

MUNICIPAL YEAR 2019/2020 REPORT NO.

Agenda – Part:

Key Decision No:
3473

REPORT OF:

Executive Director of Resources

Subject:

**Housing Electricity Contract Renewal –
Approval of Procurement and Award of
Contract using LASER Framework**

Contact officer and telephone number:

Liz Wright 020 8379 1640

E mail: liz.wright@enfield.gov.uk

Wards: All

1. EXECUTIVE SUMMARY

- 1.1 The Energy Management team purchases energy on behalf of the Council for both Housing and Corporate properties. The current contract for Housing electricity supplies ends 30th September 2019.
- 1.2 A new contract needs to be secured for a start date of 1st October 2019 to prevent the Housing electricity supplies being subjected to 'out of contract rates' which could double the price for housing supplies.
- 1.3 The preferred procurement option for this type of contract is Fixed Term Fixed Price (FTFP). This will allow us to fix the price of electricity for housing supplies for a term of 12 months giving Housing budget certainty over that period. A procurement date will need to be agreed ahead of time as the offers made on this type of energy purchasing are only valid for 2 hours due to the volatile nature of electricity commodity markets.
- 1.4 The contract will be procured utilising the Council's current provider LASER. The contract will be secured on a set date subject to Executive Directors Resources availability at the end of July, allowing enough time for procurement stages.
- 1.5 Enfield Council procures its energy contracts through 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 This report seeks the approval of the Executive Director - Resources to award the contract to the winning supplier for a 12-month period from 1st October 2019 - 30th September 2020. The estimated value of the new 12-month contract is £1,989,808.
- 1.7 This decision will be subject to a Waiver to Call-In due to the short 2-hour window of opportunity to fix the electricity price for the Housing supplies.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Executive Director - Resources approves the award of a 12-month contract to the winning bidder for the supply of electricity to Housing sites. The winning contract offer will be secured by mini competition using LASER's OJEU compliant FTFP contract (multiple provider) framework. The new contract will commence on 1st October 2019. 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.

3. BACKGROUND

- 3.1 Enfield Council Housing has approximately 970 electricity meters for its Housing stock. These provide energy to:
- 78 meters for Communal Heating
 - 892 meters for lighting, door entry etc
- 3.2 Historically the supplier contract has been purchased through an OJEU compliant Framework (ref Y16021) with LASER Energy Buying Group (part of Kent County Council). LASER have been assessed and approved as a best practice energy procurement provider by the London Energy Project (LEP) who have undertaken a series of technical reviews. LEP are an Energy Management resource funded by contributions from the member authorities which include Enfield.
- 3.3 The Housing electricity supplies have previously been purchased under a one-year Fixed Price Fixed Term (FTFP) contract to provide budget certainty and best value.
- 3.4 The current contract runs 1st October 2018 to 30th September 2019. It is proposed to follow the same approach for the 1st October 2019 to 30th September 2020 period which has an estimated annual cost of £1,989,808.00.
- 3.5 Due to the volatility of the energy commodity market prices are only valid for 2 hours before the pricing is subject to change and renegotiation is required.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Do nothing. The current contract will end on 30th September 2019. If a new contract isn't secured, the supplies will be subject to 'out of contract' rates from 1st October 2019, which are significantly higher (greater than 100%) than contract rates. This will incur additional costs to the Council of an approximately £2 million a year, taking the annual bills up to £4 million.

- 4.2 Transfer all Housing landlords' electricity supplies to LASERSs existing Two Year Rolling flexible contract (which is currently used for corporate property energy purchases), terminating on 30th September 2022.
- 4.3 The recommended option is to Secure a one-year FTFP contract from 1st October 2019 to 30th September 2020. Historically we have been able to achieve better deals on this procurement strategy due to spot purchasing.

5. REASONS FOR RECOMMENDATIONS

- 5.1 Securing one year, FTFP contract for the Housing electricity supplies has been a successful procurement strategy historically, particularly in relation to the unit prices achieved for the communal heating.
- 5.2 By securing a one-year FTFP contract for 2019/2020, it will allow enough time to conduct a detailed procurement options appraisal at the end of 2020 when the Council will review its procurement strategy and review the current contract with LASER. This also will provide Home Ownership Services with enough time to implement Leaseholder Dispensation (First-Tier Tribunal) if longer term contracts are the preferred procurement route in future.
- 5.3 Critical time line:

12 th July 2019	Circulate to teams for comments/changes to their sections on the DAR
19 th July	Comments to be received and DAR Finalised
20 th July 2019	Executive Director Resources to approve for the mini-tender process to be commenced
5 th August 2019 (approximate)	Contract awarded by Executive Director Resources

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

- 6.1.1 The increase in the Electricity contract is £148k which is a 8% increase on last year's contract.
- 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 2020, therefore the increase in contract value between October 2019 and March 2020 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 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) 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 Legal Services on behalf of the Director of Law 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 -Finance, Resources and Customer Services 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 Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).

6.3.2 The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.

6.3.3 All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements, or where the LTP has not been used then all documents must be sent to P&C Hub, to create a contract register entry.

6.3.4 The business case was brought to an extraordinary P&C review Board on 25th June 2019; which discussed the project and the need. The project was approved. It agreed the route to market. It was discussed that a review of the process would take place earlier next year to see if alternative routes to market would be better.

6.3.5 It is assumed that the costs of this electricity supply is re-charged to recover costs to the Council or other Council departments.

6.4 Property Implications

n/a

7. KEY RISKS

7.1 If a contract is not secured from 1st October 2019 then 'out of contract rates' will be applied, which will be as much (or greater than) 100% higher than market contracted rates incurring additional costs to the Council of an approximately £2 million a year.

8. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

8.1 Good homes in well-connected neighbourhoods

8.1.1 Securing value for money contracts helps protect the Housing Revenue Account. This also will limit pass through charges to tenants and leaseholders.

8.2 Sustain strong and healthy communities

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

8.3 Build our local economy to create a thriving place

- 8.3.1 Securing value for money contracts helps householders to save money which could be spent within the local community, impacting social-economic growth.

9 EQUALITIES IMPACT IMPLICATIONS

- 9.1 An equality impact assessment/analysis is not proportionate for the approval of a new 12-month contract for the supply of electricity to Housing sites. However, if we were to miss the procurement deadline, the Council will be exposed to additional cost. If these costs were to be passed on to residents and leaseholders, this would have a disproportionate impact on the more vulnerable residents.

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.

Energy Management are satisfied that LASER meet the requirements of PSED.

10 PERFORMANCE AND DATA IMPLICATIONS

- 10.1 The contract will be managed by the Energy Manager throughout, working with the Energy Finance Officer- Housing as required.

11 HEALTH AND SAFETY IMPLICATIONS

- 11.1 n/a

12 HR IMPLICAITONS

- 12.1 n/a

13 PUBLIC HEALTH IMPLICATIONS

- 13.1 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.
- 13.2 Any measure which alleviates relative or absolute poverty within the borough, including fuel poverty, will in turn reduce the chance of developing poor health and chronic conditions. Which again would contribute to embedding inequality and poverty.
- 13.3 Residents of adequately heated properties are far less likely to develop respiratory and associated conditions or suffer from acute exacerbations of those. In turn helping to reduce the number of preventable referrals to both hospital and residential social care.

Background Papers

Detailed Background Procurement Information – Housing Electricity Contract
Renewal Approval of Procurement and Award of Contract using LASER Framework