Broadband Delivery Framework

This is a summary of BDUK's Broadband Delivery Framework. It is intended for potential customers of the Framework (local bodies including local authorities and devolved administrations), as well as other interested stakeholders to understand the scope and operation of the framework.

Overview

BDUK is putting in place a Broadband Delivery Framework with suppliers capable of delivering a local broadband project[1]. The primary objectives of the Framework are to:

- simplify and streamline the procurement process
- capture and assure proposed technical solution components and financial information at the Framework level,
- simplify and reduce the contracting overhead on suppliers and local bodies; and
- retain flexibility to allow for local delivery issues and local prioritisation.

The Broadband Delivery Framework will provide a panel of potential suppliers who have the experience and depth of capability to design, build and operate a wholesale broadband network for a local broadband project. This panel will be established through a Framework Agreement between BDUK and the selected suppliers. The Framework Agreement will include:

- a set of components which make up the 'Reference Solution';
- a Reference Cost Book that contains costs, inputs, assumptions and data;
- a template project financial model (the Reference Financial Model) that will be completed by suppliers during each Call-Off; and
- a template Call-Off Contract containing the technical requirements, commercial and operational terms.

BDUK will be responsible for the overall operation and governance of the Framework, as well as acting as the change control managing authority for solution design and costing principles for the Reference Solution, and for ensuring compliance of projects procured using the Framework with EU state aid rules. Local bodies and suppliers will have defined roles in the governance structure.

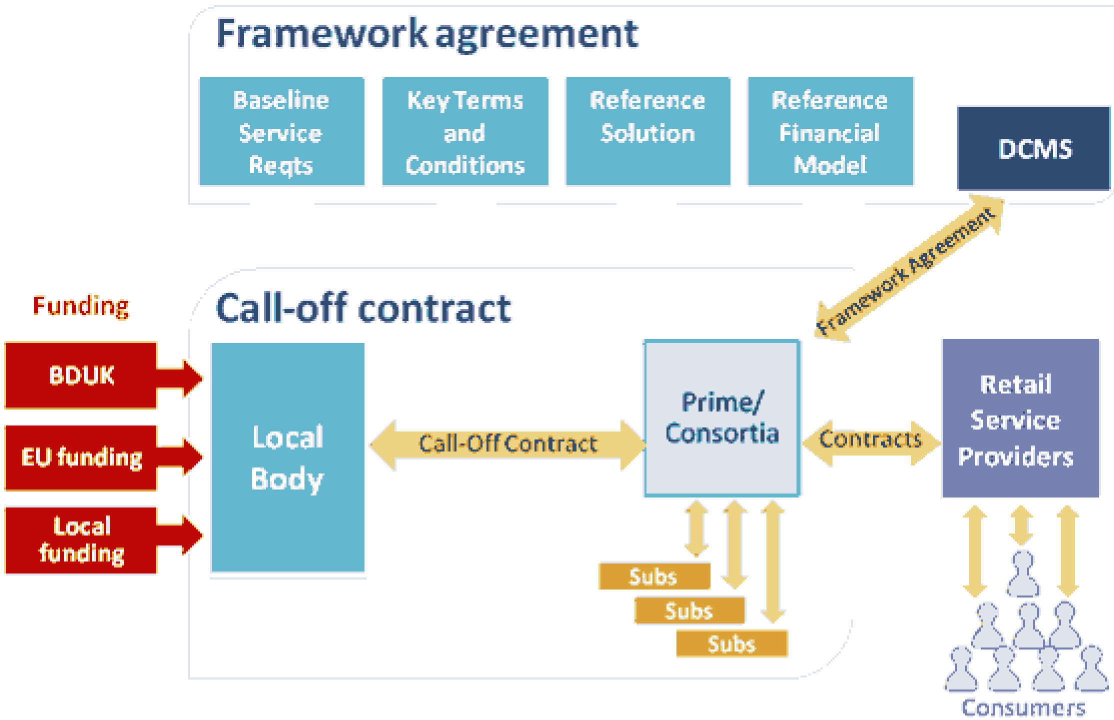
Local bodies will run mini-competitions to select a supplier from the Framework to deliver the requirements of each local broadband project through a Call-Off Contract. The Call-Off Contracts will contain the terms and conditions for each locally delivered broadband project. Local bodies will be responsible for agreeing the level of subsidy during the appointment process of the supplier, and will be responsible for providing the subsidy upon successful completion of specified milestones. Each Call-Off Contract will be a standalone contract and will include:

- variations from the requirements and commercial and financial terms set out in the template Call-Off Contract;
- detailed final design and implementation plan; and
- detailed costing and subsidy calculations within a completed financial model.

[1] Which could be a project to deliver broadband at a county, multi-county, regional level or equivalent

The Framework presumes the use of the gap-fund subsidy commercial model, where the private sector invests alongside a public subsidy to provide broadband to areas where there is not otherwise a viable commercial market. The supplier takes the risk of implementing and operating the network and the risk of ensuring its commercial success. The different funding sources used might have specific limitations on what types of costs the funding can subsidise. DCMS funding can only be used as a contribution towards capital costs. Once the network is in place and has attracted enough customers, the supplier should receive customer revenues (through Retail Service Providers) that cover its operating and maintenance costs and generate sufficient profit to provide the intended return on its investment.

The high level operating model and key relationships under the Framework are depicted below:



Supply chains and approach to SMEs

Framework suppliers are likely to have identified at least upper tier subcontractors where required for delivery, in the development of solutions at framework level. However, it is anticipated that suppliers may wish to vary which sub-contractors they employ from project to project. Local bodies will be able to promote the capability of local SMEs through the inclusion of relevant information in their data room.

Risk allocation

In an investment gap subsidy model, the supplier takes the risk on whether there is sufficient take-up to generate revenues to make the network commercially sustainable. Network design risk lies primarily with the supplier and in the second instance with the local body: full due diligence could be completed post contract signature, so some risk will reside with the local body until the due diligence is complete.

Suppliers will take full responsibility and risk for specific solution components sub-contracting and for network and related services planning and implementation. Suppliers will also be responsible for the outturn costs of implementation and ongoing operation and maintenance , and for provision of retail solutions including driving take-up by customers. Suppliers are also responsible for complying with the terms under which State aid approval has been given, including meeting open access requirements and wholesale pricing and supply of services and related risks.

Local bodies will need to manage risks regarding provision of sufficient subsidy to achieve the project objectives; identifying relative priority areas for investment; ensuring that the project operations are sufficient to attract bidders to ensure competition; and dealing with the political and practical consequences of any failure by the supplier to meet its contractual obligations.

Establishing a Call-Off Contract

Before commencing a project, the local body should have conducted a public consultation for the proposed intervention area in order to comply with state aid guidelines. The local body will also need to collect datasets to populate a data room for the mini-competition. Prior to formal commencement of the mini-competition, the local body should hold a bidder briefing. It should allow equal access to all Framework suppliers to the call-off data room, where possible in advance of the mini-competition process.

The mini-competition process will commence with the publication of an Invitation to Tender (ITT), in which the local body will set out:

- its specific requirements for the local broadband project;
- the process and timetable for the competition;
- the request for a form of response; and
- the evaluation criteria, weightings and approach.

The local body will provide a draft contract, based on the template Call-Off Contract held at the Framework level. The local body will require a Non-Disclosure Agreement to be signed before providing full access to its data room. Further data may be made available to bidders by BT Openreach. Typically, bidders will need to submit data requests to BT Openreach within two weeks of the issue of the ITT. BT Openreach will then respond within a specified timeframe.

During a mini-competition the suppliers will be required to provide a bid Project Financial Model, based on the Reference Financial Model. Suppliers will combine their framework solution components and corresponding costs with additional bespoke local elements to build a financial forecast for the implementation and operational periods. Suppliers will be required to provide:

- a compliance matrix;
- the solution description, identifying any variances from the Reference Solution;
- supporting financial model in the form of the bid Project Financial Model; and
- all other documentation requested in the ‘Form of Response’.

Formal submissions will be evaluated by the local body against the Call-off Award Criteria. In considering suppliers’ proposals during a mini-competition, local bodies will:

- assess the extent to which the bid Project Financial Model is consistent with the Reference Cost Book and the Reference Financial Model;
- consider the proposed solution including the costs, milestone payments and take-up information in the bid Project Financial Model; and
- test the sensitivities of the commercial proposal to key assumptions, to assure the proposed solution's long-term commercial sustainability and affordability.

Where minor solution variations that have not been included in the Framework Agreement are proposed at call-off, these will be assessed by the local body.

Following the announcement of preferred supplier status, the preferred supplier will then have an agreed period of time to conduct additional due diligence to reach a firm cost before the award of the contract. Concurrent with the local body signing a contract with the supplier, it will need to sign grant agreements with its other funding sources, including BDUK and, if appropriate, ERDF.

Implementation and operation

Following Call-Off Contract award, the supplier will undertake preparatory activities for the build of the network and provide an implementation plan to the local body. The supplier will be responsible for applying for necessary planning permissions and way-leaves to build the infrastructure and will work with the local body on specific planning constraints or issues. The supplier will also be responsible for placing orders for active and passive infrastructure, and the necessary civil construction resources to commence the network build.

During operation the supplier will be required to report to the local body on the performance of the network and of its operations, including confirming whether it is performing to the required service levels and reporting on the extent to which it is meeting or triggering its service levels with retail service provider customers, and providing information on pricing.

To ensure that public funds have minimal effect on the market, state aid rules require that any excess subsidy is 'clawed back' from suppliers. BDUK's recommended approach to this requirement is that any excessive subsidy that local bodies are entitled to claw back should be re-invested in the roll out of additional superfast broadband within the same area.

Call-Off Contracts will typically last for seven years post-implementation. The supplier is expected to deliver a solution that is commercially sustainable, with future revenues sufficient to cover ongoing costs and provide a profit margin, and to generate funding for reinvestment and to maintain the architectures at the same position as in other parts of the UK where subsidies have not been necessary. It is anticipated that after seven years of operation, there should be a well-established market in the 'final third'.