

CABINET

23 May 2017

Title: Contract for the Supply of Automotive Fuel and Fuel Oil	
Report of the Cabinet Member for Finance, Growth and Investment	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Director: Alan Bowley, Director of Public Realm	
Accountable Strategic Director: Claire Symonds, Chief Operating Officer	
Summary: <p>The current contract for the provision of automotive fuel and fuel oil expires on 11 August 2017. The Council will need to have a contractual agreement in place for the supply of the service in order to ensure that the provision of fuel is available across a range of Council services.</p> <p>This report details the options available to the Council to ensure a compliant and cost effective supply of automotive fuel and fuel oil to the Council.</p> <p>The current annual spend attributed to the service in 2016/17 is estimated to be c£0.91m.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree that the Council proceeds with the procurement of a contract for the provision of automotive fuel and fuel oil in accordance with the strategy set out in the report; and(ii) Delegate authority to the Director for Public Realm, in consultation with the Cabinet Member for Finance, Growth and Investment and the Director of Law and Governance, to conduct the procurement and award the contract to the successful bidder in accordance with the strategy set out in the report.	
Reason(s) <p>To ensure the provision of the services which 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 CCS 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 currently utilises a framework agreement, managed by Crown Commercial Services (CCS), but this agreement is due to expire on 11/08/2017. CCS will be replacing the existing framework with a new version due to commence on 12/08/2017. This paper sets out the options available to the Council to ensure that the provision of Automotive Fuel and Oil remains cost effective.

1.2 The spend for 2016/17 on fuel and oil to end of period 11 is:

Type	Supplier	Estimated Cost to P11 (2016/17)
Gas Oil (Red Diesel)	Birlem	£34,612
Derv (Diesel)	Harvest Energy	£788,120
Unleaded Petrol	Harvest Energy	£10,479
Total		£833,211

1.3 The Council currently has 2 points of delivery and has the capacity to store the Automotive Fuel and Fuel Oils, they are 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

1.4 The profile of current spend for 2016/17 identifies five main users:

Fuel Usage by Service User

Service	No. Vehicles	Forecast Spend 16/17	Percentage Use
Waste Management	23	£275,000	33%
Housing Repairs	118	£200,000	24%
Street Cleansing	23	£92,000	11%
Passenger Transport	25	£75,000	9%
Grounds Maintenance	37	£75,000	9%
All other services	84	£116,000	14%
Total	310	£833,000	100%

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured.

The service required is summarized as follows;

- Conduct mini competition on behalf of the Council
- Establish delivery site details and tank capabilities
- Enable timely deliveries of liquid fuel and fuel oil to the Councils designated delivery points
- Produce and issue accurate invoicing based on actual delivery volumes

2.2 Estimated Contract Value, including the value of any uplift or extension period.

Estimated value per annum is £910,000, giving a total contract value of £1,820,000, although this value could fluctuate based on actual volume requirements in the two-year contract period.

2.3 Duration of the contract, including any options for extension.

Two years

2.4 Recommended procurement procedure and reasons for the recommendation.

Open Framework managed and procured by CCS
The framework provides fuel procurement to over 400 customers with an annual throughput of circa £240,000,000 and delivers to in excess of 6,000 sites, which will enable the Council to capitalise on the economies of scale being represented.

2.5 The contract delivery methodology and documentation to be adopted.

The terms and conditions which will govern the service delivery will be as follows:

- CCS Overarching framework terms and conditions
- CCS Call Off order form including special LBBB terms

2.6 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.

- Reduce Procurement timescales as framework has already been compliantly procured in line with EU legislation
- CCS to conduct the mini competition based on LBBB requirements
- On time deliveries of liquid fuel and fuel oil to the required locations
- Scalable delivery volumes to match service requirements
- Accurate billing
- Weekly prices issued by CCS to ensure accurate budget forecast
- CCS contract management re service levels and KPI performance
- Comprehensive management information available from CCS
- Utilise economies of scale to reduce or remove small load premiums and reduce supplier margins

2.7 **Criteria against which the tenderers are to be selected and contract is to be awarded**

The evaluation will be based solely on cost in accordance with the mandatory criteria set by the Government Procurement Service.

2.8 **How the procurement will address and implement the Council's Social Value policies.**

Not applicable to this procurement

3. **Options Appraisal**

3.1 Set out below is an assessment of options:

Option 1 – Full Competitive Tender via OJEU

The Council could choose to undertake a full competitive tendering process via OJEU for the provision of automotive fuel and oil. This has been discounted for the following reasons:

- A full competitive tender via OJEU will take around 9 months to complete meaning any new arrangements are unlikely to be in place before February 2018 when the current contract ends.
- Furthermore, the relatively low volumes of fuel and oil purchased by the Council, when compared to the terms of the current GPS framework agreement, means that any tendered prices may not reflect best value because similar economies of scale may not be achieved.
- A full competitive tender would increase the procurement costs without, as noted above, providing best value for the Council.

Option 2 - CCS Framework Agreement (Recommended Option)

The CCS framework will seek to utilise wider economies of scale to enable stronger negotiation points on elements of the full fuel cost such as small load premiums and supplier margin. The framework allows for a scalable option in terms of volume to be delivered to the agreed delivery points, this would enable a flexible solution that would be able to accommodate and flex which is a direct result of the Ambition 2020 transformation programme. This would mean that the Council is not tightly bound by volume. The Framework will provide an opportunity for the Council to run a mini-competition from a list of pre-approved suppliers to determine the best value option in terms of cost and supply arrangements.

Given the economies of scale obtainable from a Framework Agreement it is expected that this option will deliver better prices when compared to option 1. This option also provides best value in terms of procurement costs.

Option 3 – Fuel Cards

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

The framework operates with a number of national suppliers including well-known forecourt names such as BP & Shell.

The Council would be charged **AT PUMP** prices per litre via the card transaction. Each card will be required to be assigned to a vehicle to reduce the risk of fraudulent purchases and would require fuel only transactions.

Dependant on the annual volume of fuel purchased a rebate will be applied retrospectively to reduce the overall cost to the Council.

This option requires strict management controls to be in place to ensure compliance and spend. In order to achieve a similar pricing structure when compared to the expected unit prices achieved under from bulk fuel framework the Council will be required to use a large volume of fuel (a likely outcome) and pay by direct debit, which will increase cash flow pressures, when compared to the bulk fuel framework that operates on a credit basis.

Although this option carries a number of operational and compliance risks, as described above, it may provide some flexibility going forward because of the Council's Ambition 2020 programme of change. Unlike the bulk fuel framework, the Council is not required to maintain the local depot infrastructure for vehicle fuelling which does incur additional overhead costs. Given that the direct provision of fleet may change as new models of service delivery changes because of Ambition 2020 these costs may start to become disproportionately high. Table 1.4 helps show how proportionate the financial and operational risk associated with this option will be for the main service users given the current usage profile

At this stage, this option is not considered to be the preferred route to market. However, this option should remain 'under review' as the demand for direct fuel provision may change as an outcome of Ambition 2020 programme.

Option 4 – No Action Taken

The Council would still require the provision of Automotive Fuel and Oil therefore individuals would need to either purchase via high street forecourts which would be both expensive and administratively burdensome or be obliged to operate under any supplier's standard terms and conditions and price banding which would not provide best value. In addition, this would be non-compliant with the Councils procurement rules and EU Procurement Legislation as the service value dictates that a full, robust and complaint process would be required.

- 3.2 After evaluation, the **recommended option** would be to market test the provision of the service using the established CCS Framework Agreement (option 2) and award a two-year contract. This would provide a period for continuity of service provision as the Council implements the A2020 vision and ensure that new commercial entities have a period of stability and to assess their individual requirements prior to seeking their own competitive procurement process.
- 3.3 This option also balances the need to deliver a value for money service alongside managing the procurement and commercial risks that exist with option 1, and provides stronger financial controls when compared to option 3.

4. Waiver

4.1 Not Applicable as the use of a pre-procured open and accessible framework is partially exempt from the Councils Contract Rules.

5 Equalities and other Customer Impact

5.1 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 12/08/2017 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.

6. Other Considerations and Implications

6.1 **Risk and Risk Management** - There are number of risks associated with this procurement, they are as follows:

Risk	Impact	Mitigation
Non-compliant status of procurement	No compliant with Council and EU legislation	Access of CCS framework and Mini compete the Councils requirements
Non-availability of the CCS open framework	Market rates (pump price) charged and potential to be non-compliant with Council and EU legislation	Access an alternative open framework for supply of liquid fuels or move to fuel cards in the interim
The Council requires a reduction in volume as a result of A2020 transformation	Potential cost increases	The framework will allow for fluctuations in volume with small minimum deliveries
Non-delivery of fuel	Potential service disruption	CCS contract management processes will ensure corrective and timely action is taken to avoid service disruption

6.2 **Property / Asset Issues** – There are no issues at the moment, however in the event that the Depot is moved outside of its current use provision would be required to make safe the fuel storage tanks.

7. Consultation

7.1 Consultation for this tender exercise has taken place through circulation of this report.

7.2 The proposals within this report were endorsed by the Council's Procurement Board on 18 April 2017.

8. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement

- 8.1 The use of the CCS framework is a compliant route to market, that should enable the Council to benefit from the aggregated buying power of Central and Local Government users.
- 8.2 The criteria on which the mini competition will be conducted is 100% price as CCS have already ascertained the quality element in awarding the suppliers onto the main framework. This will ensure competition is maintained.
- 8.3 The two-year contract term is long enough to leverage cost but is also short enough for the Council to review its options in terms of fuel delivery as the size and shape of the Council evolves.
- 8.4 Corporate procurement is satisfied that this route to market offers the Council a flexible and cost effective service.

9. Financial Implications

Implications completed by: Katherine Heffernan, Group Manager Services Finance

- 9.1 Procurement of liquid fuel and fuel oil is managed by the Fleet services in Public Realm. Costs are then reallocated to individual services in the council based on their demand/usage. These costs are funded from service budgets. Table 1.4 above proves a profile of usage across council services.
- 9.2 Over 50% of current demand is with services under the Public Realm umbrella. The division is currently reviewing existing fleet which could result in changes to the demand level. The recommended option allows for fluctuations in volume which will accommodate changes resulting from this and similar reviews.
- 9.3 The estimated value of the contract is £1,820,000 over 2 years. Actual spend will be dependent on service demand.
- 9.4 The contract will be subject to gainshare on the same basis and baselines as the current expiring contract (Elevate 20% : LBB 80%)

10. Legal Implications

Implications completed by: Kayleigh Eaton, Contracts and Procurement Solicitor, Law & Governance

- 10.1 This report is seeking approval to tender a two-year contract for the provision of automotive fuel and fuel oil from 12th August 2017. The proposed procurement being considered is estimated to have a total value above the EU threshold for supplies and service contracts (currently set at approximately £164,176). This means that there is a legal requirement to competitively tender the contract via the Official Journal of the European Union (OJEU).

- 10.2 This report advises that it is the intention of officers to conduct a mini-competition on the Crown Commercial Services (CCS) Liquid Fuels Framework. The Public Contracts Regulations 2015 (the Regulations) allows local authorities to select providers from established Framework Agreements and the Council's Contract Rule 5.1 (a) advises that it is not necessary for officers to embark upon a separate procurement exercise when using a Framework Agreement providing the Framework being used has been properly procured in accordance with the law and the procurement is made in line with the Framework terms and conditions.
- 10.3 In keeping with the EU procurement principles, it is imperative that the contract is tendered in a competitive way and that the process undertaken is transparent, non-discriminatory and ensures the equal treatment of bidders on the framework.
- 10.4 Contract Rule 28.7 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval. Furthermore, In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.
- 10.5 The report author and responsible directorate are advised to keep the Law & Governance team fully informed at every stage of the proposed tender exercise. The team will be on hand and available to assist and answer any questions that may arise.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None