

MUNICIPAL YEAR 2018/2019 REPORT NO.

A delegated Decision of the Executive Director of Resources

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Agenda – Part: 1	
Subject: Wards: ALL ICT & Transformation Work Programme External Resources - KD 4700	

1. EXECUTIVE SUMMARY

Since April 2018, the external resources to support ICT and Transformation Work Programme and service delivery have been provided via work packages from suppliers Venn and SunGard. Prior to this resources were in place through Matrix and SunGard, with timesheets being signed off. These new work package arrangements were put in place for 3 months to allow the service to review resourcing and identify the new posts that were needed and the right remuneration for those posts.

This report has identified a need for work packages of various durations – some of which will see projects and programmes through to conclusion, and some of which will bridge the gap of time in which the ICT service will complete role creation, evaluation and recruitment to new roles, which is now well underway.

The only work packages required in the future will be where no existing resource is within the establishment.

2. RECOMMENDATIONS

That the Executive Director of Resources approves the use of the following work packages:

Work Package	Risk of not putting work package in place
Project Management	Work Programme will have no project managers
Programme Management	Enabled Employee, SunGard Data Centre exit and Skype for Business will not be delivered on time or in budget
Adult Social Care Programme Management	Social Care Programme is not delivered on time or in budget
End User Computing Project	End User Computing – Device replacement project – will have no project manager and not be delivered on time or in budget
Testing	Programmes such as Enabled Employee and Digital Platform development will have no test resource until permanent resource is appointed

2. Recommendations continued:

Technical ICT	Day to day support and project development of infrastructure will be at risk potentially losing services until permanent resource appointed
Web Development	Website may fail or any web development will not be done until permanent resource appointed
BizTalk Development	The day to day integration of the website to line of business systems will not be supported
Operational ICT	There will be no day to day support for networks or servers until permanent resource appointed
Security	No lead on Security to look after day to day issues until permanent resource is appointed
GDPR	Enfield do not have a Data Protection Officer or office (Statutory Requirement)
ICT Security	There are no security officers to be able to resolve issues until permanent resource appointed

See part 2 report

The work packages provide resources that will be replaced by recruitment to permanent roles.

The minimum expected recruitment period is 4 months and a maximum of 6 months is costed and factored in to mitigate the risk of failing to complete recruitment and handover to permanent resources in time. If that happened then both day to day service delivery and completion of the work programme within time would be compromised.

Remaining costs are to deliver specific items to the end of the programme or project.

These are to be funded from the agreed Work Programme budget for 2018/19-2019/20 (key decision no: 4410), and some funding from schools for the GDPR work package, whilst the ongoing service delivery is to be charged to revenue, capital receipts or reserves.

Approval is sought to accept the supplier liability limit set out in the draft contract mentioned within the risks section below, rather than the unlimited liability required in the Council's CPRs.

3. BACKGROUND

The council has an ambitious ICT and Transformation Work Programme, with a budget of £32m, approved by Cabinet on 14 December 2016, and subsequently by council.

The programme was established to deliver essential modernisation of software systems for major council services, essential updates to core ICT infrastructure and hardware required to keep the Council compliant with external legislation, and to maintain ICT equipment in a useable state while keeping data secure.

Where external resources are covering ongoing service delivery roles, this is due to a combination of failure to recruit previously because salaries are too low, or because the posts do not exist in the current ICT structure.

4 ALTERNATIVE OPTIONS CONSIDERED

- Do Nothing: Not acceptable, as this would put the council's approved work programme and some service delivery at risk.
- Recruit to fixed-term or permanent employee contracts now: roles are going through the final evaluation processes with HR, after which they will be advertised, so new recruits can join the council in 4-6 months' time.

5 REASONS FOR RECOMMENDATIONS

The recommended option is to award contracts to Venn and SunGard to protect business continuity, control costs, and improve performance management.

Procuring the services via these suppliers keeps the costs at an equivalent level to those previously being paid via Matrix and maintains the separation of the relationship between the council and any individuals thus removing the IR35 liability. This also enables the council to pay for work based on outputs and milestones rather than days worked and by adding break clauses to the packages enables the council to terminate delivery of services without committing to further funding

6 COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES

6.1 Financial Implications

See Part 2 report

6.2. Legal Implications

- 6.2.1 The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles
- 6.2.2 Section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions.
- 6.2.3 The Council must comply with its Contract Procedure Rules and, where applicable, the Public Contract Regulations 2015. The Council's Contract Procedure Rules and Public Contracts Regulations 2015 permit the Council to call-off from an existing framework if the framework terms permit. The Council's Corporate Procurement Team is satisfied that the Council may procure the services, in accordance with the G-Cloud Framework. The resulting call-off contract must be based on the Framework terms and the Council must ensure that it follows the rules of the Framework, paying particular attention to any "direct award" rules and requirements.
- 6.2.4 For contracts between £250,000 to £1,000,000 officers should consider obtaining sufficient security to manage risk. Evidence of the form of security or why no security is required should be stored and maintained on the E-Tendering Portal.
- 6.2.5 The Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.

6.3. Property Implications
N/A

6.4 Procurement Implications

- 6.4.1 These services for implementation have been procured via Gov.uk digital marketplace framework, G-Cloud.
- 6.4.2 That in all cases procurement must follow contract procedure rules and EU regulations.
- 6.4.3 Any call off from a framework must be in line with the framework terms and conditions and the framework must be legally compliant and be accessible by Enfield Council.

6.5 IT implications

This decision supports the delivery of improved services through improved IT, as defined by the agreed work programme.

7. KEY RISKS

7.1 Venn and SunGard's Liability levels are capped at 125% of the contract fee, but the risk of damages from resources rather than functions is significantly lowered.

7.2 Securing resources for 6 months is insufficient to complete relevant items of the programme or recruit into permanent roles and so we retain a risk of business continuity, pending a longer-term solution, which is an ICT service priority.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

This work programme enables improved service efficiency and effectiveness for multiple services who are promoting fairness and opportunity including Adult Social Care and Housing.

Furthermore, it clearly enabling 'A fit for purpose Council', which supports the following principles:

- Do it once and in one place
- Right People with the right capabilities in the right place at the right time
- Efficient value for money financial management

8.2. Growth and Sustainability

This work programme enables improved service efficiency and effectiveness for multiple services promoting growth and sustainability.

8.3. Strong Communities

This work programme enables improved service efficiency and effectiveness for multiple services promoting strong communities.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

The work package strengthens performance management of resources.

10. HEALTH AND SAFETY IMPLICATIONS

NA

MUNICIPAL YEAR 2018/2019 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:

Executive Director –
Resources

Agenda – Part: 1

KD Num: 3473

Subject:
**Housing Quarterly Electricity Contract
Renewal – Landlords’ Supplies – Approval
of Procurement and Award of Contract
using LASER Framework**

Wards: All

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1. EXECUTIVE SUMMARY

- 1.1 The current contract for Housing landlords' electricity supplies ends 30th September 2018. There are 973 supplies; 78 serving communal heating and 895 serving lighting, door entry systems and lifts. 156 are large supplies (>10,000 kWh p/a) and 817 are small supplies (<10,000 kWh p/a). The estimated value of the new 12 month contract is £1,842,117. The current contract supplier is Southern Electric, Scottish and Southern Energy (SSE).
- 1.2 If a new contract is not secured for a start date of October 1st 2018, the supplies will be subject to 'out of contract rates' costing the Council up to an additional ~£2 million in one year.
- 1.3 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 and uncontrollable). Therefore, the cost of a fully risk managed, flexible procurement approach may not be justified. FTFP contracts can vary in length from one to three years. Flexible contracts are > one year. Any contract > one year will require Leaseholder Dispensation (First-Tier Tribunal).
- 1.4 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 rates by employing this strategy in the past, particularly for 59 communal heating accounts which represent 29% of the total contract value (~£557k).

- 1.5 Enfield Council is a member of LASER Energy (LASER), a Public Sector Energy Buying Group, which is a division of Kent County Council Commercial Services. LASER has an OJEU (Official Journal of the European Union) compliant FTFP contract (multiple provider) framework in place.
- 1.6 The preferred procurement strategy is to secure another one year FTFP contract, utilising LASER's framework. The contract will be secured on June 21st 2018.
- 1.7 This report seeks the approval of the Executive Director - Resources to award the contract to the winning supplier on June 21st 2018 for a 12 month period from October 1st 2018 - 30th September 2019 (FTFP).

2. RECOMMENDATIONS

- 2.1 It is recommended that the Executive Director - Resources approves the award of a 12 month contract to the winning bidder, Southern Electric, Scottish and Southern Energy (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 1st October 2018.

3. BACKGROUND

- 3.1 Enfield Council is a member of LASER Energy (LASER), a Public Sector Energy Buying Group, which is a division of Kent County Council Commercial Services, 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 (LEP). The LEP 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 OJEU Reference is Y16021. 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 three years. Leaseholder Dispensation (First-Tier Tribunal) will be required for contracts > one year.

- 3.3 The Housing landlords' electricity supplies' portfolio comprises approximately 973 supplies, including communal heating, staircase lighting, lifts and door entry systems. The supplies are billed quarterly.
- 3.4 LASER prepared the tender for the supply of electricity to Housing sites (landlords' quarterly billed supplies) in June 2017 and the current contract was awarded to Southern Electric on July 26th 2017. The one year contract commenced on October 1st 2017 and will end on September 30th 2018.
- 3.5 The contract renewal date for the supply of electricity to the non-half hourly, quarterly billed, Housing landlords' supplies is October 1st 2018. The contract will be tendered week commencing June 18th 2018 and following LASER's comprehensive checks and evaluation process, contract sign-off is scheduled for June 21st 2018. If a new contract is not secured from October 1st 2018, 'out of contract' rates will be applied, which will incur additional costs to the Council of an average £166,000 per month and ~£2 million in one year.
- 3.6 Delivered energy prices are built up from costs that can be controlled, such as commodity (tradeable raw energy) costs and supplier administration fees and profit margin, and uncontrollable or difficult to control costs that are regulated by government such as pass through costs levied for use/maintenance of the distribution network and renewable energy generation.
- 3.7 The estimated annual value of the new contract for Housing electricity landlords' supplies is £1,842,117 based on estimated and actual annual consumption. LASER has advised that the current wholesale (commodity) market price is significantly higher than when the contract was last settled in July 2017. In July 2017 the commodity (energy) price was £45.79/MWh (winter 2017 price) and £39.60/MWh (summer 2018 price) and is currently £59.62/MWh (winter 2018 price) and £48.95/MWh (summer 2019 price). This represents an increase of 30.20% and 23.61% respectively on winter 2018 and summer 2019 prices. However, the controllable wholesale energy price only represents approximately 45% of the delivered price. The remaining uncontrollable i.e. non-competitive 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 16% increase in non-commodity costs. Therefore, there is an estimated increase in delivered contract price of 21.798%. The increase represents a significant rise in the electricity wholesale market and an estimated 16% increase in the non-commodity, non-competitive element. The

suppliers' risk premium is incorporated to cover unknown changes to the non-commodity elements of the prices from April 2019.

- 3.8 A projected increase of 20% was reflected in the calculation of electricity running cost estimates completed for Housing Finance at the end of 2017 for both communal heating and general landlords' electricity supplies.
- 3.9 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.
- 3.10 In the last few months wholesale electricity prices in the UK have increased across the board. The dominant drivers of market direction are as follows:
- **Oil prices:** Oil prices have spiked after the US pulled out of the Iran nuclear deal and are set to re-impose sanctions on Iran.
 - **Higher coal & carbon benchmarks:** Carbon prices are currently at their highest levels since 2011. Coal prices are currently trading at their highest levels for 2018.
- 3.11 Given the volatility seen in the past few months in the electricity market and the continued, albeit reduced risk that poor electricity generation margins have posed in the past (and will continue to pose), a thorough options appraisal will be undertaken to determine the most appropriate, risk managed procurement strategy for Housing Landlords' electricity supplies in future and in conjunction with Corporate and Schools' utility supplies for contracts commencing October 1st 2020.
- 3.12 Securing a one year, FTFP contract from October 1st 2018 provides an interim solution whilst a comprehensive options appraisal for all Council energy supplies is undertaken.
- 3.13 As the contract offer is only valid for approximately two hours on one specific day, a waiver to call-in is in place for FTFP contracts.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Do nothing. The current contract will end on September 30th 2018. If a new contract isn't secured, the supplies will be subject to 'out of contract' rates from October 1st 2018, which are significantly higher (>100%) than contract rates. This will cost the Council an average of an additional £166,000 per month (with the greatest weighting in the winter months) and an additional ~£2 million in one year.

- 4.2 Secure a two year FTFP contract from October 1st 2018 to September 30th 2020. This would ensure that the Housing Landlords' electricity supplies' contract and the Corporate/Schools' energy contracts are co-terminous. Mini-tenders can request pricing for any contract duration, although price premiums will typically be incurred for durations of greater than three years. Leaseholder Dispensation (First-Tier Tribunal) will be required for contracts > one year, which could take up to six months to complete, require officer time from both Energy Management and Home Ownership Services and incur significant additional costs to the Council.
- 4.3 Transfer the larger (156) Housing landlords' electricity supplies to the existing Two Year Rolling Corporate/Schools' flexible contracts for the remaining two years, terminating on September 30th 2020. This would require Leaseholder Dispensation (First-Tier Tribunal), which could take up to six months to complete, require officer time from both Energy Management and Home Ownership Services and incur significant additional costs to the Council.
- 4.4 The preferred option is to tender a one year FTFP contract from October 1st 2018 in order to secure competitive contract rates in a rising market. This will also provide sufficient time to carry out a detailed options appraisal in order to determine the most appropriate procurement strategy in future.

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 and particularly for 'Restricted Hours Tariffs' (currently 6.826p/unit). Only 59 supplies in the Housing portfolio are eligible for this tariff, but they represent ~ 29% of the total contract value ~£557,000. 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; however, FTFP contracts also carry far greater risk in terms of exposure to dramatic price swings year on year, as demonstrated in this year's estimated 21.798% increase. However it is important to note that >10 % of the total increase is represented by non-controllable, non-commodity charges which would be imposed regardless of the procurement strategy. Non-commodity charges are predicted to rise considerably over the next few years.
- 5.2 In order to transfer the larger supplies (156) to the Corporate/Schools' flexible electricity contracts from October 1st 2018 – September 30th 2020, Leaseholder Dispensation (First-Tier Tribunal) would need to be sought and awarded by June 30th 2018. This process is likely to take

up to six months to complete and therefore cannot be achieved in time to facilitate the transfer. It would also incur significant additional costs to the Council.

- 5.3 Following consultation with Home Ownership Services, it is recommended that a one year FTFP contract is the preferred option for 18/19, it will allow sufficient time to conduct a detailed procurement options appraisal and also provide Home Ownership Services with sufficient time to implement Leaseholder Dispensation (First-Tier Tribunal), should longer term contracts be the preferred procurement route in future. A two year contract option at this stage would require approximately six month's officer time to implement Leaseholder Dispensation, by which time the existing supplies will have been subject to 'out of contract' rates for a number of months, some of which will be during the heating season when communal heating consumption is at its highest. Any potential benefits arising from securing a two year contract are likely to be negated by costs associated with 'out of contract' rates.

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

6.1 Financial Implications

- 6.1.1 The increase in the Electricity contract is £330k which is a 21.798% increase on last year's contract. This increase has been built into the HRA 30 year business plan.
- 6.1.2 The Energy costs are recovered from tenants and leaseholders. The increase in the Electricity Contract will be passed on to the residents in the form of a service charge.
- 6.1.3 This service charge won't come into effect until 1st April 2019, therefore the increase in contract value between October 2018 and March 2019 will be funded from the Housing Revenue Account.

6.2 Legal Implications

- 6.2.1 The Council has a general power of competence in s.1(1) Localism Act 2011. This states that a local authority has the power to do anything that individuals generally may do provided it is not prohibited by legislation.
- 6.2.2 S.111 Local Government Act 1972 gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to,

the discharge of any of its functions. The services to be provided, as proposed within this Report are incidental to the functions of the Council's departments and are intended to help ensure an effective service provision to the borough of Enfield.

- 6.2.3 The Council must comply with its Constitution, Contract Procedure Rules ("CPRs") and, as the contract value exceeds the EU threshold, it must also comply with the Public Contracts Regulations 2015. The Council's constitution (specifically, the CPRs) permits the use of Framework agreements subject to the prior approval of the Assistant Director Procurement (CPR 8.2). The Council must ensure that the procedure for call off under the terms of the Framework is complied with along with all applicable Framework rules.
- 6.2.4 The Council must comply with its obligations with regards to obtaining best value under the Local Government (Best Value Principles) Act 1999. The Council must keep a clear audit trail of its decision to award to the Contractor(s) in order to demonstrate that best value has been and will continue to be obtained for the Council.
- 6.2.5 As this constitutes a Key Decision the Council must ensure it follows all applicable Key Decision/Governance procedures.
- 6.2.6 All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by the Assistant Director of Legal Services and Governance.
- 6.2.7 As the contract value exceeds £ 1 million, security in the form of a performance bond / parent company guarantee will be required from the successful contractor (CPR 1.18) and where the contractor cannot provide security but the Council has no acceptable alternative provider or has decided to accept the level of risk, then the Executive Director - Resources must approve the award and the relevant Authority Report must set out the reason why it is proposed that the contract should be awarded despite absence of security and what measures are to be taken to manage this risk (CPR 1.19).

6.3 Procurement Implications

- 6.3.1 LASER will run the mini competition on behalf of the Council via their own OJEU compliant system. The OJEU Reference is Y16021.
- 6.3.2 LASER have confirmed the framework is live (running 48 months from 20 May 2016) and the Council completed due diligence to confirm that the Council can access the new framework agreement in September 2016.

7. KEY RISKS

Failure to secure a contract for the start date of October 1st 2018 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 > 100% higher than current market 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 as soon as possible. Failure to do so will cost the Council an average of an additional £166,000 per month from October 1st 2018, with the greatest weighting in the winter (heating) months and an additional cost of ~£2 million in one year. Advice from our buying agent, LASER, is that price volatility in the UK power market is increasing and there is no evidence to suggest that delaying the tender and contract settlement by a few weeks would achieve better results. Should the contract price offer on June 21st 2018 be particularly unfavourable, LASER will advise accordingly and the contract can be re-tendered if necessary. But this process will also generate additional costs to the Council, which will need to be taken into consideration.

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 Sustainable Enfield, 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. However it should be noted that the any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

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

