



Cabinet

21 MAY 2012

**DEPUTY LEADER &
CABINET MEMBER
FOR ENVIRONMENT
& ASSET
MANAGEMENT)**

*Councillor Nicholas
Botterill*

FLEXIBLE ENERGY CONTRACT 2012-2016

This report details the Flexible Energy Contracts currently held by the Council and details procurement proposals for when they next become due for renewal.

**Wards:
All**

CONTRIBUTORS:

ENV(Carbon
Reduction/
BPM)
CHS
FCS
FCSLs
ADLDS
EDFCG

Recommendations:

- 1. To waive the provisions of Contract Standing Orders in relation to authority to award contracts.**
- 2. To delegate to the Executive Director of Finance and Corporate Governance and the Assistant Director for Building and Property Management the authority to enter into contracts with utility companies following competitive procurement exercises via a Central Purchasing Body (currently LASER operated by Kent County Council) to take effect in October 2012 for 4 years.**
- 2. That Members receive an annual report on the contracts let by officers and proposals concerning the procurement of energy by the Council for the following year.**

**HAS A PEIA
BEEN
COMPLETED?
YES**

**HAS THE
REPORT
CONTENT BEEN
RISK
ASSESSED? YES**

1. BACKGROUND

- 1.1 Flexible Procurement managed by an approved Public Sector organisation is recommended for all public bodies by the PAN Government Energy Review Project (part of the Cabinet Office). The project has produced a number of reports supporting the adaptation. In addition the Green Report on public sector purchasing identified Energy as the only category where public sector achieved leverage through aggregations, achieving best value.
- 1.2 The procurement of Energy via Laser saves the Council money based upon the buying power of laser purchasing on behalf of over 120 Local Authorities and Universities and achieves efficiencies. Following an energy Strategy review for LBH&F in February 2012, LASER was evaluated as best in class, best practice public sector energy procurement Central Purchasing body and was recommended that LBH&F remains with LASER.
- 1.3 The current 4 year flexible contract agreement for LBH&F expires on the 30 of September 2012. The current agreement is with LASER Energy Buying Group.
- 1.4 LASER is a "not for profit" energy buying group operated by Kent County Council, using the 'flexible purchase in advance' arrangement with a twelve month fixed price period which, originally commenced on the 1 October 2008. Forward buying for a fixed twelve month period therefore requires a 'rolling' flexible procurement scheme based on an initial four year contract, with the buying agency, LASER and the alignment of expiry/commencement dates with other Councils (set at 1st October each year).
- 1.5 The Cabinet Office assessed LASER electricity purchasing performance for the period of April 2009 - February 2011 and LASER demonstrated an exceptional and consistent performance over this period. A similar report exists for gas purchasing.
- 1.6 Cabinet on 28 April 2008 approved the recommended route (reconfirmed at Cabinet on 27 April 2009) to procure the Council's gas and electricity supplies through LASER, a "Central Purchasing Body" (CPB) as defined in Regulation 2 of the Public Contract Regulations. A CPB is defined as a contracting authority which either acquires, awards contracts or sets up framework agreement for works, goods or services on behalf of one or more contracting authorities.
- 1.7 On 27 April 2009 Cabinet also reconfirmed delegated authority to the Assistant Director Building and Property Management and the Director of Finance & Corporate Services to enter into future contracts with utility companies in line with contractual arrangements tendered by LASER. Delegated authority to officers is necessary due to the fact that energy purchased in the commercial market is time limited by suppliers to very short acceptance periods (usually hours rather than days).

1.8 The use of CPBs provides OJEU compliant framework contacts for energy procurement as well as providing a number of other benefits including:

- Reduction in cost or energy procurement by negating need to manage individual OJEU processes
- Support for dispute resolution with suppliers
- Specialist energy procurement and management skills
- Continuity of skills
- Value added services (e.g. bureau services, energy demand reduction services, AMR installation services)
- Leverage with suppliers

1.9 Based on the Cabinet Key Decision of 27 April 2009, where authority was delegated to the Assistant Director of Building and Property Management to enter into contracts, the Council has committed to the new LASER framework October 2012 - September 2016.

2. THE COUNCIL'S CURRENT ENERGY CONTRACTS AND ESTIMATED ANNUAL EXPENDITURE

2.1 The contracts detailed below include energy procured not only for the Council's corporate buildings but also for Housing properties and schools (which have agreed to this). The estimated annual costs for each contract are shown below are based on estimated annual consumption for the current contracts.

2.2 **GAS** – Two contracts both PIA (Purchase within Period):

- Consumption over 500,000 kWh: 44 supplies (01/10/2011 to 30/09/2012) 'flexible in advance' from British Gas via LASER. Current estimated expenditure £1,395,119 per annum.
- Consumption under 500,000 kWh: 76 supplies (01/10/2011 to 30/09/2012) 'Flexible in advance' from British Gas via LASER. Current estimated expenditure £659,498 per annum.

2.3 **ELECTRICITY** – Two contracts:

- Half Hourly supplier: 21 supplies (01/10/2011 to 30/09/2012) 'Flexible in advance' from Npower via LASER. Current estimated expenditure £768,761 per annum.
- Non-Half Hourly Monthly Billed Maximum Demand: 91 supplies (01/10/2011 to 30/09/2012) 'Flexible in advance' from Npower via LASER. Current estimated expenditure £686,061 per annum

3. FLEXIBLE CONTRACTS

3.1 The public sector spends billions of pounds each year in a volatile market that is also set for price increase in energy costs. Energy is often a high profile spend category due to extreme price hikes; prices can fluctuate up to 5% on any given day and up to 100% in a year.

- 3.2 Wholesale energy processes are influenced by a range of factors including supply security, weather trends, exchange rates, European prices, geopolitical issues and so on. This can therefore result in fluctuation of prices over a few days and therefore purchasing fixed priced annual or longer term energy supplies on a single day is a high- risk strategy, with a 1 in 220 chance of getting the best price. Purchasing chunks of energy over multiple trades over longer periods of time and using a robust risk management or 'hedging' strategy; known as flexible procurement, mitigates the price risk and allows Councils to break free from traditional contract practice and the vagaries of the energy market. In 2009/10, 20 London boroughs used recommended flexible contracts for differing proportions of their energy requirements which delivered approximately £16m savings.
- 3.3 Flexible purchasing allows for the price of raw energy to be fixed over a number of trades on the wholesale market. There are a number of benefits to the use of flexible purchasing when compared with other methods of procurement and these are:
- Transparency over all costs that make up energy charges
 - Focus on controllable energy cost element
 - Purchasing conducted in real-time
 - No long-term price lock in
 - Reduced forward risk premium
 - Responsive to market trends
 - Managed supplier transfers

4. CONTRACT DETAILS AND DURATION

- 4.1 The process for the flexible procurement of energy via LASER requires a minimum agreement for a four year period to be viable. For the LBHF chosen basket (PIA-Purchase in Advance) which has so far been deemed suitable, prices are concluded for each supply year commencing 1 October to 30 September the following year and contracts are drawn for 4 years.
- 4.2 LASER are now requesting that the Council enters into the contracts to join the 2012-16 framework. The contracts are in a form of Tripartite agreements between the LBHF (customer), the supplier and Kent County Council (the Purchaser).
- 4.3 LASER have currently appointed the successful suppliers for the subsequent 4 year period (October 2012- September 2016) and the successful suppliers are Total Gas& Power for Gas and Npower for Electricity.
- 4.4 To date the buying and risk management of LASER has been good with LASER delivering achieved prices that were below market average. The London Energy Project has evaluated the aggregated flexible, risk managed contracts provided by LASER and recommends their use at contract renewal. In addition LBHF carried out an Energy Strategy Review and LASER was considered as best in class and best practise public sector CPB.

5. FUTURE ENERGY PROCUREMENT PROPOSALS 2012-16

- 5.1 It is recommended that the Council signs the tripartite agreements and commits to LASER –flexible contract framework for the framework period of October 2012- September 2016.
- 5.2 **GAS** –One Contract which include the following:
- Flexible ‘Overs’ 500,000 kWh.: 44 supplies. Continue to procure via LASER under flexible contract arrangement for the subsequent 4 years period from October 2012- September 2016.
 - Flexible ‘Unders’ 500,000 kWh: 76 supplies continue to procure via LASER as for Overs.
- 5.3 **ELECTRICITY** – One Contract which include the following:
- Half Hourly supplies: 21 supplies. Continue to procure via LASER under flexible contract arrangement for the subsequent 4 years period from October 2012- September 2016.
 - Non-Half Hourly Monthly Billed: 91 suppliers. Continue to procure via LASER as above for the HH supplies
- 5.4 The Council needs to agree and choose the PIA option as this was previously identified as the best solution for flexible procurement for LBHF needs. However a possible move of some sites into PWP (Purchase within Period Basket) should be considered at a later date. For PWP basket energy prices are concluded prior to and within the supply periods (October- March and April-September. 6 months notice should be given to LASER if LBHF wishes to move some sites from PIA to PWP basket.

6. ENERGY STRATEGY REVIEW

- 6.1 The Carbon Reduction Team worked closely with a consultant who carried out an Energy Strategy Review for LBHF and assessed the way that the Council has been procuring energy through LASER.
- 6.2 The main recommendation was to continue purchasing energy using a CPB such as LASER with a preferred option for Flexible procurement; in addition, to asses the possibility of using PWP basket in conjunction with PIA after careful consideration of risks and benefits involved.
- 6.3 Upon expiration of electricity fixed term fixed price contracts (FTFP - March 2013 and March 2014), the Carbon Reduction team will be looking to move sites (such as Housing and schools) into flexible purchasing upon agreement from schools.
- 6.4 Finally, a restructure of energy contracts has been deemed necessary which will provide a better management of contracts as well as energy management.

7. CARBON REDUCTION AND ENERGY CONSERVATION

- 7.1 The monitoring of energy consumption and payments for buildings covered by these contracts will be undertaken by the Carbon Reduction Team part of Smart FM utilising an external agency service provided by Team Bureau.
- 7.2 The Carbon Reduction team will be able to investigate any abnormal consumption against targeted consumption over the previous twelve months. Working closely with TEAM who validate bills prior to payment and using the now centralised finance system for dealing with utility bills should result in reducing energy usage and costs. This will also assist the Council to provide energy use data under the Carbon Reduction Commitment Energy Efficiency Scheme (CRC EES) obligations as required from April 2010.
- 7.3 Whilst effective procurement is important to try and reduce energy costs the best way forward is of course to reduce consumption as this also not only reduces cost but has major benefits for the environment. Higher energy costs have reinforced the need to reduce energy consumption wherever possible.
- 7.4 Cabinet on the 26 April 2010 approved the Council's Carbon Management Plan. The plan outlines a programme of projects and initiatives to achieve a carbon reduction target of 40% in CO2 emissions by 2016. The Corporate Planned Maintenance Programme will continue to fund energy conservation projects, subject to individual scheme approval in order to improve the energy efficiency of our buildings. Capital Funding will also be used for energy efficiency projects and the carbon reduction team are currently putting together suggestions for projects to be approved by Cabinet.
- 7.5 TEAM Bureau, the Council's carbon management bureau, is working closely with the Carbon Reduction Team to monitor and manage the councils/s emission and energy use from owned buildings.
- 7.6 STARK has been chosen as a supplier for Automatic Meter Readers (AMR) and phase 1 of the AMR roll out is now complete. NPower one of the Council's electricity suppliers will also be carrying out AMR roll out for a number of Council sites to allow the Carbon Reduction Team to best monitor electricity use.

8. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

- 8.1 Section two of this report indicates that future annual expenditure across the General Fund, some Housing areas and some Schools on flexible contracts gas and electricity will be approximately £3.5m per year. In addition to this there are 'Fixed Term Fixed Price' contracts due for renewal in 2013 and 2014. These costs are accounted for in the utility budgets for 2012/13. Given the volatile nature of energy costs these budgets will be reviewed annually as part of the estimates process.

9. COMMENTS OF THE ASSISTANT DIRECTOR FOR PROCUREMENT & IT STRATEGY

- 9.1 The use of LASER as a Central Purchasing Body complies with the requirements of the Public Contract Regulations 2006. Given the expertise of the LASER organisation it is seen as the most effective, efficient and economic way for the Council to procure its energy requirements.
- 9.2 The Assistant Director for Procurement and IT Strategy has been consulted on these proposals and agrees with the recommendations.

10. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 10.1 It is noted that it is proposed to purchase gas and electricity through a framework set up by a central purchasing body. This procurement approach is in accordance with EU procurement rules and the Council's contract standing orders.
- 10.2 It is also noted that a request is made to waive standing orders and to delegate the award of individual contracts under the framework to the Director of Finance & Corporate Services and the Assistant Director for Building & Property Management. This is on the basis that the decision on this contact needs to be made within very short timescales which would not allow for the decisions to be made by Cabinet or a Cabinet Member.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Report Co-ordinator	Dr. V Paloumbi Ext 3912	BPM/ENV, 6 th Floor Town Hall Extension Hammersmith W6
2.	Previous Cabinet and Committee reports on energy procurement	Dr. V Paloumbi Ext 3912	BPM/ENV, 6 th Floor Town Hall Extension Hammersmith W6
3.	Details of current and past energy supply contracts held by the Council	Dr. V Paloumbi (current) Ext 3912	BPM/ENV, 6 th Floor Town Hall Extension Hammersmith W6