

London Borough of Waltham Forest

Report Title	Energy Procurement 2024-2029
Meeting / Date	Cabinet, 18 April 2024
Cabinet portfolio	Councillor Ahsan Khan, Deputy Leader (Housing and Regeneration)
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Wards affected	All
Public access	open
Appendices	1. Cornwall Insights Value for money report 2. Equalities screening 3. Sustainability matrix
1. Summary	
1.1	The council's existing contracts for the supply of gas and electricity expire in September 2024 (gas) and March 2025 (electricity). This report seeks approval to enter into FTS compliant framework agreements for the supply of gas and electricity from October 2024 – March 2029 and April 2025 to March 2029 respectively.
1.2	This will cover the council's 1,509 supply points, including corporate supplies, housing (landlord and communal plant room supplies) and wider supplies. These contracts are estimated to be up to £10 million pa (£7m electricity, £3m gas) and up to £41.5 million over the recommended 4.5-year period of the contracts.
2. Recommendations	
2.1	Cabinet is recommended to:
2.1.1	Agree to enter a bridging contract for 6 months for all gas supplies to align the current contract to financial years. This covers the period October 2024 to March 2025, through FTS compliant flexible frameworks Y22008 and Y22009, procured by Kent County Council (LASER).
2.1.2	Agree that the Council then enters into rolling 2-year (2025-27 and 2027-29) contracts for the flexible purchasing of energy (gas and electricity) for the qualifying supplies over the 4-year period from April



2025 to March 2029 through FTS compliant flexible frameworks Y22008 and Y22009 procured by Kent County Council (LASER).

- 2.1.3 Delegate authority to the Strategic Director of Place (or their nominee), in consultation with the Deputy Leader and Portfolio Holder for Housing and Regeneration and the Strategic Director of Resources, to purchase gas and electricity from the number one ranked suppliers on each respective framework for the duration of the period 2024-29.

3. Proposals

- 3.1 The council's current electricity and gas contracts will expire at the end of September 2024 (gas) and March 2025 (electricity). Approval is sought to continue the procurement of electricity and gas using a flexible purchasing approach through an FTS compliant framework established by LASER for the 4.5 year period from October 2024.
- 3.2 LASER is a local government purchasing consortium operating in the south east and London regions. It is part of Kent County Council and has responsibility for the energy procurement for the Central Buying Consortium customers, as well as for its own customers from London and the south east of England. It represents in excess of 200 organisations, mainly local authorities, and other public bodies.
- 3.3 The procurement of the current energy contracts for the council in 2019 used the LASER 2020-24 framework based on a flexible purchasing arrangement. This has provided value for money to the council, despite global factors significantly impacting commercial energy prices.
- 3.4 LASER's performance through both this framework and the one previous has shown it to perform well against the wholesale market, with savings of around 5%-20% against the market average, as well as consistently being rated 'good' against other performance metrics such as customer service.
- 3.5 During 2023, an options appraisal was delivered in partnership with several London boroughs approaching the end of their current energy contracts to determine the most cost effective route to market for the new energy contracts.
- 3.6 Section 4 sets out a summary of the options and recommendations provided as part of that report, with the recommendation to join the new LASER framework agreement.
- 3.7 The benefits of joining the LASER framework include:
- Flexible purchasing arrangement to help smooth market volatility and mitigate risk.
 - Bulk purchasing power to achieve favourable market rates.
 - Proven industry knowledge and experience, market analysis, and purchasing strategies.
 - A range of purchasing options including green tariffs.
 - Tailored customer service options for local authorities.

- 3.8 Continuity of suppliers, account numbers, and customer services staff mitigates additional admin costs, and ensures consistent data for reporting/budgeting purposes.
- 3.9 In order to maximise the Council's market leverage and receive best value, it is also recommended to align our contracts to financial years by entering into a short term, 6-month contract for our gas supplies. This will be achieved by signing a 6-month bridging contract with the chosen supplier within the LASER framework agreement, which will lead in to the main basket option chosen from April 2025.
- 3.10 LASER's ability to flexibly purchase energy is important as gas and electricity wholesale market prices are highly volatile and were subject to fluctuations of over 700% over the past framework term. To maintain an effective risk-management approach, LASER's frameworks permit the Council to procure energy beyond the termination date; a minimum one-year window is recommended to complete future flexible energy purchases.
- 3.11 The council's Energy Team will continue to check and pay the invoicing for all sites other than schools, so consistency of account numbers, supplier queries, and other data continuity as mentioned in this area will help achieve administrative savings.

4. Options & Alternatives Considered

- 4.1 The London Energy Procurement Partnership (LEPP) made up of several London Boroughs was set up in 2020 to collaborate on an options appraisal process to establish market reviews, procurement options and best practice opportunities for future public sector procurement best practise.
- 4.2 To achieve this goal, the LEPP appointed Cornwall Insight (an independent energy market specialist) to function as an expert, independent organisation to conduct the options appraisal and provide a recommendation for each council based upon their individual requirements. The full report provided by Cornwall Insight is attached as Appendix 1, with the findings summarised below:
 - 4.2.1 Recommended – Direct Award via LASER Framework – LASER's service proposition is most closely aligned to the Council's requirements. The fully-managed service attracts higher fees than their procurement only support, but most closely reflects the requirements of the Council. Where other Public Buying Organisations (PBOs) offer similar services, no overall packages were identified that would be likely to offer a material benefit to Local Authorities already being served by LASER.
 - 4.2.2 Not Recommended – Do Nothing - The option of doing nothing - and thereby maintaining the status quo - would expose the Council to potential challenge for failure to comply with the Public Contracts Regulations 2015. This would also leave the Council subject to

variable, out of contract prices, resulting in significant increases in energy costs.

- 4.2.3 Not Recommended – Individual Authority Tenders/Mini-Competition - The option of an individual authority conducting its own tender or mini-competition is not recommended because of the risks and costs of tender, including use of staff resources to write service specifications and conduct the tender exercise are not commensurate with the potential benefits of retailer service efficiencies and savings. Local authorities have very few bespoke or unique business/service requirements and retailers are unlikely to offer as attractive a price, service or enhancements for individuals as for the group. Furthermore, the market options have shrunk with many suppliers leaving the market or reducing their client base to focus on smaller portfolio arrangements.
 - 4.2.4 A direct award is the preferred route via the Framework, with the majority of LASER's customer base comprised of approximately 200 public bodies and purchasing on behalf of £1.5 billion, accessing this procurement route. The economies of scale available to the Council via a direct award is preferred to a mini-competition, as this would require additional resources and expertise in-house that the Council does not currently have.
 - 4.2.5 Not Recommended – Alternative Framework Provider (e.g., CCS) – Crown Commercial Services (CCS) is the UK's largest procurement organisation and principal buyer for the UK Government. Historically dominant for energy purchasing, CCS offers a simplified service compared to LASER's fully managed service. Additional internal resource would be necessary to meet energy requirements if the contract moved from a fully managed service to procurement only.
 - 4.2.6 Not Recommended – Purchasing through an Energy Broker – Public sector entities contracting with a private sector Third Party Intermediary is a well-established practice, provided that the company in question can demonstrate its compliance with public procurement legislation. The volumes that each Energy Broker procures may be significantly less than those purchasing through frameworks, resulting in less purchasing power. As Energy Brokers are not directly regulated, this can raise concerns around transparency of costs as well.
5. Council Strategic Priorities (and other National or Local Policies or Strategies)
- 5.1 The frameworks established by LASER have incorporated a tender weighting of 10% for Social Value, in line with the Council's requirements. This encompasses economic, environmental and social value and highlights the framework providing an opportunity for suppliers to collaborate with the Council to deliver its social value targets and aspirations for these contracts.
 - 5.2 The council is committed to tackling the climate emergency and reducing our net carbon emissions to zero by 2030 and is recognised

as one of Mission Waltham Forest's key priorities. The Climate Action Plan was established to enable the delivery of this priority.

- 5.3 The council has the option to procure green energy – energy produced from renewable sources – via its new contractual arrangements. It is important to recognise that the renewable options available from the market have also been impacted by a number of factors, with costs increasing substantially. The main market option of purchasing Renewable Energy Guarantees of Origin (REGO) certificates is becoming increasingly difficult.
- 5.4 REGO certificates are given to generators of renewable energy for every mWh of energy produced. When entering green tariffs, a customer is deemed to be buying the 'green' portion of energy generated from the supplier.
- 5.5 Green tariff options within the preferred option of contracting via LASER are available but at additional costs. The current price for a REGO-backed green tariff is an additional 1.7ppkWh to any achieved price. Across the portfolio based on current energy usage, this would equate to additional expenditure of £235,650 for the corporate and street lighting estate (General Fund) and £106,900 for housing (HRA) for each year of the four-year contract. This would be a total cost of £942,600 for corporate, and £427,600 for housing depending on future market changes. The costs would be in addition to forecast pressures of c. £2.7m p.a.
- 5.6 In addition to the higher costs, purchasing green energy is also a less direct way of reducing our carbon emissions. Purchasing green energy through REGO certificates can help tackle climate change as they add additional financial incentives to those generating renewable energy.
- 5.7 However, this has an indirect impact (via decarbonising the grid) when there are still opportunities across the Council estate to have a direct climate impact by reducing our energy demand. A clearly defined programme to reduce consumption is seen as a more optimal approach to reduce carbon emissions for the Council and is the Energy Team's recommendation.
- 5.8 Via Salix funding – a ringfenced government grant for energy efficiency and green investment – the Council has a £1m investment programme to be delivered over the next 12 months to invest in energy efficiency measures across its estate. This is in addition to the establishment of the Asset Transformation programme and funding available to tackle the climate emergency.
- 5.9 The flexible purchasing nature of the LASER contract allows the Council to switch tariffs each year, and therefore if we no longer have opportunities to directly reduce our own energy use and so emissions, we retain the option to buy green energy during the contractual period.

6. Consultation

- 6.1 The Council's energy procurement proposal was considered and approved by the Strategic Commissioning Board on 9th November 2023 in consultation with colleagues including Procurement, Legal, Finance and Climate Emergency.
- 6.2 The council's Senior Leadership Team have reviewed and endorsed proposals within this report.
- 6.3 This proposal, and specifically the option of purchasing green energy, has been agreed with Deputy Leader and Portfolio Holder for Climate and Air Quality and Corporate Director of Climate Emergency, who are supportive of focusing on opportunities to reduce our carbon emissions more directly.

7. Implications

7.1 Finance, Value for Money and Risk

- 7.1.1 The energy markets have been extremely volatile over the previous 3 years, resulting in increases of over 700% at its highest peak in Summer 2022.
- 7.1.2 This contract will not deliver savings with energy prices expected to remain twice as high as pre-Covid levels through to 2030. However, the contract is expected to achieve significant cost avoidance, based upon previous market performance and optimising a flexible purchasing strategy. By purchasing flexibly, the council will not commit all its energy spend ahead of the contract period and will be able to react to changes within the market, taking advantage of price falls and minimising the impact of price rises.
- 7.1.3 Figures from the Carbon Trust indicate that an ongoing effective energy management and efficiency programme can reduce energy usage by 10%. LASER's new frameworks contain a broad range of energy efficiency hardware and support, renewable generation and Demand Side Response services to help achieve this goal.
- 7.1.4 In addition to the potential cost avoidance, the contract does allow for a rebate to the council, based upon energy usage across the portfolio. This provides an income to the council, of approximately £149k per annum.

7.2 Legal

- 7.2.1 The council has various powers to purchase utility services, including electricity and gas. These include the power of general competence in section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972, which gives the power to do anything which is incidental to the discharge of any of its functions.
- 7.2.2 The frameworks established by LASER are compliant with the Public Contracts Regulations and the council is lawfully able to access the frameworks. This is also compliant with the council's Contract

Procedure Rules and in particular rule 9.1 which provides that the council is not obliged to competitively tender where it may lawfully access a framework.

7.3 Equalities and Diversity

7.3.1 An equalities screening exercise (attached as Appendix 4) has been carried out and has not identified any adverse impacts on the identified protected groups. Purchasing energy through a buying consortium and a risk-managed, flexible strategy should achieve best value for the council and housing tenants who could disproportionately be experiencing fuel poverty.

7.4 Sustainability (including climate change, health, crime and disorder)

7.4.1 The Sustainability Matrix at Appendix 3 shows that there will be adverse impacts from the consumption of gas and electricity. This impact is being minimised through ongoing work to reduce energy consumption through increasing energy efficiency, both within the corporate estate, council housing stock and through support to schools through a traded services package.

7.4.2 There is a duty to provide best value for money energy contracts to assist as many residents as possible to avoid fuel poverty and help to alleviate the cost of living crisis.

7.4.3 The option to switch to green tariffs will remain throughout the duration of the framework. This will be reviewed as part of the ongoing contract **management arrangements**.

7.5 Council Infrastructure

7.5.1 As this report concerns the purchase of energy utility supplies there are no Human Resources, IT or accommodation issues.

Background Information (as defined by Local Government (Access to Information) Act 1985)

None