

Decision maker:	Cabinet member finance and corporate services
Decision date:	Friday, 18 May 2018
Title of report:	Extension to Updata Contract
Report by:	Assistant director communities

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 10 (General Exception) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

To extend the contract for the provision of telecoms network services with Updata, for a period of up to six months at a value not to exceed £155k.

This request will ensure that the council's current telecoms network services are maintained whilst services are transitioned to the new provider MLL Telecoms Ltd and enable quick financial decision making in the event that it is required.

Recommendation(s)

That:

- (a) the contract with Udata be extended for up to six months at a value not to exceed £155k, whilst services are transitioned to MLL Telecom Ltd; and
- (b) any further contractual variations required to maintain service continuity during the transition to MLL Telecom Ltd which do not impact on spend within existing approved levels be delegated to the assistant director communities.

Alternative options

1. **Option 1:** To novate the existing network connectivity arrangements from Udata to MLL Telecom Ltd (MLL) whilst MLL progress the delivery of the new network. This would have added an additional layer of cost and complexity when compared to the extension arrangements agreed with Udata.

Key considerations

2. A decision to award a new contract to MLL for the provision of Herefordshire wide area network services was taken in December 2017.
3. This decision highlighted a risk that the transition of services to the new provider were likely to continue past the end date of 31 March 2018 for the contract with the incumbent provider Udata. A mitigation for that risk was to enter into commercial negotiations with Udata for an extension to the contract in order to avoid a loss of service to the council and the NHS partners using the service.
4. Having concluded the extensive negotiations Udata have agreed to provide the following services:
 - a. Extension to the contract for a six month period
 - b. That the council may terminate early for convenience in the event that the transition concludes earlier than 30th September 2018.
5. The contract with the oncoming supplier MLL does include delay payment provisions which are in place to manage any dual running costs caused by MLL delays, and will assist in maintaining spend within existing budgets.
6. The contract with Udata was implemented in March 2014 with an extended expiry date of 31 March 2018 and contract value estimated to £1.4m.
7. The decision to extend the contract will ensure that an appropriate contract for service continuity is in place whilst a complex technical migration is progressed.

Community impact

8. This is a back office activity which aims to provide a reliable data network service for Herefordshire Council, their NHS partners and the citizens of Herefordshire whilst services are transitioned to a new supplier.
9. The recommendation supports the council's corporate plan objective to manage finances effectively to secure value for money and deliver a balanced budget.

Equality duty

10. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
11. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.
 12. The wide area network service is the council's key resource for data transmission and would be unable to effectively perform its duties without a reliable network.

Resource implications

13. The council will incur charges of upto £155k in the event that all services run until September 2018.
14. It is expected that the transition will conclude prior to that in which case charges will be in proportion to the services that remain. For example should transition conclude on the 30th June 2018, charges would amount to £76k.
15. £76K will be funded using base revenue budgets, any further spend will be covered by the ICT reserve.

Legal implications

16. This Report proposes an extension to an existing contract, which was made by direct award following an unsuccessful competitive procurement exercise. Legal advice has been obtained on the proposed extension and has confirmed that there is a sound legal basis for the extension which is compatible with the Public Contract Regulations 2015. There is therefore no significant procurement risk arising from this proposal. A waiver from the Council's own contract procedure rules will be obtained.

17. The terms of the extension will be regulated by a change control note issued against the original contract terms. This will give contractual effect to the service delivery arrangements which have recently been negotiated with the supplier.
18. There are no other significant legal implications which have been identified in this proposal.

Risk management

19.

Risk / opportunity	Mitigation
<p>Unforeseen complexities may arise once detailed site surveys are conducted, such as wayleaves, excess construction charges which result in further delay to the transition programme.</p>	<p>MLL have committed to identifying alternative sources of provision where specific sites are affected, subject to approval by the project board</p> <p>Initial surveys have not highlighted any pre-existing concerns that will impact the conclusion of transition by September 2018</p> <p>In the unlikely event that a particularly complex issue arises, and all other options are not feasible it may be necessary to request further support from Updata.</p>

20. These risks are managed at project board level with updates provided on the service risk register.

Consultees

21. none

Appendices

none

Background papers

none