

Notice of KEY Executive Decision

Subject Heading:	Grant agreement for receipt of SIP funding and call off from a multi supplier framework to deliver the SIP funded invest in fibre project
Cabinet Member:	Cllr Damian White
SLT Lead:	Neil Stubbings
Report Author and contact details:	Daniel Moore Tel: 01708 432761 E: daniel.moore@havering.gov.uk
Policy context:	Havering Corporate Plan 2019/2020. Opportunities: Helping Our Businesses Grow
Financial summary:	<p>The Local London Partnership secured £7.7m through the SIP to invest in fibre throughout the sub-region. Havering will be allocated £0.8m to introduce digital infrastructure into Rainham.</p> <p>This decision is requesting approval to contract with Bexley and access the procurement framework. At this juncture there is no financial commitment from Havering. Approval will be sought via a further key decision to agree to the apportionment of the funding and to contract with a supplier.</p>
Reason decision is Key	(a) Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	No

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Relevant OSC:	OSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The Chief Operating Officer is requested to agree to:

1. Accept SIP funding of £800,000 from the London Borough of Bexley and enter into grant terms and conditions with Bexley for and on behalf of the Council to deliver the SIP funded invest in fibre project.
2. Access Bexley's framework for ducting, gigabit managed service and infrastructure services (Reference Number: 5139), a multi – supplier procurement framework.
3. Conduct a mini competition between the Suppliers appointed to the framework to identify an organisation to provide infrastructure services to a number of public sector sites within Rainham.

AUTHORITY UNDER WHICH DECISION IS MADE

- (1) Part 3 of the Constitution; Section 3.10.3
S151 Officer Functions
(m) To accept grants and the terms and conditions thereof for and on behalf of the Council.
- (2) Part 3.3 of the Constitution which delegates power to SLT Directors:
Contract powers
(a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.

STATEMENT OF THE REASONS FOR THE DECISION

Havering is a member of the Local London Partnership (LLP) which was awarded £7.7m of SIP funding to improve digital connectivity throughout the sub region. Each local authority that comprises the partnership was allocated £0.8m which will be used by Havering to upgrade public sector sites in Rainham. The upgrading of these sites will allow for the hosting of technologies including dark fibre which would enable existing and new internet service providers to offer high speed services.

The project entails full fibre upgrades to public sector sites that will anchor fibre investment by the commercial sector. It will include the introduction of fibre through existing ducting in the Rainham area of the borough and the upgrading of public sector sites. This will allow businesses the opportunity to access fibre which will enhance their connectivity and improve their economic performance.

This decision is also requesting approval for Havering to contract with the London Borough of Bexley who are the lead partner on behalf of the LLP and the responsible authority for compliance, monitoring and reporting of progress against individual projects. A detailed outline of the project will be submitted to Bexley which will be incorporated in schedule 3 of the agreement between Bexley and Havering.

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Each borough will provide a list of sites and service requirements and run a mini competition as described in the framework agreement that has been drafted by Bexley. The agreement has been divided into three lots where clients (partners) can appoint suppliers who could provide one or more of the following: ducting (Lot 1), gigabit capable services (Lot 2) or infrastructure services (Lot 3). Havering will call off from Lot 3 of the framework and appoint a supplier to deliver infrastructure services.

The suppliers will be evaluated in accordance with the services evaluation criteria as detailed in schedule 3 of the framework agreement. There will be framework agreements for each lot entered into between Bexley and the relevant successful bidders. Each member of the LLP and Haringey may enter into call off contracts under such framework agreements.

The advert relating to the framework for duct build, gigabit capable managed services and infrastructure services for the project was issued on Friday 14th February 2020. The procurement is subject to the EU Open Procedure and a Contract Notice and has been separately published in the Official Journal of the European Union (OJEU). Relevant procurement documentation consisting of tender documents is available via the London Tenders Portal.

Eleven organisations submitted tenders for consideration to be accepted onto the procurement framework. The suppliers were evaluated in accordance with the services evaluation criteria in schedule 3 of the agreement. Following the evaluation, seven suppliers have been incorporated onto the framework. Havering will now conduct a mini competition to identify the supplier who is best placed to deliver the required infrastructure services and call off from the framework. The framework requires tenders to be evaluated against weightings between 40-60 for both price and quality. Tender responses will be evaluated on a best price-quality ratio of 60% cost and 40% quality weighting.

OTHER OPTIONS CONSIDERED AND REJECTED

Consultation with fibre providers had offered potential options that included installing fibre into the premises of businesses with the Rainham area. This option was rejected as it was deemed to contravene state aid rules.

The current project, as described above, improves digital connectivity within state aid rules – this means the investment is primarily about public places being better connected with a secondary potential benefit around commercialisation.

PRE-DECISION CONSULTATION

The meetings and consultations through the LLP determined that a demand existed for improving access to fast fibre connections to industrial estates/commercial centres where it can be demonstrated that it supports key economic growth priorities. The project entails the upgrading of public sector assets to host better digital technologies which will provide points of presence in these industrial areas and allow businesses to access new digital infrastructure.

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NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Howard Swift

Designation: Head of Inclusive Growth

Signature:

A handwritten signature in blue ink, appearing to be 'H. Swift', with a stylized flourish at the end.

Date: 5 August 2021

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

This report seeks approval to commence a procurement process by utilising the Framework for ducting, gigabit managed service and infrastructure services (Reference number: 5139) for the Strategic Investment project (further explained in the body of this report).

Part 1 Chapter 1 of the Localism Act 2011 gives the Council the same power to act as that of an individual, subject to other statutory provisions limiting or restricting its use. The recommendations in this report are compatible with the above statutory powers.

Call-Off from Framework

The Framework appears to be compliant with the Public Contracts Regulations 2015. The Contract Award Notice (OJEU Ref: 2020/S 34-81763) was dispatched on 17 March 2021 and the Framework Agreement was executed on 5 February 2021. Participating authorities therefore have until 4 February 2025 to call-off a supplier from this Framework.

The Framework affords participating authorities the option of holding a mini-competition. As set out above, officers will conduct a mini competition in accordance with the framework rules and the Council's Contract Procedure Rule 20.4.

The framework requires tenders to be evaluated against weightings between 40 – 60 for both price and quality. To comply with this requirement and use 60/40 weightings, Officers intend to rely on Contract Procedure Rule 18.5(i) which states “a contract can only be awarded other than on 70% cost and 30% quality, if the best procurement route is through an existing framework agreement that does not allow tender evaluation on a 70/30 basis.

The decision to award the call-off contract shall be a Key Decision subject to Part 4.5 Overview and Scrutiny Procedure Rules, (Rule 15) and the Council's call-in procedure.

Grant Agreement

Officers also seek authority to enter into a grant agreement from the London Borough of Bexley to accept funding for the Strategic Investment project.

The Council must ensure that it complies with all of its obligations under the Grant Agreement.

Should Havering fail to meet its obligations under the Agreement and specifically those listed at Clause 12, the London Borough of Bexley may withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant.

FINANCIAL IMPLICATIONS AND RISKS

Havering secured £0.8m out of a wider pot of £7.7m to introduce digital infrastructure into Rainham.

This decision is requesting approval to contract with Bexley and to access a procurement framework to identify a supplier to deliver the project and is not exposing the Council to any financial commitment or risk. A further key executive decision requesting approval to contract with a supplier and how the funding will be apportioned will be submitted at a later date.

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

N/A

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- i. The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- ii. The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- iii. Foster good relations between those who have protected characteristics and those who do not

Note: 'Protected characteristics' are: age, gender, race and disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio – economics and health determinants. The proposals relating to this report, if they are implemented, will improve the business environment in the borough and consequently the employment prospects and socio- economic status of residents.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

The project aims to improve connectivity for businesses and improve the digital infrastructure of public sector sites within the Rainham area of Havering. This will have a positive impact by improving productivity and leading to greater commercial benefits for businesses. Improved connectivity will lead to greater investment as the Rainham strategic industrial location (SIL) becomes more attractive to businesses requiring high speed broadband services.

As existing businesses improve their productivity and new businesses locate to the Rainham SIL it will increase employment opportunities for Havering residents, which will have a positive impact on health and well being. As a stipulation of the funding requires an upgrade of public sector sites to incorporate new digital infrastructure it will improve how public services are delivered to residents.

The project will be delivered in conjunction with the London Riverside Business Improvement District (LRBID) and installation will be planned to minimise disruption to the public. Any disruption following the introduction of new infrastructure will be conveyed and coordinated to the businesses through the LRBID.

BACKGROUND PAPERS

Strategic Investment Pot Bids Investment Pot bids May 2018.

Strategic Investment Pot Local London Investment in Fibre September 2018.

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____