

WELWYN HATFIELD BOROUGH COUNCIL
CABINET – 7TH MARCH 2023.
REPORT OF THE EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)

AWARD OF CONTRACT FOR UTILITIES MANAGEMENT

1 Executive Summary

- 1.1 Due to the complexity of the Utilities market, the Council uses a third party public sector body (purchasing body) to purchase utilities on its behalf. This report considers options when the current arrangements expire.

2 Recommendation(s)

- 2.1 That Cabinet agrees to enter into a Customer Access Agreement with Crown Commercial Services for a period of 4 years, with the supply commencing on 1st October 2024 and to sign supply contracts with EDF Energy Limited (EDF) and Total Energies Gas and Power Limited (Total).

3 Explanation

- 3.1 In common with the majority of public sector bodies the Council uses a purchasing body to purchase Gas and Electricity. This is due to the extreme volatility in the market and the risks of procuring at the wrong time.
- 3.2 The Council currently has a supply agreement with LASER that expires at the end of September 2024. The utilities are supplied by NPower (Electricity) and Total Energies Gas and Power (Gas). LASER are part of Kent County Council.
- 3.3 Another major organisation that provide utilities to the public sector is Crown Commercial Services (CCS).
- 3.4 Both organisations use similar purchasing strategies where they have professional dedicated buyers who buy off of a forward purchasing system. This means that they would aggregate the demand of all customers and purchase a percentage of this demand up to the supply period. Both CCS and LASER purchase the utilities and then have supply arrangements through Npower / EDF and Total with the invoicing being through the supply companies.
- 3.5 As the LASER agreement is coming to end a comparison between the two purchasing organisations has taken place and the benchmark pricing can be found in the Part 2 report. The part 2 report also contains other comparisons.

- 3.6 A decision is required well in advance of the supply period so that the purchasing organisation can start purchasing in advance.

Implications

4. Legal Implications

- 4.1 Both purchasing bodies' procurement strategies are compliant with the Public Contracts Regulations 2015.
- 4.2 The Council would enter into a Customer Access Agreement with CCS and Supply Contracts with EDF and Total.
- 4.3 Further information regarding Leaseholder consultation is in section 5.2 of this report.
- 4.4 Subject to Cabinet approval in accordance with the Recommendation an application will be made to the First Tier Tribunal seeking dispensation from the consultation requirements under section 20 of the Landlord and Tenant Act 1985.

5. Financial Implication(s)

- 5.1 Benchmarking is included in the Part 2 report.
- 5.2 Utility costs for communal areas are recharged to the council's leaseholders. As with all recharges to leaseholders, a consultation process is required before the council can raise recharges relating to an item of expenditure, if this cannot be undertaken in normal circumstances the maximum value which can be recovered is £100. The proposed contract is a four year contract and the exact value cannot be confirmed in advance. Therefore the required consultation would not be able to be undertaken. It is possible to request dispensation from the First Tier Tribunal so that a consultation is not required, which will require legal support to draft the application, supporting statements and deal with all directions and correspondence from the Tribunal. A quote for this work has been obtained, and the cost is estimated to be £7,750. The council will seek this dispensation should this report be approved, to enable the council to recharge the full cost of utilities for communal areas to leaseholders.

6. Risk Management Implications

- 6.1 This method of procurement reduces the financial risk of procuring in a volatile market.

7. Security & Terrorism Implication(s)

- 7.1 There are no security or terrorism implications with the recommendations in this report.

8. Procurement Implication(s)

8.1 The recommendation is in accordance with the Public Contracts Regulations 2015 and the contract procedure rules

9 Climate Change Implication(s)

9.1 Both Purchasing Bodies supply a green tariff which will continue to be supplied

10. Human Resources Implication(s)

10.1 There are no direct implications arising from this report.

11. Health and Wellbeing Implication(s)

11. There are no direct implications arising from this report.

12. Communication and Engagement Implication(s)

12.1 There are no direct implications arising from this report.

13. Link to Corporate Priorities

13.1 The subject of this report is linked to the Council's Corporate Priority of achieving value for money

14. Equalities and Diversity

14.1 An EqIA was not completed because this report does not propose changes to existing service-related policies or the development of new service-related policies.

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