

CABINET

21 May 2019

Title: Contract for Provision of Liquid Fuel	
Report of the Cabinet Member for Public Realm	
Open Report	For Decision
Wards Affected: All	Key Decision: No
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Accountable Director: Robert Overall, Director My Place	
Accountable Strategic Leadership Director: Claire Symonds, Chief Operating Officer	
Summary This report presents proposals for the procurement of new contracts for the provision of liquid fuel for the LBBD Transport Fleet, as the current contracts expire on 30 September 2019. Following a detailed assessment of options, it is proposed to procure via the EU compliant Crown Commercial Services (CCS) Framework Agreement RM3801 in accordance with the strategy set out in this report.	
Recommendation(s) The Cabinet is recommended to: (i) Agree that the Council proceeds with the procurement of contracts for the provision of liquid fuel in accordance with the strategy set out in the report; and (ii) Delegate authority to the Director of My Place, in consultation with the Cabinet Member for Public Realm and the Director of Law and Governance, to conduct the procurement and award the contract(s) to the successful bidder(s).	
Reason(s) In order to maintain LBBD's requirement to ensure the ongoing provision of liquid fuel, this report seeks approval to appoint a liquid fuel supplier/s via a Framework agreement compliant with EU procurement Regulations.	

1. Introduction and Background

- 1.1 The Council operates a wide range of vehicles, machinery and plant that requires liquid fuel to operate. At present all liquid fuel is procured via a Framework agreement to take advantage of economies of scale and ensure best value. Fuel is

stored in tanks at both Frizlands Depot, Dagenham and Creek Road Depot, Barking.

1.2 There are currently 3 contracts in place for the following products:

- Watson Petroleum – White Diesel
- Birlem Ltd – Red Diesel
- Certas Energy UK Ltd – Unleaded Petrol

1.3 All the contracts expire on 30 September 2019.

2. Proposal and Issues

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

2.1.1 Liquid fuel for all LBBB's vehicles, machinery and plant that requires it to operate.

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

2.2.1 £4 million over 4 years

2.3 Duration of the contract, including any options for extension

2.3.1 Four years in total based on CCS's annual renegotiation with the suppliers to ensure best value.

2.3.2 As CCS will be carrying out a mini competition each year to ensure suppliers pricing remains competitive it means LBBB may be entering into a contract for each of the different fuel types with a different supplier every year.

2.4 Recommended procurement procedure and reasons for the recommendation

2.4.1 Due to the standardised nature of the product there are a range of Frameworks available. The Crown Commercial Services (CCS) Framework RM3801 has been identified as a good fit for LBBB's requirements based on contract terms and past experience. Use of a Framework contract will allow LBBB to take advantage of low prices generated through economies of scale. Best value reviewed as part of the CCS Framework onboarding.

2.5 The contract delivery methodology and documentation to be adopted

2.5.1 The Framework terms and conditions will be utilised.

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

2.6.1 The Council has chosen this method of delivery of utilising its own fuelling stations to obtain the best value and service possible. Other schemes running on fuel cards at local fuel stations creates administration issues and possible delays in supply.

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

2.7.1 Will be determined by the Framework owner CCS.

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

2.8.1 With contracts in place to provide fuel to all vehicles enables LBBB to service the borough without interruption.

3. **Options Appraisal**

3.1 The alternative options considered were:

3.1.1 **Do nothing. Rejected.** Liquid fuel is essential in delivering front line operations. The current contracts all expire on 30th September 2019 and alternative arrangements have to be put in place.

3.1.2 **Let a bespoke LBBB contract. Rejected.** LBBB's spend on liquid fuel is in scope of EU procurement Regulations which would require a full EU compliant tendering exercise which would require significant officer resource and would take time to carry out. LBBB's fuel use, although significant cannot compete with economies of scale that existing framework contracts offer. The bespoke approach does not deliver best value to LBBB. Using an existing framework will save officer resources and deliver greater value for money.

3.1.3 **Reconfigure service to use a Commercial Fuel Card system. Rejected.** A Fuel Card system does not offer LBBB adequate resilience in the event of fuel shortages. The current bunkered fuel system is integral to local and pan London contingency plans. The local area has minimum fuelling stations with adequate access for HGV's. Over height vehicles such as dustcarts will have limited fuelling stations. Bunkered fuel stores allow LBBB to purchase additional stocks when prices are low, fuel cards would not offer the same opportunity. In addition, fuel cards would be tied to local petrol stations, however no stations in the area offer red diesel.

4. **Consultation**

4.1 The Director of My Place and the Cabinet Member for Public Realm were consulted on this report in April 2019.

4.2 The proposals in this report were considered and endorsed by the Procurement Board at its meeting on 15 April 2019.

5. **Financial Implications**

Implications completed by: Katherine Heffernan, Group Manager, Service Finance

5.1 The provision of liquid fuel to the council's fleet is managed by the Fleet Service team in Public Realm. Each department is charged based on actual use.

- 5.2 The proposed award is estimated at up to £4m over the next 4 years which is in line with current costs. Actual cost will be dependent on the level of usage and will be funded from individual service revenue budgets both in the General Fund and the HRA.
- 5.3 A review and replacement of the council's fleet is currently in progress which will see a move towards more fuel-efficient vehicles and is expected to bring further reductions to the current spend levels.
- 5.4 The contract will be subject to gainshare on the same basis and baselines as the current contract (Elevate 20%: LBB 80%).

6. Legal Implications

Implications completed by: Kayleigh Eaton, Senior Contracts and Procurement Solicitor

- 6.1 This report is seeking approval to award a contract for the provision of liquid fuel for the Council's Transport Fleet through a CCS framework. This report is also seeking approval to delegate authority to the Corporate Director for Public Realm to conduct the procurement and award the contract/s to the successful bidder/s in accordance with the strategy set out in this report.
- 6.2 The value of the contract is estimated to be £4 million over 4 years and is therefore in excess of the EU threshold for supplies and service contracts meaning that there is a legal requirement to competitively tender the contract in the Official Journal of the European Union (OJEU). The Public Contracts Regulations 2015 (the Regulations) permit contracting authorities to call off valid frameworks in order to procure goods, services, works, as required. In compliance with the principles of the Regulations the call-off process must be transparent, non-discriminatory and fair.
- 6.3 The requirements for competitive tendering, as contained within the Council's Contracts Rules, are met as 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 call-off is made in line with the Framework terms and conditions.
- 6.4 The use of the CCS Framework will satisfy the above requirements as the Council is permitted to call off from the framework, which has been set up following a compliant OJEU process for all local authorities in the country and commenced on 24 July 2017 for a period of 2 years with an option to extend for 1+1 years. The report author should ensure that the relevant framework extension options are utilised to ensure that when the Council calls-off from this framework it does so within a valid period.
- 6.5 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contracts following the procurement process.
- 6.6 As the value of the Contract exceeds £100,000, in line with rule 52.2 of the Contract Rules, the Contract will require sealing. Legal Services will be on hand to assist in any queries which may arise and also assist in the sealing of the Contract documents.

7. Other Implications

7.1 Risk Management – Identified risk and subsequent mitigation strategies identified during the completion of this recommendation are as follows:

- Poor supplier performance including unacceptable delivery times. Poor supplier performance will be mitigated by ensuring the contractor delivers services in line with Key Performance Indicators within the Framework.
- Ensuring value for money over the term of the contract. The contract will be let by CCS annually, CCS will carry out a mini competition each year to ensure suppliers pricing remains competitive.
- Poor Quality Products. The supplier is required to deliver fuel that conforms to industry mandated specifications. Failure to deliver products that meet the required standard will be dealt with within the mechanisms contained within the contract. Ultimately the contract contains the mechanism to terminate the contract for poor supplier performance.
- Reduction in volume of products required. There is a possibility that due to the use of greener vehicle fuelling methods that the volume of traditional liquid fuel required may reduce. The contract is a call-off contract and LBBB are not tied into any minimum order level. Should volumes reduce significantly fuel prices have the potential to increase slightly, however the contract is renewed annually and at that point should the revised cost be prohibitive then an options appraisal would have to be carried out.

7.2 Contractual Issues – The Crown Commercial Services (CCS) Framework terms and conditions will be used.

7.3 Corporate Policy and Equality Impact - With contracts in place to provide fuel for the entire fleet, encompassing vehicle road fleet and various plant machinery, which is used by a wide array of services within the borough, this contract minimalises the interruption to the supply of fuel which assists in the building of a well-run organisation and ensures relentlessly reliable services across all demographics of the Council.

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

List of appendices: None