

REPORT TO THE ACTING CHIEF EXECUTIVE

16 July 2012

Title: Procurement of Automotive Fuel and Fuel Oil	
Report of the Corporate Director of Finance and Resources	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Divisional Director: n/a	
Accountable Director: Tracie Evans, Corporate Director of Finance and Resources	
<p>Summary:</p> <p>The current contract for the provision of the purchase of automotive fuel and fuel oil expires on 31 July 2012. This report details the required actions to implement a compliant and cost effective supply of automotive fuel and fuel oil to the Council with effect from 1 August 2012.</p> <p>The current annual spend attributed to the service for 2011 to 2012 was circa £1.13m.</p>	
<p>Recommendation(s)</p> <p>That under the Urgent Action provisions within the Council's Constitution, the Acting Chief Executive agrees the following:</p> <ul style="list-style-type: none"> (i) That the Council enters into an agreement with the Government Procurement Service (GPS) for the provision of automotive fuel and fuel oil through Framework RM683 for a period of two years commencing 1 August 2012 (option 2), as detailed in the report; and (ii) To authorise the Corporate Director of Finance and Resources, in consultation with the Divisional Director of Legal and Democratic Services, to enter into the contract on behalf of the Council. 	
<p>Reason(s)</p> <p>To ensure the provision of the services are compliant with EU Procurement legislation and the Council's procurement rules.</p> <p>To enable the Council to access market competitive prices throughout the purchasing period through the aggregated purchasing power of the GPS Framework.</p>	

To ensure commercial and financial risks to the Council are mitigated by the Framework Terms and Conditions.

1. Introduction and Background

- 1.1 The Council's supplies are currently provided through Kent County Council's Utilities Division, LASER, via a framework contract originally procured by Eastern Shires Purchasing Organisation (ESPO) on behalf of the Pro5 group of local authority purchasing organisations. The Framework commenced on 1 October 2009 for a term of two years expiring on 30 September 2011, with an option to extend for up to a further two years.
- 1.2 The Council accessed the agreement on 1 April 2010 for a term of two years expiring 31 March 2012. Prior to the expiry date an extension was agreed under Chief Officer delegated powers with the current supplier, which is to expire on 31 July 2012. The justification for the contract extension was to allow the Council to review its procurement options and to agree an appropriate way forward.
- 1.3 The spend for 2011 to 2012 attributed to this service was circa £1.13m

Type	Estimated Volume	Average Cost on Volume
Gas Oil (Red Diesel)	103,000 Litres	£70,897.27
Derv (Diesel)	862,000 Litres	£1,002,121.37
Unleaded Petrol	51,000 Litres	£58,957.45
Total		£1,131,976.00

- 1.4 The Council currently has two points of delivery and has the capacity to store the automotive fuel and fuel oil as follows:

- Frizlands Depot –

Tank	Type	Maximum Capacity
1	Gas Oil (Red Diesel)	9,000 litres
2	Unleaded Petrol	22,700 litres
3	Derv (Diesel)	22,690 litres
4	Derv (Diesel)	47,000 litres

- Hollidge Way Old Persons Flats

Tank	Type	Maximum Capacity
1	Gas Oil (Red Diesel)	10,000 litres

2. Proposal and Issues

- 2.1 The following options were considered as part of the review and benchmarking exercise:

Option 1 - Kent County Council via LASER

The Framework commenced on 01 April 2012 for a term of two years expiring 31 March 2014.

Type	Estimated Volume	Cost as at 25/06/12
Gas Oil (Red Diesel)	103,000 Litres	£65,837.60
Derv (Diesel)	862,000 Litres	£931,735.80
Unleaded Petrol	51,000 Litres	£54,401.70
Total		£1,051,975.10

Option 2 - GPS (Government Procurement Service)

GPS has an open framework (RM683) for liquid fuel supplies which commenced on 1 August 2009 and expires 31 May 2013.

Type	Estimated Volume	Cost as at 25/06/12
Gas Oil (Red Diesel)	103,000 Litres	£61,285.00
Derv (Diesel)	862,000 Litres	£917,081.80
Unleaded Petrol	51,000 Litres	£53,330.70
Total		£1,031,697.50

Both frameworks (Options 1 and 2) were tendered by the Managing Authority and were competed in compliance of EU Procurement Legislation.

Option 3 – Fuel Cards

GPS has an open framework (RM536) for the provision of Fuel Cards that the Council could utilise.

The framework has four suppliers listed which include Shell and BP. The Council would be charged at pump prices per litre via the card transaction. Each card would be required to be assigned to a vehicle to reduce the risk of fraudulent purchases and would require fuel only transactions.

Dependant on the volume of fuel purchased on an annual basis a rebate would be applied.

This option requires strict management to ensure compliance and spend. In order to achieve the pricing levels from bulk fuel frameworks the Council would be required to use a large volume of fuel and pay by direct debit, which would increase cash flow pressures, whereas the framework offers terms of credit.

Due to the above this option is not the preferred route to market

Option 4 – No Action Taken

This option would be non compliant with the Council's procurement rules and EU Procurement Legislation as the service value dictates that a full, robust and complaint process would be required. The timescales for this procurement would be approximately nine months, and the general consensus would be that the volumes

taken to the market by the Council as an independent would not equate to the economies of scale of utilising the framework options.

2.2 Preferred Option

After evaluation the preferred option would be to award through the GPS Framework RM683 (option 2).

Based on like-for-like service provision, static pricing for the annual period and prices at week commencing 25 June 2012, the GPS Framework would provide a saving of approximately £20,000 per annum.

It is proposed that the contract would commence on 1 August 2012 for a period of two years expiring 31 July 2014 with no option to extend. Although the expiry date is beyond the formal expiry date of the GPS Framework, this is permissible under general Framework Agreement arrangements.

3. Consultation

- 3.1 Discussions have been ongoing with representatives of LASER, GPS and Council Officers. This includes but not limited to Legal, Asset Management and Housing and Neighbourhoods.

4. Financial Implications

Implications completed by: Jo Moore, Finance Group Manager

- 4.1 The report outlines several options based on 2011/12 usage and prices. It does not model any alterations in pricing based on changes in demand and supply.
- 4.2 The Council has recently entered into a new contract with Translinc for the supply of new energy efficient vehicles and has also taken the opportunity to rationalise and reduce the number of vehicles in operation. However, the remodelling of the repairs and maintenance service and the implementation of a new DLO will increase the Council's fuel consumption. Therefore future demand is likely to be different than the consumption figures quoted in this report.
- 4.3 The costs for 2011/12 were estimates provided by Laser and the options are based on the same model for ease of comparison and have not been provided by Finance.
- 4.4 The supplier margin and fee is fixed, and all other costs are variable and hence subject to market fluctuations, although the variable elements e.g. small load premium varies between GPS and Laser. Based on the data provided to Finance the GPS variables appear more favourable than Laser.

5. Legal Implications

Implications completed by: Daniel Toohey on behalf of Eldred Taylor-Camara, Legal Group Manager

- 5.1 The value of the contract and/or supplies to be procured exceeds the relevant EU threshold and therefore the Council must take care to comply with the requirements

of the EU Procurement Regulations (Public Contracts Regulations 2006). The use of an EU-compliant Framework Agreement, in this case the proposed GPS Framework Agreement, will ensure compliance, and therefore reduce the risk of challenge by an unsuccessful tenderer or supplier. Legal Services and the Council's Procurement Team will provide support and advice in respect of the proper use of the GPS Framework, including the process of calling off orders, and the drafting of required contract documentation.

6. Other Implications

6.1 Risk Management - There are a number of risks associated with this project as follows:

- The Council fails to have in place its new arrangements for the supply of automotive fuel and fuel oil prior to 31 July 2012 - this would result in the Council being out of contract and under obligation to the Supplier's standard terms and conditions and price banding.
- The Council fails to agree to access the GPS Framework - this would leave the Council in breach of EU Procurement Rules. The minimum timescales required to conduct a full OJEU procurement would be nine months (February 2013 as a minimum).

To mitigate these risks it is advised that the matter is dealt with under the Council's Urgent Action provisions and that authority is delegated to the Corporate Director of Finance and Resources to enter into GPS framework agreement RM683 with effect from 1 August 2012.

6.2 Contractual Issues - The services will be covered by pre approved terms and conditions attached to each of the proposed Frameworks.

6.3 Customer Impact - There could be an impact on the services provided to the Council's constituents, if in the event that a new agreement is not entered into. I.e. after 31 July 2012 the supplier will not be held accountable for non or delayed delivery of the fuel, which may cause shortages or vehicles being delayed in their deployment of their front line tasks.

Background Papers Used in the Preparation of the Report: None

List of appendices: None