



## Policy & Resources Committee

17 June 2019

<b>Title</b>	<b>Energy Contract Review and Authorisation for the Procurement of Energy Supplies &amp; Ancillary Services</b>
<b>Report of</b>	Chairman of the Policy and Resources Committee
<b>Wards</b>	All
<b>Status</b>	Public with Exempt Section by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 as amended
<b>Urgent</b>	No
<b>Key</b>	Yes
<b>Enclosures</b>	Appendix 1 Energy Review Business Case (Contains exempt information)
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### Summary

This report highlights an Energy Contract Review (Appendix 1) which has been undertaken to inform options for future procurement of energy (gas/electricity) for the Council's civic estate and schools who opt to be part of the corporate energy contract arrangement.

The report identifies the various procurement options and notes the Council's participation in the Pan-London Energy Project (LEP) Collaborative Procurement and Category Management Programme as part of its LEP membership and seeks authorisation from the Committee to proceed with the preferred option for the Council to participate in the Pan-London Energy Project Procurement & Management Programme and the future Pan-LEP Frameworks.

The Council currently procures contracts for its Corporate electricity and gas supplies, amounting to £4.7 million annually including associated services through the LASER

Energy Buying Group Framework (Kent County Council) which it has utilised since 1993. The contracts cover supply of gas and electricity to the its Civic / Operational Estate, Street Lighting and some larger Barnet Homes supplies, together with providing the option for Barnet maintained School's to utilise the supply contract.

The Council's current two year rolling contract ends 30<sup>th</sup> September 2020 and the Council is required in 2019 to put a new contract in place to permit sufficient time for forward purchases of energy to be made prior to commencement of the supply period from 1<sup>st</sup> October 2020.

In line with the Pan Government Energy project 2007 and supported through the London Energy Project (LEP) review, the Council since 2008 has moved from Fixed-term fixed price procurement to adopt aggregated flexible and risk managed energy procurement as the best solution to cost reduction in a complex and volatile market.

A wholesale flexible procurement arrangement enables blocks of energy to be purchased on the wholesale energy market at varying times, both before and dependant on the specific risk management strategy within the contracted supply period. A flexible approach permits the ability to follow the market more closely, and make multiple purchases over a given period. It also enables a strategy to be followed to manage the risk and spread these purchases, to lock out peaks and take advantage of troughs. The arrangement limits the potential risks associated with volatile energy markets and the settling of prices on a single day together with enabling volumes to be more effectively aggregated.

The London Energy Project (LEP), a public sector shared service, which enables participating authorities to achieve efficiencies through smarter energy buying, improved processes & carbon reduction. The Council has been a member of LEP for the past 12-years since its establishment in 2007, initially under central government funding and now under direct authority contributions.

LEP has established a Pan-LEP Procurement & Contract Management Programme this year for 2020-2025 on behalf of its members to be delivered through LASER. The frameworks will be different to national frameworks in terms of:- trading / risk products; supplier service specification and capabilities which are more suitable to LEP members. The approach aims to establish a regional approach for energy procurement for the Public Sector in London and the South that maximises LEP members' collective buying power, optimises contract segments and services options in the energy market and provides overall value for money with social, environmental and economic benefits.

The report identifies the preferred option for the Council to participate in the Pan-London Energy Project Procurement & Management Programme and authorise the participation in the LASER Pan-LEP Framework.

Exempt section - if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information and a balancing exercise has been undertaken accordingly.

## **Officers Recommendations**

**That the Committee;**

- 1. Approves as part of the Councils participation in the Pan-LEP Procurement & Category Management Programme the use of the Pan-LEP Frameworks for the flexible procurement of electricity and natural gas and the award of call off contracts for supply under it; and endorse that LEP should manage supplier performance & service development to deliver service in line with LEP authorities' collective business requirements post award to maximise benefit.**
- 2. Approves the LASER Pan-LEP Energy Framework for the flexible procurement of natural gas and electricity for the supply period 1<sup>st</sup> October 2020 to 31<sup>st</sup> March 2023 (30-months) and for a further two years under a rolling forward buying commitment arrangement until 31<sup>st</sup> March 2025 unless terminated by the Council. The estimated total expenditure of the supply to be called off under the framework as noted in section 5.2.3 is £25M**
- 3. Re-affirms use of LASER's Fully Managed Service under this rolling arrangement for the same period(s), unless terminated by the Council; and to review procurement approaches and the Fully Managed Service during this period.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 This report highlights an Energy Contract Review 1<sup>st</sup> May 2019 (Appendix 1) which has been undertaken to inform options for procuring energy for the Council. The energy review was undertaken as a recommendation agreed by the Policy & Resources Committee 9 July 2015 for a mid-term performance review.

The review was undertaken following receipt of the London Energy Project's (LEP) benchmarking update on energy provision and the finalisation of the Pan-LEP Procurement & Management Programme with the launch of LASER Pan-LEP Energy Procurement Framework. This review has informed the options for procuring energy going forward and these are presented both within this report and in the supporting Energy Review Business Case.

- 1.2 This report seeks authorisation based on the outcome of the Energy Contract Review (Appendix 1) to proceed with the key recommendations.

### **2. REASONS FOR RECOMMENDATIONS**

The reasons for the recommendations are to accept the supporting business case which is to authorise the Councils participation in the Pan-LEP Procurement & Management Programme and to authorise the participation in the LASER Pan-LEP Framework.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Alternative options were considered and presented in the business case but were not recommended as these do not represent the LEP Member authorities / trusts approved route to market for energy services, on the basis that the LASER Pan LEP Framework approach offers overall best value and opportunities to deliver wider strategic benefit.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 Authorisation of this report will enable access to the to the LASER Pan-LEP Framework Agreement and award of the call-off contracts together with access to LASER fully managed service under a rolling arrangement, initially for the supply period 1<sup>st</sup> October 2020 – 31<sup>st</sup> March 2023 (30-months) with a rolling extension, unless terminated by the Council of up to two years until 31<sup>st</sup> March 2025.
- 3.2 Upon receipt of approval of the recommendation to proceed, the Commercial Director is to authorise the access agreement and the call-off contracts will be completed which will permit the forward purchase of energy which will enable optimal early market engagement to meet the authority's energy requirements.

### **5. IMPLICATIONS OF DECISION**

#### **5.1 Corporate Priorities and Performance**

- 5.1.1 The Council's Corporate Plan for 2019-2024 sets it's vision and strategy for the next 5 years with a number of priorities including:-

- Getting Barnet clean through efficient street cleaning services, minimising and recycling waste, and weekly bin collections.
- Getting the best out of our parks and improving air quality by looking after and investing in our greenspaces.
- Investing in community facilities to support a growing population, such as schools and leisure centres.
- Improving services for children and young people and ensuring the needs of children are considered in everything we do.
- Keeping Barnet safe.

- 5.1.1 This report and the delivery of energy supplies through LASER Pan-LEP Framework supports the Corporate Plan by ensuring that services are delivered efficiently to get value for money for the taxpayer.

#### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 The recommendation to authorise procurement through the LASER Pan-LEP Framework will ensure that energy is supplied under a compliant contract and delivers value for money. The framework aims to establish a regional approach for energy procurement for the Public Sector in London and the South that maximises LEP members' collective

buying power, optimises contract segments and services options in the energy market. The Pan-LEP Procurement & Management Programme enables LEP members to use their combined spending power to minimise risk; reduce procurement, contract operation & back-office costs and also supports variation to estate size without loss of savings achieved.

5.2.2 The Council currently procures £4.7 million of electricity and gas per annum for supplies under its Corporate Energy Supply Contract for its Civic / Operational Estate, Street Lighting and some larger Barnet Homes supplies, together with providing the option for Barnet maintained School's to utilise the supply contract.

<b>L.B. Barnet Corporate Electricity &amp; Gas Supply Contracts - Consumption &amp; Cost 2019</b>		
<b>Electricity &amp; Natural Gas</b>	<b>Annual Consumption kWh's</b>	<b>Annual Contract Value £</b>
<b>Electricity</b>	11,155,212	£ 1,564,697
<b>Street Lighting</b>	10,980,154	£ 1,897,437
<b>Natural Gas</b>	47,321,143	£ 1,314,087
<b>Grand Total</b>	<b>69,456,509</b>	<b>£ 4,776,221</b>

5.2.3 Set out in the Exempt report

5.2.4 Set out in the Exempt report

5.2.5 The LASER Pan-LEP Energy Framework for the flexible procurement of natural gas and electricity provides for the continuous forward purchase of energy supplies (until terminated) when the market is favourable enabling effective price risk management. It also provides, the ability to add / remove supplies as necessary with a changing estate portfolio as well as enabling schools to join the arrangement should they wish to do so; thereby saving costs for take or pay charges when removing supplies and enabling new supplies to gain the framework prices.

5.2.6 LEP would prior to and through to contract award undertake an Independent Intelligent Client Function role and act as Procurement Project Executive. Post award, LEP will take an active role in managing the Strategic Supplier Relationship and Contract Performance on behalf of its members. LEP will act as an escalation point for issues and conduct formal contract reviews, including agreeing performance rectification measures and improvement plans. Contract operational matters that affect all customers, such as approach to set-up, servicing, reporting, debt management, will be agreed with the LEP and the arrangements for this will formalised post contract award.

5.2.7 It is proposed to move the contract pricing period from 1st October to 1st April in line with the financial year, which better suits reporting and is more appropriate to market pricing trends. In addition, it is also proposed for the invoicing reconciliation for the unmetered supplies to move from 6-monthly to monthly to aid budget management so that the monthly invoice better reflects usage.

5.2.8 The current framework procures green energy where it is available and currently cheaper or cost neutral. The Pan-LEP Framework aims to work with the appointed supplier to help

deliver a wider strategic objective for 100% green energy, low carbon and better air quality. The green energy supplies would be accessed through the supply contract for those authorities which require it, although in recent years green energy has attracted a price premium.

5.2.9 By this report seeking authorisation to proceed with procurement the purchase of energy will be compliant in accordance with the Contract Procedure Rules Appendix 1 Table A.

### 5.3 **Social Value**

5.3.1 The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders. As set out in the council's Contract Procedure Rules, commissioners should use the Procurement Toolkit, which includes Social Value guidance. The Contract Management Toolkit should also be used to help ensure that contracts deliver the expected services to the expected quality for the agreed cost. Requirements for a contractor to deliver activities in line with Social Value will be monitored through the contract management process.

5.3.2 LEP acknowledge that the appointed supplier should not only deliver core services and innovation in the energy sector, but working collaboratively with LEP and Members, should also help to deliver wider strategic objectives for 100% green energy, low carbon and better air quality and offer opportunities for local employment and small businesses and support the community, voluntary groups and schools to better manage energy consumption and cost and to reduce their impacts on environmental sustainability.

### 5.4 **Legal and Constitutional References**

Report authorisation will enable entry into the LASER Pan-LEP energy purchasing framework via an access agreement and preparation and award of the specific call-off contracts with the framework energy suppliers will be supported by HB Public Law.

5.4.1 The council's Constitution - Committees, Forums, Working Groups and Partnership states that Policy and Resources Committee is responsible for Strategic policy, finance and corporate risk management including; Procurement Forward Plan. Article 11 – Finance, Contracts, and Legal Matters, item 11.2 stipulates every contract made by the Council will comply with the Contract Procedure Rules Procedure Rules set out in the Constitution.

5.4.2 Item-17- May 2019 thresholds set out in Contract Procedure Rules Appendix 1 Table A, this requires the Council to engage in a full OJEU tender in accordance with the Public Contract Regulations 2015 (PCRs), the LASER Pan-LEP energy purchasing Framework (the Framework) is a correctly procured framework which has been established in compliance with the PCRs. Rule 5.4 of the Contract Procedure Rules states that; 'Where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement due diligence checks must be carried out to demonstrate that the Council can lawfully access the Framework Agreement and that it is fit for purpose and provides value for money'.

5.4.3 The council's Constitution - Committees, Forums, Working Groups and Partnership states that Policy and Resources Committee is responsible for Strategic policy, finance and corporate risk management including; Procurement Forward Plan. Article 11 – Finance, Contracts, and Legal Matters, item 11.2 stipulates every contract made by the Council will comply with the Contract Procedure Rules Procedure Rules set out in the Constitution.

5.4.4 Item-17- March 2018 thresholds set out in Contract Procedure Rules Appendix 1 Table A and under Rule 5.4 Where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement.

## **5.5 Risk Management**

5.5.1 A review of risks and benefits associated with the energy review and authorisation to procure energy is detailed in the Energy Contract Review (Appendix 1) attached to this report.

## **5.6 Equalities and Diversity**

5.6.1 The 2010 Equality Act outlines the provisions of the Public-Sector Equalities Duty which requires Public Bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 advance equality of opportunity between people from different groups foster good relations between people from different groups. These have been considered with regard to the recommendation for authorisation to procure services and it is not considered that an Equalities Impact is required for this procurement.

## **5.7 Corporate Parenting**

5.7.1 In line with the Children and Social Work Act 2017, the council has a duty to consider Corporate Parenting Principles in decision-making across the council. There are no implications for Corporate Parenting in relation to this report.

## **5.8 Consultation and Engagement**

5.8.1 Authorisation to proceed with procurement will enable communication with school stakeholders who already use the energy arrangements and further engagement to promote the opportunity of accessing the energy contracts established.

## **5.8 Insight**

5.8.1 None in the context of this report

## **6. BACKGROUND PAPERS**

- 6.1 Cabinet Resources Committee 9 July 2015, Agenda Item 08, Authorised Policy & Resources Committee Report - Authorisation of Energy Review and Forward Procurement of Energy Requirements.  
<http://barnet.moderngov.co.uk/mgConvert2PDF.aspx?ID=24334&ISATT=1#search=%22energy%22>