

London Borough of Enfield

Operational Report

Subject: Procuring a Council Water contract for Corporate and Housing supplies to April 2026

Executive Director: Sarah Cary

Wards: All

Key Decision: KD 4601

Purpose of Report

1. To agree that the Council joins a consortium and uses an existing framework contract to procure the supply of water and collection of waste water
2. To agree to a fixed contract period of two years, with the option to exit after an initial two years, or the opportunity to extend this by a further two years (subject to supplier performance and prices remaining competitive), with an overall estimated total contract cost of £1,800,000 (based on full 4 year term from 1st May 2022 – 30th April 2026).
3. The proposals set out in this report offer both best value and an effective way to secure the necessary supplies and services.

Proposal(s)

4. That the Council procures water supplies and the collection of waste water services through LASER ENERGY Ltd (Local Authorities South East Region Energy Ltd) as part of a consortium made up of 5 London local authorities (Barking and Dagenham, Hertfordshire County Council, Camden Council, Hillingdon Council and Enfield Council).
5. LASER was established as part of Kent County Council Commercial Services in 1989, in response to the increasing competitiveness of the deregulated energy markets and now provides complete energy solutions to 110 Local Authorities and other Public Sector bodies throughout the UK.
6. LASER has established an OJEU compliant Framework agreement for the supply of water, sewerage and additional services. The framework is available for all areas of England and accessible by all public sector bodies.
7. LASER will lead in the development and completion of a mini-tender from this Framework for 5 Local Authorities including Enfield. LASER will charge an admin cost of 1% of the total water charge, which will be applied to all supplies where all 5 authorities in the steering group join from project commencement. In the event that some authorities do not proceed, this charge will be revised.

8. LASER will assist in managing the contract, supporting KPIs, report data and hold Enfield data via our established database known as Systems Link.
9. By joining a consortium of Local Authorities, Enfield Council will reduce procurement administration and gain benefits from collaborative working.
10. The intention is to appoint a single waste and water retailer awarded through the LASER Framework Agreement and for a fixed term contract of 2 + 2 years (1st May 2022 – 30th April 2026). If notice is not given to leave at the end of the first two years, the contract will roll forward for an additional 2 years.

Reason for Proposal(s)

11. The Council has around 183 corporate water supplies, which cover a range of buildings including office sites, parks and housing communal areas. The Council, as corporate landlord is required to provide water supplies and waste water collection services, which it does by appointing a suitable supplier. The current contract is due to end 30 April 2022 and an opportunity has been identified to form a consortium with other London local authorities to jointly procure a supplier.
12. Enfield will benefit from working as part of a joint Local Authority collective enabling the sharing of best practice and experience to procuring through collaborative working/knowledge sharing to achieve effective procurement administration cost reduction and quality assurance. This will result in an improved mini tender, contract result and contract management. By sharing experience in this emerging market, it will be easier to achieve a better shared objective by speaking with one voice, sharing best practices and learning from each other's expertise.
13. Enfield has an established and successful relationship with LASER. LASER's success and reputation has helped it to grow organically to its current position serving 110 public sector customers. LASER has over 25 years' experience buying and managing utilities for Public Sector organisations. LASER has become one of the leading procurement and utility management service providers in the UK and work with many public sector bodies including NHS Trusts, Universities & Colleges, Local Authorities and Housing Associations. LASER provide excellent customer service with dedicated customer relationship teams, regular customer communication on industry legislation, news and energy updates. LASER has also developed an established relationship with leading energy suppliers throughout the UK.

Relevance to the Council Plan

14. Modern Council - Financial resilience and good governance

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

- Target resources smartly and reinvest income to deliver excellent value for money in all that we do. The recommended decision delivers value for money by using a recognised procurement framework.

- 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 whilst providing value for money.

Background

15. Enfield Council has approximately 184 Water meters of the current portfolio. The current annual spend for water is £450,000 per annum. This includes corporate buildings and elements of Housing but excludes schools. We are proposing a contract period of 2 + 2 Years (1st May 2022 – 30th April 2026), overall total contract cost £1,800,000.

Main Considerations for the Council

16. The council has a duty to supply Water services to corporate and housing services to maintain the safe use of the buildings.

Safeguarding Implications

17. No direct implications have been identified.

Public Health Implications

18. Water is fundamental to life and the management of waste water led to the building of the Victorian water systems. Today management should include consideration of the management of a scarce resource as well as reducing and stopping carbon emissions.

Equalities Impact of the Proposal

19. Given that this procurement relates to water supplies for Enfield Council, an EqlA has been undertaken. This identifies that providing a water and wastewater service is an essential service but without any significant EqlA impacts.

Environmental and Climate Change Considerations

20. The proposals are likely to have positive impacts:
- Improved water management, including additional metering, should lead to a reduction in the Council's estimated 47.9 tCO₂e of emissions arising from the corporate water supply.
 - More detailed information about the Council's water supply will be the basis for identifying measures to manage consumption, with the potential for targets to be set in respect of reducing carbon emissions.
 - Reducing water consumption will mitigate against water stress. London is an area where water stress is a potential issue due to climate change and increased levels of consumption arising from a growing population.

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

21. *Budget* - Failure to seek a contracted solution will lead to the Council continuing to pay above contract rates and negate the service benefits achieved through collaborative working.

Sustainability – Failure to seek a contracted solution with elevated sustainability and improved service levels will likely miss opportunities for resource and water savings.

22. If Enfield Council decides to decline the mini tender result, we will be liable to pay a one-off service fee of £1,000 to LASER. Enfield Council will then have to commence a separate individual procurement to secure a contract for water and wastewater supply at greater cost to the council. If the mini tender proposal is deemed as 'not fit for purpose' Enfield council will not commit.

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

23. Risks under a water contract are minimal as it's an essential service, however underachieving SLAs could potentially damage the Council's reputation. This will be mitigated by the management of the contract.
24. Consideration has been given as to the potential for a supplier to fail. As the table below shows (sourced online) this is unlikely given the financial stability of the suppliers that will be bidding. Even if they do fail another supplier would be expected to take on the supply so there would not be disruption to service.

Existing suppliers of the LASER framework

Potential Bidding Suppliers	Total Assets
Advanced Demand Side Management	£616,662k
Affinity Water	£195.9M
Anglian Water Business	£214M
Business Stream	£262,000k
Castle Water	£259.7M
NWG	£227M
Water Plus	£174.1M

Legal Implications Prepared by MA based on version of report circulated

25. The Council has a power under section of the 111 Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do, provided it is not prohibited by legislation and subject to public law principles The recommendations set out in this report are consistent with the Council's powers and duties. Section 1 of the Local Authorities (Goods and Services) Act 1970 (the "1970 Act") gives the Council power to enter into agreements with other local authorities and public bodies (as defined therein) for a profit. Before entering into such agreement, the Council must consider whether doing so will be likely to promote or improve the well-being of their area and/or persons within that area.

26. The proposals in the report will lead to the award of an above threshold contract under the Public Contracts Regulations 2015 (PCR 2015). The Council must therefore ensure that it complies with PCR 2015 and the Council's Contract Procedure Rules (CPRs) prior to the award of the contract for stage one, and the approval of the Procurement and Commissioning Board must be obtained. Calling off from an existing Framework agreement is in accordance with PCR 2015 and the CPRs. However, a due diligence exercise must be carried out by the Procurement and Commissioning Hub (P&C Hub) prior to calling off from a Framework and the Council must be clearly identified as a contracting authority able to use the Framework when the Framework was set up. As the Council joins a consortium of other users Services should also refer to the Partnership Procedure Rules, when entering any partnership arrangement.
27. Regulation 33(6) PCR 2015 provides that contracts based on frameworks may under no circumstances entail substantial modifications to the terms laid down in that Framework. Consequently, the contract award must be in accordance with the process set out in the Framework agreement and the terms of the call off contract (via mini competition or direct award) must be consistent with the framework terms. As the anticipated contract value exceeds £500,000 and will have a significant impact on the local community in one or more wards, this is a Key Decision and the Council must comply with the Key Decision procedure. All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by the Director of Law and Governance Services. Contracts whose value exceeds £500,000 and over are required to be executed under seal. Officers should be mindful of the requirement to obtain a performance bond or parent company guarantee (or other form of 'sufficient security') for every contract exceeding £1,000,000 in value, except where the Executive Director of Resources approves the financial risk prior to any award (and in those circumstances, 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 7).
28. The Council must comply with its obligations of 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 these services to demonstrate that best value has been, and will continue to be, obtained for the Council.
29. If the decision is taken to leave the contract after the initial 2 year period, officers must be mindful to comply with the relevant notice provisions contained within the contract in order to avoid the contract rolling forward automatically. Legal advice should be taken in those circumstances to ensure the notice is validly served.

Financial Implications

30. Enfield Council's annual water and wastewater expenditure is currently approximately £450,000 which will be met from existing budgets.
31. With 90% of each sites bill being passed on to their fixed wholesaler, only 10% is currently being taken by the retailer. Maximum savings possible due to price reduction is expected to be in the region of a 5.5% discount on default tariffs. In order to cover LASER's costs of running the framework exercise, they will ask the retailer to build in 1% recovery of the total water and sewerage bill. The maximum net discount possible for Enfield Council is therefore expected to be around 4.5% of their total water bill. As the water market is still fairly new and stable, attaining this level of saving is positive.

32. In the event that Enfield Council does not sign a contract through the LASER framework, within 6 months of a mini tender being completed, an invoice will be charged by LASER to Enfield Council for £1000 to cover their administration costs.

Workforce Implications

33. No direct implications have been identified.

Property Implications

34. The proposals in this report will ensure that there will be a continued supply of water to the corporate building portfolio.
35. It is acknowledged that in order to better manage consumption, there is a need for improved information on corporate buildings, including in respect of meters. The Council needs to understand the location of existing meters and this will be collected as part of the floor plan and asset data collection as required for the new asset management system replacement, led by Strategic Property Services (SPS).
36. There will be some work required to install water meters and water saving measures. The appropriate budget will need to be identified and agreed as to where the cost of works will be paid from. Processes will need to be put in place between the Energy team and SPS to manage potential data changes as and when meters and water saving equipment is added or removed. Additionally, liaison and coordination will be needed with CMFM about any installation works as CMFM are responsible for water systems that are the responsibility of LBE. Similarly, liaison and coordination will be needed with SPS regarding any access and landlord & tenant issues that arise on properties that have third party occupiers.

Procurement Implications

37. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).
38. 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.
39. All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements.
40. Where a contract has not been procured via the LTP, then the signed contract, call off agreement and supporting DAR etc, must be sent to procurement.support@enfield.gov.uk who will create a record in the LTP and promote to contract finder to ensure the Council meets its transparency obligations.

41. The CPR's state that contracts over £100,000 must have a nominated contract owner in the LTP, and for contracts over £500,000 there must be evidence of contract management, including, operations, commercial, financial checks (supplier resilience) and regular risk assessment uploaded into the LTP.
42. Contract over £100,000 or £1m works must go to the departmental procurement boards for approval.

Options Considered

43. Yorkshire Purchasing Organisation (YPO) supplies products and services to a wide range of customers including schools, local authorities, charities, emergency services, public sector and other businesses such as nurseries and care homes. YPO are 100% publicly owned, by 13 local authorities.

YPO offer a contract with Wave Utilities which expires October 2024. Wave Utilities are the current Water supplier for Enfield Council. Whilst there are benefits in staying with Wave Utilities i.e. no transition period, cost effective and an established relationship there is no challenge or competition in terms of cost and ancillary service. For these reasons it is considered better for Enfield Council to commit to a mini-tender with LASER to broaden the competitive nature of the procurement.

44. The Council has also considered an independent procurement contract, however the administration in this is significantly higher than through a consortium nor would we gain the benefits from combined buying value especially where portfolios are relatively modest. Therefore, the recommendation would be to procure using the supporting existing LASER framework along with the 4 other Local Authorities to improve the buying power. This will also gain the benefit from the collaboration of working together to build services that efficiently address the needs of each Local Authority and achieve better terms and conditions of use, thereby maximising value for money. Committing to an individual approach, the Council will lose out on the benefits of working collaboratively.

Conclusions

45. By procuring in this manner Enfield Council will secure a robust contract with opportunities to achieve future water savings through ancillary service such as AMR. Through LASERs support we will also be kept up to date with any developments in this emerging market.
46. Looking ahead, the contract will also support the likely changes in how the Council operates over the next 12 months e.g., through the continuation of working from home and the Build the Change Programme which will affect the volume of water being consumed.

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Confidential

Appendix A LASERs Procurement Proposal Document

Background Papers

No background papers have been used.