

# Assurance system for local broadband projects under the Rural Broadband Delivery Programme

v1.0

16 May 2012

## BDUK Assurance remit

The Accounting Officer for DCMS is accountable to Parliament for the proper stewardship of the resources allocated to DCMS. The key requirements, as set out in the HM Treasury Guidance Managing Public Money, are to ensure regularity, propriety and value for money.

A proportion of DCMS funding is allocated to the Rural Broadband Delivery Programme, managed by Broadband Delivery UK (BDUK), which is intended to support broadband roll-out in primarily rural areas which would otherwise not be covered by the private sector. BDUK in turn allocates this funding to local bodies, principally Local Authorities (LAs) or the Devolved Administrations (DAs) for local broadband projects. Funding is allocated on the basis of an assessment of need, derived from a broadband model maintained by BDUK.

Local bodies have responsibility for implementing their local broadband projects, which requires the procurement and delivery of broadband outputs from the private sector with local and private sector funding as well as BDUK's support. BDUK's funding is formally committed at the point where contracts are ready to be agreed between local bodies and suppliers.

The DCMS Accounting Officer must provide assurance that a core framework is in place which requires that local bodies act with regularity, propriety and value for money in the use of the resources which are allocated to them from DCMS for the purpose of implementing their local broadband projects. The BDUK assurance system provides this framework, including, where applicable, arrangements in respect of State aid compliance.

A statement of how the Accounting Officer's accountability has been discharged, and which summarises the assurance system set out in this document, is provided in a formal Accounting Officer System Statement.

## **There are a number of reasons why an Assurance System is needed:**

- To ensure that local broadband projects are effectively managed to deliver outputs which support the Rural Broadband Delivery Programme aims
- To provide consistency and transparency in BDUK assurance activities with local bodies (LAs and DAs) to ensure that there are 'no surprises' at the end of a procurement
- It clarifies BDUK's formal assurance role as distinct from its advice / support role
- To provide a mechanism for feedback, so that refinement and improvement to the process can be made as a consequence of experience
- To provide a basis for planning and scheduling assurance activity to ensure most effective use of BDUK and local body resources

## **Continuing development of this document**

This Assurance System document will be maintained under version control: any changes will be agreed by the Rural Projects Assurance Board and notified to the Broadband Portfolio Board. In the event of any substantial changes being made, the Portfolio Board will notify the DCMS Assurance and Risk Committee and me as Accounting Officer.

## Key design principles

This assurance system will..

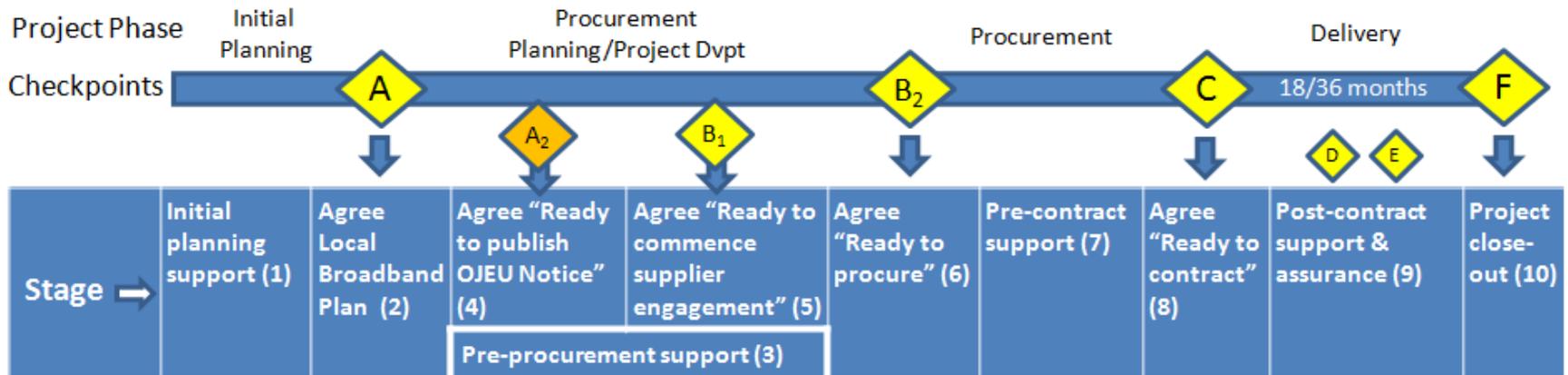
- support a locally-led delivery system while enabling the DCMS Accounting Officer to provide assurance to parliament regarding regularity, propriety and value for money
- provide value to each local body by assuring that project, procurement and State aid requirements have been met, or highlight where there are issues, to support the Project Team in confirming completion of key deliverables, and to support the local Accounting Officer in his or her decision to sign the grant agreement
- place reliance on local bodies' own internal assurance and democratic processes where possible and therefore take a light-touch approach to areas for assurance. To support local accountability, the system will provide transparent data on performance which is comparable across LAs, and easily accessible locally
- build on the support currently provided by BDUK to local bodies through the Local Projects team, with input as required from the Framework team, the State aid team, and other support and advice from BDUK. BDUK will work with local bodies such that in preparing for procurement and for contracting, they will be completing all the activities and documentation that the Assurance process requires, and the Checkpoints should therefore not represent a significant additional burden.
- use the ongoing relationship that the Department has with local bodies through the BDUK Local Projects team to provide “real-time” assurance
- provide a right for the Department to step-in with a specific intervention regime where individual LAs fail
- make explicit the support for local “whistle-blowing” as part of the process

### Scope

- This Assurance System covers all projects in the United Kingdom which form part of the Rural Broadband Delivery Programme.
- In respect of projects managed by the Devolved Administrations:
  - BDUK will expect to review Local Broadband Plans (or equivalent), procurement strategies and draft contracts prior to funding being confirmed, in accordance with this Assurance System.
  - Following commitment of funding, accountability for delivery will sit with the Accounting Officer for the Devolved Administration. BDUK will monitor project delivery and adjust the transfers of funding for the project if required
  - Following funding confirmation, BDUK will also continue to monitor project delivery in its role as National Competency Centre for State aid insofar as projects managed by the Devolved Administrations have relied on this as the route for State aid clearance.
- This Assurance System does not cover the £10m of funding allocated to the Rural Community Broadband Fund (jointly managed by BDUK and Defra) or the £7m allocated for DAB switch-over.
- This Assurance System does not currently cover the £100m of funding allocated to the Urban Broadband Fund, although it may do in the future.

### Assumptions

- It is expected that the majority of local bodies will call off services under a centrally procured Framework Contract. The Assurance System identifies where additional or different checks will be required in the event that a local body enters a separate local procurement.
- As part of its Assurance System, in addition to assurance of local body projects, BDUK will commission independent assurance with regard to its own procurement of the Framework Contract to review the value for money of supplier costs.



## BDUK activity comprises a combination of assurance and support activities:

- Specific checks will be made at four "Checkpoints" during the planning and procurement process: at "Agree Local Broadband Plan", at "Agree Ready to commence supplier engagement", at "Agree Ready to procure" and at "Agree Ready to contract." These are shown at A, B<sub>1</sub>, B<sub>2</sub> and C in the diagram above. Further Checkpoints (D, E, F above) will coincide with contractual milestones during and at completion of the Delivery phase.
- An additional Checkpoint (A<sub>2</sub>) will be required for those projects which have decided not to procure under the BDUK call-off framework. Reviews at Checkpoints B<sub>2</sub> and C for non-framework procurements will be more rigorous to reflect the fact that the procurement and contract documentation is not based on the pre-assured framework document set.
- A governance process has been established whereby a Rural Projects Assurance Board will review evidence collected at each Checkpoint and either sign off progression to the next Phase if content, require additional work to be completed or require a fundamental change such as a re-procurement.
- Between Checkpoints, structured support and continuous review will be provided to ensure that local bodies are ready to procure, ready to engage with suppliers and ready to contract, and are therefore also well-prepared for Checkpoint review.

### Implications of not meeting Checkpoint requirements

- In general, until the requirements of Checkpoints A to C are met, a project will not be approved by BDUK to pass to the next stage.
- If a Checkpoint review indicates that there are areas of fundamental misalignment with requirements, BDUK may consider options for realignment, including re-planning or re-procurement.
- As a last resort, BDUK may decide to withdraw its funding and either manage the procurement at the national level or reallocate the funding to other broadband projects.

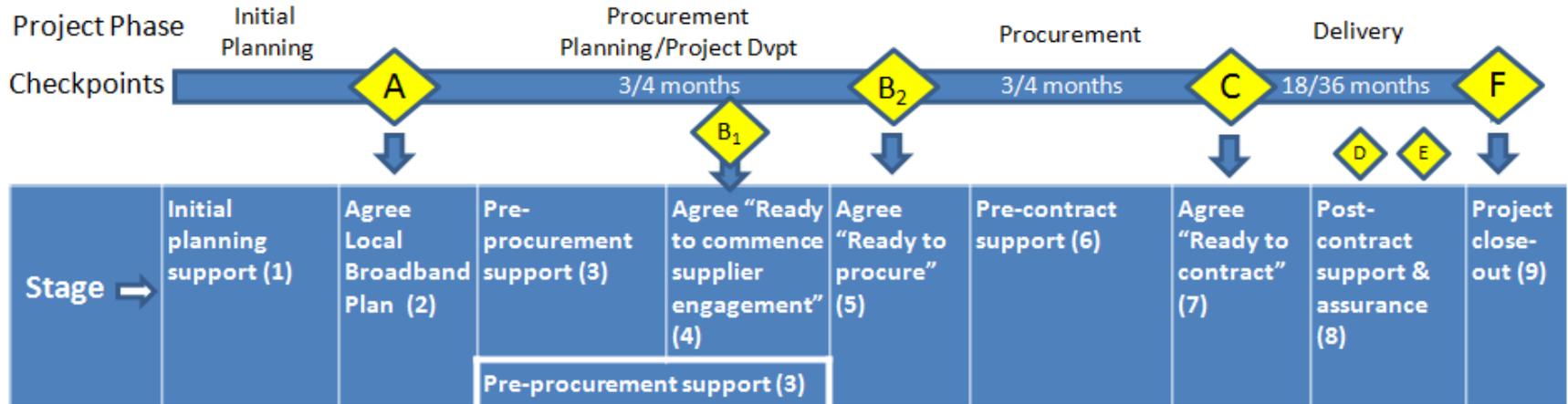
### Informal notification of concerns

- BDUK will always be willing to consider concerns raised by anyone in a Local Body or in DCMS in relation to the regularity, propriety and value for money achieved by any local project.
- If anyone in BDUK is informed of a concern, they should refer this to the Assurance Team, who will confer with the BDUK senior team and escalate accordingly. Confidentiality in relation to the source of the concern will be maintained.

### Opportunity for self-assessment by Local Bodies

- In order to make better use of its resource, as further evidence is collected from Checkpoint reviews, BDUK will use some self-assessment by Local Bodies of certain checkpoint areas. This will be based on a risk assessment of Local Bodies informed by a desk review of evidence provided and intelligence from our ongoing relationships.

## Assurance and Support Stages – Projects using BDUK call-off framework



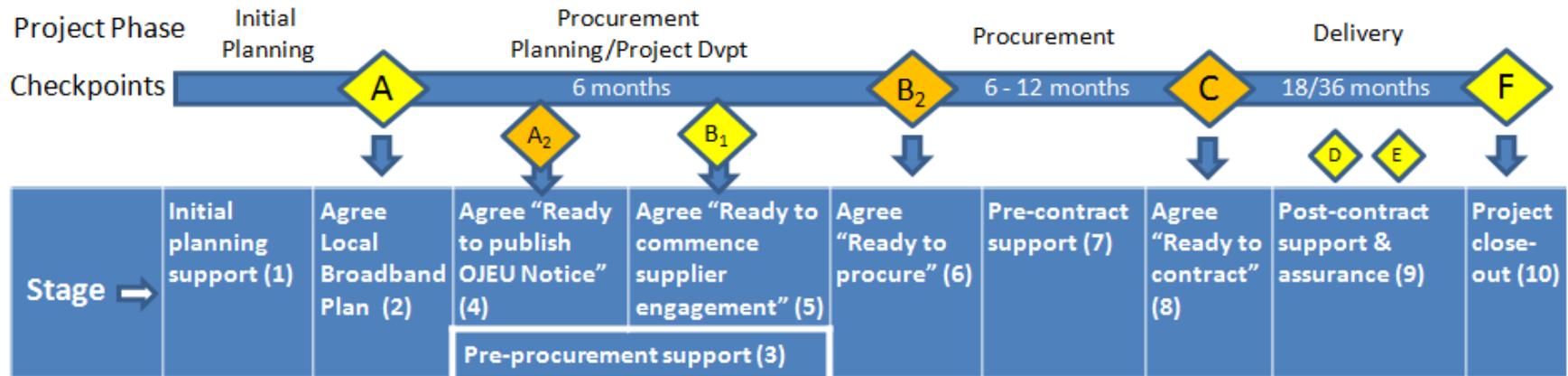
There are nine stages within the process for projects using the BDUK call-off framework, as follows:

- 1) Initial planning support follows acceptance of an Expression of Interest. It is about helping local bodies to mobilise their project and to prepare a draft Local Broadband Plan (LBP)
- 2) First formal Checkpoint review (Agree Local Broadband Plan): involves scoring each LBP against a checklist of requirements. When the LBP is deemed to have met the minimum required score the project will proceed to procurement planning. If the agreed procurement plan is to call-off from the central framework, a procurement slot will be allocated.
- 3) Following agreement of their LBP, support will be provided to the local body in preparing for procurement. This will be provided in a number of ways including checklists, templates, workshops, 1:1 sessions. Although the primary aim of the support is to ensure preparedness for procurement and contract award, and compliance with BDUK and regulatory requirements, the support will also ensure preparedness for Checkpoint reviews.
- 4) Second formal Checkpoint review (Agree "Ready to commence supplier warming"): provides an early indication that projects have adequately developed some key products and are in a position to share these with potential suppliers through a data room.

## Assurance and Support Stages – Projects using BDUK call-off framework

- 5) Third formal Checkpoint review (Agree “Ready to Procure”) involves review of each project against a checklist of fit for purpose documents and activities which the local body must have completed in order to issue an ITT to bidders.
- 6) During procurement, support will be provided to the local body in securing competitive bids from suppliers and in preparing for contract award. Support may include assurance checks on supplier proposals based on project benchmarks and advice based on wider experience where a supplier is offering an innovative solution for which derogation from the standard requirement may be sought.
- 7) Fourth formal Checkpoint review (Agree “Ready to Contract”): based on a checklist of fit for purpose documents and activities which the local body must have completed in order to proceed to contract signing. An additional assurance step is confirmation of compliance with State aid (in most cases this will mean compliance with the national aid scheme, for which BDUK has sought European Commission authority to act as a National Competency Centre for broadband State aid compliance). Successful completion of this stage will result in BDUK signing a Grant Agreement with LAs to commit funding to the project. For projects with the DAs, BDUK will enter into an agreement which commits transfer of funding to the DA on the condition that the funding is used to support project delivery.
- 8) During delivery, there will be ongoing oversight to ensure that the project is delivering against requirements set out in the Grant Agreement which include meeting State aid requirements and meeting delivery milestones. The supplier will be obliged to produce Milestone Achievement Reports and in turn the LA will provide reports to BDUK to provide evidence of the achievement of the milestones. BDUK will pay its agreed contributions towards project costs on the basis of these reports. BDUK will rely on LAs’ Section 151 Officers and the LAs’ auditors to provide assurance regarding regularity and propriety in the management of the funding within the LA.
- 9) At the conclusion of the project, a final Checkpoint (coinciding with the final delivery milestone) will be undertaken to ensure that delivery was in accordance with the contract, and that any lessons learned are captured and fed into ongoing and future projects.

# Variations in process for local bodies NOT using the BDUK call-off framework



## There are three variations in BDUK activity where a local body is proposing not to use the BDUK call-off framework

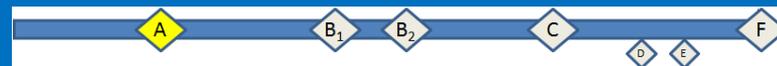
- An additional Checkpoint (A<sub>2</sub>) is required prior to the publication of an OJEU Notice to ensure that the specification of project outcomes is in line with national broadband objectives
- At Checkpoint B<sub>2</sub>, "Ready to procure", additional assurance input will be required over and above that required for projects using the call-off framework to reflect the fact that the local body will not have the benefit of using the approved BDUK framework procurement templates and guidance
- At Checkpoint C, "Ready to contract", additional assurance input will be required over and above that required for projects using the call-off framework to reflect the fact that the local body will not have the benefit of using the approved BDUK framework contract templates and guidance
- All other stages will be as per bodies using the BDUK call-off framework except that the decision to agree a grant award must be confirmed by the Broadband Portfolio Board, informed by a recommendation from the Rural Projects Assurance Board.
- Requirements for State aid approval in accordance with the BDUK Umbrella State aid Notification will be as per local bodies projects using the BDUK call-off framework

# Summary of Checkpoint Requirements

## The following slides set out a summary of requirements for each Checkpoint

Requirements are divided into “must have” and “should have” based on an initial assessment, reflecting the principle of a “light-touch” review where reliance is placed on LAs and DAs own internal assurance processes.

The distinction between “must have” and “should have” items is that BDUK **requires** the “must have” items to be in place in order to fulfil its assurance role and commit to funding. From the perspective of proper management of the project in a way which is most likely to deliver the planned outputs, it **expects** the “should have” items to be in place, but will rely on local management and assurance processes to ensure that these are being adequately covered.



## Checkpoint A – Introduction

Under the UK Broadband Programme Delivery Model, funds will be allocated (although not distributed) to local bodies on the basis of proposals provided as part of an overarching Local Broadband Plan submitted by each local body to BDUK. As this is an important gate for local bodies to proceed through, BDUK will require that Local Broadband Plans are well developed, and will assess each plan against detailed criteria. All the requirements at this Checkpoint are “must haves”. These are summarised below but set out in more detail in Annex A.

## Requirements

- 1) A clear vision for the area covered by the local body, linked in to business plans
- 2) The current and forecast “picture” of broadband coverage, speeds, usage, private sector investment state, topography and local and issues
- 3) A gap analysis describing the case for investment justified and reflected in supporting information described in a structured way using maps
- 4) Scope of the proposed project describing what the project will deliver in terms of coverage, technology, speed and the number of premises impacted
- 5) A description of how local demand for broadband services will be stimulated to attract private investment, and examples of working with business and community groups and National Programmes to achieve this
- 6) A description of how local demand will be registered
- 7) A description of stakeholder support and involvement
- 8) Funding requirements to achieve the vision and scope, and proposed structure of funding to be provided from BDUK, from the local body, from other sources such as ERDF, and from the private sector
- 9) A robust commercial case based on an options appraisal and attractiveness assessment, a market assessment, and a procurement strategy



- 10) Market engagement: Use of BDUK Framework (preferred) or CD OJEU procurement; Supplier engagement, bidder days, SMEs
- 11) Procurement strategy: Use of Framework mini competition or OJEU; Risk management, evaluation criteria, vfm etc. Where a non-framework procurement is proposed the assessment will be more rigorous to ensure that the route taken has been properly considered and is capable of delivering a solution which meets national objectives.
- 12) Project governance proposals for how the local body will manage accountability and responsibility for delivery and for dealing with risks and issues arising
- 13) Project timetable: BDUK Framework Programme (use BDUK timetables); If not using Framework: Local Authority OJEU to Financial Close 12 months; Describe critical paths: State Aid, Planning etc
- 14) Expected strategic benefits which are evidenced, quantified and measurable
- 15) Risk Management: treatment of key risks and mitigation strategies
- 16) State aid: confirmation that the project falls within scope of the State aid scheme

In summary, Local Broadband Plans must include an appropriate assessment of the full needs of and benefits to the local area through meeting the Broadband Delivery Programme's objectives for broadband coverage. They must also include sign-off by the local body's (or bodies') governing group(s) or responsible executive in terms of assured commitment to the Plan, including approval of the outline budget for the project team and identification of key resources.



A detailed checklist and scoring template has been developed by the BDUK Projects team against which Local Broadband Plans are assessed and scored. A guidance pack for local bodies has also been developed.

Once a review has been completed, a report will be provided to the Rural Broadband Projects Assurance Board for their consideration.

Where a LBP is deemed to meet the assessment criteria:

- a) The Assurance Board will confirm the amount of funding that will be expected to be made available for the local body to commit to in a contract with a supplier. The amount may be refined as the project is developed, and a final amount will be formally committed to by BDUK at the point of contract award.
- b) A procurement slot within the framework call-off process will be agreed

Where a Local Broadband Plan does not meet the required criteria the Assurance Board will require the Local Body to address points for remediation and resubmit their plan. Until a plan has been signed-off by the Assurance Board as meeting the required criteria, a procurement slot within the framework process will not be allocated.



### Checkpoint B - Introduction

Following the agreement of the Local Broadband Plan, and an allocation of BDUK funds, each local body will plan and mobilise for a procurement of private sector outputs to address gaps in local broadband service provision and infrastructure in line with the procurement strategy as described in their agreed Local Broadband Plan.

In order to ensure that the procurement is carried out effectively, efficiently and legally, there are many activities that a local body needs to have completed in advance of procurement formally commencing. BDUK has developed guidance for local bodies to help ensure that their planning and mobilisation covers all the necessary areas. The guidance also includes templates which can be customised by each local body according to local requirements.

Before a local body commences procurement, BDUK will carry out a check to ensure that all necessary preparation activities and deliverables have been completed adequately. These are summarised overleaf but set out in more detail in Annexes B1 and B2.

# Checkpoint B1 – Agree “Ready to commence supplier engagement”



## Checkpoint B1

Prior to issuing an Invitation to Tender, each project must undertake a “supplier warming event”. It is important that information is shared between Suppliers and Local Bodies in advance of the procurement in order that the ITT can be adjusted if necessary. This is in line with good procurement practice, and is a State aid requirement.

Supplier warming is expected to help the local body to:

- ascertain the level of interest on their desired approach
- test its preferred outcomes
- ascertain any risks/concerns which potential suppliers have regarding the local body’s local circumstances
- identify the additional information or data that may support suppliers’ responses

In order to ensure that the local body and the supplier can take from the event what they need to promote a successful procurement, BDUK requires that a number of components are in place. These are summarised below but are set out in more detail at Annex B1.

### “Must have” requirements:

- 1) Draft ITT is compliant with framework template
- 2) Local Body match funding (including ERDF or other non-BDUK grant funding) is confirmed
- 3) State Aid - Mapping: Defined areas for both Next Generation (Super-Fast) and current generation broadband which indicate (and take into account) where there is existing or planned broadband provision (in the next three years)
- 4) Data Room established containing all and only essential information. A set of data has been identified by BDUK and agreed with all Framework suppliers
- 5) Pre-Contract Demand Stimulation: Local Bodies should provide hard evidence within their Data Room of actual potential customers



## Checkpoint B2

Following the supplier warming event but prior to a local body commencing procurement, BDUK will carry out a check to ensure that all necessary preparation activities and deliverables have been completed adequately. These are summarised below and overleaf but set out in more detail in Annex B2.

### “Must have” requirements:

- 1) State Aid - Public Consultation: It is a requirement to conduct at least one month public consultation to test the mapping of the proposed intervention areas. That public consultation should end as close to the start of the tender process as possible and generally no more than one month beforehand
- 2) Each Local Body has established their own project governance structure to allow effective management of their programme
- 3) Gateways and reporting established: Internal approval process for sign-off of capital and revenue spend; Internal assurance/audit process to confirm regularity and propriety of spend
- 4) Supplier Warming completed: to enable the Local Body to articulate their requirements to potential bidders and allow potential bidders to decide whether to pursue the procurement when it commences
- 5) Strategy for ensuring value for money in the event that the competition is reduced to a single bidder agreed.
- 6) Treatment of cross-border issues considered: all Local Bodies must ‘map’ an ‘overlapping strip’ covering their borders with neighbouring Local Bodies
- 7) Pre-contract demand registration and stimulation progressed
- 8) An appropriate range of skills and capacity are available to the project, particularly to support contract negotiation and demand stimulation work
- 9) Key delivery risks identified in LBP are being managed and refreshed

**“Should have” expectations:**

- 10) An appropriate range of skills and capacity are available to the project to support wider project requirements
- 11) Arrangements in place to reflect the working arrangements with BDUK: Memorandum of Understanding, Non-Disclosure Agreement, Draft Grant Agreement
- 12) Where sources of funding other than local body or BDUK, such as ERDF or DEFRA, are being applied, consideration of reporting, timescale constraints for delivery, disaggregation of benefits and outcomes required, and how double counting of impact will be avoided
- 13) Stakeholder Engagement managed: Political and public expectations need to have been managed so they are realistic. Each local body will need to consider who their main stakeholders are and how best to engage and approach each.

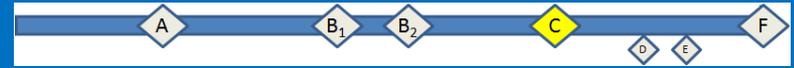


## Checkpoint C - Introduction

In order for BDUK to be able to issue a Grant Agreement (for local bodies in England) a final Checkpoint will confirm whether the local project has met a number of investment criteria set out in the BDUK Programme Delivery Model. These are summarised below but set out in more detail in Annex C. As with Checkpoint B, they are divided into “must have” and “should have” items.

### “Must have” requirements:

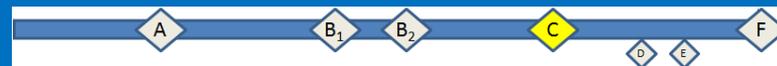
- 1) Robust project governance arrangements are in place. Specifically:
  - i) The S 151 Officer supports and has signed off the procurement decision and takes explicit accountability for the use of grant funds awarded
  - ii) CEO and Cabinet support and sign-off of procurement and delivery plan
  - iii) Council audit arrangements are in place for review of value for money, regularity and propriety of the use of grant funding
- 2) Sufficient funding is in place (local and BDUK grant, subject to State Aid) to pay for committed milestones
- 3) An appropriate allocation of risks has been agreed between the public and private sectors and is clearly articulated in the draft contract for broadband services; risk management processes for both parties are in place
- 4) The project is compliant with the National Broadband Scheme for the UK where the body seeks to rely on that aid scheme (see slide 28). This would include compliance with EU procurement law. The draft contract must also be in line with the model contract/guidelines as prepared by BDUK with reference to the aid scheme.
- 5) State aid obligations are reflected in the draft contract



- 6) The project includes broadband coverage consistent with the objectives of the Broadband Delivery Programme and the Local Broadband Plan while meeting community needs
- 7) The specification in the draft contract for broadband services includes key delivery milestones upon achievement of which payment will be contingent
- 8) The bidder that has provided the Most Economically Advantageous Tender in a procurement process has been identified using robust evaluation criteria
- 9) The outcome of the project offers value for money for public spend: the costs, prices and subsidy agreed in the draft contract are competitive based on a comparison with reference costs and benchmarks, given the nature of the project/area
- 10) Council audit arrangements in place for review of value for money, regularity and propriety of the use of BDUK grant funding
- 11) Contract management capability and capacity is available, sufficient and funded to manage the delivery contract effectively

**“Should have” expectations:**

- 12) Invoicing processes have been agreed
- 13) Correct financial treatment and controls
- 14) Key reporting requirements to support financial management and control (regularity and propriety)
- 15) Supplier audit provisions defined
- 16) Where call-off framework contract is not used - Technical and legal scrutiny of the draft contract
- 17) Key delivery risks identified in LBP are being managed and refreshed



It will be the role of BDUK, as National Competency Centre, to assure that the national broadband scheme for the UK is used only for broadband projects that meet the relevant criteria for use of the scheme and that they are willing to comply with relevant conditions flowing from the European Commission's Broadband Guidelines.

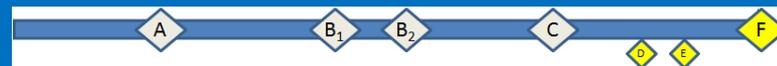
The National Broadband Scheme for the UK will set out conditions that local and community broadband projects must satisfy in order for public funding for that project to be considered compatible with the terms of that aid scheme and the EU State aid rules (where the project seeks to rely on that aid scheme). At present the scheme is being considered by the Commission. Through the State aid notification process, BDUK is seeking to demonstrate that this UK-wide scheme is compatible with EU State aid rules and that there is a robust framework in place to ensure that individual projects relying on the scheme will be similarly compatible.

Requirements:

- Aid measure is in line with EU policy
- Aid measure is the appropriate instrument
- The aid provides the right incentive
- Market research and public consultation
- Open tender process
- Most economically advantageous offer
- Technology neutral
- Use of existing infrastructure
- Wholesale access
- Benchmarking price exercise
- Monitoring and claw-back to avoid over-compensation

It should be noted that some of requirements for State Aid compliance are pre-requisites for previous Checkpoints (A & B) and should therefore have already been completed.

# Checkpoint D,E,F - Post-contract Governance and Assurance (Local Projects in England)

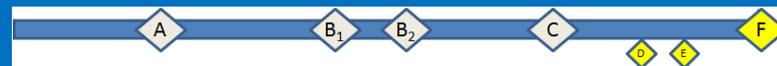


## Checkpoints D,E,F – England

Following distribution of funds through a grant agreement and the signing of a contract with a supplier, direct accountability for delivery of project outcomes will sit with the S151 Officer of each local body or of the lead local body for a partnership. Responsibility for delivery is likely to sit jointly with the local body(ies) and the supplier. Local body internal assurance and democratic processes, and external audit, become the primary vehicles for ensuring that value for money, regularity and propriety are maintained.

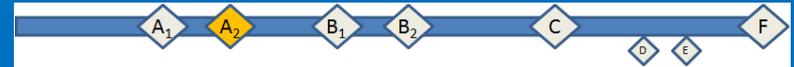
However, BDUK will maintain some oversight as follows:

- As funding authority, BDUK will maintain a governance role through its membership of programme board or steering group and will expect to be party to reports on progress against agreed project milestones.
- As set out in the Grant Agreement, BDUK will be entitled to withhold funding where milestones are not achieved.
- Ongoing post-contract oversight will comprise formalised BDUK / LA contract monitoring meetings and collection and aggregation of local data to monitor performance. Key areas for examination will include appropriateness of spend, implementation progress through delivery of project outcomes, effectiveness of local body assurance framework including external scrutiny, and effectiveness of local body contract management approach. The output from these reviews will be individual and aggregated reports to the Broadband Portfolio Board on progress towards achieving national objectives. If a Review indicates slippage or problems emerging, this will be escalated, as appropriate, to the local body sponsor and Executive team, BDUK senior team, the Broadband Portfolio Board and ministers.



## Checkpoints D,E,F – Devolved Administrations

- For projects in the Devolved Administrations, the proposed mechanism for releasing funding (through adjustments to the estimates for the departments) means that DCMS will have no further accountability for projects once funding has been transferred. The Devolved Administrations' Accounting Officers will be accountable for the funding – unlike funding which is delegated to the English Local Authorities, where the DCMS Accounting Officer is still accountable for the spending.
- In terms of DCMS post-contract involvement in Broadband projects in Devolved Administrations, the following principles are expected to apply:
  - DCMS will agree to effect a transfer in funding for each of the three years of the project in relation to the expected milestone funding profile
  - The DA will need to report to BDUK on delivery against the milestones
  - If delivery is delayed or the project is halted or other problems arise, then DCMS will have the right to alter the future schedule of funding transfers – either in November or in February
  - If there are delays or other problems beyond November in the last year (2014-15) which mean the last milestone(s) are not met then DCMS will reserve the right to effect a reduction in the funding for the Devolved Administration in the following year



## Non-Framework requirements

### Checkpoint A2 – Agree “Ready to publish OJEU Notice”

If a local body has decided to use a procurement vehicle other than the BDUK call-off framework, an additional Checkpoint is required prior to an OJEU Notice being published. The purpose of this additional Checkpoint is to ensure that the procurement route taken has been properly planned and resourced to deliver a solution which represents value for money, meets national objectives in terms of speed and coverage, and can be completed within the national time-scale set. This higher level of scrutiny is required because local bodies not using the BDUK framework will not be able to rely on pre-assured template documents and guidance which have been developed to complement the call-off process. Requirements are set out in more detail at Annex A2 but are summarised below:

#### “Must have” requirements:

- 1) Draft OJEU Notice is consistent with LBP objectives
- 2) OJEU is consistent with State aid principles
- 3) Local body team is in place to manage the procurement
- 4) Detailed procurement plan developed which is consistent with LBP
- 5) Local Body match funding has been approved
- 6) State Aid requirement : Mapping is being developed
- 7) Plan in place, or performing, Open Market Reviews, State aid public consultation
- 8) Project governance structure established to allow effective management of the programme
- 9) Data Room is being developed
- 10) Strategy for ensuring value for money in the event that the competition is reduced to a single bidder has been considered

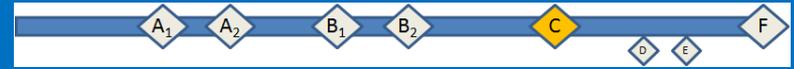


### Non-Framework requirements

#### Checkpoint B2 – Agree “Ready to procure”

Before a local body commences procurement, BDUK will carry out a check to ensure that all necessary preparation activities and deliverables have been completed adequately.

The assurance requirements for projects which are procuring solutions through vehicles other than the BDUK framework will be broadly consistent with the checklists at B1 and B2 for call-off procurements. However, the reviews will be more rigorous to reflect the fact that the procurement documentation is not based on the pre-assured document set which includes ITT template, including technical requirements, terms and conditions, evaluation strategy and reference cost model.



### Non-Framework requirements

#### Checkpoint C – Agree “Ready to contract”

Before a local body enters a formal contract with a supplier, BDUK will carry out a check to ensure that the contract meets the requirements for BDUK to sign a grant agreement, which includes meeting State aid requirements.

The assurance requirements for projects which are procuring solutions through vehicles other than the BDUK framework will be broadly consistent with the checklist at Checkpoint C for call-off procurements. However, the reviews will be more rigorous to reflect the fact that contract documentation is not based on the pre-assured document set.

The checklist developed to support Checkpoint C (set out at Annex C) is designed to cover projects where the framework is being used and those where it is not, but it identifies areas where additional scrutiny is required for non-framework procurements.

### **A Rural Projects Assurance Board (the Board) has been established to:**

- Confirm whether broadband projects funded under the Rural Broadband Delivery Programme have met the requirements of all Checkpoints as set out in the Rural Broadband Delivery Programme Assurance System.
- Scrutinise and challenge, as necessary, proposed decisions regarding State aid approval for broadband projects under the arrangements agreed by the European Commission for the BDUK State aid National Competency Centre.

The terms of reference for the Board set out its roles, responsibilities, and mode of operation.

### Assurance team skills requirement

Checkpoint assurance reviews will be undertaken by the BDUK Assurance team, liaising with the BDUK State aid National Competency Centre (NCC). The mix of skills within the team and the approach will be flexed according to the requirement for each Checkpoint. For example, Checkpoint A requires knowledge of the local body context in order to review the Local Broadband Plan, and can be performed as a desk review with dialogue where required; Checkpoint B requires commercial experience to review commercial models and evaluation approach; and Checkpoint C will require legal knowledge and experience. State aid expertise will be relevant at all three Checkpoints and will fall within the remit of the BDUK NCC team.

Support activities between Checkpoint reviews will be undertaken principally by the BDUK Projects team. In order to ensure impartiality, a clear distinction will be made between the team which provides support and the team which conducts assurance reviews at “Ready to Procure” and “Ready to Contract”.

### Assurance team activities

For Checkpoint A, (“Agree Local Broadband Plan”) the review will take place off-site and be carried out initially by the Projects Team member with responsibility for that local body. A second review will be carried out by another, independent, member of the Project Team.

For local bodies using the BDUK call-off framework, Checkpoint B1, B2 and C reviews will usually comprise a desk review of evidence provided in accordance with the relevant checklist, followed up with a telephone conference with the local body. Based on a risk assessment of evidence provided a site visit may also be required. For local bodies undertaking their own stand-alone procurement, a site visit will normally be required at each Checkpoint.

The output of the Checkpoint reviews will be summarised and presented to the Rural Projects Assurance Board who will review and challenge the evidence provided and ultimately decide if the Checkpoint has been passed.

### Assurance visit report

Following each Checkpoint review, the Assurance team will provide a report to the Rural Projects Assurance Board confirming the current position for the Local Body based on the findings from the review.

A summary dashboard will show a position against each of the checkpoint question using RAG status as follows:

Green – Evidenced compliance with requirement

Amber – Material omissions but can be addressed

Red – Fundamental failure to address one or more requirement

An overall Green would indicate (subject to input from the State aid NCC) that a Local Body is ready to proceed to the next stage.

An Amber in one or more requirement would indicate that there is more work to be done before the Local Body is in a position to safely move forward.

In the event of a Red position in one or more requirement, the Assurance Board may consider options for alternative ways of delivering the objective. This would include the local body reorganising the project or, if necessary, BDUK stepping in and either managing the procurement itself or reallocating the funding to other projects.

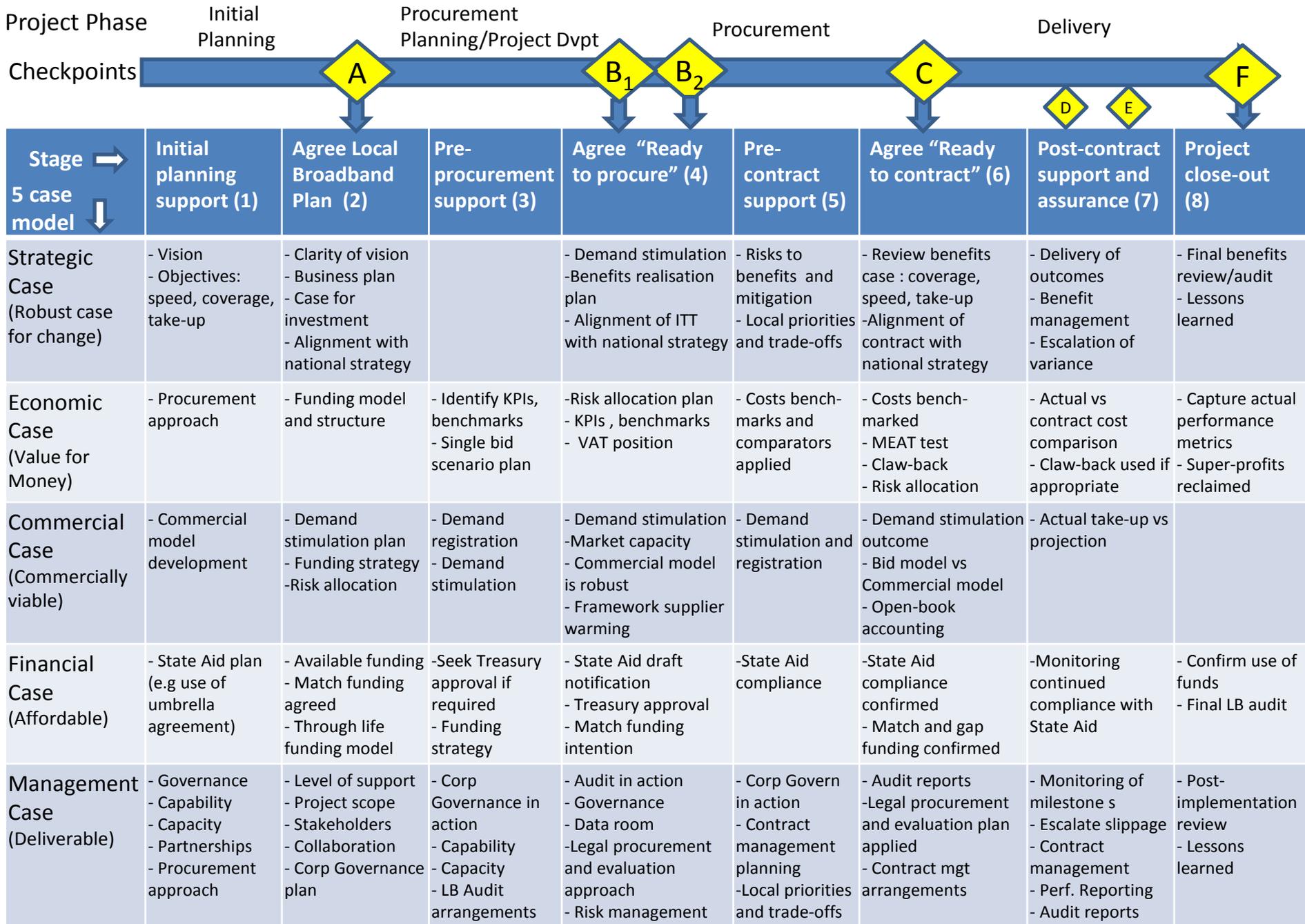
## Assurance and Support Stages

### Mapping against the OGC Five Case model and risks in the use of public money

A visual representation of the assurance system is shown on the next slide. It describes the activities that need to have been completed at each of the eight stages. These will be reviewed by the BDUK Assurance team at the Checkpoints and assessed against defined quality criteria (to be developed).

Each stage has been subdivided to align with the Office of Government Commerce's (OGC) 'Five Case Model', which is the recommended standard for the preparation of business cases and is used extensively within central government departments and their agencies. It is referenced by HM Treasury in the latest version of the Green Book.

In addition to the specific areas of activity aligned to the Five Case Model, the Assurance System has been designed to cover a number of specific risks relating to the use of public money, namely Value for Money, Delivery, Benefits and Regularity & Propriety. A brief definition of each risk, how the risk relates to BDUK and the management approach to addressing the risk, is set out on following slides.



# Definition of Key Risk Areas – Achieving Value for Money

## Definition

- Value for money is defined as the optimum combination of whole life costs and quality. Goods and services should be acquired by competition unless there are convincing reasons to the contrary. The form of competition should be appropriate to the value and complexity of the procurement and barriers to the participation of suppliers should be removed.

## Risk

- Where contracts with suppliers are negotiated outside the Framework call-off procedure, local bodies agree contracts for services which do not represent the best deal in terms of the optimum combination of whole life costs and quality that could have been obtained given their local circumstances.
- Where contracts with suppliers are procured under the Framework Call-off procedure, the solution costs provided by suppliers, which are negotiated centrally by BDUK, do not represent value for money.

## Management Approach

- The BDUK assurance system is designed to seek evidence to confirm that each local body procurement has been managed in a way that is most likely to deliver the optimal combination of whole life cost and quality by checking direction of travel and progress at Checkpoints B and C.
- One of the aims of a centrally procured Framework Contract is to leverage the scale of national Programme requirements to obtain the best deal from suppliers. Further assurance that value for money has been obtained will be sought through an Independent Assurance Review (IAR) during the Procurement and Delivery stages of the Programme. The IAR will compare costs being offered by suppliers under the Framework to costs for comparable services obtained at a number of local, national and international reference sites, and to OFCOM cost data.
- Use of the Framework Call-off process provides efficiency benefit to local bodies through simplifying and shortening the procurement process.

# Definition of Key Risk Areas – Ensuring Delivery

## Definition

“Delivery” in this instance relates to the internal arrangements whereby a local body manages the project from inception to completion. It encompasses project management, governance, partnerships, risk management, resourcing and contract management.

## Risk

- The risk to BDUK is that owing to a weakness in delivery arrangements, a local body fails to achieve the planned speed and coverage of broadband for which it is accountable, which impacts on the achievement of the national broadband strategy.
- The most common reasons for project failure are:
  - Lack of sponsor involvement
  - Poor scope management
  - Over-ambitious commitment to deliver in restricted timescale (optimism bias)
  - Resource contention for scarce skills
  - Poor communication/engagement with stakeholders
  - Lack of understanding of and contact with the supply industry
  - Misalignment with strategic priorities
  - Lack of clear allocation of risk between the parties
  - Poor change management
- These risks are all relevant to local broadband projects.

## Management Approach

- The aim of the BDUK assurance system is to provide comfort to the DCMS Accounting Officer that delivery arrangements are adequate to achieve planned project outputs, or to provide early warning of risks that may crystallise in order to plan suitable mitigation.

## Definition of Key Risk Areas – Achieving Benefits (Objectives)

### Definition

Benefits are the intended outcome of the local projects for which a grant aid contribution is being sought. Benefits will be realised at a local level in terms of the local business case but will also combined at national level in meeting the objectives of the UK Broadband Strategy.

### Risk

- The vision and objectives included in local business cases (as described in a local broadband plan) may not be aligned to national UK broadband strategy and achievement of those visions and objectives may therefore not contribute to the achievement of the overall UK strategy and objectives.
- Achievement of benefits is dependent on a predicted level of take-up of the new services in each local area. The risk to BDUK is that predicted demand is not realised leading to local solutions proving to be commercially unviable and therefore unattractive to suppliers or unsustainable.
- Market capacity (supply) may be insufficient to meet the demand for the delivery of simultaneous projects within a short time-scale. Achievement of benefits may therefore be impacted in terms of cost, time or quality.

### Management Approach

- The aim of the BDUK assurance system is to provide comfort to the DCMS Accounting Officer that strategic objectives for local body projects are aligned with those of the UK Broadband Strategy. The system verifies steps being taken to mitigate potential risks around take-up at a local level. Also, by ensuring that local bodies who progress through to procurement are properly prepared to do so, the system mitigates the risk around supplier capacity at a national level.

# Definition of Key Risk Areas – Ensuring Regularity and Propriety

## Regularity and Propriety - Definition

- Regularity is the requirement for all items of expenditure and receipts to be dealt with in accordance with the legislation authorising them, any applicable delegated authority and the rules of Government Accounting. A fundamental requirement is that funds should be applied only to the extent and for the purposes authorised by Parliament
- Propriety is the further requirement that expenditure and receipts should be dealt with in accordance with Parliament's intentions and the principles of Parliamentary control, including the conventions agreed with Parliament (and in particular the Public Accounts Committee)
- "Whereas regularity is concerned with compliance with appropriate authorities, propriety is concerned more with standards of conduct, behaviour and corporate governance. (Practice Note 10, "Audit of Central Government Financial Statements in the United Kingdom", April 2001)

## Regularity and Propriety – Risk

- Local bodies apply grant funding to areas which are not covered by the UK Broadband Scheme i.e. in areas where coverage is or will be provided through private investment
- Local bodies divert grant funds to areas unrelated to broadband procurement
- Local bodies apply grant funds to revenue rather than capital i.e. to non-permitted expenditure
- The system of internal control is not sufficient to provide the local body accountable officer with assurance that funds are being used properly
- Internal or external assurance identifies, after the event, that funds have not been applied in accordance with appropriate authorities

## Management Approach

- The aim of the BDUK assurance system is to provide comfort to the DCMS Accounting Officer that funds allocated from the Department to local bodies are being used only for the intended purpose and are being used in the appropriate manner

# Broadband Delivery Framework – Assuring Value for Money

In order to address the Value for Money risk, the DCMS (BDUK) broadband delivery Framework Agreement has been developed to achieve Value for Money protections at three levels, summarised below and set out in detail at Annex E:

## 1. Approach to Framework Agreement development and award

- Competition to be appointed to the Framework
- Reference Solution including infrastructure Components
- Reference Financial Model
- Permitted Expenditure
- Benchmarking
- Single State Aid Notification
- Best practice transfer across Local Authorities

## 2. Design of Call-off Contracts

- Mini-Competition Process
- Project Financial Model and Project Solution
- Payment by results
- Detailed Evidence to Support Milestone Payment Claims
- Supplier assurance of costs and prices

## 3. In-life operation of Call-off Contracts

- Reporting and Audit
- Claw-back to prevent over-subsidy
- Investment Ratio
- Knowledge capture and sharing

# Broadband Delivery Framework – Independent Assurance Review

In addition to the protections built in to the design and operation of the Framework Agreement, BDUK also intends to commission an Independent Assurance Review (IAR) on the appropriateness of suppliers' costs, using cost data from similar current projects.

## Objective of the IAR

To provide insight and assurance to local bodies procuring under the Framework Call-Off procedure that the solution costs provided by the Suppliers for the Coverage Area are:

- In line with the Reference Financial Model (RFM) submitted by the Supplier under the terms of the Framework Contract
- In line with the solution costs offered by the Supplier in similar local body contracts
- In line with the solution costs offered by the Supplier when investing in non-“white” areas as defined under State aid regulations
- In line with international benchmarks

## Timing

The IAR will be undertaken at two points:

- At an early stage in the Broadband Delivery Programme at a point when sufficient Call-Off costing information or estimates are available such that meaningful comparisons can be made.
- At a later stage in the Broadband Delivery Programme such that an overall view of Suppliers' costing approach can be determined.

## Use of the Independent Assurance Review

- The details of IAR reports will be available to local authorities to make an informed assessment of the Solution Costs for their individual Coverage Areas during the Call-Off procurement process.
- It may also be used by BDUK to initiate updates to Supplier Reference Financial Models through change control under the Framework Contract.

**Annex A – Checkpoint A: Agree Local Broadband Plan checklist**

**Annex A2 – Checkpoint A2: Agree “Ready to issue OJEU Notice” (non-framework only)**

**Annex B1 – Checkpoint B1: Agree “Ready to commence supplier engagement” checklist**

**Annex B2 – Checkpoint B2: Agree “Ready to procure” checklist**

**Annex C – Checkpoint C: Agree “Ready to contract” checklist**

**Annex D – Checkpoints D,E,F: Post-contract review**

**Annex E – Broadband Delivery Framework: Achieving Value for Money**

Requirement	As evidenced by	Physical review
1. A clear vision for the area covered by the local body, linked in to business plans, which is consistent with national broadband objectives	<ul style="list-style-type: none"> <li>- Area to be covered by the project, partners (LAs, LEP)</li> <li>- Business drivers (jobs, growth, productivity, new businesses, investment, self employment, carbon footprint)</li> <li>- Community drivers (digital exclusion, minimum speed)</li> <li>- Public Services (tele care, efficiency, transformation of services, education, public services online etc)</li> <li>- Government Policy</li> </ul>	- Local Broadband Plan A1
2. A current and forecast “picture” of the local area	Broadband coverage, speeds, usage, private sector investment state, topography and other local issues	- Local Broadband Plan A2
3. A gap analysis describing the case for investment justified and reflected in supporting information described in a structured way using maps	<ul style="list-style-type: none"> <li>- Topography (geographical area of project)</li> <li>- Population density, key towns, business concentrations, areas of deprivation</li> <li>- Public infrastructure (PSN)</li> <li>- Areas with superfast broadband (BT, Virgin investment actual) and those without no broadband or speeds &lt;2mbps (maps showing speed estimates and areas covered, postcode numbers)</li> <li>- Not Spots</li> <li>- White, Grey and Black Areas (State Aid)</li> </ul>	- Local Broadband Plan A3
4. Scope of the proposed project describing what the project will deliver in terms of coverage, technology, speed and the number of premises impacted	<ul style="list-style-type: none"> <li>- Current broadband provision</li> <li>- Final Third: How will to project be rolled out (geographical boundaries, neighbouring Authorities, by town, by objectives), timescales, phases</li> <li>- Provider and Technology mix (must relate back to funding and vision)</li> <li>- Number of premises, SMEs covered</li> </ul>	- Local Broadband Plan A4

Requirement	As evidenced by	Physical review
5. A description of how local demand for broadband services will be stimulated to attract private investment, and examples of working with business and community groups and National Programmes to achieve this	<ul style="list-style-type: none"> <li>- The work needs to be evidenced for bidders (data room)</li> <li>- The work needs to be planned and funded (ERDF, LA) evidence</li> <li>- Business describe: events, workshops and promotions. Collaboration with LEP, Chamber of Commerce, CBI etc</li> <li>- Community describe: promotion, workshops (Parish Councils, Libraries, Town Halls)</li> <li>- Working with National programmes: <a href="http://www.raceonline2012.org">www.raceonline2012.org</a>, ACRE, <a href="http://www.RuralBroadband.com">www.RuralBroadband.com</a>, <a href="http://ww.bigsocietybroadband.coop">ww.bigsocietybroadband.coop</a></li> </ul>	- Local Broadband Plan B1
6. A description of how local demand will be registered	Online Portals and 'White Label Tools' to register demand	- Local Broadband Plan B2
7. A description of stakeholder support and involvement	<ul style="list-style-type: none"> <li>- Level of Support and Evidence (letters support)</li> <li>-Stakeholder roles and work supporting broadband</li> <li>-Future roles and work to be undertaken by               <ul style="list-style-type: none"> <li>- Public: Elected Members, MEPs, MPS, Health/Education Bodies, National Parks</li> <li>- Business: CBI, LEP, Local SMEs</li> <li>- Communities: Public, Parish Councils</li> </ul> </li> </ul>	- Local Broadband Plan B3
8. Funding requirements and structure	Description of requirements and structure to achieve the vision and scope, and proposed structure of funding to be provided from BDUK, from the local body, from other sources such as ERDF, and from the private sector	- Local Broadband Plan C1 & C2
9. Robust commercial case	<ul style="list-style-type: none"> <li>- Conclusion of Option Appraisal (PPP,JV,PSN or Gap Funding) in terms of strengths/weaknesses</li> <li>- Project attractiveness: scope, size, risks, marketability, roll out, funding, claw back, technology</li> </ul>	- Local Broadband Plan D1

# Annex A

## Checkpoint A: Agree Local Broadband Plan

Requirement	As evidenced by	Physical review
10. Market engagement	<ul style="list-style-type: none"> <li>- Use of BDUK Framework (preferred) or CD OJEU procurement</li> <li>- Supplier engagement, bidder days, SMEs</li> </ul>	- Local Broadband Plan D2
11. Procurement strategy	<ul style="list-style-type: none"> <li>- Use of Framework mini competition or OJEU</li> <li>- Risk management, evaluation criteria, vfm etc</li> </ul>	- Local Broadband Plan D3
12. Project governance	<ul style="list-style-type: none"> <li>- Project governance proposals for how the local body will manage accountability and responsibility for delivery and for dealing with risks and issues arising</li> <li>- Funds secured to pay for the project team to 2014/15 with Cabinet approval</li> </ul>	- Local Broadband Plan E1
13. Project timetable	<ul style="list-style-type: none"> <li>- BDUK Framework Programme (use BDUK timetables)</li> <li>- If not using Framework: Local Authority OJEU to Financial Close 12 months</li> <li>- Describe critical paths: State Aid, Planning etc</li> </ul>	- Local Broadband Plan E2
14. Expected strategic benefits which are evidenced, quantified and measurable	<p>Description of benefits:</p> <ul style="list-style-type: none"> <li>- Economic: Productivity (uplift in GVA provide numbers, argument); Number of new jobs and SME business (CBI, Chamber Commerce evidence surveys etc)</li> <li>-Transformation: Public sector efficiency/transformation (tele-care, online services, e-learning, working from home evidence to LA business plans etc)</li> <li>-Social: Demand Stimulation (take up of broadband, training, affordability, access, speeds etc);</li> <li>-Environmental</li> </ul>	- Local Broadband Plan E3
15. Risk management	-Detail 20 risks with mitigation strategy: e.g. planning, state aid, timescales, demand stimulation, vfm, financing	- Local Broadband Plan E4
16. State aid	- Confirmation that the project is within scope of aid scheme, that Local Authority agrees in principle to comply with conditions of aid scheme and that proposed next steps will help secure compliance with these conditions	

## Checkpoint A2: Agree “Ready to publish OJEU Notice”

Requirement	As evidenced by	Quality Criteria	Comment
1. Draft OJEU Notice, PQQ and Evaluation Strategy is consistent with LBP objectives	- Draft OJEU notice, draft PQQ, Evaluation strategy	- Consistent with LBP principles - Coverage and speed required in OJEU is consistent with BDUK/DCMS requirement - Consistent with wider government policy (e.g. inclusion of PSN)	Must have
2. OJEU is consistent with State aid principles	- Draft OJEU notice, draft PQQ, Evaluation strategy	- Consistent with State aid notification and Commission requirements	Must have
3. Local body team in place to manage the procurement	- Team structure and Local Body assurances	- Correct skills included (Technical, commercial, procurement, legal) - Experience of complex procurement	Must have
4. Detailed procurement plan developed which is consistent with LBP	- Detailed procurement plan	- Procurement plan contains all stages of procurement, has a realistic timescale and sensible stages regarding selection of suppliers	Must have
5. Plan in place, or performing, Open Market Reviews, State aid public consultation	- Evidence of published materials or plans - Updated mapping - ITT scope	- State aid consultation includes/to include aspects noted in the State aid Umbrella Notification - Plan to deliver confirmation of intervention area by ITT release	Must have
6. Local Body match funding has been approved	- Council approval or intention to provide local funding - Approval or intention from other funding providers - Sight of official minute of Council meeting approving funding - Interview with FD or finance representative	- Local body funding plus funding from other providers is equal to or greater than funding provided by BDUK	Must have

## Checkpoint A2: Agree “Ready to publish OJEU Notice”

Requirement	As evidenced by	Quality Criteria	Comment
7. State Aid requirement : Mapping is being developed	Maps	- Appropriately defined white/grey/black (W, G, B) areas for both NGA and current generation broadband. (BDUK data can be used as the basis for this exercise but Local Bodies should supplement this with further local detail where this is available.)	Must have
8. Data Room is being developed	Proposed data room structure and current contents	- Planned compliance with the set of data identified by BDUK	Must have
9. Project governance structure established to allow effective management of the programme	<ul style="list-style-type: none"> <li>- Project Initiation Document</li> <li>- Terms of Reference and minutes of Programme Board</li> <li>- Joint working agreements, if applicable</li> </ul>	<ul style="list-style-type: none"> <li>- PID includes a programme of works schedule which covers key activities and milestones</li> <li>- Key accountabilities and responsibilities clearly defined including SRO and Project manager</li> <li>- Local Project Board established and operating, chaired by SRO or equivalent</li> <li>- Active involvement and support from Leader and Chief Executive as project sponsor or participant</li> <li>- Where there are multiple organisations involved in managing the project, robust joint working agreements established and operating</li> </ul>	Must have
10. Strategy for ensuring value for money in the event that the competition is reduced to a single bidder has been considered	Single-bid scenario strategy	- Strategy has been consulted on and agreed by the project sponsor	Must have

## Checkpoint B1: Agree “Ready to commence supplier engagement”

Requirement	As evidenced by	Quality Criteria	Comment
1. Draft ITT is compliant with framework template	Draft ITT	<ul style="list-style-type: none"> <li>- Coverage and speed required in ITT is consistent with national objectives:               <ul style="list-style-type: none"> <li>a) Coverage of <math>\geq 90\%</math> of superfast (speed of <math>&gt; 24</math> mbps) available to retail provider</li> <li>b) Universal Service Commitment: <math>\geq 2</math> mbps to all premises</li> </ul> </li> <li>- Variations to framework template, Terms &amp; Conditions and Evaluation strategy are appropriate to reflect local requirements</li> </ul>	Must have
2. Local Body match funding has been confirmed	<ul style="list-style-type: none"> <li>- Council approval or intention to provide local funding</li> <li>- Approval or intention from other funding providers</li> <li>- Sight of official minute of Council meeting approving funding</li> <li>- Interview with FD or finance representative</li> </ul>	<ul style="list-style-type: none"> <li>- Local body funding plus funding from other public funding providers is equal to or greater than funding provided by BDUK</li> </ul>	Must have
3. State Aid requirement met: Mapping	Maps	<ul style="list-style-type: none"> <li>- Appropriately defined white/grey/black (W, G, B) areas for both NGA and current generation broadband. (BDUK data can be used as the basis for this exercise but Local Bodies should supplement this with further local detail where this is available.)</li> </ul>	Must have

## Checkpoint B1: Agree “Ready to commence supplier engagement”

Requirement	As evidenced by	Quality Criteria	Comment
4. Data Room established containing essential information.	Physical review of data room contents	<ul style="list-style-type: none"> <li>- Data provided to bidders either as an online resource (with access is controlled by the Local Body) or on physical media such as DVD or encrypted stick for sensitive information or that which is subject to Non-Disclosure Agreement (NDA).</li> <li>- Compliance with the set of data identified by BDUK and agreed with all Framework suppliers</li> </ul>	Must have
5. Pre-contract Demand Stimulation evidenced	Physical review of data room contents	<ul style="list-style-type: none"> <li>- Evidence in data room of potential customers following demand registration process and potential demand from public sector organisations</li> </ul>	Must have

Requirement	As evidenced by	Quality Criteria	Comment
1. State Aid requirement met: Public Consultation to offer the opportunity for existing service providers to challenge the Local Bodies’ intended intervention.	<ul style="list-style-type: none"> <li>- Notification of activity</li> <li>- Responses</li> <li>- Challenges</li> </ul>	<ul style="list-style-type: none"> <li>- At least one month public consultation conducted, to end as close to the start of the tender process as possible and in general no more than one month prior to start of the tender process.</li> </ul>	Must have
2. Each Local Body will establish their own project governance structure to allow effective management of their programme	<ul style="list-style-type: none"> <li>- Project Initiation Document</li> <li>- Terms of Reference and minutes of Programme Board</li> <li>- Joint working agreements, if applicable</li> </ul>	<ul style="list-style-type: none"> <li>- PID includes a programme of works schedule which covers key activities and milestones</li> <li>- Key accountabilities and responsibilities clearly defined including SRO and Project manager</li> <li>- Local Project Board established and operating, chaired by SRO or equivalent</li> <li>- Active involvement and support from Leader and Chief Executive as project sponsor or participant</li> <li>- Where there are multiple organisations involved in managing the project, robust joint working agreements established and operating</li> </ul>	Must have

Requirement	As evidenced by	Quality Criteria	Comment
3. Gateways and reporting established: Internal approval for capital and revenue spend; Internal assurance/audit to confirm regularity and propriety of spend	<ul style="list-style-type: none"> <li>- Minutes of Council debate and decisions indicate approval for capital investment and associated revenue costs</li> <li>- Gateway Audit Reports or plan to conduct</li> <li>- Internal Audit Reports or plan to conduct</li> </ul>	<ul style="list-style-type: none"> <li>- Minutes of Council debate and decisions indicate approval for capital investment and associated revenue costs</li> <li>- Independent Gateway Audits confirm readiness to move forward from one key project stage to the next</li> <li>- Regularity and propriety Audit undertaken or planned reflect adequate coverage of process</li> <li>- Audits undertaken include adequate challenge and recommendations</li> <li>- Where recommendations made, evidence of follow-up action taken</li> </ul>	Must have
4. National Framework Supplier Warming completed: to enable the Local Body to articulate their requirements to potential bidders and allow potential bidders to decide whether to pursue the Call-off when it commences.	<ul style="list-style-type: none"> <li>- Agenda and other collateral for Bidders Day event</li> <li>- List of attendees</li> <li>- Agenda and other collateral for further clarification sessions</li> <li>- Correspondence re access to data room requested</li> </ul>	<ul style="list-style-type: none"> <li>- A “Bidders Day” when the Local Body Project Team provide information on its requirements, ideally including the issue of a draft Invitation to Tender (ITT)</li> <li>- Access to the Data Room to allow the bidder to commence Due Diligence and inform their decision to bid</li> <li>- A structured clarification session for each bidder and provided</li> </ul>	Must have
5. Strategy for ensuring value for money in the event that the competition is reduced to a single bidder has been considered	Single-bid scenario strategy	<ul style="list-style-type: none"> <li>- Strategy has been consulted on and agreed by the project sponsor</li> </ul>	Must have

Requirement	As evidenced by	Quality Criteria	Comment
6. Cross Border issues addressed	Map of borders	The map should show an ‘overlapping strip’ of at least 10km covering borders with neighbouring Local Bodies showing exchanges and properties served	Must have
7. Pre-Contract Demand Registration and stimulation progressed	Physical review of data room contents	- Evidence in data room of potential customers following demand registration process and potential demand from public sector organisations	Must have
8. An appropriate range of skills and capacity are available to the project to support contract negotiation and demand stimulation work	Names of specialist resources, role and responsibilities, and time budgeted for each	Specialist procurement resources available to the project have sufficient qualifications and experience to: - negotiate the best contract with Bidders. - develop and deliver an effective demand registration and stimulation programme	Must have
9. Key delivery risks identified in LBP are being managed and refreshed	Documented risk management and contingency plans	- Senior awareness of key risks and active management of plan	Must have

Requirement	As evidenced by	Quality Criteria	Comment
10. An appropriate range of skills and capacity are available to the project to support wider project requirements	Names of Project and SME resources, role and responsibilities, and time budgeted for each	-Resources available to the project include: Benefits Realisation, Communications, Economic Development, Finance, IT, Legal, Procurement and Project Management - Resources available to the project include specialist roles: Demand stimulation, Planning and local geography, mapping, Policy Review	Should have
11. Arrangements for working with BDUK are in place	- Memorandum of Understanding - Non-Disclosure Agreement	- Documents in place reflect the working arrangements with BDUK	Should have
12. Treatment of sources of funding other than local body or BDUK such as ERDF or DEFRA considered	Documented proposals	-specific requirements of funding bodies addressed e.g. reporting - recognition of timescale constraints for delivery - consideration of disaggregation of benefits and outcomes required, and of how double counting of impact will be avoided	Should have
13. Stakeholder Engagement managed: Political and public expectations need to have been managed so they are realistic. Each local body will need to consider who their main stakeholders are and how best to engage and approach each.	- Stakeholder Plan - Communications Plan	-Main stakeholders identified - Consideration of how best to engage with each	Should have

Requirement	As evidenced by	Quality Criteria	Comment
1. Robust project governance arrangements are in place	<ul style="list-style-type: none"> <li>-Sight of statements or signatures on official Council documents confirming assent</li> <li>-Terms of Reference and minutes of Programme Board</li> <li>- Joint working agreements, if applicable</li> </ul>	<ul style="list-style-type: none"> <li>- A statement by the S151 Officer to the effect that they take full accountability for the delivery of the project</li> <li>- A statement by the CEO and Cabinet representative or signature appended to relevant documents to signify assent to the outcome of the procurement</li> <li>- Local Programme Board established and operating, chaired by project senior sponsor</li> <li>- Active involvement and support from Leader and Chief Executive as project sponsor or participant</li> <li>- Where there are multiple organisations involved in managing the project, robust joint working agreements established and operating</li> </ul>	Must have
2. Sufficient funding is in place (local and BDUK grant, subject to State Aid) to pay for committed milestones	<ul style="list-style-type: none"> <li>-Sight of official minute of Council meeting approving funding</li> <li>- Interview with FD or finance representative</li> </ul>	<ul style="list-style-type: none"> <li>- Local body funding plus funding from other providers is equal to or greater than funding provided by BDUK</li> <li>- LB gap funding confirmed where a shortfall between the cost of the project and the sum of LB Match funding, BDUK grant, other grant and supplier investment remains</li> </ul>	Must have
3. An appropriate allocation of risks has been agreed between the public and private sectors and is clearly articulated in the draft contract for broadband services; risk management processes for both parties are in place	Draft contract	<ul style="list-style-type: none"> <li>-Allocation of risk between the parties in Draft contract is consistent with National Framework Terms and Conditions if Framework used</li> <li>- The draft contract deals explicitly with allocation of risk in the event of (at a minimum): <ul style="list-style-type: none"> <li>- cost/time over-run</li> <li>- assumptions relating to cost/timing/quality of delivery</li> <li>-scope reduction /change requests (adverse)</li> <li>- output delivery does not meet contract</li> <li>- project benefits/outcomes not realised</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Must have for non-framework procurements as framework includes risk allocation in template</li> </ul>

Requirement	As evidenced by	Quality Criteria	Comment
4. State Aid “Notification” from Local Body to BDUK as NCC is consistent with EU State aid rules	-If under BDUK umbrella State Aid Notification, evidence of BDUK approval of the local body’s State Aid application - If not under umbrella notification, individual notification document submitted and accepted	Status of BDUK Competency Centre review or Commission approval if not using “umbrella” notification	Must have
5. State Aid obligations are reflected in the draft contract	In particular this requires compliance with obligations on: -Use of existing infrastructure - Wholesale access - Benchmarking price exercise - Monitoring and claw-back to avoid over-compensation	Status of Commission or BDUK Competency Centre review	- Must have for non-framework procurements as framework includes State aid requirements in template
6. The project includes broadband coverage consistent with the objectives of the Broadband Delivery Programme and the Local Broadband Plan	Draft contract	Contracted solution includes: a) a high level (around 90%) of superfast (at least 24 mbps) broadband b) Universal Service Commitment (at least 2 mbps to all premises)	Must have
7. The specification in the draft contract for broadband services includes key delivery milestones upon achievement of which payment will be contingent	Draft contract	Payment mechanism specified in schedules to draft contract linked to achievement of output milestones	Must have

Requirement	As evidenced by	Quality Criteria	Comment
8. The bidder that has provided the Most Economically Advantageous Tender in a procurement process has been identified using robust evaluation criteria	<ul style="list-style-type: none"> <li>- Procurement documents</li> <li>- Review tender evaluation report</li> <li>- Review withdrawals: letters, reasons</li> </ul>	<ul style="list-style-type: none"> <li>- Compliant use of Framework call-off or other legally compliant procurement strategy</li> <li>- Documented procurement and evaluation procedure consistent with strategy</li> <li>- Decision signed-off by accountable officer</li> <li>- Stand-still period planned</li> <li>- OJEU-compliant or other relevant procurement documents if not using framework</li> <li>- If single supplier, justify how winning bidder offers an economically advantageous tender</li> </ul>	Must have
9. The outcome of the project offers value for money for public spend: the costs, prices and subsidy agreed in the draft contract are competitive based on a comparison with reference costs and benchmarks, given the nature of the project/area	<ul style="list-style-type: none"> <li>- Bid and draft contract</li> <li>- Benchmarks used and other comparable data</li> <li>- draft contract for supplier undertaking re open book accounting</li> </ul>	<ul style="list-style-type: none"> <li>- Robust underpinning financial model includes realistic costs and revenues</li> <li>- Any differences between the delivery dates and other details in the bid and the BDUK model are explained</li> <li>- Bidder provides transparent financial model which indicates how prices were arrived at</li> <li>- Bidder undertaking to provide open book access to actual costs and revenue streams</li> <li>- Benchmarks provided for subsidy per user and other unit costs</li> </ul>	Must have
10. Council audit arrangements in place for review of value for money, regularity and propriety of the use of BDUK grant funding	Audit plans and audit reports where completed	<ul style="list-style-type: none"> <li>- Adequate coverage of process</li> <li>- Adequate challenge and recommendations</li> <li>- Evidence of follow-up action taken</li> </ul>	Must have

Requirement	As evidenced by	Quality Criteria	Comment
11. Contract management capability and capacity is available and funded to manage the delivery contract effectively	- Documented details of the structure of the Contract Management function , and the skills and experience of resource referred to	- Resources are sufficiently qualified and experienced to manage a contract of significant scale	Must have
12. Invoicing processes have been agreed	Draft contract	Draft Contract includes a definition of high level requirements and data required for billing, including items to meet external reporting requirement	Should have
13. Correct financial treatment and controls applied	Statement detailing financial treatment and controls approved by S151 Officer	Financial treatment and controls agreed in respect of: - Differentiation of revenue vs capital spend to demonstrate compliance with requirements from various funding sources - Time-limits of spend identified: e.g. “in-year” deadlines; hard end dates for expenditure; ability to roll forward any ring-fenced budgets - Robust cash-flow models used - VAT treatment of funding described - Eligibility of each element of investment based on its source	Should have
14. Key reporting requirements to support financial management and control (regularity and propriety) established	Draft contract	Draft contract includes reporting templates and process Reporting process established in respect of: - Eligibility of spend against planned funds - Grant/subsidy claimed to date - Out-turn costs and revenues - Claw-back accrual - State Aid leverage - Asset re-use	Should have

Requirement	As evidenced by	Quality Criteria	Comment
15. Supplier audit provisions defined	Draft Contract	Audit provisions in draft contract to meet potential State Aid and Funding Source audit requirements	- Should have
16. Where call-off framework contract not used - Technical and legal scrutiny of the draft contract	Evidence of review	Review by suitably qualified local body individuals to confirm that the contract conforms to technical and legal requirements	- Should have if appropriate
17. Key delivery risks identified in LBP are being managed and refreshed	Documented risk management and contingency plans	-Regular review, action and escalation - Senior awareness of key risks and active management of plan	- Should have

Requirement	As evidenced by	Quality Criteria	Comment
Requirements as set out in the Framework Contract have been met for each milestone	Milestone Achievement Report	<p>-Call-off Contract Schedule 4.1 (Draft) 6.2: The Supplier shall not less than ten (10) Working Days prior to the Milestone Date for each Milestone provide the Authority with an initial Milestone Achievement Report and on the Milestone Date provide the Authority with the final Milestone Achievement Report which (in each case) details the extent of the Supplier's Achievement of the relevant Milestone. These reports shall be in the agreed form as set out in Schedule 6.4 (Reports).</p> <p>6.3: The Supplier shall ensure that the initial and final versions of each Milestone Achievement Report contain sufficient evidence to enable the Authority to verify the extent of the Achievement of the Milestone.</p>	- Must have

# Annex E – Framework Agreement – Value for Money

This Annex describes how the broadband delivery Framework Agreement has been developed to achieve Value for Money protections at three levels

## Framework Agreement

- Competition to be appointed to the Framework
- Reference Solution including infrastructure Components
- Reference Financial Model
- Single State Aid notification
- Best practice transfer across Local Authorities

## Call-Off Contracts

- Mini competition process
- Committed implementation plan
- Payment by results
  - *Defined milestones linked clearly to requirements (eg coverage and speed)*
  - *Link to successful take-up of services*
- Detailed evidence to support Milestone Payment Claims
- Supplier assurance of costs and prices

## In-life operation of Call-Off contracts

- Claw-back to prevent over-subsidy
- Investment ratio to ensure Supplier investment
- Reporting and audit

### Competition to be appointed to the Framework:

National Audit Office and government procurement guidelines state that VfM is best achieved through competition.

Following market engagement, which indicated that there was sufficient market interest to achieve effective competition for the £530m grant, DCMS undertook a procurement to agree a Framework of suppliers to implement wholesale broadband networks for at least a single county using the competitive Dialogue procedure.

The framework is expected to reduce both Supplier and Local authority costs of repeated, variable procurements across c. 40 Local Authorities by reducing duplication of effort – for instance State Aid notifications, development of bespoke contract agreements, technical and financial assurance costs. The framework is expected to pay back in this respect through the initial four, ‘signed-up’ Local Authorities who will use it, these being Suffolk, Norfolk, Devon and Somerset, and Wiltshire.

### Reference Solution including infrastructure Components:

Through the procurement process, Bidders have identified a reference solution containing specific solution components (such



as recognised broadband technologies) and identified how these would be implemented for a Local Authority. This reference Solution is being evaluated nationally with Call-off contracts only using these solution components. This provides a degree of cost comparison between the Framework suppliers, and also prevents suppliers from introducing more expensive and untested solutions without DCMS, or exceptionally Call-off, approval.

### Reference Financial Model:

As part of the procurement process, Bidders have completed a financial model that will be used consistently when calling off the Framework Agreement. This allows DCMS to confirm that a Bidders solution is credible, and financially sustainable. This includes:

- financial transparency on the cost drivers for Bidder solutions;
- the range of assumptions that alter to create a unique Local Authority solution;
- Expectations of revenue from anticipated take-up levels;
- how and where Bidders will deploy their solutions
- captures the how private sector contributions will be leveraged against Public Subsidy (£530m plus Local Authority contributions).

### Permitted Expenditure:

The Framework Agreement (and the Call-Off contract) includes appropriate detail (including incorporation of relevant terms by reference) on the types of Supplier expenditure (capital in nature) that will attract DCMS and local authority subsidy. The classification of this expenditure will follow accounting standards.

### Benchmarking:

The Framework Agreement has benchmarking provisions that refer to the Ofcom regulated prices for key solution components. This provides price controls to the wholesale service. Protecting end users from over-charging and potentially reducing the threat of monopoly markets forming.

### Single State Aid Notification:

The European Commission has strict guidelines on the use of state aid to create assets that place heavy restrictions on how public money can be used. These protections require a Supplier to use public money to create assets (rather than pay for operational expenditure) and provide evidence of the costs.

A single State Aid notification is in development with the Commission that will operate for existing (non-Framework) and



Framework procurements. Such agreements are expense to develop and this will greatly reduce the cost and potential risks to Local Authorities. Such risks include the complete repayment of State Aid illegally claimed.

### Best practice transfer across Local Authorities:

The Framework procurement process has included four Local Authorities working alongside a DCMS procurement team. This has already allowed knowledge sharing.

It is also the intention of DCMS (through BDUK) to transfer knowledge to other Call-Off Local Authorities. This will include guidance, templates, and communications events and assurance to support Local Authorities in getting the best value from the framework and reducing the cost of duplicating effort.

## Mini-Competition Process:

Each Local Authority will run a mini-competition to select a Supplier from the Framework to build and run the broadband network in their area. It should be noted that not all projects will be competitive, and therefore the effectiveness of competition in terms of driving VfM will vary where a single supplier only bids.

## Project Financial Model and Project Solution:

Each Call-Off contract will use a project financial model which must be consistent with the framework reference financial model. Each Call-Off contract will also be based on a solution that is derived from the solution components approved for the Framework. The Supplier will also be asked to provide formal assurance that its costs and prices stated are similar to those in other similar projects and in the Supplier investment in the first two thirds.

## Payment by results:

Each Call-Off contract contains payment terms that only permit the supplier to be paid when they have achieved certain outcomes. These outcomes have been organised into a series of milestone payments which will be triggered by the build, completion and switching on of the broadband networks at a local level.



The milestone payments incorporate payments for inputs (building the network), outputs (eg ensuring that coverage and speed targets are met) and outcomes (successful take-up by customers). This provides assurance that Bidders focus on all aspects of the solution and not just, for instance, infrastructure implementation

## Detailed Evidence to Support Milestone Payment Claims:

EU commission rules on the payment of State Aid dictate that suppliers must provide evidence of the assets that they have created using State aid. Additionally, suppliers can only claim for direct capital costs incurred in the creation of the assets, ensuring appropriate use of the public subsidy. Each local project will review detail within invoices and records produced by suppliers and ensure that any claims for payment are eligible under the terms of the State Aid notification.

## Supplier assurance of costs and prices:

Suppliers will be required to provide a signature from an accountable officer (eg the Chief Financial Officer) to affirm that all costs and prices used in the generation of invoices are in accordance with state aid guidance and only relate to the Public Subsidised network build.

## Reporting and Audit

DCMS will rely on the audit and VFM processes followed by the local authority at individual project level to ensure probity of public expenditure and successful management of the contract. Under the Call-Off contract, the Supplier will report on outcomes and other metrics to the local authority (and hence BDUK/DCMS). BDUK is also putting in place a formal assurance programme to cover all projects.

## Claw-back to prevent over-subsidy

A further condition of State Aid is that the Supplier should not be over-subsidised. To prevent this a “reverse payment mechanism” should be used. For the broadband programme, claw-back would be applied where the level of broadband consumer take-up exceeds the level forecast by the Supplier. If the claw-back mechanism is invoked, the Call-Off contract allows the Supplier to re-invest first in delivering more superfast broadband (through use of an Investment Fund) before any subsidy is returned to the public sector.

The claw-back mechanism is designed to provide a reasonable incentive for Supplier’s to improve take-up.



## Investment Ratio

The local authority will calculate an Investment Ratio to determine the level of Supplier investment compared to the public subsidy. Where the ratio indicates that Supplier investment is below that indicated by the Supplier in its bid for the Call-Off contract, then the local authority can reduce its subsidy or incentivise Supplier investment through the Investment Fund mechanism.

## Knowledge capture and sharing

DCMS, through the Governance processes afforded in the Framework Agreement, will capture in-life costs from actual implementation and bidding. This will be used to inform future call-offs and to support local authorities in delivery of successful broadband network implementation.