to guarantee the opening-up of concessions to competition and adequate legal certainty. This directive has not yet been transposed into UK legislation. Until such time that it is regard ought to be had to the Directive.

The risk of state aid arising in the establishment of this contract will be mitigated by conducting a competitive procurement and establishing the best possible return for the council that the market is able to offer.

The council will need to ensure that the level and period of exclusivity given to the successful operator for the use of street furniture does not breach the requirements of the Competition Act 1998. Further the council also needs to ensure that the level exclusivity in the contact does not conflict with the council's other contractual and statutory obligations including those of an operator exercising rights under the Electronic Communications Code (Schedule 2 of the Telecommunications Act 1984).

#### **4.3 Environmental Implications**

The use of wireless technology has increased rapidly in recent years and is now an accepted part of our everyday lives. The Council's wireless network has been in place for several years now and renting out part of the network and/or rooftop space will be utilising the same technology and frequencies. All such networks are heavily regulated and a detailed environmental impact assessment will be undertaken for all proposed changes and additions to the network once we know which options and exactly which technologies we are going to be utilising.

#### **4.4 Resident Impact Assessment:**

A Resident Impact Assessment has been completed. This has identified that this concession has the possibility of increasing social inclusion through provision of digital connectivity to residents who may not currently have access to the internet.

### **5. Conclusion and reasons for recommendations**

- 5.1 This procurement should be able to bring in a significant revenue stream for the Council, potentially generate savings by migrating current data off leased connections and onto the network, and provide free wireless internet access to some residents.

#### **Appendices**

None

#### **Background papers:**

None

Final report clearance:

**Signed by:**



**Executive Member for Finance and Performance**

**Received by:**

Head of Democratic Services

Date

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