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|-----------------------------------|--|-----------------------------------|
| <b>Item No</b>                    | <b>Classification:</b><br>Open   | <b>Date:</b><br>12 September 2011 |
| <b>Decision Taker</b>             | Cabinet Member for Transport, Environment and Recycling                              |                                   |
| <b>Report title</b>               | Gateway 2 – Contract Award Approval<br>Supply of electricity to maximum demand sites |                                   |
| <b>Ward(s) or groups affected</b> | All wards  |                                   |
| <b>From</b>                       | Head of Sustainable Services   |                                   |

## RECOMMENDATIONS

1. That the Cabinet Member for Transport, Environment and Recycling approves the award of the contract for the supply of electricity to maximum demand sites to LASER in the form of a tripartite agreement with NPower using the Procurement Only Service Option (POSO), for four years starting on the 1 October 2012.. The estimated annual cost of £668,485, including LASER's management costs, makes the total contract value £2,673,940.
2. That the Cabinet Member for Transport, Environment and Recycling takes the decision (as recommended) on the purchasing solution (Purchase in Advance or Purchase within Period) as detailed in paragraphs 9 and 10 by the 31 March 2012.
3. Furthermore, that the Cabinet Member takes the decision throughout the duration of the contract (as detailed in the procurement project plan) to change the purchasing and management option as recommended (detailed in paragraphs 9 and 10, and 30-32).

## BACKGROUND INFORMATION

4. The recommendation of this report is that the electricity requirements of this existing contract are secured via a four year framework contract which expires 30 September 2016. As gas and electricity is a volatile traded commodity, the 'wholesale' cost of the electric has been excluded from the tender (electricity will be purchased from the wholesale market at different times both before and during the contract term). This contract has therefore not been awarded on the basis of electricity price. The contract costs set out above are therefore estimates, and actual costs will depend upon market conditions and purchasing decisions taken during the contract.
5. This contract has no extension duration built into the contract.

## Procurement project plan

| Activity                                | Date completed |
|---|----------------|
| Forward Plan (if Strategic Procurement) | 01/06/2011     |
| DCRB/CCRB/CMT                           |                |

| Activity  |              | Date completed                     |
|---|--------------|------------------------------------|
| Review Gateway 1: Procurement Strategy Approval   | DCRB<br>CCRB | 07/06/2011<br>09/06/2011           |
| Publication of Gateway 1 decision   |              | 13/06/2011                         |
| <b>Gateway 1:</b> Procurement strategy for approval report  |              | 20/06/2011                         |
| Scrutiny Call-in period and notification of implementation of Gateway 1 decision  |              | 30/06/2011                         |
| Completion of tender documentation  |              | These tasks completed by consortia |
| Advertise the contract  |              |                                    |
| Closing date for expressions of interest  |              |                                    |
| Invitation to tenders   |              |                                    |
| Closing date for return of tenders  |              |                                    |
| Completion of evaluation of tenders   |              |                                    |
| Completion of any post-tender clarification meetings  |              |                                    |
| Council evaluation of consortia   |              |                                    |
| Council evaluation of purchasing solution   |              | 26/08/2011                         |
| Review Gateway 2: Consortia and Contract award report   | DCRB<br>CCRB | 01/09/2011<br>08/09/2011           |
| Publication of Gateway 2 decision   |              | 12/09/2011                         |
| <b>Gateway 2:</b> Consortia and contract award approval.  |              | 20/09/2011                         |
| Call-in period and notification of implementation of Gateway 2 decision   |              | 28/09/2011                         |
| Place award notice in Official Journal of European Union (OJEU)   |              | Completed by consortia             |
| Standstill period observed between award notice and contract award  |              |                                    |
| Add to Contract Register  |              | 30/09/2011                         |
| Cabinet Member for Transport, Environment and Recycling decision for purchasing option and option to change management solution |              | 31/03/2012                         |
| Start date of Southwark buy-in to the contract  |              | 01/10/2012                         |
| 6 monthly contract performance reviews  |              | January & June                     |
| Contract completion   |              | 31/09/2016                         |

### Description of procurement outcomes

- The selection process undertaken by Southwark Council which included seeking interest from LASER and Government Procurement Services (GPS, formerly Buying Solutions), was based on the criteria detailed in the Gateway 1 report. It resulted in a framework contract presented by the LASER Energy Buying being recommended for the supply of electricity through a tripartite agreement with NPower to supply electricity to 49 sites. Electricity is billed for monthly, for which there is a charge for the maximum capacity demand at the site, in addition to the usual unit charge.

7. Using LASER allows the Council to access wholesale rather than the retail market price for electricity supplies. In addition, the authority does not need to go through the OJEU tendering process, thus saving time and money.
8. Like any other market a 'trading' function is required, deploys tested and continuously improved buying and risk management strategies, and needs to have appropriate governance arrangements in place. LASER'S approach has been evaluated by the authority to ensure any financial risk to the authority is managed in accordance with Southwark's guiding principles. When considered in conjunction with the volatility of prices in the energy market, it has highlighted the need for the decision, whether to take a Purchase in Advance or Purchase Within Period solution (as detailed in the Gateway 1 report), to be taken closer to the contract start date.
9. It is proposed that the decision (whether to take Purchase in Advance or Purchase within Period), is to be taken by the Cabinet Member by the 31 March 2012 on the basis of the criteria listed in paragraph 10. This is the latest point we can notify LASER of our preferred purchasing option and will decrease the financial risk to the authority.
10. Furthermore, if market conditions change presenting an increased financial risk to the authority the Cabinet Member for Transport, Environment and Recycling has delegated authority to change the purchasing option throughout the duration of the contract. This will be based on criteria evaluated as part of the 6 monthly performance reviews, including;
  - Previous PIA and PWP performance, and by further analysing the performance to date of the contract.
  - Market conditions, gas supply to the UK and the impact on electricity prices
  - Market forecast and risk to the authority

## **KEY ISSUES FOR CONSIDERATION**

### **Policy implications**

11. There are no policy implications.

### **Comparison process**

12. As outlined in the Gateway 1 procurement strategy, Southwark Council, approached LASER and Government Procurement Services (GPS) to provide detail on the solutions available to Southwark for the supply of electricity to maximum demand sites in the Council estate.
13. At the start of this process the intention was to follow a 'traditional' tender process that would allow the authority to evaluate against set criteria listed in the Gateway 1 report, and detailed in paragraph 20. These criteria were prioritised depending on their importance as defined by the Energy Management Team.
14. However, whilst both LASER and GPS responded, GPS indicated, that as a Public Sector Organisation they could not be seen to be competing with other

organisations, and would not provide information for tenders, and in the format requested by Southwark.

15. Promotional literature and web links were sent to the Energy Management Team from GPS, and clarifications sought over email prior to the evaluation.
16. The information received from GPS, whilst not a formal tender response, enabled officers to make comparisons of the gas supply contracts and associated services provided by the two framework agreements.

## **Evaluation**

17. The evaluation panel was comprised of staff from the Council's Energy Management Team and the Sustainable Services Management Accountant.
18. Following individual evaluation, staff then met to agree consolidated scores and findings for each of the responses.
19. Further guidance and advice was taken from Environment and Leisure's Procurement Manager, and the Contracts Principal Legal Officer prior to and after evaluation.
20. Responses were evaluated according to quality criteria as outlined in the Gateway 1 report. These were considered in conjunction with the benchmark set by the LASER return, as referenced in paragraph 16. The information supplied was evaluated according to the criteria and weightings detailed below:
  - a. Options available (10%) for the supply of electricity to maximum demand sites in the Council estate. , managed and unmanaged solutions;
  - b. Purchasing options available (10%) e.g. PIA or PWP;
  - c. How energy purchasing decisions are made (10%), including risk management strategies adopted;
  - d. Transition from the old to the new contract (9%);
  - e. Tender Process (8%) including OJEU notice, evaluation criteria and weightings;
  - f. Services offered (8%) including bill validation, contract reporting etc;
  - g. Terms & Conditions (7%), SLAs and termination periods;
  - h. Requirements for adding/deleting sites (6%);
  - i. Contract Management Structure (6%);
  - j. Recovery fees breakdown (5%);
  - k. Contract Management arrangements with the supplier (5%);
  - l. Additional relevant services available (5%);
  - m. Invoicing arrangements and time periods (4%);
  - n. Support available for Carbon Reduction Commitment, and reducing energy across the council estate (4%);
  - o. Reconciliation arrangements (3%), and;
  - p. Details of quality assurance systems, internal policies and procedures (e.g. equal opportunities policies) and health and safety at work record (pass/fail)

21. A score was allocated for each of the criteria detailed above, ranging from 1 to 5 as follows:

| <b>Score</b> | <b>Criterion</b>   |
|--------------|--|
| 0            | Failed to submit examples or a method statement or address the requirements in full.   |
| 1            | Limited information with poor supporting evidence and lacks clarity.   |
| 2            | Answer meets some, but not all, of the requirement or provides some examples which have similar aspects. Lacks convincing evidence and understanding of the requirement.                     |
| 3            | Acceptable information or relevant examples. Answer is comprehensible.   |
| 4            | Above acceptable – answer demonstrates real understanding and gives much more detail or provides good examples of similar experience.  |
| 5            | Excellent answer – gives real confidence that the information provides much more added value, is realistic and achievable and gives greater understanding than that of an acceptable answer. |

22. Following consolidation of the scores, each score was then averaged, resulting in the following average scores and weighted scores:

**Table 1: Average and weighted scores from information supplied**

| <b>Criteria (*ref para 14)</b> | <b>Government Procurement Services</b> | <b>Weighted Score</b> | <b>LASER Energy Buying Group</b> | <b>Weighted Score</b> |
|--------------------------------|--|-----------------------|----------------------------------|-----------------------|
| a                              | 3                                      | 30                    | 4                                | 40                    |
| b                              | 3                                      | 30                    | 3                                | 30                    |
| c                              | 2                                      | 20                    | 4                                | 40                    |
| d                              | 5                                      | 45                    | 5                                | 45                    |
| e                              | 4                                      | 32                    | 2                                | 16                    |
| f                              | 1                                      | 8                     | 5                                | 40                    |
| g                              | 3                                      | 21                    | 3                                | 21                    |
| h                              | 4                                      | 24                    | 4                                | 24                    |
| i                              | 2                                      | 12                    | 2                                | 12                    |
| j                              | 3                                      | 15                    | 5                                | 25                    |
| k                              | 1                                      | 5                     | 3                                | 15                    |
| l                              | 2                                      | 10                    | 3                                | 15                    |

|              |      |     |      |            |
|--------------|------|-----|------|------------|
| m            | 0    | 0   | 3    | 12         |
| n            | 0    | 0   | 3    | 12         |
| o            | 2    | 6   | 3    | 9          |
| p            | pass | -   | pass | -          |
| <b>Total</b> |      | 228 |      | <b>356</b> |

23. In accordance with the selection criteria outlined, the most advantageous solution was presented by LASER, and this report therefore recommends their use.
24. The Cabinet Member will note that there are 2 instances where criteria scored below acceptable (i.e. below 3) for LASER. This score was given as the information and supporting evidence that was provided was limited i.e. it did not suggest that processes and structures were not in place, and further information was not available/could not be provided.
25. Prior to the agreement with LASER being signed, the Energy Management Team will ensure that an acceptable amount of information and supporting evidence is provided. This includes details on the evaluation scores applied for NPower, and direct contract management. It is important to note that whilst not a factor used during evaluation, the experience of the current contract management with LASER from the Energy Management Team is that they provide an extremely proficient service.
26. LASER provide two options for the management of the contract. Their fully managed service is charged, and fixed as an addition on the unit energy cost. This is added to the invoice sent to each individual site e.g. a percentage of the p/kwh price. The services provided for a fully managed service include;
- Arrangements for the suppliers send bills to LASER who check for accuracy, and act to resolve supply queries
  - Validation of pass through cost e.g. those from network operators
  - Bill payment administration charges
  - Electronic billing information
  - Site contact, central point of contact and support
27. The service charge is calculated from the total anticipated levels of electricity consumption for all sites included in this contract. Based on the electricity use in 2009/10 for the 49 sites supplied through this contract the annual charge for the LASER managed service would amount to £11,892.
28. LASER's unmanaged service is known as the Procurement Only Service Option (POSO) and as the Cabinet Member will note is the recommended option for the authority. LASER secure electricity prices from the wholesale market on behalf of the consortium. NPower would directly invoice sites for the amount of electricity used. Sites are responsible for monitoring the accuracy of invoices. Electronic copies of the bills can also be sent direct to the authority on the framework and/or the site contact.
29. For the unmanaged service LASER charge an annual fee per meter and will invoice Southwark directly for this. There are 55 meters installed across the 49

sites currently on the contract. The annual charge, based on the 2009/10 supply, would be £1485.

30. Southwark has the option to change between a managed and unmanaged service throughout the duration of the contract.
31. Management options will be evaluated considering the purchasing solutions proposed/and or adopted, whilst having due regard for the financial benefit to the Council, tenants, leaseholders and schools.
32. The Energy Management Team will undertake the evaluation prior to the 31 March 2012, and throughout the duration of the contract, presented as part of the 6 monthly performance reviews.

#### **Plans for the transition from the old to the new contract**

33. NPower are the current electricity suppliers under the existing framework contract, thus sites will not be transferring between suppliers. The Energy Management Team will liaise individually with sites, arrange for new agreements to be signed with NPower, and act as the point of contact for all parties prior to the supply date in October 2012.

#### **Plans for monitoring and management of the contract**

34. The overall performance of the contract with LASER will be monitored by the Energy Management Team. The following indicators will be used to measure the performance;
  - Electricity purchasing price against market benchmarks
  - Market and LASER price forecast
35. Performance will be measured via;
  - Quarterly newsletters issued after governance panel meetings (detailed in paragraph 36)
  - Bespoke reporting to the Energy Management Team upon request
  - Bi annual members meeting
36. LASER undertakes market analysis on an ongoing basis, and a strategy is agreed with the Governance Panel on a quarterly basis. Purchases are reviewed for compliance with the agreed strategy which defines roles, responsibilities and purchasing authority. The purchasing and risk strategy is monitored and agreed by the Panel made up of representatives from:-
  - Kent County Council, Commercial Services – Director and Head of Finance
  - LASER executive – Director and three purchasing managers
  - Chair of London Boroughs Energy Group (currently LB Sutton)
  - County council
  - District council
  - Independent industry consultant (currently Cornwall Consulting)

37. Within LASER a weekly meeting of Purchasing Managers is convened to consider purchases within the strategy and to set caps and collars as applicable. Ad hoc meetings take place on a daily basis.
38. LASER monitor performance of the agreement with NPower through a Service Level Agreement and series of Key Performance Indicators. Conference calls are held weekly, with face to face meetings on a quarterly basis.
39. The following indicators will also be used to measure performance from NPower on an ongoing basis using a dedicated issues log maintained by the Energy Management Team;
  - Enquiry response times
  - New site response times
  - Bill accuracy
  - Meter read anomalies
40. A dedicated customer services representative will be established with NPower to respond to queries and act as the central point of contact.

#### **Performance bond/Parent company guarantee**

41. A performance bond is not needed for the framework contract. LASER is a local government purchasing consortium and is part of Kent County Council who is a public body.
42. Industry regulators OFGEM are responsible for appointing a supplier if NPower were to cease trading, thus the sites supplied would be protected ensuring a smooth provision of service.

#### **Community impact statement**

43. This contract includes electricity supplies to housing estate district heating systems (largely to power pumps). While these electricity costs represent a small proportion of the overall heating costs to tenants and leaseholders, this procurement route is recommended to achieve the minimum electricity prices.
44. The aim of the recommended contract is to purchase electricity at a wholesale rather than market rate, and to adopt a flexible purchasing option whereby falls in the market price for electricity can be secured to minimise the overall price to the consumer. This strategy is not an option that is open to individual consumers.
45. The charges apportioned to leaseholders for the LASER'S Procurement Only Service Option represents 0.2% of the total costs of the contract (see table 2) and the overhead costs are below the financial limit that requires further consultation.

#### **Sustainability considerations (Including Economic, Social and Environmental considerations)**



46. 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 Council cannot claim to achieve further CO<sub>2</sub> reductions through such contracts. Moreover, it must be highlighted that the council will not be able to claim zero CO<sub>2</sub> emissions for such "green tariff" supplies under the Carbon Reduction Commitment scheme.

### **Market considerations**

47. LASER are a public / not for profit organisation.
48. LASER is part of Kent County Council and has responsibility for the energy procurement for the Central Buying Consortium customers as well as for its own customers from London and the South East of England. It represents in excess of 100 authorities.
49. LASER employees between 50 and 250 employees.
50. LASER have a national area of activity.
51. Due to the nature of the energy supply market requirements for suppliers to support local employment would be inappropriate.

### **Staffing implications**

52. Client departments are responsible for payment and monitoring of their own invoices. The Energy Team within Environment will act as a single point of contact with the supplier and sites to resolve any outstanding queries and manage the transition of the contract as detailed in paragraph 33.

### **Financial implications**

53. The estimated contract costs have been based on current wholesale costs and the existing sites utilising the framework agreement. The actual use of electricity and resultant cost is unknown which is why an estimated use based on previous figures has been supplied.
54. Some sites supplied with electricity via this contract will be affected by the changes made as part of the disposals and rationalisation programme to the Council estate. This may result in some fluctuations to the total contract price. Predicted consumption rates for these will be accounted for with the Departmental finance team throughout the duration of the contract.

55. It must be emphasised that this report is recommending a buying method, not a set of fixed electricity prices resulting from a competitive tender. All predicted costs are therefore based on current market conditions. The actual billed costs will depend on purchasing option taken and prices of electricity secured from the wholesale market.
56. The predicted contract costs are set out in the table 2 below, including LASER'S service charges (detailed in paragraphs 28 to 29).
57. Where the authority can route the supply of electricity through one meter on some sites, LASER's service charges will be reduced. The Energy Team will work with NPower, and facilities managers at the individual sites to implement this where practicable.

**Table 2 Estimated Contract Costs and service charges**

| budget        | Current estimated annual cost (based on 2009/10 electricity use) | Procurement Only Service Option Annual Costs | 4 year cost       | 4 year Procurement Only Service Option cost |
|---------------|--|--|-------------------|---|
| HRA           | £375,000   | £783   | £1,500,000        | £3,132                                      |
| general fund  | £173,000   | £405   | £692,000          | £1,620                                      |
| schools       | £54,000  | £162   | £216,000          | £648  |
| Leisure       | £65,000  | £135   | £260,000          | £540  |
| <b>Totals</b> | <b>£667,000</b>  | <b>£1485</b>                                 | <b>£2,668,000</b> | <b>£5,940</b>                               |
|               | <b>£668,485</b>  |  | <b>£2,673,940</b> |   |

\* 9/10 data is the most up to date consumption data currently available for the sites included in the contract

### Legal implications

58. Please see paragraph numbers 62 to 64..

### Consultation

59. Officers in Corporate Programmes and Regeneration managing the disposal of council offices and the Modernise Programme were consulted on the timescales and status of disposals and the likely level of occupation of remaining sites.
60. Schools and leisure centres included in the contract notification will be sent notification of the changes with an option for their site to opt out prior to the start in October 2012.

### Other implications or issues

61. There are no other implications or issues.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

62. This report seeks the Cabinet Member for Transport, Environment and Recycling's approval to the award of contract for the supply of electricity to maximum demand metered sites. This is to be by way of a tri-partite agreement with LASER, and their supplier NPower, as noted in paragraph 1.
63. At an estimated value of between £2-4 million the award of this contract is reserved to the relevant Cabinet Member. The nature and value of this contract are such that the contract is also subject to the full application of the EU procurement regulations. The report at paragraph 7 confirms the procurement process undertaken by LASER to appoint NPower, which was undertaken in accordance with the EU procurement regulations. The council may therefore use this framework without a further process of tendering.
64. In accordance with Contract Standing Order 2.3 this report confirms the financial implications of this award and how the contract is to be funded.

### **Finance Director**

65. This report recommends the use of LASER for the procurement of the supply of electricity to maximum demand sites, commencing on 1 October 2012 for a period of four years.
66. The estimated value is £2.695m, although the report notes that the energy market is extremely volatile, and that prices can vary significantly on a daily basis. Details are given in the Financial Implications section.
67. The report recommends that the Cabinet Member for Transport, Environment and Recycling takes the decision on the optimum purchasing solution for the contract before 31 March 2012.
68. The report also recommends that the Cabinet Member for Transport, Environment and Recycling takes the decision on the optimum purchasing solution throughout the duration of the contract period
69. Market prices should be monitored, and reported through the 2012/13 - 2014/15 budget setting mechanism if significant inflationary increases are forecast.

### **Head of Environment and Leisure Procurement**

70. This report is seeking approval to award a contract for the supply of electricity maximum demand sites to NPower via Laser. This is a tripartite contract with Laser providing additional management services.
71. Paragraphs 12 -16 describe the procurement process that was followed and explain how the two electricity supply frameworks were assessed and compared. Paragraph 16 confirms that whilst GPS could not formally tender, the information

provided enabled officers to carry out a comparison of the two contracts available.

72. Paragraphs 17 - 22 describe the evaluation that was undertaken and confirm that Laser scored higher than GPS. Laser are able to offer two levels of management services as well as two approaches to purchasing. The decision relating to the purchasing approach can be taken nearer the time of the contract start and can be changed if necessary during the life of the contract. Paragraph 28 confirms that at the start of the contract the unmanaged service level will be adopted however, there will be ongoing review of this arrangement and if necessary the council could switch to the higher level of management available from Laser.
73. Paragraphs 34 - 40 describe how this contract will be managed and monitored. The Energy Management Team will be tracking the performance of this contract and carrying out regular reviews to ensure the most appropriate purchasing approaches are taken.
74. This contract appears to offer the council a good level of flexibility which will provide a mechanism for the council to respond to the market and achieve the best value possible.

## BACKGROUND DOCUMENTS

| Background documents   | Held At           | Contact   |
|--|-------------------|---|
| Gateway 1 Procurement Strategy Approval<br>Supply of electricity to maximum demand sites | 160 Tooley Street | Andrew Chandler,<br>Sustainable Services<br>Manager |

## APPENDICES

| Appendix number | Title of appendix |
|-----------------|-------------------|
| None            |                   |

## AUDIT TRAIL

|   |   |  |                |
|---|---|--|----------------|
| <b>Lead Officer</b>   | Ian Smith, Head of Sustainable Services       |  |                |
| <b>Report Author</b>  | Andrew Chandler, Sustainable Services Manager |  |                |
| <b>Version</b>  | Final   |  |                |
| <b>Dated</b>  | 12 September 2011                             |  |                |
| <b>Key Decision?</b>  | Yes   | <b>If yes, date appeared on forward plan</b> | September 2011 |
| <b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b> |   |  |                |
| <b>Officer Title</b>  | <b>Comments Sought</b>                        | <b>Comments included</b>                     |                |
| Strategic Director of Communities, Law & Governance                     | yes   | yes  |                |

|   |     |                   |
|---|-----|-------------------|
| Finance Director  | yes | yes               |
| <b>Cabinet Member</b>                                   | yes | yes               |
| <b>Date final report sent to Constitutional Officer</b> |     | 12 September 2011 |