

Item No	Classification: Open	Date: 23 June 2010	Decision Taker: Cabinet Member for Transport, Environment and Recycling
Report title	Retrospective Combined GW1 Procurement Strategy Approval and Gateway 2 Contract Award Approval: Supply of electricity to quarterly billed sites		
Ward(s) or groups affected	All		
From	Strategic Director of Environment & Housing		

RECOMMENDATIONS

1. That the Cabinet Member for Transport, Environment and Recycling retrospectively approves the procurement strategy outlined in this report for the supply of electricity to quarterly billed sites.
2. That the Cabinet Member for Transport, Environment and Recycling retrospectively gives approval not to follow Contract Standing Orders (CSO) requirement to obtain at least five tenders following a publicly advertised competitive tendering process (CSO 5.4).
3. That the Cabinet Member for Transport, Environment and Recycling retrospectively approve the award of contract to EDF in the sum of £2,732,589 for a period of one year.

BACKGROUND INFORMATION

4. This contract is for an existing requirement for electricity supplies to quarterly billed sites. The supplies on this contract are the lowest electricity consuming sites.
5. This contract has no specific extension duration period built into it.
6. The previous contract also with EDF formally expired on 31 March 2010. Because of delays in finalising an earlier version of this report it was not possible to obtain approval for the award of the new contract with EDF during the election / purdah period hence retrospective approval is now being sought.

Summary of the business case/justification for the procurement

7. Prices: Since the previous contract prices were agreed, average UK wholesale electricity prices fell over 2009 due to the global economic downturn. During winter 2009/10 wholesale prices had begun to rise again and average prices are back around the same level as the time when the previous prices were fixed.
8. Commercial Approach: As the lowest consuming electricity sites, quarterly billed electricity supplies were the last category of supply to be opened to competition in 1999. Unlike the Council's other electricity supply contracts, the quarterly billed sites contract has always been *negotiated* with the incumbent regional supplier (EDF) rather than tendered.
9. To tender electricity supplies, customers must have a minimum set of accurate data including:-
 - Supply and billing addresses
 - Unique meter point administration number (MPAN)
 - Annual electricity consumption.

10. The Council has never collected a central database of these supply details because there is a large number and variety of accounts, all billed quarterly and directly from the incumbent supplier EDF, to the respective customers – business units across the Council and schools.
11. Commercial Assurance: LASER (part of Kent County Council commercial services) have negotiated bulk discounted tariff rates with EDF on behalf of the London Boroughs since the introduction of competition in this area of electricity supply. This process has achieved significant discounts (around 40 – 50%) on the tariff rates that would otherwise be offered.

Limitations for immediate procurement options (tendering) & steps to resolve

12. Billing is based on the supplier's schedule of accounts. In Southwark council this is considered to currently include a number of significant errors, e.g.
 - Supplies that no longer belong to the Council (sites sold or demolished)
 - Incorrect billing and supply addresses
 - Missing MPAN and consumption data.
13. A majority of billed consumption in the council is currently based on estimates. Electricity Licensing requirements place no obligation on suppliers to obtain any minimum number of actual readings per year. When meter readers are sent to sites, if they cannot get access to meters (particularly an issue on housing estates) an estimated reading will be applied.
14. The council is now taking steps to improve this set of data. The previous contract Gateway 1 report (March 2009) set out the steps the Council was taking to gather and validate the data. Around 2,500 (of the total 3,333) accounts are landlord's supplies for housing estates (e.g. staircase lighting, lifts and other shared services).
15. Over the last year the Council has undertaken a detailed survey of these supplies. The survey was completed by the end of February 2010. The following further issues were identified:
 - 122 meters being billed could not be located by the survey
 - Access to 112 meters being billed could not be gained (these have been reported to the housing repairs team)
 - 47 meters are subject to query with the supplier (e.g. different meter numbers etc.)
 - An additional 278 meters were identified which the council does not currently appear to be paying for.
16. Further work has been agreed to resolve these outstanding issues with the supplier. In addition the following actions have been agreed:-
 - The unique meter supply numbers (MPAN) will be matched to the surveyed list of meters.
 - Housing officers will aim to collect at least two meter readings per year for each of the supplies.
17. This would enable the Council to tender the majority of the 2,500 housing electricity supplies next year.
18. In addition, the Council undertook a separate data gathering process to cover energy supplies to the non-domestic sites. Meter and consumption data was collected for 138 out of the total number of 800 electricity supplies.

19. The following set of tasks has been agreed to complete the data collection for these non-domestic supplies:
 - An updated schedule of supplies has been obtained from the supplier (EDF). These now indicate the meter MPAN details and supply addresses.
 - This schedule will be matched against the Council's property list
 - At least two meter readings per year will be taken for an identified set of 192 buildings.
20. This process will ensure that the correct meter and address details are held for the 800 non-domestic supplies. However the Council will need to assess further the costs and benefits of collecting meter readings for supplies outside of the identified 192 (many of which will be small consuming sites and non-building related supplies e.g. park lighting, pumps in pedestrian subways etc.) The Council also intends to install "automatic meter reading" (AMR) equipment where it is cost effective. AMR can be installed alongside the existing electricity meter and provides automatic readings which are sent to the supplier and to the council's energy management system. However, this will only be affordable for the higher consuming sites on this contract.
21. The Council is unable to *tender* at this point, based on the incomplete set of data for the quarterly billed accounts.
22. Although, the steps outlined above will provide the data that is necessary to enable us to *tender* the quarterly billed electricity supplies to non-domestic sites. Together with the completion of the housing supplies data gathering exercise (also described above) the Council *will* be in a position to tender the majority of the portfolio next year.

Opportunities for immediate procurement options (negotiation) & the future

23. The costs of procuring electricity via the recommended consortium contracts for the public sector are proportionately higher for large numbers of low consuming sites. LASER currently charge a flat fee of £5 per account for *negotiating* the London-wide discounted tariff rates with EDF. The procurement costs of the recommended consortium contract provided by Buying Solutions are £24 per meter. Across the schedule of quarterly billed supplies the procurement costs comparison is therefore:-

<u>procurement method</u>	<u>procurement cost</u>	<u>% of annual contract cost</u>
LASER / EdF negotiated	£16,665	0.61%
Buying Solutions	£79,992	2.93%

24. For the lowest consuming supplies, the procurement costs of *tendering* will be a significant percentage (at least 10%) of the actual electricity costs. Tendering is highly unlikely to secure a price reduction to offset this cost – in comparison with the price offered via negotiation.
25. Historically, the negotiated tariff charges have been similar to the prices achieved though tenders. The current range of prices secured by the Council's 'monthly billed' electricity contract which is tendered is from 7.407 pence/kWh to 8.903 pence/kWh. The prices offered through the negotiated route described in this report (as set out in paragraph 26) are in a similar range.
26. Therefore it is highly likely that the Council would secure best value in the future by dividing the supplies on this contract into two separate procurements :-
 - Prices for the lowest consuming supplies continue to be secured via the single supplier negotiation with EDF incurring low procurement costs

- The higher consuming sites are tendered in a similar way to the Council's other supplies of electricity.

27. These options will be evaluated based on the consumption data gathered over the next financial year (as described above).

Recommendation for immediate procurement options (negotiation) & the future

28. Individual invoices are sent to each site and the highest spend on an individual supply is no greater than £20,000. Given that the Council currently does not have a schedule of supplies with sufficient information to aggregate the supplies into a single contract, the agreement with the supplier can be considered as a collection of individual supply contracts. In addition where any new additional supplies wish to join the discounted tariff contract (e.g. primary schools) the account holder must sign an individual contract with EDF.

29. By "doing nothing" the quarterly sites would be billed at EDF's prevailing 'off contract' tariff rates which are more than twice the price of the current negotiated rates. This is not recommended.

30. It is therefore recommended that the council extends the contract with the current supplier EDF at the discounted rates negotiated by LASER. The quoted tariff rates will be fixed over the contract period of one year.

Timetable of procurement process

31. Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
Forward Plan (if Strategic Procurement)	March 2010
Approval of Gateway 1: Procurement Strategy Report	N/A Joint Gateway 1 & 2
Issue Notice of Intention	N/A
Invitation to tenders	N/A
Closing date for return of tenders	N/A
Completion of evaluation of tenders	N/A
Issue Notice of Proposal	N/A
DCRB Review Gateway 2: Contract award report	9 March 2010
CCRB Review Gateway 2: Contract award report	11 March 2010
Notification of forthcoming decision – Five clear working days	Xx June 2010
Approval of Gateway 2: Contract Award Report	June 2010
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	Xx June 2010
Alcatel Standstill Period (if applicable)	N/A
Contract award	Xx June 2010
Add to Contract Register	July 2010

Activity	Completed by/Complete by:
Contract start	01/04/2010
Place award notice in Official Journal of European (OJEU) (if applicable) A maximum of 48 days after award	N/A
Contract completion date	31/03/2011

Description of procurement outcomes

32. The offered tariff rates represent a zero percent increase over the previous contract prices (which were settled a year ago). This is in line with movement in wholesale electricity market prices as highlighted in paragraph 7.

KEY ISSUES FOR CONSIDERATION

Policy implications

33. There are no specific policy implications.

Tender process

34. LASER negotiate discounted tariff rates on behalf of London public authorities with EDF (the incumbent monopoly 'regional supplier' before this market was open to competition). The new tariff rates are offered for a fixed period 01/04/2010 – 31/03/2011. The rates have been fixed at the same rates that applied over the previous contract from 01/04/2009 – 31/03/2010. LASER recover their charges for negotiating rates directly from EDF who pass on this charge (£5 per account per year) to each customer via their electricity invoices. The customer enters into a contract with EDF and not with LASER.

Plans for the transition from the old to the new contract

35. The incumbent supplier would be the new contract supplier hence there will be no transfers of accounts.

Plans for monitoring and management of the contract

36. While individual account holders are responsible for payment of invoices. The new legal requirements of the CRC will mean that the Council will need to compile a central database of actual consumption (obtained from meter readings) for the non-domestic supplies on this contract. The housing estate landlord's supplies would be monitored by implementing the recommendation for housing staff to read meters.

Other considerations (For Environment and Housing contracts only)

37. There are no further specific implications or issues.

Community Impact Statement

38. This contract includes electricity for landlord's supplies to housing estates (e.g. lifts and external lighting). While these electricity costs represent a very small proportion of the overall service charges to tenants and leaseholders this procurement route is recommended to ensure that the lowest electricity rates are secured.

Sustainability considerations (Including Economic, Social and Environmental considerations)

39. Suppliers will offer prices for electricity generated via renewable energy sources ('green' electricity). However, it is not recommended that the Council opt for such green supplies if these cost more than the lowest standard electricity offers. The CO₂ savings from these green supplies are already accounted for in the UK electricity grid mix and the Council therefore cannot claim to achieve further CO₂ reductions through such contracts. It should also be highlighted that the council cannot claim zero CO₂ emissions for any such "green tariff" electricity supplies to council operations reported under either the CRC or NI 185.

Market considerations

- 40.
- The successful tenderer is a private organisation
 - The successful tenderer has over 250 employees
 - The successful tenderer has an international area of activity
 - Due to the nature of the energy supply market requirements for suppliers to support local employment would be inappropriate.

Resource implications

Staffing/procurement implications

41. Paragraphs 12 – 16 set out the level of data collection activity that will need to be undertaken over the next financial year in order to be able to tender these electricity supplies. While this data will also need to be collected to meet new statutory requirements, additional staff resources will need to be committed to complete this work.

Financial implications

42. As stated above there will be no increase in the electricity unit rates for the financial year 2010/11. The estimated annual costs are shown in table 1. However, it must be emphasised that these costs based on the estimated annual consumption figures provided by the supplier. In addition without validation of the non-housing supply sites and addresses, allocation of estimated charges to the budgets shown must be treated as broad estimates.
43. However, the other key risks worth noting relate to the discrepancies in the metering infrastructure. These are issues that will have to be addressed in the very near future. It is also important that greater controls are put in place to ensure energy budgets can be easily tracked and monitored.

Table 1

budget	estimated cost breakdown
General fund	£339,590
HRA	£2,191,981
Schools	£201,018
total	£2,732,589

Consultation

44. As the proposed contract is for twelve months only it will not be subject to section twenty consultations with leaseholders.
45. The recent electricity survey has revealed some 278 meters for which it appears that Council is not being billed. The charge related to these will increase the budget requirement and as a consequence increase the recovery of the electricity element of the service charge to homeowners.
46. The major issue from a Home Ownership perspective is that adequate controls are put in place in relation to this cost, including the identification of sites for which Council is responsible and the regular reading of meters and the consequent billing of accounts on the basis of those meter readings.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**Strategic Director of Communities, Law & Governance (SB052010)**

47. The Strategic Director of Communities, Law & Governance (acting through the Contracts Section) notes the recommendations contained in this report. The Council's Contract Standing Orders ("CSOs") require that, for contracts of the nature and value described, all reasonable steps be taken to obtain at least five tenders following a publicly advertised competitive tendering process.
48. CSOs also provide for an exemption to be sought and obtained from tendering requirements in exceptional circumstances and this report explains the particular nature of the supply market and the circumstances which have made it necessary for a further award to EDF to be recommended until the Council is able to carry out its own competitive procurement exercise.
49. In view of the value of the proposed contract, the decisions to approve the procurement strategy and the proposed contract award are ones which fall to be taken by the "relevant individual decision maker" (the Cabinet Member) under CSOs. CSO 2.3 requires that adequate expenditure shall have been identified and set aside before a decision to award a contract can be made and paragraphs 36, 37 and 42 explain how this is to be achieved.
50. The award of the proposed contract is a key decision for the purposes of the Council Constitution, meaning that it must be noted on the Forward Plan and will be subject to call-in prior to its implementation.
51. As required by CSO 4.7 as it is necessary to seek approval retrospectively a report will need to be prepared for Audit and Governance Committee setting out the circumstances and manner in which the decision was taken for the purpose of obtaining guidance to inform future decision making.

Finance Director (Env/ET/160310)

52. Although the proposed contract assumes no increase in unit costs of electricity compared to the current running costs, it is not clear how it compares against the budget agreed for the year. There are other risks affecting the budgets as shown in the Financial Implications. Each department will be expected to report on any variance as part of their monthly budget monitors throughout 2010/11 and take necessary action to avoid budget overspends.

Head of Procurement (JM052010)

53. This is a combined Gateway one and two report seeking approval for the procurement strategy and contract award for the supply of electricity to quarterly billed sites. The report advises that award is recommended to the incumbent provider and explains the particular factors that still exist within this category that prevent a competitive tendering exercise from being undertaken namely the lack of data.
54. The report acknowledges that when this matter was highlighted during presentation of the previous award report, actions were agreed at that time which were expected to facilitate a competitive procurement exercise for the next contract. However, whilst this report confirms that the some of the desired survey work has indeed been completed this has in itself raised more queries/actions.
55. Therefore the recommendation is to again enter into a contract with the incumbent supplier and secure the additional resources needed to continue with the data collection exercises, some of which has now become mandatory in response to CRC requirements. It is further noted that it may be of more benefit to the Council to split the contract going forward and again the data gathered in the coming months will aid the final procurement strategy decision.
56. Through use of the LASER negotiated prices, the Council has retained the same tariff rates as currently applied. The report also confirms the contract management arrangements that will be in place.

Background documents	Held At	Contact
Schedule of quarterly billed sites	160 Tooley Street, London, SE1 2TZ	Bob Fiddik, Energy Strategy Manager, Tel: 020 7525 3804
Contract Register Update		

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing		
Report Author	Nicola Woods, Interim Head of Sustainable Services		
Version	Final		
Dated	July 2010		
Key Decision?	Yes	If yes, date appeared on forward plan	March 2010
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
Head of Procurement	Yes	Yes	
Cabinet Member	Yes	Yes	
Date final report sent to Constitutional Support Services	23 June 2010		

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE

MANDATORY: Please complete the following details:

Contract Name	Supply of electricity to quarterly billed sites
Contract Description	Electricity supply to circa 3,000 lowest consuming sites
Fixed Price or Call Off	Fixed price (tariff rates)
Contract Lead Officer (name)	Bob Fiddik
Contract Lead Officer (phone number)	020 7525 3804
Department	Environment & Housing
Division	Sustainable Services
Business Unit	Energy Team
Estimated Contract Award Date	June 2010
Supplier(s) Name(s)	EDF
Contract Total Value	£2,732,589
Contract Annual Value	£2,732,589
Contract Start Date	01/04/2010
Contract Review Date – 18 months before initial contract end date	
Initial Contract End Date	31/03/2010
Contract End Date if extension options utilised	
Number of Contract Extensions	

OPTIONAL: If available, please complete the following details:

Services/Supplies/Works Contract – delete as appropriate. EU CPV Code – if appropriate and available	
SAP Vendor Number	