

Report for: Cabinet Meeting – 12th November 2019

Title: Council Energy Contracts Award

Report authorised by: Dan Hawthorn, Director of Housing, Regeneration and Planning

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Ward(s) affected: All

Report for Key/

Non Key Decision: Non-Key Decision under Council Standing Order 9.7.1f.

1. Describe the issue under consideration

- 1.1 The purpose of this report is to seek formal approval for use of the LASER Energy Framework Agreement to administer the purchase and supply of the Council's corporate gas and electricity contracts for the period 1 April 2020 to 31 March 2022 with the option to continue with the purchasing arrangements under a rolling forward buying commitment arrangement until 31 March 2025 (unless terminated by the Council).
- 1.2 The Council's corporate gas and electricity contracts cover the supply of gas and electricity to Council office buildings, community centres, parks and open spaces, street lighting, schools and social housing communal supplies (staircase/corridor lighting and lifts). This comprises in excess of 3,000 individual gas and electricity supply points.
- 1.3 Haringey Council is a member of the London Energy Project (LEP). The LEP is a collaborative Category Management resource funded on a co-operative basis by its 36 participating authorities (primarily in London) and works in collaboration with NHS London Procurement Partnership. The LEP's principal purpose is to use authorities' combined spending power to minimise risk, reduce procurement, contract operation and back-office costs and achieve better commercial outcomes. As a member, Haringey receives specialist utility procurement advice and contract management support from the LEP.
- 1.4 In 2008, the LEP took a lead on centralising London energy spend and formally endorsed the use of two public sector Professional Buying Organisations (PBO) to undertake risk managed aggregated flexible energy procurement on behalf of its members; KCC Laser and Crown Commercial Services (CCS). Haringey has procured its gas and electricity supply requirements through the CCS energy supply framework since 2010, with the current arrangements coming to an end on the 31 March 2020.
- 1.5 The LEP on behalf of the London authorities including Haringey, considered private sector brokers and other public sector buying organisations, during a period of pre-market engagement. LASER was ultimately selected (more details in section 6.8)
- 1.6 Following evaluation LEP's Category Board endorsed LASER as the Central Purchasing Body (CPB) to establish a regional approach to energy procurement for London and the south that maximises LEP members' collective buying power, optimises contract options, develop different price risk products than those currently

available and makes best use of new supply and service options in the market – i.e. to deliver a bespoke energy supply solution for LEP authorities that can go beyond the value-for-money we receive in 'national' contracts with currently endorsed CPB's. It will also enable the Council to purchase 'Green' energy within the current budget, therefore, allowing the Council to start delivery on its Zero Carbon ambition through purchasing electricity from renewable sources at best value to the Council.

1.7 LASER will:

- aggregate LEP customer volumes and flexibly purchase energy requirements under a risk strategy in the complex, fast moving wholesale energy market
- Undertake an OJEU compliant process to appoint the framework energy suppliers who will supply and administer the purchased energy requirements. The framework governs the supplier arrangement and the services delivered.

2. Cabinet Member Introduction

2.1 The Council's energy consumption represents a significant, but necessary cost to the Council.

2.2 Haringey Council is committed to mitigating these costs as much as possible through flexible purchasing solutions, transactional efficiencies and energy conservation measures.

2.3 The strategy set out in this report ensures the Council reduces exposure to peaks in energy prices by spreading our purchasing over several months. In addition, the aggregation of our consumption with other public sector bodies helps reduce costs further, through economies of scale. And finally, this new contract will enable the Council to purchase green energy for a competitive price and give access to an energy efficiency advice service for all users to reduce carbon and costs.

3. Recommendations

- a) To approve the use of the LASER Energy Framework Agreement to administer the purchase and supply of the Council's corporate gas and electricity contracts for the period 1 April 2020 to 31 March 2022 (at an annual cost of £7.2m per annum) with the option to continue under a rolling forward buying arrangement up to 31 March 2025 (unless terminated by the Council) at an estimated total value of £36m.
- b) To approve the use of LASER's appointed energy framework suppliers for the supply of gas and electricity through the framework duration. The breakdown of contract spend between the appointed suppliers is estimated at; Npower (LASER Framework Y18003 - corporate electricity supplies, HRA and street lighting) at £5.2m per annum (up to £26m over 5 years), and Corona Energy (LASER Framework Y18002 - corporate gas supplies) at £2.02m per annum (up to £10m over 5 years); and to authorise the Director of Housing, Regeneration, & Planning to award the contracts and facilitate the execution, implementation and operation of the contract, including the use of ancillary services available under the contract
- c) To authorise the Director of Housing, Regeneration, & Planning to manage the Council's energy purchasing strategy through price and risk. Reviewing options for alternative price risk management strategies for the supply of energy during this supply period in order to minimise risk and market volatility and obtain best value. This will be undertaken through advice of the LEP, LASER and energy suppliers.

- d) To approve the use of a REGO backed 'green' tariff for Corporate Estate (Schools, Civic Buildings, Street Lighting etc), as part of the Council's commitment to carbon reduction. This will cost approximately £17k per year on top of the £5.2m electricity contract. This cost will be shared among all services who pay for electricity (Schools, Council Buildings.) The green tariff will not cover Homes for Haringey as this would require tenants voting on this policy and its implications.

4. Reasons for decision

4.1 Following a previous failed procurement the LEP accessed an existing LASER National framework which had been awarded in December 2018.

- Y18002 – Flexible Procurement and Supply of Daily and Non-Daily Metered Natural Gas
- Y18003 – Flexible Procurement and Supply of Half Hourly and Non-Half Hourly Metered and Unmetered Electricity

4.2 The LEP specification for transactional efficiency, online portal, budget tools, customer service and wider strategic objectives including social value and green energy were embedded as an enhanced Service Level Agreement with the suppliers for LEP members. The social benefit is secured by requiring suppliers to ensure the London Living Wage is delivered through direct employees and being worked towards through their contractors. The suppliers are also required to recognise unions and the right for workers to join them. To demonstrate the green energy supply suppliers are required to produce REGO backed certificates that demonstrate a green energy supply chain has been followed.

4.3 The contract to supply Electricity (Half Hourly – covering large electricity sites, Non-Half Hourly – covering small electricity sites, unmetered supplies and streetlighting) was awarded directly to the Framework supplier following formal evaluation to ensure the enhanced SLA for LEP members could be fully delivered.

4.4 A mini-competition was undertaken between the Framework gas suppliers that assessed the supplier's capability and price to deliver the enhanced pan-LEP SLA. Corona Energy was evaluated to be the most economically advantageous provider following this process. Full details of the evaluation is detailed in the Part II.

4.5 In utilising the proposed pan-LEP arrangements, the Council will be able access best practice energy contract arrangements as endorsed by the LEP. Implementing the new arrangements from the 1 April 2020 to:

Address the Council's target to become carbon neutral by 2030 through:

- securing arrangements for the supply of 100% Renewable Energy Guarantee Origin (REGO) sourced energy
- deliver arrangements which facilitate on-site energy generation, demand side response, community engagement, development of district heat networks and Power Purchase Initiatives
- implement energy supply contracts that provide a one-stop route for energy efficiency, financing innovation and carbon reduction measures

Build on Value for Money and efficiencies already achieved in working in collaboration with the London Energy Project (LEP)

- achieve better budget, price and risk management through the continued aggregation of the Council's energy supplies with the rest of the public sector portfolio managed by Central Purchasing Bodies

- adapt to the changing energy supply market, the changing makes up of energy cost and move away from a transactional relationship with the appointed energy suppliers
- implement arrangements where the supplier is required to facilitate better energy consumption data analysis to support energy efficiency measures, improved billing quality and increase efficiency of back office processes

Ensure that the Council's Fairness and Responsible Procurement ambitions are realised.

- The Living-Wage will be applicable for directly employed and sub-contracted staff with respect to the proposed contracts.
 - The providers are signatories of the Modern Slavery Act (2015) incorporating a whistleblowing policy and enabling the freedom of employees to join a trade union and not be treated unfairly because of belonging to one.
 - Both providers have committed to the provision of Quality Apprenticeships under the contractual arrangements
 - Both Providers have more than 250 staff and are signatories of the London Healthy Workplace Charter
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- The necessity for rolling arrangements are to allow effective risk management and to accommodate decision making processes and timescales for Cabinet on extensions and terminations. Haringey Council would typically need to serve termination notice by March at least one or two years in advance of the supply period, e.g. in March 2020 to prevent a contract being delivered in April 2022. For effective management, our recommendation is that call-off contracts can roll forward with a final supply date of 31st March 2025, unless terminated by the Council, which is allowed as per recommendation number 3b).
 - If the termination notice is not given the arrangement rolls forward automatically. The contracts allow us to reduce or increase our overall volume requirement each year prior to supply delivery without attracting a financial penalty. During each forward buying commitment period and contract delivery period the Council may remove Sites from the Site Schedule in the event that such Site has been sold or closed, without attracting a take or pay penalty and may add new sites to the contract under the same terms and conditions and non-energy pricing offered by the framework.

5. Alternative options considered

5.1 Spot Buy (Fixed Price Contracts)

This is where the Council would buy short-term contracts for a fixed price over the time period. Although there are savings that could be made, the council would be more exposed to the vagaries of the wholesale market (a price is fixed on a single day in the year) and could pay higher off-contract prices until an appropriate new contract is in place. It is also not compliant with either Procurement Standing Orders (PSOs) or public procurement legislation. This was ruled out due to the risk of price volatility, lack of in-house expertise and the fact that this does not comply with Council Standing Orders.

5.2 Procure our own energy by direct tender

This option is possible, but it would involve a standalone OJEU (Official Journal of the European Union) tender to secure contracts directly with the selected energy provider(s) (or via a broker see option 5.3). This approach is unlikely to produce the best results due to the relatively small scale of the portfolio compared that of most

large purchasing organisations. In contrast, a Public Sector Buying Organisation can obtain good wholesale prices through aggregating the demand of a large number of public sector organisations. In addition, a direct tender would require the Council to engage additional resources (skilled energy traders and additional staff for contract management) and provide greater risk of exposure to energy price fluctuations. It was therefore determined as unviable.

5.3 **Procure through a Private Sector based provider**

The Council would require a tender for a private sector Third Party Intermediary (TPI) to procure energy supply (as Option 2), but it would need to be sure that it would be getting best value through a truly aggregated, flexible contract. Full price transparency of all costs, including TPI fees and any commission paid by suppliers to the TPI would be needed. By aggregating the Council's volumes, the TPI could access the wholesale market on our behalf but we may only receive prices based on the supplier's view of the market. A full OJEU tender process would be required to engage with such a provider with all the associated resource and time implications that would be entailed. TPIs may have issues regarding business continuity in the present economic climate are unlikely to be able to aggregate the council's volume with other customers in an OJEU compliant manner or to the same level or offer the same additional and social value as the Pan-LEP contracts. Due to this level of complexity and lack of in-house resources to deliver this, this option was dismissed.

5.4 **Procure from generators**

The council could purchase electricity via an OJEU procedure from nominated generators. Power Purchase Agreements (PPAs) typically facilitate the sale of energy from the operators of small scale off site renewable generation assets including Combined Heat and Power (CHP) plant, wind turbines, solar PVs and anaerobic digestion. It is unlikely that the Council could rely solely on such a source, due to security of supply issues, but could combine such energy with that provided from a conventional supplier. As a customer, this could help increase the Council's environmental credentials through being seen to invest in generation from low carbon and renewable sources. Depending on the type of PPA, it could also reduce the impact of power/price volatility on the organisations as it is possible to fix prices on a long-term basis (typically up to 5 years ahead).

These are usually more attractive if the electricity can be supplied from the generator directly to the user without involving the national grid (i.e. over 'private wires') as this reduces the amount of transmission and distribution charges payable, but a conventional licensed supplier would need to be involved to ensure there is an adequate and consistent source of supply of electricity. It would also remain necessary to make suitable arrangements for the purchase of gas and oil. This type of PPA 'sleeving', will be possible through the Pan-LEP arrangement.

This option was not taken forward due to the complexity, lack of market interest for the Council (we are not a large energy purchaser in the national scale), and as similar environmental outcomes can be delivered through the Pan-LEP agreements.

5.5 **Generate the Council's own energy**

The council could invest in electricity generating assets and use the output to contribute towards the supply of electricity to council owned or operated buildings. Such as Combined heat and Power, or renewable technologies. A licensed supplier would still need to be involved to facilitate this and to ensure that the councils still received an adequate supply of electricity. This option is available within the Pan-LEP contract and was included with the OJEU process to ensure compliance with procurement regulations. And will be delivered as the Council starts to deliver the

Decentralised Energy Network (DEN) projects. But due to the high level of investment and timescales this was not taken forward.

5.6 **Procure via Central Purchasing Bodies (CPB)**

The Public Contracts Regulations 2015 define a Central Purchasing Body (CPB) as 'a contracting authority which provides centralised purchasing activities and which may also provide ancillary purchasing activities'. CPBs often set up and operate framework agreements which are accessible to contracting authorities such as the council.

There are a number of advantages to using a CPB, including better prices through economies of scale, lower transaction costs, improved capacity and expertise. A key role of most CPBs is the conclusion of framework agreements or other consolidated procurement tools. Framework agreements seek to achieve efficiency gains and greater value for money in the public procurement process using the aggregated purchasing power and expertise of CPBs that creates economies of scale in both supply and demand.

5.7 **Do nothing**

This is not an option as the Council and users of its buildings rely on energy to operate. It would place a requirement on schools and Homes for Haringey to procure their own energy supplier or run out of contract which is a cost with a premium.

6. Background information

6.1 The Council currently procures its energy supply from CCS via the LEP and this arrangement is due to come to an end on 31 March 2020. The Council's corporate gas and electricity contracts cover the supply of gas and electricity to Council office buildings, community centres, parks and open spaces, street lighting, schools and social housing communal supplies (staircase/corridor lighting and lifts). Haringey has in excess of 3,000 individual gas and electricity supply points. It is vital that the Council has energy suppliers (electricity and gas) in place, to ensure prices for budget monitoring, and contractual standards (such as billing and metering) are in place.

6.2 The Council is a member of the London Energy Project (LEP) which is funded on a cooperative basis by its 36 participating authorities. The LEP's principle purpose is to use authorities' combined spending power to minimise risk, reduce procurement, contract operation and back-office costs and achieve better commercial outcomes.

6.3 In aggregating its energy supplies with a Professional Buying Organisation (PBO) the Council benefits not only from the size of its estate but that of other public bodies. The PBO (and not the energy suppliers) purchases the energy on behalf of the Council direct from the wholesale energy market accessing reduced traded prices. This is currently done over a six-month procurement window, to enable our energy to be purchased in a regulated risk managed manner, providing protection from price peaks, smoothing out energy prices through a series of purchases over the procurement window.

6.4 The energy purchased by the PBO is supplied by their appointed framework energy suppliers, who are appointed following a competitive process in compliance with EU legislation, based on their cost to serve and administer the supply of the energy.

6.5 The average energy price achieved by the PBO over the set purchase window is combined with the energy suppliers agreed cost to serve and pass through industry charges to determine the fixed rate for each Council site for a 12-month period. This process is then repeated to renew prices each year. The process ensures that the Council's energy requirements are purchased in a risk managed manner, ensuring

value for money and enables our account to be managed strategically in collaboration with the LEP and participating members.

- 6.6 Whilst the current LEP endorsed arrangements (of which Haringey currently utilises CCS) generally deliver value for money, it has been recognised they reflect out of date assumptions about customer expectations for value-for-money, environmental and social value, and have service delivery methods that do not match LEP authorities' need for back-office and resource efficiency. The current models focus on establishing 'national' contracts that have benefits of large aggregation and low supplier cost to serve margins, but disadvantages of treating customers as if they have the same requirements.
- 6.7 Collectively the aggregation of energy supply contracts amongst LEP members is worth approximately £450-£500 million per year and the LEP has recognised that the combined spend can be leveraged further to achieve wider social & financial benefits.
- 6.8 The LEP on behalf of the London authorities including Haringey, reviewed its future energy procurement strategy. And as part of this considered private sector brokers and other public sector buying organisations, during a period of pre-market engagement. The LEP's Category Board endorsed LASER as the Central Purchasing Body (CPB) to establish a regional approach to energy procurement for London. LASER was selected on the following basis:
- capability, capacity and experience to deliver the tender and subsequent framework, contract, buying and risk management service.
 - It was not a competitive procurement process because LASER is a Centralised Purchasing Body (CPB) as defined in procurement regulations; and contracts for centralised purchasing services can be awarded directly to a CPB (where appropriate). The contract can include 'ancillary purchasing services' (covering technical infrastructure, procurement advice, management of procurement projects etc.) meaning that a full managed service can be provided, such as buying and risk management, or bill validation and payment
 - Another CPB company "The Energy Consortium" (TEC) withdrew from the process, as they could not deliver the volume of services.
 - CCS submitted a proposal, which was initially accepted, however, the appointment process was abandoned, as CCS was unable to deliver the stated goals within the timeframes required.
- 6.9 Following evaluation LEP's Category Board endorsed LASER as the Central Purchasing Body (CPB) to establish a regional approach to energy procurement for London and the south that maximises LEP members' collective buying power, optimises contract options, develop different price risk products than those currently available and makes best use of new supply and service options in the market – i.e. to deliver a bespoke energy supply solution for LEP authorities that can go beyond the value-for-money we receive in 'national' contracts with currently endorsed CPB's. It will also enable the Council to purchase 'Green' energy within the current budget, therefore, allowing the Council to start delivery on its Zero Carbon ambition through purchasing electricity from renewable sources.
- 6.10 LASER on behalf of the local authorities will:
- aggregate LEP customer volumes and flexibly purchase energy requirements under a risk strategy in the complex, fast moving wholesale energy market
 - Undertake an OJEU compliant process to appoint the framework energy suppliers who will supply and administer the purchased energy requirements. The framework governs the supplier arrangement and the services delivered.

7. Contribution to strategic outcomes

7.1 In agreeing this report, The Council will be:

- Addressing the Council's target to become carbon neutral, as the Council will move to a 'green' energy supplier (Place: Outcome 9 – a healthier, active and greener place)
- Build on Value for Money and efficiencies already achieved in working in collaboration with the London Energy Project (LEP) (Your Council: Outcome 20 - We will be a council that uses its resources in a sustainable way)
- Ensure that the Council's Fairness and Responsible Procurement ambitions are realised (Economy: Outcome 15: A borough with more quality jobs with opportunities for progression).

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 Finance

8.1.1 The council's `energy spend for 2018/19 is set out below:

- EDF Energy (large consuming electricity sites) total contract across the Council and partners spend is £3.83m. Of which £69k is paid corporately.
- British Gas Business (smaller consuming electricity sites) total contract across the Council and partners spend is £1.41m of which £948k is paid corporately.
- Corona Energy (corporate gas supply) Total Contract across the Council and partners spend is £2.03m of which £164k is paid corporately.
- This gives the total spend for energy at £7.27m. across the full portfolio (schools, Corporate estate, Street lighting, Homes for Haringey etc) with the corporate total being £1.181m.

8.1.2 The cost for moving the Corporate Estate (Schools, Civic Buildings, Street Lighting etc) to a 'green' tariff would cost approximately £17k pa on a £5.2m electricity contract. The green tariff is increasingly being asked for by schools and community users in our buildings. The additional costs will be split between corporate buildings and schools users based on consumption. The cost of green tariff will be mainly met out of Schools budgets and Community buildings.

8.1.3 In utilising the proposed pan-LEP arrangements, the Council will be able access best practice energy contract arrangements as endorsed by the LEP.

8.1.4 The approval of the recommendation in this report should minimise the Council's exposure to volatility in the energy market and help to control costs over the lifetime of the contracts.

There is currently an assumption built in the formulation of the new draft Budget and MTFS based on Laser projections to cover the increase in energy prices and this will need to be reviewed once the contracts have been agreed.

8.2 Procurement

Strategic Procurement are in agreement with this award that is compliant with the contract standing orders and 2015 Procurement Contract Regulations.

8.3 Legal

- 8.3.1 The Assistant Director of Corporate Governance notes the contents of the report.
- 8.3.2 The LASER Energy Framework Agreement which this report relates was established in accordance with the provisions of Regulation 33 of the Public Contracts Regulations 2015.
- 8.3.3 Pursuant to CSO 7.01(b) and pursuant to Regulation 33 of the Public Contracts Regulations 2015, the Council may select one or more Contractors from a Framework established by a public body where the Council has been identified in the OJEU Contract Notice as an approved user.
- 8.3.4 It is confirmed that the Council is identified as an approved user of this LASER Energy Framework Agreement in the OJEU Contract Notice and therefore Cabinet is in a position to approve the use of the Framework Agreement to administer the purchase and supply of the Council's corporate gas and electricity contracts.
- 8.3.5 Pursuant to CSO 9.07.1(d), Cabinet may approve the entering into a contract if the value of the contract is £500,000 or more and as such Cabinet has power to approve the recommendation in this Report.
- 8.3.6 The Assistant Director of Corporate Governance sees no legal reasons preventing the approval of the recommendations in the report.

8.4 Equalities

- 8.4.1 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 8.4.2 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.
- 8.4.3 The Council's Equal Opportunities Policy (2012) details how equality considerations are factored into the procurement process. The tendering process required the contractors to demonstrate their compliance with the Equality Act (2010). It is therefore not anticipated that the award of the contract will negatively impact on any protected characteristic groups.
- 8.4.4 This procurement strategy delivered here minimises the risk of exposure to peaks in the Energy Market. And the performance analysis suggests that achieved prices will be below the market average. This will protect against possible price increases and minimise the cost of utilities for Council, schools and community building operations. This in turn minimises increases in budgetary pressures and contributes to the protection of service delivery, for the Council, schools and community building occupiers on the Councils Energy Contracts.

8.4.5 With respect to schools, protection of service delivery can be expected to have a positive impact on children, a majority of whom in Haringey are from BAME communities. With respect to community buildings, this can be expected to have a positive impact on individuals and groups who share protected characteristics including race/ethnicity, religion/faith, age, and sex owing to the profile of the organisations that are tenants of community buildings in Haringey and the stated objectives of those organisations.

9. Use of Appendices
None

10. Local Government (Access to Information) Act 1985

This report contains exempt and non-exempt information. The exempt information is not publication as it contains information classified as exempt under the following categories (identified in the amended Schedule 12A of the Local Government Act 1972):

(3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).