

Broadband Delivery Framework

Call-Off ITT Part 1:

Norfolk Introduction & Instructions

Date: 29 June 2012

Version: 1

Status: Final



Table of Contents

1	Introduction	3
1.1	Purpose	3
2	Background Information	4
2.1	Norfolk’s Strategic Ambitions	4
2.2	Benefits from broadband	4
2.3	Further information	4
3	Guide to Norfolk’s Call-Off Tender Process	5
3.1	Introduction	5
3.2	Principles of the Call-Off Tender Process	5
4	Overarching Instructions for Acknowledgement and Completion of Tender.....	6
4.1	Intention to Bid (or otherwise)	6
4.2	Bid Communication	6
4.3	Tender Responses	6
4.4	Clarification	6
5.	Legal Instructions	7
5.1	Confidentiality	7
5.2	Freedom of Information and the Environmental Information Regulations	7
5.3	Publicity.....	8
5.5	Transparency.....	8
5.6	Copyright.....	9
5.7	Canvassing & Anti-Bribery.....	9
5.8	Anti-Competitive Behaviour.....	10
5.9	The Bidder's Team.....	10
5.10	Bidding Costs.....	10
5.11	Conflicts of Interest	11
5.12	Provision of Further Information by Bidders Prior to Submitting a Tender	11
5.13	Local Body's Right to Reject a Tender and/or Disqualify a Bidder	11
5.14	Right to Cancel or Vary the Process	12
5.15	Governing Law	12
5.16	Specification of Standards.....	13
5.17	Disclaimer.....	13
Appendix 1:	Definitions	14
Appendix 2:	Evaluation Strategy, including Call-Off Award Criteria	17
Appendix 3:	Certificate of Undertakings and Absence of Collusion	XXIV
Appendix 4:	Instructions for submission of tender.....	XXV

1 Introduction

1.1 Purpose

1.1.1 The purpose of this ITT (Invitation to Tender) is to invite Bidders to submit tenders in response to Norfolk County Council's Call-Off Requirements. For brevity, both the geographical county and Norfolk County Council are referred to in this document as 'Norfolk'.

1.1.2 The ITT has five parts:

- Part 1 – Introduction & Instructions
- Part 2 – Norfolk Requirements
- Part 3 – Call-off Contract
- Part 4 – Instructions for Submission of Financial Information
- Part 5 – Data Room

1.1.3 This Part 1 comprises:

- Introduction
- Background Information
- Guide to Norfolk's Call-Off Tender Process
- Overarching Instructions for Acknowledgement and Completion of Tender
- Legal Instructions
- Definitions (Appendix 1)
- Evaluation Strategy & Award Criteria (Appendix 2)
- Certification of Understandings and Absence of Collusion (Appendix 3)
- Instructions for Submission of Tender (Appendix 4)

2 Background Information

2.1 Norfolk's Strategic Ambitions

- 2.1.1 The Better Broadband for Norfolk project will provide broadband infrastructure across Norfolk that is capable of directly supporting the county's long-term aspirations to be:
- An inspirational place with a clear sense of identity
 - A vibrant, strong and sustainable economy
 - Aspirational people with high levels of achievement and skills

2.2 Benefits from broadband

- 2.2.1 Two thirds of Norfolk companies are located in rural areas with most employing less than 10 staff. The Better Broadband for Norfolk project is expected to deliver:
- 1,337 additional jobs over 10 years (equivalent to 0.61% of Norfolk's current private sector employment)
 - £88 million in additional annual GVA (Gross Value added) by 2021/22, equivalent to 0.64% of Norfolk's current total GVA
 - Discounting at 3.5%, as per HM Treasury guidance, the present value of the net GVA impact is £401 million over a ten year appraisal period
- 2.2.2 Norfolk children in rural areas are disadvantaged because they do not have access to broadband at home; this impacts both their ability to do homework and learn independently, but also deprives them of the social networking world that young people rely upon. Improved broadband will have a significant impact on educational and wider well-being for children in rural communities.
- 2.2.3 Compared with the rest of England, Norfolk has a relatively elderly age profile with around a fifth of the population aged 65 and over, and one person in ten aged 75 and over. Broadband services will play an increasingly important role in supporting older people by:
- Providing access to on-line services, shopping, banking etc
 - Enabling people to stay in touch with family and friends
 - Supporting people to stay at home for longer, by supporting the introduction of new health and Social Care services such as Tele-Medicine and Tele-Care.
- 2.2.4 Carbon dioxide as a result of road transit is significantly higher in Norfolk than the national average. Nearly half of Norfolk's total employment exists within a small number of very large companies; senior representatives from these businesses identify poor broadband coverage in rural areas as a key constraint to their aspiration to encourage more home working.

2.3 Further information

- 2.3.1 Further information on Norfolk's aspirations is available in Norfolk's Local Broadband Plan which is available in the Data Room.

3 Guide to Norfolk's Call-Off Tender Process

3.1 Introduction

- 3.1.1 The aim of Norfolk's Call-Off tender process is to competitively select a Bidder to deliver Norfolk's Call-Off Requirements.

3.2 Principles of the Call-Off Tender Process

- 3.2.1 The Call-Off tender process has been designed based on the following principles:
- A Framework Supplier 'Warming Phase' has taken place prior to issue of this ITT, involving:
 - o A project overview
 - o Issue of draft ITT
 - o Access to Data Room
 - Alignment with the Framework: (i) to prevent areas that have been covered at Framework level being re-visited at Norfolk's Call-Off; and (ii) with variations (including changes, additions and removals) only where these are necessary to accommodate Norfolk's specific Call-Off Requirements.

- 3.2.2 The following process and timescales apply:

Activity	Elapse	Start date	End Date
Issue of Invitation to Tender (ITT) and Procurement Process letter	1 day	29 June	29 June
Issue changes to Data Room since soft launch	8 weeks	29 June	28 August
Clarification Question process	6 weeks	29 June	10 August
Bidder 'Data Requests' to BT Openreach	2 weeks	29 June	13 July
Bidder accept dates defined in Procurement Process letter	1 week	29 June	6 July
Bidder Clarification Days	6 weeks	29 June	10 August
Bidders prepare responses	8 weeks	29 June	28 August
Evaluate bidder response, clarify if required	5 days	28 August	3 Sept
Moderation	1 day	4 Sept	4 Sept
Prepare paper to Steering Group paper	1 day	5 Sept	5 Sept
Steering Group	1 day	6 Sept	6 Sept
Bidders notified of evaluation outcome	1 day	6 Sept	6 Sept
Standstill Period (Alcatel)	2 weeks	6 Sept	21 Sept
Local Body governance processes	2 weeks	6 Sept	21 Sept
DCMS and Other Funding Approvals	2 weeks	6 Sept	21 Sept
State Aid Approval process	2 weeks	6 Sept	21 Sept
Contract Award	1 day	21 Sept	21 Sept

4 Overarching Instructions for Acknowledgement and Completion of Tender

4.1 Intention to Bid (or otherwise)

- 4.1.1 Bidders MUST provide an initial indication of whether or not they intend to submit a tender in response to this invitation and confirm the acceptance of the timetable detailed in paragraph 3.2.2 above by 6 July 2012 by emailing BBNProcurement@norfolk.gov.uk. The deadline for submission of tenders has been arrived at following careful consideration of the nature and complexity of the work involved in preparing a tender. However, if any Bidder considers an extension to this deadline is required then please email BBNProcurement@norfolk.gov.uk by no later than 6 July 2012 setting out the extension of time required. Any extension of time will only be granted at the discretion of Norfolk and will apply to; and be communicated to all Bidders no later than 13 July 2012.
- 4.1.2 At that time Bidders MUST nominate a single point of contact and provide an email address for that contact. All correspondence from Norfolk concerning this procurement will take place via that single point of contact's email address.
- 4.1.3 Any Bidder subsequently intending to withdraw from the Call-off process MUST promptly advise Karen O'Kane, Programme Director, and confirm the decision via the formal communication approach provided under Paragraph 4.2 below.

4.2 Bid Communication

- 4.2.1 Norfolk is using a dedicated email account BBNProcurement@norfolk.gov.uk for the purposes of exchanging bid communications (including issuing tender documentation and exchanging clarifications).
- 4.2.2 From 29 June 2012, Bidders MUST NOT communicate with any member of Norfolk's team, DCMS (including BDUK) and/or any person acting as an advisor thereto in relation to the ITT, other than using the communication route described in Paragraph 4.2.1.

4.3 Tender Responses

- 4.3.1 ITT responses MUST be prepared in accordance with the instructions provided in Part 2 of this ITT and submitted in accordance with Appendix 4 - Instructions for Submission of Tender.
- 4.3.2 All ITT responses shall be treated in accordance with the Procurement Legislation throughout the Call-Off process.

4.4 Clarification

- 4.4.1 Clarification questions may be submitted by a Bidder between 19 June and 10 August 2012. All clarification questions MUST be emailed to BBNProcurement@norfolk.gov.uk.
- 4.4.2 Clarification question responses will be issued within 5 working days of their receipt.

- 4.4.3 Norfolk may issue clarification to bidders; such information will be issued from BBNProcurement@norfolk.gov.uk.
- 4.4.4 Bidders should refer to Paragraph 5.1.3 regarding wider circulation of clarification questions and responses.

5. Legal Instructions

5.1 Confidentiality

- 5.1.1 Bidders are subject to the confidentiality obligations set out in the separate Non Disclosure Agreement entered into between Norfolk and each Bidder as a condition of access to the Data Room.
- 5.1.2 Norfolk is subject to the duty of confidence set out in the Procurement Legislation in relation to information provided by Bidders. Norfolk may make the key documents relating to Bidders' proposals or tenders available for private inspection and may on a confidential basis disclose detailed information relating to Bidders' proposals or tenders to any member, director, officer, employee or agent of Norfolk, DCMS (including BDUK), any other local body using or intending to use this Framework Agreement or any person acting as an adviser for any of those parties.
- 5.1.3 Norfolk also reserves the right to disseminate information that is materially relevant to all Bidders, even if the information has only been requested by one Bidder. Should Bidders wish to avoid such disclosure (for example, on the basis that request contains, or the likely response will contain, commercially confidential information or may give another Bidder a commercial advantage) the request MUST be clearly marked "In confidence – not to be circulated to other Bidders" and the Bidder MUST set out the reason or reasons for the request for non-disclosure to other Bidders. Norfolk will act reasonably regarding the protection of commercially sensitive information relating to the Bidder subject to its duties under the Procurement Legislation, the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

5.2 Freedom of Information and the Environmental Information Regulations

- 5.2.1 Norfolk is subject to the requirements of the Audit Commission Act 1998, the FOIA and the EIR, the subordinate legislation made under FOIA/EIR and any guidance and/or codes of practice issued (from time to time) in relation to such legislation.
- 5.2.2 Bidders are advised that documentation provided by them in response to this ITT and other documentation supplied by them in connection with this procurement may be the subject of a request for information under the FOIA or the EIR.
- 5.2.3 Bidders are required to specify (with reasons) any information contained in their proposals or tenders which they regard as falling within any of the exemptions from disclosure specified under FOIA/EIR including (without limitation) information provided in confidence. Bidders are required to state which provisions of FOIA/EIR apply to the information identified above.
- 5.2.4 Bidders are to make sure any information that is considered commercially confidential is clearly marked as such. The front page of the document MUST be clearly marked "In

confidence – not to be circulated" (and any document, submission or each relevant page of the document MUST also be marked "commercially confidential"). Information marked as confidential should be limited to that which is genuinely confidential and which may be exempted from disclosure under FOIA/EIR. Bidders are to be aware that any document, submission, proposal or tender that indicates that all of the information provided in it is confidential, without a clear and substantive justification, is unlikely to be acceptable to Norfolk. Bidders are also to be aware that even where information is identified as confidential and/or commercially sensitive Norfolk may be required to disclose such information in accordance with FOIA or the EIR.

- 5.2.5 If Norfolk receives a request under FOIA or the EIR for the release of information which has been provided by a Bidder, Norfolk shall consult with the relevant Bidder to inform its decisions regarding any exemptions as they may relate to the bid financial model (being the detailed populated financial spreadsheets submitted in response to Part 4 of this ITT and including any subsequent iterations of that detailed bid financial model) submitted by a Bidder to Norfolk in the course of this procurement but otherwise use reasonable endeavours to consult with the relevant Bidder as soon as practicable where it considers that the requested information may include exempt information relating to that Bidder. Where Norfolk consults with the Bidder, the Bidder MUST respond to Norfolk's requests within 3 working days (unless otherwise agreed by Norfolk), in order that Norfolk may comply with its obligation to answer the request within the relevant time limit.
- 5.2.6 Norfolk shall be responsible for determining, at its absolute discretion, whether such exemption is to apply and Bidders agree to comply with any such decision taken by Norfolk.
- 5.2.7 Norfolk shall not be liable for any loss, damage, harm or other detriment however caused arising from any disclosure of information under FOIA, the EIR or other legislation governing access to information including but not limited to guidance notes and codes of practice issued by the Information Commissioner.
- 5.2.8 Bidders are recommended to take their own independent legal advice regarding the effect of the FOIA and the EIR.

5.3 Publicity

- 5.3.1 No Bidder will undertake (or permit to be undertaken) at any time, any publicity activities with any section of the media in relation to the ITT Documents, this procurement process or the Project or any data coming from the Project without the prior written agreement of Norfolk (including as to the content of any such publicity). In this section the meaning of the word 'media' shall include (but not be limited to) radio, television, print, newspapers, trade and specialist press, the Internet, email or mobile content accessible by the public at large and representative of such media.

5.4 Transparency

- 5.4.1 Bidders are to be aware that Norfolk may comply with the Government's Transparency Agenda by publishing procurement documentation and contracts on appropriate publically accessible websites. The procurement documents, the fact that the Bidder has submitted a bid and the text of any Call-off Contract awarded may therefore be published (subject to possible redactions at Norfolk's discretion, relating to information which is exempt from disclosure under the FOIA and the EIR).

5.5 Copyright

- 5.5.1 Bidders are reminded that the copyright in the ITT Documents is vested in Norfolk and/or the DCMS. Bidders shall not reproduce in any material form (including photocopying or storing it in any medium by electronic means), any of these documents without written permission of Norfolk other than for use strictly for the purpose of preparing proposals.
- 5.5.2 All information supplied by Norfolk, including any software, electronic media or data relating to the Project, MUST be returned on demand, without any copies being retained.
- 5.5.3 Should a Bidder decide not to submit a tender or to continue to participate in the procurement process, all documents and other material supplied by or on behalf of Norfolk, together with all such copies thereof as may have been taken, shall be returned to Norfolk immediately and all electronic data supplied by or on behalf of Norfolk shall be immediately and permanently deleted from the Bidder's storage devices and from the storage devices of any other persons to whom the Bidder may have passed the same (whether or not permitted by Norfolk). Nothing in this paragraph shall require the return or destruction of such electronic or other records as are required to be retained to fulfil a legal, regulatory or professional obligation.

5.6 Canvassing & Anti-Bribery

- 5.6.1 Norfolk reserves the right to disqualify from this tender process (without prejudice to any other civil remedies available to Norfolk and without prejudice to any criminal liability which such conduct by a Bidder may attract) any Bidder who, in connection with this ITT:
- offers any inducement, fee or reward to any member, director, officer, employee or agent of DCMS (including BDUK) or Norfolk or any person acting as an adviser for Norfolk or DCMS (including BDUK) in connection with this ITT;
 - does anything which would constitute a breach of the applicable anti-bribery legislation or Section 117(2) of the Local Government Act 1972;
 - directly or indirectly obtains or attempts to obtain information from any member, director, officer, employee or agent of Norfolk or DCMS (including BDUK) or any person acting as an adviser for Norfolk or DCMS (including BDUK) save in accordance with the ITT Documents;
 - canvasses any member, director, officer, employee or agent of Norfolk or DCMS (including BDUK) or any person acting as an adviser for Norfolk or DCMS (including BDUK) in connection with this ITT; or
 - contacts any member, director, officer, employee or agent of Norfolk or DCMS (including BDUK) or any person acting as an adviser for Norfolk or DCMS (including BDUK) prior to the conclusion of this procurement process about any aspect of the ITT Documents in a manner not permitted by the ITT Documents (including without limitation contact for the purposes of discussing the possible transfer to the employment of the Bidder of such officer or other employee).
- 5.6.2 Norfolk reserves the right to disqualify (without prejudice to any other civil remedies available to Norfolk and without prejudice to any criminal liability which such conduct by a Bidder may attract) any Bidder who, in connection with this ITT:
- fixes or adjusts the amounts stated in its proposal or tender by or in accordance with any agreement or arrangement with any other person (save for legitimate

agreements and/or arrangements with a member of its own consortium or supply chain, professional advisors, proposed subcontractors and/or proposed consultants necessary for the purposes of preparing the bid or submission) (other than a member of its own consortium or supply chain);

- enters into any agreement or arrangement with any other Bidder to the effect that he shall refrain from submitting a proposal or tender or as to the amount of any proposal or tender to be submitted;
- causes or induces any person to enter any agreement or arrangement referred to above or to inform the Bidder of the amount or approximate amount of any rival proposal or tender;
- communicates to any person other than Norfolk or DCMS (including BDUK), the amount or approximate amount of their proposal or tender (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of a proposal or tender).

5.7 Anti-Competitive Behaviour

- 5.7.1 In order to create a level playing field for Bidders, Norfolk may require evidence from Bidders that their arrangements are not anti-competitive. Norfolk reserves the right to require Bidders to comply with any reasonable measures which may be needed to verify that no anti-competitive arrangements are in place.
- 5.7.2 Any evidence of any anti-competitive behaviour could result in Bidders being disqualified from the procurement process.
- 5.7.3 The above requirements are supplementary to the requirement to provide a Certificate Undertakings and Absence of collusion, a copy of which is provided at Appendix 3.

5.8 The Bidder's Team

- 5.8.1 The members of the Bidder's Team, and the principal relationships between the team members, may be changed in relation to this procurement process only with the prior consent of Norfolk, and subject to any replacement team member being satisfactorily pre-qualified by Norfolk. Norfolk reserves the right to take into account when determining whether or not to continue with the evaluation of a tender, and whether or not to award the Call-off Contract to a Bidder, where there has been a change in the ownership of the Bidder prohibited by the Framework Agreement or any members of the Bidder's Team (direct or indirect) or a change in the principal relationships between the team members.

5.9 Bidding Costs

- 5.9.1 Bidders are solely responsible for their costs and expenses incurred in connection with the preparation and submission of proposals or tenders and all future stages of this procurement process.
- 5.9.2 Neither Norfolk or DCMS (including BDUK) nor any of their representatives or advisers of those parties will be liable in any way to any Bidder or any other person for any costs or expenses incurred by any Bidder or any related party in connection with this procurement process, whether or not the procurement proceeds.

5.10 Conflicts of Interest

5.10.1 Norfolk is concerned to avoid conflicts of interest. In particular but without limitation, Norfolk may consider a conflict of interest as arising where:

- a subcontractor or advisor put forward by one Bidder is the same firm, company or a member of the same group of companies as that put forward by another Bidder; or
- a subcontractor or advisor is currently advising or has previously advised Norfolk at any time in any capacity in respect of the Project.

Bidders are to note that Norfolk reserves the right to disqualify Bidders where there is an actual or potential conflict of interest. Bidders are therefore advised to review carefully the prior or current involvement of the Bidder including sub-contractors, consortium members and each and any of their advisers with Norfolk or DCMS (including BDUK), its members, officers, employees, agents and advisers and to contact Norfolk in accordance with paragraph 4.2 (notwithstanding when the conflict is identified) prior to submission of any tender response to discuss actual or potential conflicts they have identified.

5.10.2 Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of Norfolk could result in a Bidder being disqualified.

5.11 Provision of Further Information by Bidders Prior to Submitting a Tender

5.11.1 Norfolk is relying on the information provided by Bidders in the Pre-Qualification Questionnaire (including but not limited to information concerning the Bidder's Team and structure) for appointment on the BDUK Framework.

5.11.2 If, at any time during this procurement process there are any changes to the same, the Bidder must advise Norfolk as soon as practicable (even if this is prior to the submission of a proposal or tender). Norfolk reserves the right to remove the Bidder from this tender process if the changes impact on its evaluation in this procurement process.

5.11.3 Norfolk reserves the right to require Bidders to confirm that their Pre-Qualification Questionnaire information remains accurate at all future stages of this procurement process in order to confirm that Bidders remain prequalified and to take the appropriate action if that is no longer the case.

5.12 Local Body's Right to Reject a Tender and/or Disqualify a Bidder

5.12.1 In addition to its rights set out in the other provisions of this Section 5, Norfolk reserves the right to reject a proposal or tender and/or disqualify a Bidder where:

- a tender is submitted late, is completed incorrectly, is materially incomplete, is submitted in any other format other than using the approach provided in Paragraph 4.2 of this Part 1 or fails to meet Norfolk's submission requirements which have been notified to Bidders;
- the Bidder and/or members of the Bidder's Team are unable to satisfy the terms of Article 45 of Directive 2004/18/EC and/or Regulation 23 of the Public Contracts Regulations 2006 and/or Regulation 23 of the Public Contracts (Scotland) Regulations 2006 at any stage during the procurement process;
- the Bidder and/or members of the Bidder's Team are guilty of material misrepresentation or false statement in relation to its tender and/or the process;

- the Bidder and/or members of the Bidder's Team contravene any of the terms and conditions of this ITT;
- there is a material change in identity, control, financial standing or other factor impacting on the selection and/or evaluation process affecting the Bidder and/or members of the Bidder's Team (including but not limited to a change in the Bidder's Team from the members who completed the Pre-Qualification Questionnaire);
- the Bidder introduces a material change to any commitment or statement contained in any previous submission at any stage of the procurement process (including but not limited to the Pre-Qualification Questionnaire);
- the Bidder breaches the terms of the Non Disclosure Agreement referred to at section 5.1 above; or
- the Bidder breaches the terms and conditions of use for the communication approach provided under Paragraph 4.2 of this Part 1 or any supplementary terms and rules of use for the Data Room.

5.12.2 The disqualification of a Bidder will not prejudice any other civil remedy available to Norfolk and will not prejudice any criminal liability that such conduct by a Bidder may attract.

5.13 Right to Cancel or Vary the Process

5.13.1 Norfolk reserves the right at any time:

- not to consider proposals or tenders other than those submitted in accordance with the terms of the ITT;
- to cancel or withdraw from the procurement process at any stage;
- to issue or make available amendments or modifications to the ITT Documents during this procurement process;
- to amend the terms and conditions of this tender process;
- to alter the timetable of any aspect of this procurement including any award of the Call-off Contract;
- not to award the Call-off Contract as a result of this procurement process and provides no commitment that any Call-off Contract will be entered into; and/or
- to require a Bidder and/or members of the Bidder to clarify their submission in writing and/or provide additional information (failure to respond adequately may result in a Bidder being disqualified).

5.14 Governing Law

5.14.1 All tender discussions with Bidders will be conducted, and all documents, proposals and tenders will be prepared, in the English language. The procurement process and any Call-Off contract arising will be subject to English law and the exclusive jurisdiction of the English courts.

5.15 Specification of Standards

- 5.15.1 Where reference is made to an International, European or British Standard then a Bidder may propose an equivalent to any of these, provided that its proposal offers equivalent guarantees of safety, suitability and fitness for purpose to those specified.

5.16 Disclaimer

- 5.16.1 Whilst prepared in good faith, the ITT Documents are intended only as a background explanation of Local Body activities and plans and are not intended to form the basis of any decision on whether to enter into any contractual relationship with Norfolk.
- 5.16.2 The ITT Documents do not purport to be all inclusive or to contain all of the information that a Bidder may require.
- 5.16.3 Any person considering making a decision to enter into contractual relationships with Norfolk following receipt of the ITT Documents is to make their own investigations and their own independent assessment of Norfolk and their requirements for the Project and is to seek their own professional financial and legal advice.
- 5.16.4 Neither Norfolk or DCMS (including BDUK) or their advisers, or the directors, officers, members, partners, employees, other staff, agents or advisers of any such body or person:
- makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the ITT Documents (Bidders should also note the provisions of **paragraph 3.2.1** of Part 5 of this ITT in this regard);
 - accepts any responsibility for the information contained in the ITT Documents or for its fairness, accuracy or completeness; or
 - shall be liable for any loss or damage (other than in respect of losses that cannot be excluded by law including fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication save to the extent set out in any written Call Off Contract which is entered into between Norfolk and the bidder.
- 5.16.5 Without prejudice to the legal requirements applicable to this ITT, only the express terms of any written Call Off contract relating to the subject matter of the ITT Documents as and when it is executed shall have any contractual effect in connection with the matters to which it relates.
- 5.16.6 Nothing in the ITT Documents is, or is to be, relied upon as a promissory or a representation as to Norfolk's ultimate decision in relation to the Project. The publication of the ITT Documents in no way commits for Norfolk or DCMS (including BDUK) to award any contract or pursue any tender process for the Project.
- 5.16.7 Norfolk reserves the right to vary or change all or any part of the basis of the procurement process at any time or not to proceed with the procurement at all.

Appendix 1: Definitions

Definitions Table

For the purpose of this ITT the following terms and their meanings shall apply:

Term	Meaning
Basic Broadband	broadband which delivers access line speeds of at least 2 Mbps;
Bidder	a Framework Supplier that is or was involved in this Call-Off ITT process – this includes each Supplier recipient of this ITT unless the context of the use of this term in this ITT otherwise demands;
Bidder's Team	the team bidding for the Project, including where the Bidder is: (i) a sole organisation (ii) a consortium member (iii) a prime contractor, the prime contractor and each sub-contractor (iv) a partnership, each member of the partnership (v) an incorporated company, the incorporated company (vi) a co-operative, the co-operative
Busy Hour Committed Rate	The applicable minimum Service Frame (as defined by NICC ND 1030) throughput rate (as specified in the Speed and Coverage Template) that each Retail Service Provider shall be able to consume on a wholesale basis for at least 90% of the time during the busiest (i.e. highest total traffic load) three (3) hours of each day during the Term;
Call-Off Bid Financial Model	the Project Model (as defined in Schedule 1 of the Call-Off Contract) proposed by a Bidder in respect of this Call-Off;
Call-Off Contract	a contract for the provision of broadband access and related services, made between Norfolk and a Supplier pursuant to the Framework;
Data Room	the data room made available to Bidders as described in Part 5 of this ITT;
First Generation Access	an access line speed of less than 2Mbps;
Framework	the broadband delivery framework arrangement, awarded by DCMS in 29 June 2012, of suitably qualified appointed suppliers with the capability to provide broadband access and related services;
Framework Supplier	a supplier appointed to the Framework;
ITT	this invitation to tender, including all the ITT Documents;
ITT Documents	all Parts and Appendices, all associated tender documentation, guidance, clarifications, project documentation and information issued or made available by Norfolk and/or its advisers as part of this procurement process;
Key-Subcontractor	has the meaning set out in Schedule 1 of the Call-Off Contract;
Lead Local Body	as identified in Section 2 of Part 2;
Local Body Call-Off Requirements	the requirements of Norfolk for its Project, as identified in Part 2 of this ITT and further detailed in the wider ITT Documentation;
NGA (Next Generation Access) Broadband networks * See Bidder Note	Access networks which consist wholly or in part of optical elements and which are capable of delivering broadband access services with enhanced characteristics (such as higher throughput) as compared to those provided over existing copper networks. In this context NGA Broadband networks must be capable of delivering access line speeds of at least 30 Mbps;
Other Participating Local Bodies	as identified in Section 2 of Part 2;
Pre-Qualification Questionnaire	the pre-qualification questionnaire satisfied as part of qualification for inclusion as a Supplier under the Framework;
Procurement Legislation	means Directive 2004/18/EC of the European Parliament and of the Council and Council Directive 89/665/EEC of the European Parliament and of the Council (as amended by Directive 2007/66EC) or any legislation implementing either or both of them;
Project	the local broadband project to be delivered through this Local Body Call-Off;
Reference Financial Model	the Supplier financial model as included in the Framework;

Reference Supplier Solution	the Supplier technical and operational solution as included in the Framework;
Solution	the Bidder's Solution, to Norfolk Call-Off Requirements, proposed (or to be proposed) pursuant to this ITT;
Speed Spreadsheet	the spreadsheet to be completed by Bidders, set out at Appendix 2 to Part 2;
State Aid	EU State Aid rules and regulations
Sub-Contractor	has the meaning set out in Schedule 1 of the Call-Off Contract;
Superfast Broadband	an access line speed of greater than 24Mbps as more particularly defined in Schedule 1 of the draft Call off Contract;

*Note to Bidders: In light of ongoing discussion with the European Commission, the following considerations should be taken into account when developing Solution proposals (as they are caveats/qualifications which are anticipated as likely to attach to the finalised form of the NGA definition above):

Use of wireless based Solution Components within a Bidder's proposed Solution should take into account and reflect the following

- Any wireless Solution Component deployment should be as part of a varied Solution Component mix, with wireless deployment focussing on those areas where there are economic or practical drivers favouring such inclusion over a wholly wired solution;
- Any wireless Solution Components must be currently capable, on the facts, of providing and sustaining the speed and quality objectives of an NGA technology in practice;
- Any wireless Solution Component utilised must provide a significant speed uplift and positively support the objective of transitioning to a FTTP solution when the economics make the shift viable (i.e. it must be and be shown to be intended as an interim solution which would be replaced by an FTTP solution once commercially supportable within the Supplier's overall Solution).

Once the finalised position is agreed with the European Commission, Bidders will be given opportunity to adjust their respective Solutions to accommodate any variance in position from that above.

Interpretation Rules

In the ITT Documents:

- any definitions set out in Schedule 1 of the Call-Off Contract shall, for the purposes of the Call-Off Contract content in Part 3 of this ITT, take precedence over the above meanings;
- any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- references to any statute, enactment, order, regulation, instrument, code, standard or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, instrument (including any EU instrument), code, standard, or other similar instrument as amended, replaced, consolidated or re-enacted;
- the term "MUST" is used in Part 2 and Part 4 to help guide the reader to where responses are required as part of an ITT tender. However, it should not be assumed to be exhaustive

of all response requirements and this ITT should be read in detail to identify all elements of responses and communications required from Bidders under this ITT.

Appendix 2: Evaluation Strategy, including Call-Off Award Criteria

1. Introduction

This Appendix describes the evaluation approach which will operate for the award of Norfolk's Call-off Contract. The objective of the evaluation is to identify the Bidder submitting the most economically advantageous tender (MEAT) for Norfolk.

2. Evaluation Process

The main sequence of evaluation process activities are as follows:

2.1. Submissions received

Each Bidder response will first be checked for completeness and compliance. Norfolk will reserve the right to reject a response and/or disqualify a Bidder where the response is incomplete or non-compliant, including where the response is submitted late, is completed incorrectly, is materially incomplete, is submitted in any other format other than specified.

2.2. Evaluation

Responses which pass the completeness and compliance check will proceed to evaluation.

Evaluation will take place in two discrete elements:

- Evaluation of Value and Pricing
- Evaluation of Quality

Evaluators will work independently and use the Scoring Methodology described in section 3.

Where Evaluator scores are different a Moderation meeting will be used to facilitate a discussion between evaluators. This will enable Evaluators to agree a score and the reason for that score will be documented. Final raw scores will be entered into the Evaluation Model. It is only the final moderated scores that will have any standing within this call-off process.

2.3. Decision

Norfolk will select a Bidder based on the MEAT. Following the completion of the evaluation process the Bidder achieving the highest weighted Evaluation Model Score will be considered successful, subject to contract. In order to comply with State Aid rules two specific requirements will be applied to the evaluation:

- If one of more Bidders achieve the same score, the contract must be awarded to the Bidder requiring the least public subsidy
- Norfolk must distinguish between Bidders offering additional wholesale access products in addition to the minimum/mandatory ones. This requirement will be evaluated based on Bidders responses to ITT Part 2 - 3.6.5.

A contract will not be awarded until successful completion of decision processes which involve:

- A decision by NCC's to award contract
- Successful completion of BDUK assurance/approval processes including State Aid compliance.

3. Scoring Methodology

Four scoring approaches will be used during evaluation, based on the type of criterion being evaluated:

3.1. Risk Based Scoring

Responses will be assessed and reservations (i.e. risks, concerns and weaknesses associated with the response) identified. These reservations will collectively form the basis for making any deduction from the maximum available score of 20 for the relevant criterion.

Using reasonable professional judgment the final raw score for a criterion will be determined by allocating the appropriate score using the principles in the following scoring adjustment table.

Evaluation Result	Deduction	Description
Acceptable	No deduction (0 marks deducted)	Response provides a clear and comprehensive response to the ITT, which is supported by evidence and which presents no more than immaterial concerns in relation to deliverability and/or Supplier performance and/or transfer of risk to Norfolk.
Minor Reservations	Deduction of between 1-7 marks	Response provides a clear and comprehensive response to the ITT, but there are minor deficiencies in the evidence provided and/or minor, but evident concerns in relation to deliverability and/or Supplier performance and/or transfer of risk to Norfolk.
Moderate Reservations	Deduction of between 8-12 marks	Response to the ITT has moderate deficiencies and/or gives rise to moderate concerns in relation to deliverability and/or Supplier performance and/or transfer of risk to Norfolk.
Major Reservations	Deduction of between 13-19 marks	Lacks a deliverable response which would perform to the standards required in the ITT and/or the Bidder's proposed solution would transfer significant risk to Norfolk.
Immediate Zero Score	Deduction of 20 marks	No response is provided or an insufficient response is provided to perform evaluation: Sections requiring responses are not completed, or there are significant gaps in the requested response.

3.1.1. For the level three Criterion 2.1.1 Solution design only, this will be assessed by evaluating the Bidder's response to question 3.6.5 in Appendix 1 to Part 2 of this ITT first. Up to 10 marks will be subtracted from the maximum potential score of 20 dependant on the level of additional access products proposed, the more additional products the less the deduction. Subsequently any deduction for additional reservations will then be made to the remaining score of between 10 and 20.

3.2. Calculated scores

Each Bidder will be required to complete spreadsheets as part of its response to Norfolk's ITT. Scores for certain criterion will be calculated within the spreadsheet models using information from the Bidder response.

3.2.1. Leverage Criteria Call-off Bid Financial Model

The Leverage criteria score will be calculated using specific outputs from the Bidder's Call-off Financial model

- Evaluation under this criterion will test the additional investment offered by a Bidder within the bid financial model response. This ratio will be calculated as:

$$\text{Bidder Leverage} = \frac{(\text{Public Subsidy Requested}) + (\text{Additional Supplier Expenditure}) + (\text{Committed Opex})}{(\text{Public Subsidy Requested})}$$

$$\text{Evaluation Score} = \frac{20}{(\text{Highest Bidder Leverage})} \times (\text{Bidder Leverage})$$

- The Bidder should note that for public subsidy derived from BDUK/DCMS and the Local Body sources, this subsidy will only be provided for Permitted Expenditure. Committed Opex includes infrastructure lease costs or equivalent expenditure committed by the Bidder over the life of the contract. The Committed Opex is included for the calculation of Leverage for evaluation purposes only.
- Public Subsidy Requested is the sum of all Subsidy Payments forecasted in the Bidder's bid Financial Model.
- Permitted Expenditure, Subsidy Payments and Additional Supplier Expenditure are defined in the Call-Off Contract, Schedule 1, Definitions.
- For the avoidance of doubt, the following principles will apply:
 - o Where a Bidder does not identify any Qualifying Capital Expenditure, then its Leverage criterion score would automatically be zero.
 - o Only expenditure which is fully and demonstrably funded (eg through a combination of the Bidder's own investment, a third party investment or public subsidy) will be applicable in the performance of the calculation of the Leverage criterion.

3.2.2. Extent of Coverage / Superfast Rollout criteria - Speed Spreadsheet

Norfolk has defined weightings within the Speed Spreadsheet (Part 2 Appendix 2) for different speed ranges to reflect Norfolk's priorities as defined in its ITT. Each Bidder will complete the Speed Spreadsheet (Part 2 Appendix 2) for each speed range, identifying the number of premises that its proposed Solution will support. Each Bidder's response to Part 2 3.11.2 will be used to evaluate reservations that exist in the modelling that the Bidder has used when completing the Speed Spreadsheet (Part 2 Appendix 2), based on this a deduction of between 0 to 4 points will be taken from the score which has been derived by the Speed Spreadsheet (Part 2 Appendix 2). (0 points = having no reservations and 4 marks having major reservations).

A full explanation of the calculation of scores for Extent of Coverage and Superfast Rollout criteria is contained within the Speed Spreadsheet (Part 2 Appendix 2) itself.

3.2.3. Thresholds

Thresholds will be used to ensure that if a Bidder’s response falls short of a minimum acceptable level for an identified criterion, the bidder concerned will be excluded.

3.2.4. Pass/Fail

A Bidder will automatically fail if the Bidder does not accept the Call-Off Contract terms in full; this will result in the Bidder being excluded.

3.3. Evaluation Model

The Framework Contract includes the Evaluation Model that will be used for Norfolk’s Call-off. The weightings for each level of criteria have been selected by Norfolk from within the pre-defined range shown below, in this way weightings are used to reflect Norfolk’s specific priorities.

Call-off Award & Evaluation Criteria										
Level 1		Level 2	Weighting Range		Draft Level 3	Weighting Range				
Award Criteria	Call-off (summation of Level 2 criteria)	Award Criteria	Low	High	Evaluation Criteria	Low	High			
1. Value and Pricing	30%-72%	1.1 Affordability and leverage	30%	60%	1.1.1 Financial model and wholesale / user pricing	20%	35%			
					1.1.2 Commercial sustainability	20%	35%			
					1.1.3 Affordability	20%	35%			
					1.1.4 Leverage	20%	35%			
					1.2 Contract and commercial fit	0%	12%	1.2.1 Transfer of risk in Call Off Contract	100%	100%
2. Quality	28%-70%	2.1 Local solution design	12%	30%	2.1.1 Solution design	30%	40%			
					2.1.2 Retail proposition and delivery	10%	15%			
					2.1.3 Community proposition	0%	30%			
					2.1.4 Environment (and social) sustainability	0%	15%			
					2.1.5 Risk from non-framework Solution Components	30%	40%			
					2.2 Solution outcomes	12%	50%	2.2.1 Extent of coverage	30%	70%
					2.3 Delivery	3%	10%	2.2.2 Superfast roll-out	30%	70%
								2.3.1 Implementation plan	100%	100%

4. Call-off Requirements against Evaluation Criteria

Norfolk's Invitation to Tender Part 2 describes Norfolk's priorities and asks a set of specific questions which bidders must answer. The answers to all questions associated with a specific criterion will be considered collectively during evaluation and a single score reached. This table:

- Maps Norfolk's ITT questions to the evaluation criteria;
- Defines the Scoring Approach that will be used for each criterion;
- Identifies 'differentiators' where they are significant.

Level One Criteria	Level Two Criteria	Level Three Criteria	ITT Part 2 Ref	Evaluation Approach	Differentiators
1 - Value & Pricing Weighting 40%	1.1 Affordability & Leverage Weighting 40%	1.1.1 Financial model and wholesale / user pricing Weighting 21%	3.3.1 3.3.4 3.4.1	Risk Based Scoring (see Appendix 1, 3.1.1) by comparing Bidder Call-off Financial Models to Framework Financial Models, specifically: <ul style="list-style-type: none"> - Reference Financial Model - Cost Book - Wholesale Price Book - Financial Memorandum 	Level of transparency Level of Wholesale pricing changes Explanation and structure of project wholesale pricing and benchmarking
		1.1.2 Commercial sustainability Weighting 22%	3.3.3 3.4.2	Risk Based Scoring (see Appendix 1, 3.1) using the following: <ul style="list-style-type: none"> - Cost Book - Wholesale Price Book - Financial Memorandum 	Model Sensitivity and impact associated with key elements such as Take-up
		1.1.3 Affordability Weighting 22%	3.3.2 3.4.3 3.4.6	Risk Based Scoring (see Appendix 1, 3.1) using the following: <ul style="list-style-type: none"> - Cost Book - Wholesale Price Book - Financial Memorandum 	Assumptions used Milestones
		1.1.4 Leverage Weighting 35%	3.4.4	For scoring see Appendix 1, 3.2.1	Where scores are tied overall the successful Bidder will be the one with the least public subsidy used

	1.2 Contract & Commercial Fit	1.2.1 Transfer of risk in Framework Agreement Weighting 0%	3.1.6 3.2.1 3.2.2 3.4.6 3.5.4 3.6.5 3.4.5 3.7.3 3.9.1 3.9.3 3.9.4 3.16.1	Acceptance of Call-off Contract Provision of elements to populate schedules as stipulated in Appendix 1 to part 2 of this ITT The completion of individual sections of the Call Off Contract will also be evaluated against appropriate Criteria where identified elsewhere in this table. Where this applies, the numbered instructions (contained in Part 2) are identified to the left against the appropriate criterion	Pass/Fail
2 - Quality Weighting 60%	2.1 Local solution design Weighting 14%	2.1.1 Solution design Weighting 40%	3.1.1 3.2.1 3.2.2 3.2.3 3.5.1 3.5.2 3.5.3 3.5.4 3.6.1 3.6.2 3.6.3 3.6.5 3.6.6 3.8.1 3.9.3	Risk Based Scoring (see Appendix 1, 3.1) Assessment of Local Solution compliance Matrix. Threshold (see Appendix 1, 3.2.3)	Wholesale Access Products State Aid requirements mean Norfolk must distinguish between, Bidders offering additional wholesale access products in addition to the minimum/ mandatory ones
		2.1.2 Retail proposition and delivery Weighting 15%	3.12.1 3.12.2 3.13.1 3.13.2	Risk Based Scoring (See Appendix 1, 3.1)	

		2.1.3 Community proposition Weighting 5%	3.7.2	Risk Based Scoring (see Appendix 1, 3.1)	
		2.1.4 Environment (and social) sustainability Weighting 10%	3.15.1	Risk Based Scoring (see Appendix 1, 3.1)	
		2.1.5 Risk from non-framework Solution Components Weighting 30%	3.6.4	Risk Based Scoring (see Appendix 1, 3.1)	
	4.2 Solution outcomes Weighting 40%	2.2.1 Extent of coverage Weighting 30%	3.11.1	Calculated via Speed Spreadsheet Risk Based Scoring resulting in an adjustment to the Speed Spreadsheet (See Appendix 1, 3.2.2)	
			3.11.2		
	3.11.3				
	3.11.4				
		2.2.2 Superfast roll-out Weighting 70%	3.11.1	Calculated via Speed Spreadsheet Risk Based Scoring resulting in an adjustment to the Speed Spreadsheet (See Appendix 1, 3.2.2)	
			3.11.2		
			3.11.3		
			3.11.4		
	4.3 Delivery Weighting 6%	2.3.1 Implementation plan Weighting 100%	3.4.5	Risk Based Scoring (See Appendix 1, 3.1)	
			3.9.1		
			3.9.2		
			3.9.3		
			3.9.4		
			3.10.1		

Appendix 3: Certificate of Undertakings and Absence of Collusion

Certificate of Undertaking and Absence of Collusion

The Bidder must sign and return to Norfolk the following Certificate of Absence of Collusion:

We the undersigned do hereby certify that:-

- (a) Our tender is bona fide and intended to be competitive and we have not fixed or adjusted the amount of the tender by or in accordance with any agreement or arrangement with any other person;
- (b) We have not indicated to any person other than the person calling for the tender amount or approximate amount of the proposed tender except where the disclosure in confidence of the approximate amount of the tender was necessary to obtain insurance premium or other quotations necessarily required for the preparation of the tender;
- (c) We shall have not entered into any agreement or arrangement with any other person that they shall refrain from tendering or asked the amount of any tender to be submitted;
- (d) We have not offered to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the said work any act or thing of the nature specified and described above;
- (e) We further undertake that we will not do any of the acts mentioned in (b), (c) and (d) above before the hour and date specified for the return of the tender.

For and on behalf of:

.....

Signed:.....

Position held:.....

(Duly authorised agent of the Bidder)

Appendix 4: Instructions for Submission of Tender

Instructions to Applicants

Submission of Tender documents

1. **The completed Tender must be received not later than noon on 28 August 2012.**
2. **Bidders MUST submit one electronic copy only of the completed tender on a USB memory stick**
3. The completed Tender is to be delivered in a plain, opaque, sealed envelope or parcel bearing the label included in this Appendix 4.
4. The envelope or parcel must not bear any name or other distinguishing mark (including any mark made by a franking machine) indicating the identity of the sender.
5. The envelope or parcel must not be accompanied by any delivery slip or similar document affixed to or delivered with the parcel by any courier company, indicating the identity of the sender.
6. The envelope or parcel must be sealed in such a way that the officers opening it can satisfy themselves to their reasonable satisfaction that the contents have not been read or tampered with after dispatch.
7. If you deliver your completed Tender by hand, please deliver it between 0845 and 1730 Monday to Thursday, 0845 and 1630 Friday. Deliver the completed tender to the reception desk at County Hall, Martineau Lane, Norwich and request a receipt.
8. Do not deliver the tender to members of the Procurement Team or the individual department. Doing so will invalidate your Tender submission. Any other failure to comply with these requirements may at the discretion of the Council, lead to your tender being disqualified.
9. Late or incomplete tenders may not be valid and may not be considered.



You MUST print off the label below and attach it to the envelope which you return your application in. You MUST NOT change any of the information on this label as it may invalidate your application.

ITT for NCCT40130 Broadband for Norfolk

To be received no later than noon on 28 August 2012

**HEAD OF DEMOCRATIC SERVICES
NORFOLK COUNTY COUNCIL
COUNTY HALL
MARTINEAU LANE
NORWICH
NR1 2DH**

ORANGE