

CABINET

12 July 2022

Title: Contract for Provision of Liquid Fuel and Ancillary Products	
Report of the Cabinet Member for Public Realm	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Director: Rebecca Johnson, Director My Place	
Accountable Strategic Leadership Director: Lisa Keating, Strategic Director, My Place	
Summary	
<p>This report presents proposals for the procurement of new contracts for the provision of liquid fuel for the LBBD Transport Fleet.</p> <p>The Council's previous contract with Prax and other suppliers, via a Crown Commercial Services (CCS) framework, for diesel, other liquid fuels and fuel additives expired on 31 March 2022 with no option to extend the agreement.</p> <p>The MyPlace procurement team have undertaken a review of alternative sources of supply for fuel. The review is described in this paper and setting up of new long-term arrangements should be complete by end of June 2022. Mobilisation may then take a few additional weeks.</p> <p>There is also a requirement for continuity of fuel supplies whilst longer-term arrangements are set up. White diesel, our main requirement, can be spot purchased from our existing supplier until new arrangements are in place. The price paid is as would be paid if we were still on recently expired terms. A separate contract waiver has been drafted to cover this short-term requirement.</p> <p>With respect to the future arrangements, it is recommended that the Council use the CCS Liquid Fuels RM6177 framework agreement contract, which started 1 February 2021 and will expire on 31 January 2025 in accordance with the strategy set out in this report to award a four-year contract (split in to 1yr + 1yr, + 1yr +1yr) for the supply of:</p> <ul style="list-style-type: none">• Petrol• Diesel• Other Ancillary Products	

Recommendation(s)

The Cabinet is recommended to:

- (i) Agree that the Council proceeds with the procurement of contracts for the provision of liquid fuel and ancillary products through the CCS Liquid Fuels RM6177 framework agreement, in accordance with the strategy set out in the report; and
- (ii) Delegate authority to the Director of Public Realm, in consultation with the Cabinet Member for Public Realm and the Chief Legal Officer, to conduct the procurement and award and enter into the contract(s) and any other ancillary agreements with the successful bidder(s).

Reason(s)

To assist the Council in achieving its priority of 'Well Run Organisation'.

1. Introduction and Background

1.1 The Council operates a wide range of vehicles, machinery and plant that require liquid fuels to operate; existing arrangements have expired. Now, as was the case previously when last tendered, the economies of scale and price benefits achieved through aggregation of demand make any approach other than accessing a framework uneconomic. The last contract for liquid fuels was procured via a CCS Framework agreement Fuel is stored in tanks at both Frizlands Depot, Dagenham and Creek Road Depot, Barking.

1.2 The table below shows the previous suppliers that provided the fuels.

Table 1

Product Required	Suppliers
Ancillary Products	New Era Fuels
Diesel	Harvest Energy Ltd (Part of Praxis group)
Petrol	Certas Energy UK Ltd

1.3 There is a retrospective waiver currently being circulated awaiting approval for a 3-month supply of diesel with Prax Group (we have sufficient stocks of petrol and other ancillary products). Transition to the new CSS framework should start in July 2022.

2. Proposal and Issues

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

2.1.1 Liquid fuel for all LBBD's vehicles, machinery, and plant that it is required to operate. Below is a table detailing the liquid fuel products used, storage capacities, and their site / location.

Table 2

<i>Town</i>	<i>Product Required</i>	<i>Price Type (Group or Site)</i>	<i>Estimated Annual Consumption (litres)</i>	<i>Tank Storage Capacity (litres)</i>	<i>Normal Load Size (litres)</i>
Dagenham	Ancillary Products	Site	10000	1000 (container)	1000
Barking	Diesel	Group	20500	11500	10000
Dagenham	Diesel	Group	110000	22700	36000
Dagenham	Diesel	Group	724000	45400	36000
Dagenham	Petrol ULSP	Site	23000	22700	12000

NOTE - This above table covers the BD Group usage which accounts for 20% of the total annual figure (i. e. amount in litres)

- 20k litres per month,
- 249k litres per years
- 960k litres for the duration of the contract.

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

2.2.1 The unit cost per litre for all fuel types fluctuates on a daily basis and is therefore not a key variable when deciding on sources of supply. Other factors to consider are:

- Load Size – the volume a supplier will want to deliver
- Small Load Premium (SLP) – an additional charge the supplier will levy for delivering less than the load size
- Supplier markup – the supplier margin per litre added as cost
- Framework provider commission – additional costs added by the framework provider

2.2.2 Where Load Size exceeds storage capacity and there is SLP in place this can increase costs. Typically, 0.25ppl, this is normally for small capacity deliveries.

2.2.3 A worked example below based on projected consumption levels and specific framework variables. It shows given the limited storage capacity at Barking and Dagenham, uncertainty as to future consumption levels and having a single source of supply (more efficient billing arrangement, simpler delivery schedules etc) we should avoid if, possible frameworks that charge SLP.

2.2.4. Of the available frameworks, pricing information was provided by CCS framework only, following signature of an NDA, YPO and TPPL would only provide detailed pricing if there was a genuine intention to run a mini competition so that data is not available for comparison.

2.2.5. The price differences for fortnightly and annual deliveries of white diesel as follows (based on unit price of £1.45 per litre):

Table 3

Fuel Supplier	Location	Fortnightly Usage (Litres)	Annual Usage	Tank Size	Load Size	Fortnightly Cost (Excluding SLP)	SLP Apply ?	SLP (Pence Per Litre)	SLP Cost	Total Cost (Fortnight)	Total Cost (Annual)
CCS (old)	Barking	788	20,500	11,500	30,995	£1,152	Yes	2.5	£513	£1,665	£43,278
CCS (old)	Dagenham	4,231	110,000	22,700	30,995	£6,182	No	-	£0	£6,182	£160,721
CCS (old)	Dagenham	27,846	724,000	45,400	30,995	£40,686	No	-	£0	£40,686	£1,057,836
						£48,020				£48,532	£1,261,835
CCS	Barking	788	20,500	11,500	30,995	£1,149	Yes	-	£0	£1,149	£29,881
CCS	Dagenham	4,231	110,000	22,700	30,995	£6,167	No	-	£0	£6,167	£160,336
CCS	Dagenham	27,846	724,000	45,400	30,995	£40,589	No	-	£0	£40,589	£1,055,302
						£47,905				£47,905	£1,245,519

2.2.6 A comparison below on the expenditure based on diesel costs @ £1.16 per litre the Council were paying in December 2021.

Table 4

Fuel Supplier	Location	Fortnightly Usage (Litres)	Annual Usage	Tank Size	Load Size	Fortnightly Cost (Excluding SLP)	SLP Apply ?	SLP (Pence Per Litre)	SLP Cost	Total Cost (Fortnight)	Total Cost (Annual)
CCS (old)	Barking	788	20,500	11,500	30,995	£923	Yes	2.5	£513	£1,436	£37,333
CCS (old)	Dagenham	4,231	110,000	22,700	30,995	£4,955	No	-	£0	£4,955	£128,821
CCS (old)	Dagenham	27,846	724,000	45,400	30,995	£32,611	No	-	£0	£32,611	£847,876
						£38,489				£39,001	£1,014,030
CCS	Barking	788	20,500	11,500	30,995	£921	Yes	-	£0	£921	£23,936
CCS	Dagenham	4,231	110,000	22,700	30,995	£4,940	No	-	£0	£4,940	£128,436
CCS	Dagenham	27,846	724,000	45,400	30,995	£32,513	No	-	£0	£32,513	£845,342
						£38,374				£38,374	£997,714

- 2.2.7 CCS are c.1.5% cheaper than the previous CCS contract (note, the costs avoidance only applies to the CCS framework margin, Supplier Margin and any Small Load Premium).
- 2.2.8 Similar percentage cost avoidance between the proposed CCS and previous CCS contract for Petrol, Red Diesel, and other ancillary products but volumes required of all of these are lower than white diesel and are reducing.
- 2.3 Duration of the contract, including any options for extension**
- 2.3.1 The contract should be awarded for an initial one year with options to extend for a further three, one-year periods (1yr + 1yr, + 1yr, + 1yr), making it a total of four years to allow LBBB take advantage of the repeated CCS's annual mini – competition exercise with suppliers which provides value for money to LBBB.
- 2.4 Recommended procurement procedure and reasons for the recommendation**
- 2.4.1 We will use the CCS framework Agreement RM6177 due to the current uncertainty in the market and the standardised nature of the product, and fewer frameworks available. This will allow LBBB to procure the products in bulk taking advantage of the economy of scale in association with other local authorities/users to further drive price lower or achieve further cost avoidance.
- 2.5 The contract delivery methodology and documentation to be adopted**
- 2.5.1 The service will be managed by the MyPlace operations team supported by the MyPlace contracts & procurement team utilising the agreed contract management mechanism within the Framework terms and conditions to progress the service.
- 2.6 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**
- 2.6.1 The CSS's margin for the proposed contract compared against the previous CCS framework margin (i. e. previous contract) are available as an appendix at the bottom of this document. As the liquid fuel is a regulated and standardised commodity with the same quality across the board, the only criteria that is relevant for this procurement is price. The quality criteria do not apply here as this is solely a price-based commodity.
- 2.6.2 As this strategy is a public document, and due to the sensitive nature of the pricing information, the final details on the price will not be shared on this strategy document.
- 2.7 Criteria against which the tenderers are to be selected and contract is to be awarded**
- 2.7.1 The criteria are as mentioned in para. 2.6.2 – 2.6.4 above and specific by the eAuction requirement of the Framework owner (CCS).

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

- 2.8.1 There is no ability to evaluate any Social Value benefits that the supplier could deliver at this stage of the procurement. However, once a suitable contractor for the service has been identified, the council will be looking to ask the supplier to agree and commit to a number of social value outcomes for the Borough. We will look to understand what social value the chosen supplier(s), and when it will be delivering during the duration of the contract.
- 2.8.2 It will be the requirement of the Commissioner to ensure that all Social Value Commitments are followed up on and outcomes are monitored and reported.

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 of a council like LBBD and must be procured in line with Council's financial standing order and the contract rules. Doing nothing does not comply with all of these requirements.

3.1.2 **Let a bespoke LBBD contract. Rejected.** LBBD's spend on liquid fuel is in scope of procurement Regulations which would require a full compliant tendering exercise which would require significant officer resource and would take time to carry out. LBBD'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 LBBD. 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 LBBD 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 LBBD 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, as no stations in the area offer red diesel. It will also restrict the geographic service delivery as it will reduce the number of points for re-fuelling. The use of fuel cards also increases the risks of fraud.

3.1.4 **Use YPO Framework Agreement. Rejected.** With the Yorkshire Purchasing Organisation (YPO) agreement, there is no set price for supplier margin and framework charges agreed.; it is also not clear if small load premiums are charged on this framework because of the lack of pricing information. As a result, it is not possible to do a like for like analysis with our current cost to determine if their prices were competitive. To get a price, LBBD would have to carry out the mini-competition first and we are not sure what we will be getting at the end of that exercise.

- 3.1.5 **Use TPPL Framework Agreement. Rejected.** The Procurement Partnership Limited (TPPL) framework option is through a Dynamic Purchasing Services (DPS) framework, with this DPS, it was also not possible to do a like for like analysis with our current cost to determine if their prices were competitive. Same as above. The Council would also need to have a structured strategy to either procure a number of years' worth of liquid fuel or operate a cycle with a minimum of 10-day response period and evaluate each instance.
- 3.1.6 **Use a CCS Framework Agreement. Recommended** – Use the CCS Framework Agreement as detailed above, analysis shows that shows that the CSS framework suppliers' margin is more than lower when compared with the expired contract suppliers' margin.

It is recommended that we replace the expired contract with the CCS Framework agreement.

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.

4. Consultation

- 4.1 The proposals in this report were considered and endorsed by the Procurement Board on 20 June 2022.

5. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement

- 5.1 The Crown Commercial Services framework is a recognised and well used route to market for Liquid fuels and ancillary products.
- 5.2 The main drivers are the framework owners' costs, the supplier margin and if he supplier will seek to charge a small load premium. Based on the information contained in the report the Crown Commercial Services framework appears to offer cost avoidance as the raw commodity costs are at an all time high, so there would be no perceived savings made, but the framework offers Value for Money through its overheads mitigations.
- 5.3 The paper also details that the BD Group account for approximately 20% of the Diesel usage, so any changes in fleet strategy by them will impact the contracted volumes. It is recommended that the Council and BD Group converse on fleet strategy and likely timescales as any infrastructure requirements could be maximised if both parties benefit.
- 5.4 Due to the limited options open to the Council, the option that shows a higher element of Value for Money is the Crown Commercial Services framework due to economies of scale of their customer base, and the limited forecourt availability of current EV infrastructure.

6. Financial Implications

Implications completed by: Joel Gandy, Finance Business Partner, Service Finance

- 6.1 Fleet Management (Public Realm) oversee the supply and storage of fuel for the Council's Fleet including its subsidiaries. Most of the fuel required is diesel as the fleet includes, for example, buses and refuse vehicles. The cost of the fuel is recharged from Fleet Management to the respective services and companies.
- 6.2 This report sets out a recommendation to utilise the CSS Framework on a 1+1+1+1 yearly basis to procure diesel, petrol, and other ancillary products (Diesel Exhaust Fluid). The estimated annual contract value is £1.365m therefore a potential £5.460m over four years. 95% of this value relates to diesel procurement.
- 6.3 The cost is made up of the Commodity Price, Supplier Margin and Framework Fee with the expectation that the price per eAuction will be competitive and early indications confirm that the prices are below the current spot purchase price temporarily being used. The Commodity price, the most significant cost element, has limited flexibility within it to drive down the cost as this will include fuel duty and VAT.
- 6.4 Fleet Management has spent £709,000 in 2020/21 and £921,000 in 2021/22 therefore it has already seen a 30% increase in expenditure due mainly to economic factors. The contract price therefore builds in further growth as inflation is due to remain high for 2022. The increase in cost will need to be managed by various service budgets across the Framework Period to ensure services continue to be delivered.

7. Legal Implications

Implications completed by: Lauren van Arendonk, Contracts and Procurement Lawyer

- 7.1 This report seeks to present proposals for the procurement of new contracts for the provision of liquid fuel for the LBBD Transport Fleet, which has now expired. The CCS Liquid Fuels RM6177 has been considered the best option, based on the results of the analysis. The use of the framework is in accordance with Rule 13.1, being an approved procurement method. This method is also most likely to best achieve Council Objectives.
- 7.2 The current contracts have expired and options to run a competitive procurement in the circumstances leaves a gap in the current needs. Therefore, the option to join an established framework is a suitable alternative to an open market competition, reducing the risks of challenge. Where required, direct awards may be permitted if the term of the framework allows for a call off via a direct award, which meets Class C of the Council's Contract rules. Rule 33.3 of the Contract Rules permits a direct award if it is permissible under the Framework terms and conditions.
- 7.3 Under rule 5.1(a) of the Contract Rules, procurements from Frameworks are exempt from the full application of the Rules provided the framework has been

properly procured under the Regulations and the procurement is made in accordance with the Framework's terms and conditions.

- 7.4 The costs of the service are above procurement thresholds. The contract is not subject to the Light Touch Regime, which would otherwise require a competitive procurement process to run. This route to market is in accordance with the Contract Rules.
- 7.5 Rule 28.5 requires that contracts with a value above £50,000 must be competitively tendered. The contract ought to be awarded, with all Contract Rules having been complied with.
- 7.6 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.

8. Other Implications

8.1 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. The CCS framework gives us the opportunity to do this.
- 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. LBBD will always be paying current price throughout the contracted period.
- 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 LBBD are not tied into any minimum order level. Should volumes significantly reduce then fuel prices have the potential to increase slightly, however the renewed annually and at that point should the revised cost be prohibitive then an options appraisal would have to be carried out.
- Possible Interruption/Disruption in Service – As the residence are more used to having the fuel cards which will no longer be used, there is a possible risk of service interruptions or disruptions. This will be mitigated by allocating a responsible contract management team to manage the KPI for the service and any identified risk.
- The contract will be managed by fleet management operations team (lead by the Head of Fleet Management) supported by the contract and procurement team.

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

8.3 **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. An Equality Impact Assessment (EIA) has been completed for this procurement and has been reviewed and approved by EIA team.

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

List of appendices: None