

London Borough of Enfield

Operational Report

Report of: Joanne Drew

Subject: Housing Electricity Contract Renewal –
Approval of Procurement and Award of Contract
Housing LASER Framework

Executive Director: Sarah Cary - Executive Director of Place

Wards: All

Key Decision: KD3473

Purpose of Report

1. To approve the award of contracts for the supply of electricity for Enfield Council's Housing sites (heating and lighting).

Proposal(s)

2. It is recommended that the Executive Director of Place approves the award of a 12-month contract to **insert name of bidder** for the supply of electricity to Housing sites. The winning contract offer has been secured by call-off via a mini competition using LASER's (Public Contracts Regulations (PCR) compliant Fixed Term Fixed Price (FTFP) multiple provider Framework Agreement. LASER is an Energy Buying Group (part of Kent County Council). The new contract will commence on 1st October 2020.

Reason for Proposal(s)

3. The current contract runs from 1st October 2019 to 30th September 2020. The Housing electricity supplies have been historically, successfully, purchased under a one-year Fixed Term Fixed Price (FTFP) contract to provide budget certainty and best value. This has proven to be a successful procurement strategy, particularly in relation to the unit prices achieved for the communal heating.
4. By securing a one-year FTFP contract for 2020/2021, 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. Prices were requested for both brown and green (Renewable Energy Guarantees Origin - REGO backed) electricity sources. The recommendation is to accept **tbc**

Relevance to the Council Plan

6. Modern Council - Financial resilience and good governance

The proposal will support the 2020-22 Council Plan and help:-

Target resources smartly and reinvest income wisely to deliver excellent value for money in all that we do. **Include additional comments if green energy purchased**

Ensure that all decisions we make will help us to become carbon neutral; create good health for local people; safeguard children and vulnerable adults; enhance equality of opportunity and tackle discrimination and inequality.

Background

7. Enfield Council Housing has approximately 970 electricity meters for its Housing stock. These provide energy for 78 meters for Communal Heating and 889 meters for communal lighting, door entry etc
8. Historically the supplier contract has been purchased through a Public Contracts Regulations (PCR) 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.
9. The Housing electricity supplies have previously been purchased under a one-year Fixed Term Fixed Price (FTFP) contract to provide budget certainty and best value.
10. The current contract expires on 30th September 2020. The new contract will run from 1st October 2020 to 30th September 2021 with an estimated annual cost of £1,700,000.
11. 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.
12. Following declaration of Climate Emergency Enfield Council's cabinet has approved a Climate Emergency Action Plan. In support of this Plan this procurement investigated the possibility of moving the housing portfolio to REGO backed electricity and the recommendation is **...(to be completed once awarded)**

Main Considerations for the Council

13. 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 2020. A new contract needs to be secured for a start date of 1st October 2020 to prevent the Housing electricity supplies being subjected to 'out of contract rates' which could double the price for housing supplies.

14. 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.

Safeguarding Implications

15. There are no perceived Safeguarding Implications.

Public Health Implications

16. All consideration within this contract should be given to the procurement of green energy; climate change has been described the greatest challenge to public health in the 21st century and all efforts should be made to mitigate this threat.

Equalities Impact of the Proposal

17. The procurement of a 12-month contract for the supply of energy is not considered to be relevant to the Public Sector Equality Duty (PSED) however detailed consideration will be given to the requirements of the PSED in the procurement of the procurement options appraisal for the long-term contract.

Environmental and Climate Change Considerations

18. As a major contributor to Enfield Council's carbon footprint it is important that any energy contracts enable us the flexibility to purchase green electricity. This LASER contract has the option to purchase electricity from Renewable Energy Guarantees Origin (REGO) backed sources. This is in line with Enfield Council's Climate Action Plan.

Risks that may arise if the proposed decision and related work is not taken

19. If from the proposal is not approved from 1st October 2020 '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.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

20. There are no perceived risks in taking this decision.

Financial Implications

21. This year has seen a decrease in the Electricity contract of £290k which is a 17% reduction on last year's contract.

The Energy costs are recovered from tenants and leaseholders through a service charge. This reduction will be reflected when setting the charges for

2021-22 as part of the rent setting report.

Legal Implications

22. 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. This power includes the power to enter into contracts. In addition, 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.
23. Enfield Council is entitled to use the LASER Framework provided that the framework was properly procured in accordance with the Public Contracts Regulations 2015, and the original OJEU advertisement for the LASER Framework made specific reference to 'purchasing on behalf of Enfield Council' or similar wording.
24. Any award of contracts under the LASER Framework must be carried out in accordance with the procedures set out therein and the council must be satisfied that such contract award(s) represent best value for Enfield Council. The best value requirements derive from the Local Government (Best Value Principles) Act 1999.
25. The Council must comply with its Constitution and in particular the Contract Procedure Rules ("CPRs"). CPR 4.1 permits the use of Framework agreements where it demonstrates best value and any use of a framework agreement must be agreed by the P&C hub.
26. As this constitutes a Key Decision the Council must ensure it follows all applicable Key Decision/Governance procedures.
27. As the contract value exceeds £1 million, the Contractor must be required to provide sufficient security in accordance with CPR 1.18. There are a number of acceptable forms of security, including a performance bond or parent company guarantee.
28. In accordance with CPR 1.19 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 of Finance, Resources and Customer Services must approve the award. 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.

Workforce Implications

29. HR There are no direct workforce implications in this procurement proposal.

Property Implications

30. This supports the property services teams' aspirations to deliver a reliable cost-effective supply which supports our green agenda.

Other Implications

Procurement

31. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (PCRs) (2015).
32. The service is proposing on undertaking a "call-off" via a mini-competition from the Laser Energy Framework Agreement (Ref: Gas & Electricity Fixed Term Fixed Price - Y19022 - Contract award notice 2019/S 247-608897).
33. Due Diligence has been undertaken on the proposed Framework Agreement and is approved by the Procurement & Commissioning Hub.
34. The service must ensure by accessing this framework agreement, that the contract is compliant with the defined rules and procedures of the Framework Agreement.
35. The service must ensure that authority to procure has been obtained and must be uploaded onto the London Tenders Portal.
36. 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.
37. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

Options Considered

38. Do nothing. The current contract will end on 30th September 2020. If a new contract isn't secured, the supplies will be subject to 'out of contract' rates from 1st October 2020, 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.
39. 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. This is not the preferred option as it is felt that better pricing can be obtained using the FTFP contract as per 4.3 below and attached Background Paper.
40. The recommended option is to Secure a one-year FTFP contract from 1st October 2020 to 30th September 2021. Previously we have been able to achieve better deals using this procurement strategy.

Conclusions

41. The recommended option is to Secure a one-year FTFP contract from 1st October 2020 to 30th September 2021. Previously we have been able to achieve better deals using this procurement strategy.

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Date of report

Appendices - none

Background Papers

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