

## MUNICIPAL YEAR 2016/2017 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

**OPERATIONAL DECISION OF:**  
Director – Finance, Resources & Customer Services

**Agenda – Part: 1**

**KD Num: 3473**

**Subject:**  
**Housing Quarterly Electricity Contract Renewal – Landlords’ Supplies**

**Wards: All**

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### 1. EXECUTIVE SUMMARY

- 1.1 The current contract for Housing landlords’ electricity supplies ends 30<sup>th</sup> September 2016. There are 980 supplies; 78 serving communal heating and 902 serving lighting and lifts. 160 are large supplies (>10,000 kWh p/a) and 820 are small supplies (<10,000 kWh p/a). The estimated value of the new contract is £1,450,000. The current contract supplier is Southern Electric, Scottish and Southern Energy (SSE).
- 1.2 There are two procurement options for contract renewal: (i) Fixed Term Fixed Price (FTFP), where the business is settled on a pre-determined date and prices known in advance of the supply period (budget certainty) or (ii) Flexible procurement where energy is purchased at strategic points ahead of the supply period and the price set at the start of each contract year. Flexible procurement can mitigate the impact of significant price swings, but is generally more suitable for larger consuming supplies, as a greater percentage (>20%) of the delivered price represents the tradable commodity. For very low value/consumption supplies (<10,000 kWh p/a), the tradable commodity may only be 20% of the total delivered price (the remaining 80% is made up of network and government charges which are fixed). Therefore, the cost of a fully risk managed, flexible procurement approach may not be justified.
- 1.3 Although a riskier strategy, FTFP procurement can afford the opportunity to secure extremely competitive rates. This depends on the wholesale market and the suppliers’ appetite for business. We have achieved excellent contract prices by employing this strategy in the past, particularly for 59 communal heating accounts (larger supplies) which represent >50% of the portfolio consumption and 39% of the total contract value (~£565,000).
- 1.4 Enfield Council is a member of LASER (Local Authorities South East Region), a Central Purchasing Body managed by Kent County Council. LASER has an OJEU (Official Journal of the European Union) compliant FTFP contract (multiple provider) framework in place.

- 1.5 The preferred procurement strategy is to secure another one year, FTFP contract utilising LASER's framework. This recommendation is based on past performance. Should the outcome be less favourable, we will consider transferring the larger supplies (160) to longer term, corporate, flexible contracts from 1<sup>st</sup> October 2017. This will require Leaseholder Dispensation.
- 1.6 This report seeks the approval of the Director of Finance, Resources and Customer Services to award the contract for a 12 month period from October 1<sup>st</sup> 2016 - 30<sup>th</sup> September 2017 (FTFP).

## **2. RECOMMENDATIONS**

It is recommended that the Director of Finance, Resources and Customer Services approves the award of a new 12 month contract to Southern Electric (SSE) for the supply of electricity to Housing sites (landlords' supplies). The winning contract offer was secured by mini competition using LASER's OJEU compliant FTFP contract (multiple provider) framework. The new contract will commence on 1<sup>st</sup> October 2016.

## **3 BACKGROUND**

- 3.1 Enfield Council is a member of LASER (Local Authorities South East Region) a Central Purchasing Body, managed by Kent County Council, representing 115 local authorities and 45 wider publicly funded bodies. LASER has been assessed and approved as a best practice energy procurement provider by the London Energy Project. The London Energy Project is a shared Energy Category Management resource, funded through direct authority contributions. Under this arrangement the LEP has, on behalf of all participating authorities, undertaken a series of independent and impartial technical assessments of market risk and of energy contracts as provided by LASER.
- 3.2 LASER has an OJEU compliant FTFP contract (multiple providers) framework in place. The contract framework allows LASER to run a mini competition seeking price offers for conventional or renewable energy (subject to supplier availability), to secure a contract on the Council's behalf, following the Council providing instruction and the relevant signed contract with the winning supplier. Mini-tenders can request pricing for any contract duration, although price premiums will typically be incurred for durations of greater than 3 years. Leaseholder dispensation (First-Tier Tribunal) will be required for contracts > 1 year.
- 3.3 LASER prepared the tender for the supply of electricity to Housing sites (landlords' quarterly billed supplies) in June 2015 and the contract was awarded to Southern Electric on July 17<sup>th</sup> 2015. The one year contract commenced on October 1<sup>st</sup> 2015 and will end on September 30<sup>th</sup> 2016.

- 3.4 The contract renewal date for the supply of electricity to the non-half hourly, quarterly billed, Housing landlords' supplies is October 1<sup>st</sup> 2016.
- 3.5 The Housing landlords' electricity supplies' portfolio comprises approximately 980 supplies, including communal heating, staircase lighting and lifts. The supplies are billed quarterly.
- 3.6 The estimated value of the new contract for Housing electricity landlords' supplies is £1,450,000 based on estimated and actual annual consumption. LASER has advised that the current wholesale (commodity) market price is slightly higher than when the contract was last settled in July 2015. In July 2015 the commodity (energy) price was £44.44/MWh and is currently £46/MWh. In July 2014 the wholesale energy price was £49.43/MWh. However, the wholesale or energy price only represents approximately 45% of the delivered price. The remaining uncontrollable element (55%) represents the non-energy components e.g. transmission/distribution/taxes and government regulated fees and charges/levies such as the Feed in Tariff and Climate Change Levy. LASER anticipates a 12% increase in non-commodity costs. Therefore, there is an estimated increase in delivered contract price of ~10%. The increase represents a slight rise in the electricity wholesale market price from July 2015, the suppliers' risk premium which is incorporated to cover unknown changes to the non-commodity elements of the prices from April 2017 and the concern over the amount of spare capacity on the power system for the upcoming winter period, leading to suppliers increasing the level of risk inherent in their pricing.
- 3.7 Wholesale energy prices are influenced by a range of factors including supply security, weather trends, European prices, geopolitical issues, market sentiments etc. This can result in price volatility of 5-10% over the course of a few days. These are external factors outside the Council's and LASER's control.
- 3.8 Should the renewed, one year, FTFP Housing landlords' electricity supplies' contract be less favourable than in previous years, a thorough options appraisal will be undertaken to determine the best, risk managed procurement strategy for the 160 larger consuming supplies from October 1<sup>st</sup> 2017.
- 3.9 LASER tendered new OJEU compliant four year flexible frameworks for the supply of electricity and gas for the 1<sup>st</sup> October 2016 – 30<sup>th</sup> September 2020. Therefore, the options appraisal will consider whether, in terms of price risk management, it would be prudent to transfer 160 larger supplies to longer term, corporate contract arrangements in year two (from October 1<sup>st</sup> 2017). This will require leaseholder dispensation and a supplier change. The remaining 820 housing landlords' supplies will still be tendered under the FTFP arrangements. This could also result in a supplier change.
- 3.10 The options will be considered in terms of overall value for money, risk management, Flexible vs Fixed Term Fixed Price contracts and measured

against additional administrative/technical costs to the Energy Management Team for potential supplier changes and the cost of additional, bespoke EDI (Electronic Data Interchange) packages (facilitating electronic importing of invoice data).

- 3.11 The procurement/contract options will be presented to and considered in consultation with Corporate Procurement, HHASC (Health, Housing and Adult Social Care) including the Assistant Director, Council Homes, FRCS (Management Accountant Enfield Homes), Leaseholder Services, Legal Services and LASER. The small supplies' electricity market is extremely complex and the LEP has undertaken a significant amount of research and analysis in order to best advise their members.
- 3.12 Following guidance from LASER it has been agreed that securing a one year, FTFP contract from October 1<sup>st</sup> 2016 will provide sufficient time to carry out a detailed options appraisal and Leaseholder Dispensation (First-Tier Tribunal) in order to secure long-term, flexible energy contracts for the Housing electricity landlords' supplies if and where appropriate.
- 3.13 As the contract offer is only valid for approximately two hours on one specific day, a waiver to call-in has been submitted and approved.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Do nothing. The current contract will end on September 30<sup>th</sup> 2016. If a new contract isn't secured, the supplies will be subject to 'out of contract' rates from October 1<sup>st</sup> 2016, which are significantly higher (>100%) than contract rates.
- 4.2 The preferred option is to tender a one year FTFP contract from October 1<sup>st</sup> 2016 in order to secure competitive contract rates, particularly at a time when the market is still favourable. This will also provide sufficient time to carry out a detailed options appraisal and Leaseholder Dispensation (First-Tier Tribunal) in order to secure long-term, flexible energy contracts for the larger Housing electricity landlords' supplies from October 1<sup>st</sup> 2017, if and where appropriate.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 Securing one year, Fixed Term Fixed Rate contracts for the Housing Landlords' electricity supplies has been a successful procurement strategy historically, particularly in relation to the unit prices achieved for the communal heating supplies. In July 2015, the difference in contract offer between SSE (winning supplier) and the second place supplier (EDF) was £200,421. £133,662 represented the communal heating supplies, for which we have historically achieved extremely low rates for 'Restricted Hours Tariffs' (< 6p/unit). Only 59 supplies in the Housing portfolio are eligible for this tariff, but they represent > 50% of the contract consumption volume. Part

of the reason for the low unit rate is because the demand for electricity for these specific supplies is outside peak times. Overall, we have secured extremely competitive rates historically (<6p/kWh). However, FTFP contracts also carry far greater risk in terms of exposure to dramatic price swings year on year. Longer term, flexible contracts smooth any price spikes, thereby, mitigating the risks associated with FTFP contracts.

- 5.2 Following consultation with LASER and Leaseholder Services, a one year FTFP contract is the preferred option for 16/17, as it will allow sufficient time to track the wholesale market and conduct a detailed procurement options appraisal. It will also provide Leaseholder Services with sufficient time to implement Leaseholder Dispensation (First-Tier Tribunal), should long term, flexible contracts be the preferred procurement route in future.
- 5.3 The LEP has undertaken a significant amount of detailed research in order to establish best procurement practice for 'small' electricity supplies (quarterly billed) and this will be taken into account as part of the appraisal.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

- 6.1.1 The Energy costs are recovered from tenants and leaseholders. The approximate increase of £22k in the Electricity Contract will be passed on to the residents in the form of a service charge.
- 6.1.2 This new service charges do not come into effect until 1<sup>st</sup> April 2017, therefore the increase in contract value between October 2016 and March 2017 will be funded from the Housing Revenue Account.

### **6.2 Legal Implications**

- 6.2.1 Section 1(1) of the Localism Act permits the Council to do anything that an individual generally may do, subject to express prohibitions. In addition Section 111 of the Local Government Act 1972 further gives the Council the power to do anything ancillary to, incidental to or conducive to the discharge of its statutory functions and may enter into a contract with a provider for the services pursuant to section 1 of the Local Government (Contracts) Act 1997.
- 6.2.2 The Council's constitution (specifically, the Contract Procedure Rules ("CPRs")) permit the use of Framework agreements subject to the prior approval of the Assistant Director Procurement. The Council must ensure that the procedure for call off under the terms of the Framework is complied with.
- 6.2.3 The Council must comply with its obligations with regards to obtaining best value under the Local Government (Best Value Principles) Act 1999.

6.2.4 The contract must be in a form approved by the Assistant Director Legal Services and Governance.

### **6.3 Procurement implications**

6.3.1 LASER will run the mini competition on behalf of the Council via their own OJEU compliant system.

6.3.2 LASER have confirmed the framework is live (running 48 months from 20 May 2016) and the Council has completed due diligence to confirm that the Council can access the new framework agreement.

## **7. KEY RISKS**

Failure to secure the contract imminently for a start date of October 1st 2016 will subject the prices to a significant increase. If a contract is not secured from October 1st then 'out of contract rates' will be applied, which will be as much as or greater than 100% higher than contract rates. The energy market is extremely volatile and prices can fluctuate up to 5% on a given day, therefore, it is essential to secure the contract at a time when the market is favourable.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

Through best practice procurement, competitive prices will be sought for all supplies pertaining to this contract.

### **8.2 Growth and Sustainability**

The Energy Management Team is part of the Sustainability Service. Through the Enfield 2020 Sustainability Programme, the Sustainability Service is helping the Council deliver a wide range of strategic sustainability projects, a number of which focus on 'managing your energy.' Best practice energy procurement is an integral part of this process, helping the Council save money by saving energy.

### **8.3 Strong Communities – Positive**

Securing value for money contracts will protect the Council's reputation in the local community.

## **9. EQUALITY IMPACT IMPLICATIONS**

An equality impact assessment/analysis is not relevant or proportionate for the approval of a new 12 month contract for the supply of electricity to

Housing sites (landlords' supplies) that will ensure value for money for all consumers.

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

The contract will be managed by the Energy Manager throughout to ensure correct pricing.

**11. PUBLIC HEALTH IMPLICATIONS**

Through best practice procurement, competitive contract prices will benefit many council housing residents and leaseholders by ensuring value for money for communal landlords' supplies including lighting, heating and lift supplies. This links to the fuel poverty agenda, which in turn has an impact on public health.

**Background Papers**

None





**MUNICIPAL YEAR 2016/2017 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**OPERATIONAL DECISION OF:**  
Director – Regeneration  
and Environment

<b>Agenda – Part: 1</b>	<b>KD Num: 4374</b>
<b>Subject:</b>  <b>Procurement Strategy for the provision of passenger transport related services.</b>	
<b>Wards: ALL</b>	

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**1. EXECUTIVE SUMMARY**

The report sets out the current position with regard to contracts for the provision of passenger transport related services. It sets out a procurement strategy to replace existing contracts with a more flexible model, which is to be procured through a dynamic purchasing model. It seeks to extend existing contracts pending implementation of this procurement strategy.

**2. RECOMMENDATIONS**

- 2.1 To approve the extension and termination of existing contract arrangements as set out in the report.
- 2.2 To use a new dynamic purchasing system for the procurement of suppliers to provide passenger transport and related services ranging from taxis, minibus and bus both with and without relevant staff to meet the Council's passenger transport needs for home to school and adult transportation is approved.
- 2.3 That delegated authority for the Assistant Director Planning, Highways, Transport & Environment to sign off and amend individual contracts emanating from the dynamic purchasing system is approved.

### **3. BACKGROUND**

- 3.1 The Council has a statutory duty to provide transport and travel assistance to children under the age of 18 years that qualify for home to school travel. The current level of children qualifying to receive transport is circa 700.
- 3.2 It is forecast that the overall children population in the borough will increase significantly over the coming years.
- 3.3 A procurement process was undertaken and awarded in 2014 for a number of block schedules for large & small buses, with and without drivers, the passenger numbers at that time being around 550.
- 3.4 Growth in passenger numbers (700 at April 2016) along with continual movement of schools due to age has caused the fixed vehicle arrangement to exceed the allowance in the contract.
- 3.5 To manage growth in passenger numbers two further contracts were awarded and commenced in February 2016 to provide additional resource using taxis.
- 3.6 An external review of Passenger Transport Services was carried out at the end of 2015. It concluded that the approach for procurement was limited due to the small number of suppliers currently available and lack resilience for supplier failure.
- 3.7 The review concluded that the existing contracts did not represent good value for money for the Council. On 22<sup>nd</sup> June 2016, the Procurement and Commissioning Board considered a revised approach to procurement and a framework which can be delivered by moving to a dynamic purchasing system (DPS) and a system of individual route auctioning.
- 3.8 A DPS is an electronic framework that is 'open' i.e. new operators are allowed to join at any time during the life of the framework as long as they pass the same checks as all the other operators on the framework.
- 3.9 We recommend, in addition to setting up a DPS, that route specific auctioning is introduced. Route auctioning works by asking operators to bid for routes they wish to operate and submit their prices electronically against each route specification. The Council then enters into an electronic auction process for each route where each operator gets the opportunity to bid their daily price downwards should they wish to do so. Each operator in the auction only sees where their price ranks against all the prices bid for each route they have submitted a price for so if they are not in first place they have the opportunity to further bid to win routes that they wish to. An additional benefit is that route auctioning can be used throughout the life of the framework for new routes or changes to routes.

- 3.10 In order to continue to provide the services until the new dynamic purchasing system is in place, delegated authority is required to extend and terminate current supplier contracts.
- 3.11 It is recommended that the period for the framework should be 5 years with options to extend for a further 4 years, with two 2-year contract extensions. This will provide bidders with sufficient certainty for potential business opportunity to maximise the number interested in providing these services for the Council.
- 3.12 Existing contracts are due to end on 24<sup>th</sup> October 2016. These contracts have the option to extend, but also have three-month break clauses. The report recommends an extension of these contracts, but this will only be until the procurement using dynamic purchasing provides alternative passenger transport services. It is anticipated that new contracts will be in place from 1<sup>st</sup> April 2017.
- 3.13 Significant re-routing is also being undertaken, which will impact on the number of transport services required. It is considered prudent to conclude the re-routing programme before a procurement exercise is undertaken.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

Consideration has been given to a new block arrangement framework but has been discounted as it would not allow fair market growth or continual competition.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 Previous procurement processes targeted minimal numbers of suppliers to provide transport and related services using an overall cost for blocks of services for a fixed period.
- 5.2 Due to continual growth in service users a different approach is required to increase the supplier base and ongoing competition, the dynamic purchasing system arrangement allows suppliers to join throughout the term of the framework once quality standards have been met.
- 5.3 Value for money

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

## **6.1 Financial Implications**

- 6.1.1 This report seeks to approve the extension and termination of existing contract arrangements as set out in the report and to use a new dynamic purchasing system for the procurement of suppliers to provide passenger transport and related services.
- 6.1.2 The financial implications and due diligence related to the proposed procurement strategy to replace existing contracts with a more flexible model is to be procured through a dynamic purchasing model; will be assessed and reported as part of the procurement & approval process, and the contract award process.
- 6.1.3 There are no additional costs as a result of extending the current contract and there shouldn't be contract termination costs; provided the Council act's within the agreed terms of the contract.
- 6.1.4 It is estimated that this procurement could realise savings in the region of 10% of the current contractual costs, which if realised would provide savings of approximately £250K.

## **6.2 Legal Implications**

- 6.2.1 Section 1 of the Localism Act 2011 permits the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles.
- 6.2.2 The Council wishes to put in place a Dynamic Purchasing System ("DPS"), a procurement method for contracting authorities that is regulated under Regulation 34 of the Public Contracts Regulations 2015 ( " the Regulations " ), and includes such stipulations as : there must be no charge for any economic operator who is allowed to participate in the DPS ; there can be no limitation of the numbers of economic operators allowed to participate in the DPS, provided they can pass any eligibility test laid down to participate in the DPS.
- 6.2.3 Whoever takes responsibility within the Council for compiling and operating the DPS, must therefore ensure that it is compiled and operated in accordance with the Regulations in order to prevent any challenge based on compiling or operating the DPS in an anti – competitive manner.

## **6.3 Property Implications**

None

## **7. KEY RISKS**

- 7.1 If the procurement does not secure sufficient bidders there could be an impact on the Council's obligation to safely transport in-scope SEN and Social Care clients to and from pre-arranged destinations and could jeopardise the Council's community safety priorities.
- 7.2 Any further risks identified throughout the project delivery will be managed by the project manager and escalated and managed via the governance structure.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

People transport services are responsible for the provision of transport for people that qualify under the home to school and HHASC policies. The provision of SEN and Social Care Smaller Vehicle (Taxi and Driver) Transport Services will enable the Council to comply with its obligation to safely transport vulnerable clients to and from pre-arranged destinations within and outside the Borough.

### **8.2 Growth and Sustainability**

The proposed dynamic purchasing system will encourage local suppliers to join the framework throughout its term; suppliers that may not qualify immediately will be able to work to meet the quality standards required by the framework.

### **8.3 Strong Communities**

The provision of these services support the Council's priority in providing protection and reassurance to vulnerable members of the public and will enhance the reputation of the Council by exhibiting positive action in order to ensure the safety and well-being of its vulnerable residents.

## **9. EQUALITIES IMPACT IMPLICATIONS**

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

- 10.1 Performance management requirements will be built into the procurement process and supported by supplier's signature to the terms and conditions of the authority.

- 10.2 A robust performance management regime will be put in place that will be able to effectively manage suppliers of all sizes in accordance with the provision of services.

**11. HEALTH AND SAFETY IMPLICATIONS**

Health and safety policies of all bidders will be considered during the procurement process and ensured they hold and maintain third party accredited health and safety registration.

**12. PUBLIC HEALTH IMPLICATIONS**

Education is fundamental to the health and wellbeing of individuals and subsequently communities. Ensuring that people with mobility difficulties are able to attend educational facilities will support their health and help develop future independence.

**Background Papers**