

CABINET

15 September 2015

Title: Contract for the Provision of Liquid Fuel	
Report of the Cabinet Member for Environment	
Open Report	For Decision
Wards Affected: None	Key Decision: Yes
Report Author: Beau Stanford-Francis, Contracts and Compliance Manager, Assets & Transport	Contact Details: Tel: 020 8227 5629 E-mail: beau.stanford-francis@lbbd.gov.uk
Accountable Divisional Director: Robin Payne, Divisional Director, Environment	
Accountable Director: Anne Bristow, Corporate Director of Adult and Community Services	
Summary: <p>The Council operate a wide range of vehicles, machinery and plant. At present 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 Frizland's Depot Dagenham and Creek Rd Depot Barking. In addition Red Diesel fuels the heating system at the Hollidge Way housing accommodation managed by the Council.</p> <p>The Authority has taken a great deal of steps to reduce the amount spent on fuel consumed each year. Measured include procuring fuel efficient vehicles, optimising vehicle servicing, targeted tyre procurement and inspection as well as ensuring that cost effective fuel sources such as red diesel are used where applicable.</p> <p>In order to maintain the authorities requirement to ensure the ongoing provision of liquid fuel, this report seeks approval to appoint a Liquid Fuel Supplier via an existing framework agreement compliant with European Procurement Regulations.</p>	
Recommendation(s) <p>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 liquid fuel, delivered through an EU compliant framework contract in accordance with the strategy as set out in the report;(ii) Indicate whether Cabinet wishes to be further informed or consulted on the progress of the procurement and /or the award of the contract; and(iii) Delegate authority to the Corporate Director of Adult and Community Services, in consultation with the Cabinet Member for Environment, the Chief Finance Officer and Head of Legal and Democratic Services, to conduct the procurement and	

award the contract to the successful bidder(s) in accordance with the strategy set out in the report.

Reason(s)

To assist the Council in achieving its corporate priorities by securing cost effective liquid fuel provision on terms that will support the delivery of front line services whilst ensuring that the requirement ensuring value for money is achieved.

1. Introduction and Background

- 1.1 The Council currently operates 420 vehicles and over 600 items of machinery supporting support service for front line services across the Borough including Street Cleansing, Grounds Maintenance, Waste Collection, Housing Repairs and Passenger Transport. To ensure the continuity and viability of services a reliable and cost effective source of liquid fuel is required. Liquid fuel in the form of Red Diesel is also used to power the heating system at Hollidge Way Housing Accommodation.
- 1.2 Fuel is stored in tanks at Frizland's Depot Dagenham and Creek Road Depot Barking. Provision at two sites saves on travelling time and also reduces fuel consumption. The advantage of bunkered fuel is that stock levels can be tailored to take advantage of low fuel prices. Additionally bunkered fuel provides the Authority with significant contingency in the event of fuel shortages due to industrial action or civil incidents. The Authority has reciprocal agreements with other local authorities in the event of emergencies and also has the capacity to supply partner organisations such as the Emergency Services if required. This reciprocal agreement was last taken advantage of when Havering permitted the Council to access its bunkered fuel stores if required during recent industrial action. Although the offer was not required the arrangement formed a core element of the boroughs' contingency strategy.
- 1.3 The storage and dispensing of petrol is highly regulated, with both regulation and enforcement undertaken by London Fire Brigade. In line with the scale of the Authority's fuel provision there is a requirement to hold a Petroleum Licence. The Petroleum Licence is held and maintained by the Fleet Management Service within the Environment Directorate. Regulation for diesel is less onerous than that of petrol however, in line with best practice, the Authority implements the same standards as that of those required to store petrol.
- 1.4 The service is obligated to ensure that all procurement activity within scope of its operations meet both the Council's Contract Rules and European procurement regulations. In line with this requirement the purpose of this report is to seek approval to make use of the Crown Commercial Services Framework to let a contract for the provision of liquid fuel in line with European Procurement Regulations and the Council's Contract Rules.

2. Proposed Procurement Strategy

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

2.1.1 The provision Liquid fuel specifically, White Diesel, Red Diesel and Unleaded Petrol.

Annual liquid fuel usage per annum in liters is as follows:

	Fuel Type	Liters Used pa
Corporate Fleet	Diesel	828,950
Vehicle & Plant Usage	Gasoil (Red Diesel)	41,822
	Unleaded Petrol	22,268
Housing (Hollidge Way)	Red Diesel	88,350

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

2.2.1 The Provision of Liquid Fuels Contract will have an estimated value of £3,500,000 over a four year term based on a projection of £875,000 per annum. This is based on current fuel prices which will vary in line with market forces. Services will be required to manage fuel prices within existing budgets. The contract is a call off contract and therefore the Authority is not locked into procuring a contracted volume either per annum or throughout the life of the agreement.

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

2.3.1 The contract for the Provision of Liquid Fuel will be accessed via the use of a pre-existing framework over a four-year period. The Authority will commit on a year by year basis. The framework will be reviewed annually on the basis of supplier performance and benchmarking against market price.

2.4 Is the contract subject to the (EU) Public Contracts Regulations 2015? If Yes, and contract is for services, is it subject to the light touch regime?

2.4.1 The Provision of Liquid Fuel is in scope of the EU Public Contracts Regulations 2015 and is not subject to the light touch regime.

2.5 Recommended procurement procedure and reasons for the recommendation.

2.5.1 Due to the extremely standardised nature of the product there are a range of framework contracts available. The 'Crown Commercial Services Framework' has been identified as a good fit for the Council's requirements based on contract terms and past experience. Use of a framework contract will allow the Council to take advantage of low prices generated through economies of scale. Initial

benchmarking has shown that the rates available are at least comparable with market rates and in some cases they are cheaper. Suppliers are required to re-tender on an annual basis ensuring that best value is maintained throughout the lifespan of the contract.

2.5.2 Proposed Procurement Timeline

Action	Duration	Start Date	End Date
Procurement Board Approval	01 day	25/08/2015	25/08/2015
Cabinet Approval	01 day	15/09/2015	15/09/2015
Finalise Specification	07 days	21/09/2015	28/10/2015
Confirm specification against Framework	07days	19/10/2015	06/10/2015
Finalise Framework Prices	07 days	07/10/2015	14/10/2015
Award contract via framework	07 days	15/10/2015	22/10/2015
Mobilise	07 days	29/10/2015	31/08/2015
Go-Live	01 day	01/11/2015	01/11/2015

2.6 The contract delivery methodology and documentation to be adopted.

2.6.1 The terms and conditions will be those of the CCS Liquid Fuels Framework Agreement. There is a schedule of rates for each category of Fuel tracked to the market price of fuel. Fuel is called off as and when required. Delivery will be within the agreed framework timeframe.

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

2.7.1 There is the possibility of a saving of 3.5% on fuel spend based on benchmarking conducted by the Crown Commercial Services (CCS) for spend across the last financial year. However, fuel prices are volatile and will vary in line with market forces. The significant buying power that the CCS Framework affords will ensure that the Authority will purchase at the most favourable rate available.

2.7.2 It is worth noting that a large percentage of the fuel cost is made up of the 'Commodity Price – in effect the raw price of fuel' and 'Duty – the tax over and above VAT that the Government imposes on liquid fuel'. These two elements make up the lions share of the fuel price and therefore only the supplier overhead varies. Local Authorities being public sector bodies are not liable for VAT.

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

2.8.1 The CCS framework splits fuel provision into lots depending on estimated supplied volumes and the type of fuel required. The supplier that can meet the required volumes, within the Council's specified delivery times at the lowest price will be awarded the contract until the next round of bidding in 12 months.

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

2.9.1 In line with the 'Public Services Social Value Act', public bodies are required to consider the way in which the services that they commission and procure might improve the economic, social and environmental wellbeing of the area.

2.9.2 In order to comply with this obligation the Environment Directorate supported by the Corporate Procurement Team propose that potential suppliers throughout the tender process demonstrate the ways in which their bid will contribute towards supporting social value. They will also be required to demonstrate past examples of delivering social value in comparable contracts/organisations. Delivery will be monitored throughout the life of the contract.

2.9.3 Suppliers appointed to the contract within their tender return bidders will be required to:

- Provide assurances that the delivery of their service will take measures to reduce their environmental impact. This will include ensuring that all vehicles meet the emissions limitations put in place for Heavy Goods Vehicles, formally known as the London Emission Zone (LEZ) as could incorporate the effective scheduling of deliveries to reduce emissions and journeys through the borough or commit to reducing the environmental impact of their subcontractors.
- Ensure that their services are compliant with the London Cycle Safe Scheme. This includes the mandatory fitting of vehicle signage, conspicuity markings, fitted side rails and kerbside mirrors. This will ensure that suppliers have an obligation to ensure that vehicles are configured in a manner that promotes safety towards cyclists.

3. Options Appraisal

3.1 Provision of Liquid Fuel Options Appraisal

3.1.1 **Do nothing.** Not an option, liquid fuel is essential in the delivery of front line operations across the authority.

3.1.2 **Specify, Advertise and Let a Bespoke LBB Contract.** The Council's spend on fuel is in scope of EU procurement regulations which would require a full EU compliant exercise requiring significant resources and officer time. The Authorities fuel use although significant cannot compete with economies of scale that existing framework contracts offer. Fundamentally the bespoke approach does not deliver best value. Using an existing framework will save significant officer time and deliver greater value for money.

3.1.3 **Engage a Fuel Supplier via the Crown Commercial Services Framework Contract (the recommended option).** By using a framework contract the Council will be able to take advantage of the economies of scale that large frameworks deliver whilst avoiding the resource and cost that an OJEU process would incur.

3.1.4 **Reconfigure Services to use a Commercial Fuel Card System.** Fuel Card Systems do not offer the borough 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 minimal fuelling stations with adequate access for HGV's, over height vehicles such as dustcarts will have limited fuelling stations. Bunkered fuel stores allow the borough to purchase additional stocks when prices are at low points, fuel cards would not present the same opportunity. In addition Fuel cards would be tied to local petrol stations, however no stations in the area offer red diesel.

4. Waiver

4.1 No waiver is requested at this point or is envisaged as part of this process.

5 Equalities and other Customer Impact

5.1 The Procurement of a Liquid Fuel Contracts will have no impact on Equalities groups. The contract is for the delivery of an industry standardised commodity.

6. Other Considerations and Implications

6.1 Risk and Risk Management

Identified risks and subsequent mitigation strategies identified during the completion of this proposal are as follows:

- **Poor Supplier Performance including unacceptable stock delivery times.** Poor supplier performance will be mitigated by ensuring that the contractor delivers services in line with the Key Performance Indicators within the Framework Contract.
- **Ensuring Value for Money over the term of the contract.** The fuel contract will be let for 1 year initially with an extension on an annual basis for a further 3 years. Suppliers are required to enter into a mini competition each year to ensure that prices remain competitive.
- **Poor Quality Products.** The supplier is required to deliver fuel that conforms to industry mandated specifications. Failure to delivery product that meets the required standard will be dealt with the mechanisms contained within the contract. Ultimately the contract contains the mechanism to terminate the contract for poor supplier performance.
- **Reduction in Volume of Product Required.** There is the possibility that due to savings proposals reducing the fleet size and a move towards greener vehicle fueling methods that the volume of traditional liquid fossil fuels required will reduce. The contract is a call off contract and therefore the Authority is not tied to any minimum order level. Should volumes reduce significantly then 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 initiated.

6.2 TUPE, other staffing and trade union implications.

There are no relevant implications.

6.3 **Property / Asset Issues**

Bunkered Fuel Stores are located in Frizlands Depot and Creek Road Depot. Fuel stores at those locations are managed in line with the conditions of the Authorities Petroleum Licence. Maintenance of the fuel stores is funded out of existing budgets.

7. **Consultation**

7.1 The proposals in this report were endorsed by the Procurement Board on 25 August 2015 and all relevant consultation with Portfolio Holders and officers has taken place.

8. **Corporate Procurement**

Implications completed by: Euan Beales, Head of Procurement and Accounts Payable

8.1 The CCS Framework procures on behalf of the Blue Light services and the NHS and as such makes them one of the largest purchasers of Liquid Fuel in the Country. Due to this CCS negotiate reductions in the raw supplier costs, reductions in the supplier's margin and has been able to keep their management fees low.

8.2 The framework has been let in an EU Compliant process and allows annual drawdowns for a period of 4 years to ensure there is a competitive market.

8.3 As part of the framework award, all of the suppliers have been vetted in terms of quality and commerciality. This reduces the risk of poor performance, with the service being monitored closely by both the Council and escalated to CCS for rectification.

8.4 The framework offers value for money to the Council and has been procured compliantly in terms of EU Legislation.

9. **Financial Implications**

Implications completed by: Carl Tomlinson, Group Manager - Finance

9.1 This report is seeks approval for the procurement of liquid fuel for the Council's vehicles and machinery. Funding for this will be from existing revenue budgets and charged to the relevant service areas.

9.2 The projected value of £875,000 is in line with actual spend/usage the 2014/15 and the current year spend to date.

	Apr-Jul	Full Year
	£000	£000
2013/14		1,040
2014/15		876
2015/16 estimate	289	870

9.3 Continued procurement under the framework will avail the Councils to cost effective purchasing and is not expected to cause additional financial burdens.

10. Legal Implications

Implications completed by: Bimpe Onafuwa, Contracts and Procurement Solicitor

10.1 This report is requesting approval for the procurement of liquid fuel required for operating the Council's vehicles and relevant machinery.

10.2 Paragraph 2.6 of the report states that providers will be selected by way of call off from the Crown Commercial Services (CCS) Liquid Fuels Framework.

10.3 The Public Contracts Regulations 2015 (the Regulations) allows local authorities select providers of goods from established Framework Agreements. Such a framework would have been set up in keeping with the Regulations and the EU procurement principles of transparency, non discrimination and equal treatment of bidders.

10.4 Likewise, the use of the framework by the Council, in respect of this procurement, should be in compliance with the above procurement principles. This report states in paragraph 2.6.1 that providers will be selected from the framework by way of call off; while it is noted in paragraph 2.8.1 that the award will be made to the lowest priced provider. So long as this process is conducted transparently and fairly, due compliance with the Regulations can be met.

10.5 The Legal Services Team is available to provide assistance with drafting, reviewing and executing agreements for this contract, upon conclusion of the procurement.

Background Papers Used in the Preparation of the Report: None

List of appendices: None