

Cabinet Member Delegated Decision 27 September 2019

Report title: Corporate Gas and Electricity Supply Contracts 1 April 2020– 31 March 2025

Wards: All

Portfolio: Cabinet Member for Finance and Performance, Cllr Andrew Wilson

Report Authorised by: Christina Thompson, Acting Strategic Director Finance and Investment

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Report summary

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).

Lambeth is a member of the London Energy Project (LEP). The LEP is a collaborative Category Management resource whose principle purpose is to use authorities combined spending power to minimise risk, reduce procurement, contract operation and back-office costs to achieve better commercial outcomes.

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.

Under these frameworks LASER will:

1. aggregate LEP customer volumes and flexibly purchase energy requirements under a risk strategy in the complex, fast moving wholesale energy market
2. 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.

Finance summary

The total expenditure on the council's General Fund and HRA energy supplies paid centrally is in the region of £9,000,000 per annum and incorporates provision to cover any increase in energy consumption in council buildings or any re-billing from previously estimated accounts and the provision of renewable green electricity.

All costs in respect of these contracts are currently met from within existing Service Area / Departmental Budgets. Procurement pays for the energy supplied to all Corporate and Housing Revenue Account

(HRA) supplies, recharging the costs on a monthly basis to the relevant Service Area / Departmental budgets.

In addition, Schools and other Tenant Management Organisations (TMOs) who utilise the council's corporate energy supply contracts are billed directly by the energy suppliers and are responsible for payment directly from their budgets. Energy spend from these sites bring the overall annual value of the supply contracts to £10.3m.

Using the higher estimated premium of £0.50/MWh for REGO green sourced electricity, the annual cost of electricity will increase by £21,143 to secure green sourced electricity and will be contained within the Council's existing energy budgets.

It is proposed for the Council to utilise the arrangements from 1 April 2020 up to 31 March 2025 (unless terminated by the Council) at an estimated total cost of £45m.

Recommendations

1. 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 £9,000,000 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 £45,000,000.
2. 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 and street lighting) at £5,500,000 per annum (up to £27,500,000 over 5 years), and Corona Energy (LASER Framework Y18002 - corporate gas supplies) at £3,500,000 per annum (up to £17,500,000 over 5 years).

Reason for Exemption from Disclosure

The accompanying part II report is exempt from disclosure by virtue of the following paragraphs of Schedule 12A to the Local Government Act 1972:

Paragraph Three: Information relating to the financial or business affairs of a particular person. (Including the authority holding that information).

1. **Context**

- 1.1 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). Lambeth has one of the largest energy portfolios out of the London local authorities with in excess of 4,000 individual gas and electricity supply points.
- 1.2 The LEP is a Category Management resource funded on a co-operative basis by its 36 participating authorities (primarily in London) and now works in collaboration with NHS London Procurement Partnership. 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. As a member, Lambeth receives specialist utility procurement advice and contract management support from the LEP. 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). Lambeth 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.
- 1.3 In aggregating its energy supplies with a Professional Buying Organisation 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.
- 1.4 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.
- 1.5 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.
- 1.6 Whilst the current LEP endorsed arrangements (of which Lambeth 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.
- 1.8 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.
- 1.9 This is a Gateway 3 Procurement Report.

2. Proposal and Reasons

2.1 On the 29 April, LASER issued an Open Contract Notice (Contract Notice 2019/S 083-196621) to procure a Framework Agreement for the flexible procurement and supply of energy, with the intention of appointing suppliers for the following Lots:

- Lot 1: Primarily Half Hourly (HH) Metered and Unmetered Electricity and Additional Services
- Lot 2: Primarily Non-Half Hourly (NHH) Metered and Unmetered Electricity and Additional Services
- Lot 3: Daily Metered and Non-Daily Metered Gas with Additional Services

2.2 The tender closed on the 3 June 2019 and the evaluation process, in which a number of LEP members participated had been completed. Of all the offers received, no supplier provided a bid that met the service requirement, quality, price criteria specified (summarised below):

Electricity – no supplier met the LEP requirement to provide at least 50% REGO backed renewable electricity for the duration of the framework at no additional cost. There were also concerns around additional costs that could be incurred by customers to install smart meters to non-half hourly supplies.

Gas – of the bids received there was a mixture of high capability / quality and attractive pricing, however, there wasn't a sufficiently high combined quality and price score from any individual supplier.

2.3 Whilst not being able to award from the exercise, the LEP and LASER were committed to delivering pan-LEP energy contracts, to the required timescales (to commence 1 April 2020), by managing an alternative, compliant OJEU process.

2.4 To deliver the pan-LEP energy contracts, 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

2.5 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.

2.6 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.

2.7 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.

2.8 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 make up of energy cost and move away from a transactional relationship with the appointed energy suppliers
 - implement arrangements where the supplier are required to facilitate better energy consumption data analysis to support energy efficiency measures, improved billing quality and increase efficiency of back office processes
 - Place obligations on the successful suppliers to support the council with its Responsible Procurement Objectives (e.g. local employment opportunities, SME's and payment of the London Living Wage).

3. Finance

3.1 The council's current estimated energy spend for 2019/20 is detailed in the table below:

CCS Supply Contract	Supply Contract Dates	Total Contract Value	Total Value Paid Corporately	Current Corporate Energy Budget
EDF Energy (large consuming electricity sites)	1 April 2019 – 31 March 2020	£2,849,699	£1,816,012	£1,500,000
British Gas Business (smaller consuming electricity sites)	1 April 2019 – 31 March 2020	£3,455,222	£2,227,190	£4,000,000
Corona Energy (corporate gas supply)	1 April 2019 – 31 March 2020	£3,988,903	£2,846,680	£3,500,000
Total		£10,293,824	£7,434,882	£9,000,000

3.2 The total expenditure on the council's General Fund and HRA energy supplies paid centrally is estimated to be in the region of £9,000,000 per annum and is higher than the suppliers estimates (£7,434,882) as it incorporates provision to cover any increase in energy consumption in council buildings and/or any re-billing from previously estimated accounts.

- 3.3 In addition, Schools and other Tenant Management Organisations (TMOs) who utilise the council's corporate energy supply contracts are billed directly by the energy suppliers and are responsible for payment directly from their budgets. Energy spend from these sites bring the overall annual value of the contract to £10.3m.

Budget Provision in Oracle for 2020/21 onwards under the new arrangements:

Supplier	Purchase Order Amount in Oracle per annum
Npower	£5,500,000
Corona Energy	£3,500,000
TOTAL	£9,000,000

- 3.4 This report proposes that we maintain the total purchase order value at £9,000,000 for 2020/21 onwards to ensure that there is suitable provision in place to cover forecasted expenditure and any increase in energy consumption in council buildings, or any re-billing from previously estimated accounts for each supplier and green renewable sourced electricity. It is proposed for the Council to utilise the arrangements from 1 April 2020 up to 31 March 2025 (unless terminated by the Council) at an estimated total cost of £45m.
- 3.5 The Procurement Team within the Finance Division of Finance and Investment will initially pay for the energy supplied to all General Fund and Housing Revenue Account Services and then recharge the costs to the relevant Service Areas / Departmental budgets on a monthly basis (with HRA costs recovered through services charges). All costs will be contained within Service Areas / Departmental Budgets. Schools and other TMOs who utilise the council's corporate energy supply contracts are billed directly by the energy suppliers and are responsible for payment directly from their own budgets.
- 3.6 Using the higher estimated premium of £0.50/MWh for REGO green sourced electricity, the annual cost of electricity will increase by £21,143 to secure green sourced electricity and will be contained within the Council's existing energy budgets.
- 3.7 The cost of green Renewable Green Gas Certificate (RGGC) backed gas is currently unclear and will be reviewed through the term of the contract as and when the appointed supplier sources and identifies London generation projects.
- 3.8 There are no capital implications arising as a direct result of this proposal.

4. Legal and Democracy

- 4.1 The authority to deal with the matters set out in this report is delegated to the Cabinet Member for Finance and Performance, who should consult the Leader of the Council and consider the recommendation of the Procurement Board.
- 4.2 LASER is a central purchasing body as defined by EU Procurement Directive 2014/24/EU. Regulation 55 of the Utilities Contracts Regulations 2016 and Regulation 37 of the Public Contracts Regulations 2015 permit contracting authorities to acquire supplies or services, or both, from a

central purchasing body offering the centralised purchasing activity where this consists of the acquisition of supplies and/or services intended for contracting authorities. They may also do so where this takes the form of the award of public contracts or the conclusion of framework agreements for supplies or services intended for contracting authorities. Contracting authorities may award a public service contract for the provision of centralised purchasing activities to a central purchasing body without procuring through an OJEU tendering procedure.

4.3 This proposed key decision was entered in the Forward Plan on 23 July 2019 and the necessary 28 clear days’ notice has been given. In addition, the Council’s Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

5. Consultation and co-production

5.1 Lambeth is an active member of the LEP - a collaborative Category Management resource that has been established to assist public authorities with respect to generating good practice in energy management and advising on related procurement issues. Through its membership Lambeth receives support through the LEP’s supplier management programme (which reviews and seeks improvements from PBOs and their appointed energy suppliers), market development, energy procurement support and benchmarking of energy procurement performance against the wholesale energy market.

5.2 The proposed arrangements are the LEP’s endorsed contract arrangements for its members

6. Risk management

6.1 The main risk identified relates to the absence of corporate energy supply contract arrangements which would result in significantly higher out of contract / deemed energy rates (which are often more than 100% more expensive than agreed contract rates). This risk is being mitigated through use of LEPs new pan-London arrangements ensuring uninterrupted contractual supply arrangements and collaborative risk managed procurement of our energy supply at discounted rates direct from the wholesale energy market. The risk ratings for this are summarised below:

Item	Risk	Likelihood	Impact	Score	Control Measures	Risk Owner
1	Absence of corporate energy supply arrangements for the council’s buildings / LEP not completing procurement exercise to implement new arrangements for April 2020	2	8	16	Existing Central Purchasing Body frameworks available for use, including the current Crown Commercial Services Framework which the Council utilised and Kent County Council Laser.	Malcolm de Vela

2	Resource requirement of transferring to new suppliers	4	4	16	Procurement already have a dedicated Procurement Officer solely working on the management of Council's energy contracts, and the team's apprentice will be assigned to provide the required additional administrative support to transition to any new arrangements.	Malcolm de Vela
3	Impact of Brexit on price and availability	3	4	12	Existing suppliers have been contacted by the Council who confirmed no significant impact on the delivery of contracts. Operations and gas flows are expected to continue as normal irrespective of Brexit. There may however be an impact on the availability and price of REGO green energy.	Malcolm de Vela

Key

Likelihood	Very Likely	4	Likely	3	Unlikely	2	Very Unlikely	1
Impact	Major	8	Serious	4	Significant	2	Minor	1

6.2 Due Diligence will be completed on LASERS appointed energy suppliers including insurances, financial checks, relevant policies and processes including health and safety.

7. Equalities impact assessment

7.1 The Contracts Manager has undertaken an equalities impact assessment and concluded that there is limited impact identified from this contract.

8. Community safety

8.1 Not applicable

9. Organisational implications

9.1 Environmental

The Council has a target to become carbon neutral by 2030. The proposed arrangements secure the supply of 100% Renewable Energy Guarantee Origin (REGO) traceable green electricity supply at a premium of £22,000 per annum the cost of which is contained within current energy budgets.

Under the arrangements the appointed gas supplier will make available Renewable Green Gas Certificate (RGGOs) traceable green gas supply and is required to assess and support local

generation opportunities on a case by case basis considering their location, technology preference and support customers to get more from their commercial food / legacy waste. The price for RGGOs is currently unclear and will be reviewed through the term of the contract as and when the supplier sources and identify London generation projects on our behalf.

In the event of a 'no deal' Brexit, there is unlikely to be a significant domestic impact on the viability of REGOs. Ofgem has already confirmed that suppliers may continue to count GB and EU generated REGOs towards their mandatory commitments. Also, the agreement with the framework supplier will allow LASER and Participating Authorities to directly sleeve Power Purchase Agreements from Renewable Generators into the Pan-LEP contract. These can be generators that we appoint e.g. if we wanted to select a local wind/solar farm to London, you set up your own corporate PPA, or simply request the framework supplier to appoint a green generation source on our behalf. This gives us a 'deeper' green option.

The energy supply contracts incorporate the availability of additional ancillary services enabling access to products and services for the management and reduction of energy consumption and reducing associated carbon emissions. Whilst there is no contractual commitment from the Council to utilise the ancillary services element of the contract, services can be called off from the providers to support environmental improvement, efficiency, and reduce consumption to achieve financial savings. The proposed energy supply contracts provide a one-stop route for energy efficiency, financing innovation and carbon reduction measures – with the ability to facilitate on-site energy generation, demand side response, community engagement, development of district heat networks and Power Purchase Initiatives

All invoices paid by the Council are received in an electronic format (EDI – electronic data interchange format), eliminating the requirement for paper invoices. The data from the invoices is retained on the Council's central energy database, enabling the Council to monitor its energy consumption and spend, and facilitates monitoring and reporting of its carbon emissions.

9.2 **Staffing and accommodation**

The contract will be managed by the Category Manager for Energy and Corporate Resources.

The proposed contracts implement arrangements where the suppliers are required to facilitate better energy consumption data analysis to support energy efficiency measures, improved billing quality and increase efficiency of back office processes

9.3 **Procurement**

9.3.1 Through this procurement exercise the LEP has:

- established the most appropriate products, services and delivery models to meet London public authority energy needs
- Continue to maintain collaboration and the aggregation of pan-London energy expenditure (with London local authority gas/electricity spend estimated at £0.5bn per annum)
- Determined best practice procurement practices and use of resources to achieve value for money.

9.3.2 LASER awarded the utilised Frameworks on the 12 December 2018:

- 1) LASER Framework Agreement Y18002: *Flexible Procurement and Supply of Daily and Non-Daily Metered Natural Gas, including Product Classes 1, 2, 3 and 4 with Additional*

Services such as Green Gas, Automatic Meter Reading (AMR), Gas Purchase Agreements, Energy Services

OJEU Contract Reference: 2018/S 068-150568

- 2) LASER Framework Agreement Y18003: *Flexible Procurement and Supply of Half Hourly and Non-Half Hourly Metered and Unmetered Electricity with Additional Services, such as Green Electricity, AMR, Data Aggregation, Data Collection, Demand Side Response, Power Purchase Agreements, Battery Storage, Electric Vehicle Facilities, Energy Services*

OJEU Contract Reference: 2018/S 068-150571

The framework runs to the 30 September 2024 with the option to extend to 30 September 2025, Call of contracts may extend beyond 30 September 2024. The pan-LEP Service Level Agreement is available under Lot 1 by Direct Award for electricity and by further competition on Lot 2 for gas – for an on behalf of current and future member of the London Energy Project.

9.3.3 The LEP's specification incorporated specific requirements for securing social value and environmental benefits through the enhanced SLA specifically for LEP members, and the Council will seek to append its Special Conditions' to the Framework Call-Off terms and conditions in relation to the applicable Responsible Procurement elements:

- The Living-Wage will be applicable for directly employed and sub-contracted staff with respect to the proposed contracts.
- Incorporate Modern Slavery Act (2015) including a whistleblowing policy and enabling the freedom of employees to join a trade union and not be treated unfairly as a consequence of belonging to one.
- Commitment to the provision of Quality Apprenticeships under the contractual arrangements
- Ensure adherence to the London Healthy Workplace Charter

10. Timetable for implementation

Activity	Dates
Procurement Board	27 August 2019
Decisions Online Period	19 September 2019 – 4 October 2019
Sign-off Gateway 3	4 October 2019
Contract Commencement	1 April 2020

Audit Trail				
Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
Councillor Andrew Wilson	Cabinet Member for Finance and Performance	11.09.19	12.09.19	
Christina Thompson	Acting Strategic Director – Finance & Investment	11.09.19	12.09.19	
Nisar Visram, Finance	Finance & Investment	20.08.19	22.08.19	
Michael O'Hora, Legal Services	Finance & Investment	20.08.19	21.08.19	4
Maria Burton, Democratic Services	Legal & Governance	12.09.19	18.09.19	4.3
Procurement Board	Date of meeting			

Report History	
Original discussion with Cabinet Member	06.06.19
Report deadline	N/A
Date final report sent	N/A
Part II Exempt from Disclosure/confidential accompanying report?	Yes
Key decision report	Yes
Date first appeared on forward plan	23.07.19
Key decision reasons	Expenditure, income or savings in excess of £500,000
Background information	Cabinet Member Delegated Decision, 21 September 2018: Corporate Gas and Electricity Supply Contracts.
Appendices	None

APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION

I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:

Signature: _____ **Date:** _____

Post: Malcolm de Vela
Category Manager – Energy and Corporate Resources

I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:

Signature: _____ **Date:** _____

Post: Councillor Andrew Wilson
Cabinet Member for Finance and Performance

Any declarations of interest (or exemptions granted): N/A

Any conflicts of interest: N/A

Any dispensations: N/A