



Cabinet
15 January 2018

**Report from the Strategic Director
of Resources**

Pan London Energy Project (LEP) Water Framework

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt:	Open
No. of Appendices:	None
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 The Water market in England was deregulated in April 2017. To comply with the Public Contracts Regulations 2015, the London Borough of Brent will require a contract for a Water Retailer. In this newly deregulated market, the most economically advantageous approach is to collaborate with other authorities. On behalf of local and other public sector authorities, The London Energy Project (LEP), with Haringey Council acting as the Lead Authority, will co-ordinate a mini-competition through the Crown Commercial Services (CCS) Framework for Water, Wastewater and Ancillary Services, accessed by call-off from YPO. The intention is to appoint a single water and waste water retailer to meet multi-site authorities' business requirements for back-office and water efficiency products and services, with each authority having a separate contract.
- 1.2 This report is being brought forward to allow for the decision making of the joint procurement with the other local authorities to proceed; and that delegated authority is given the Strategic Director of Resources to award the contract to the preferred bidder for water, following the mini-competition outcome, which will include rigorous evaluation of quality, price, financial standing and terms and conditions.

2.0 Recommendation(s)

- 2.1 That Cabinet approves the collaborative procurement of a single water retailer through the Crown Commercial Services (CCS) Framework for Water, Wastewater and Ancillary Services, such procurement to be led by the London Borough of Haringey.
- 2.2 That Cabinet approves the use of the London Borough of Haringey's Contract Standing Orders and Financial Regulations for the collaborative procurement detailed in 2.1 above.
- 2.3 That Cabinet delegate to the Strategic Director of Resources in consultation with the Deputy Leader, authority to award a call off contract following the collaborative procurement referred to in 2.1 above for a period of two years with an option to extend for a further two years from 1 April 2018.
- 2.4 That Cabinet endorse the use of the London Energy Project (LEP) Team to manage supplier performance and service development to deliver services in line with LEP authorities' collective business requirements post contract award to maximise benefits.

3.0 Detail

- 3.1 From April 2017, business customers in England are able to select who provides retail water and wastewater services to their organisation as a result of water market deregulation. The Public Contracts Regulations 2015 require LEP authorities to compete these services.
- 3.2 Deregulation aims to introduce competition into the marketplace to encourage improvement and innovation to products and services and better value for money for customers. Water suppliers (wholesalers) will sell water and waste water supplies/services to licensed retailers. These elements can be contracted separately or through a single retailer who will package these services to include billing, payment and customer services, along with other products such as water efficiency advice, leak detection, and advanced metering.
- 3.3 The majority of the London Borough of Brent supplies will be classified as non-household and therefore must be competed, the notable exception being the majority of housing supplies. The premises themselves determine eligibility for deregulation based on whether the supply is or should be classified as non-household, identified by council tax or business rates classification, and if a mixed use building, the primary use would be the determining factor, e.g. a housing block with an area rent office would be classed household.
- 3.4 Currently the London Borough of Brent is served by Castle Water Ltd and Affinity for Business Ltd. The exact scope and scale of volume and value across London is unknown at the moment. For the purposes of the options appraisal, average authority expenditure is assumed at £300,000 p.a. x 36

authorities, with a further £20,000 p.a. spent on water efficiency measures, total value circa £11.5m p.a. The assumed value over a 4 year contract term is £1,280,000 per authority or for 36 authorities, £46,000,000.

- 3.5 LEP is a group of 36 authorities (primarily in London), and its principle purpose is to use authorities' combined spending power to minimise risk; reduce procurement, contract operation and back-office costs and achieve better commercial outcomes. The LEP Team managed a pre-market engagement programme with over 60 authority stakeholders, 3 Central Purchasing Bodies (public sector buying organisations) and 5 water retailers to establish what products, services and innovation are available within the retail market, whether these will meet local authority multi-site business requirements, how to best attract market interest and obtain competitive pricing and whether a Pan – LEP water retailer contract will provide authorities with better value and the opportunity to develop and shape this market.
- 3.6 The conclusions are that a single water and waste water retail service provider for all LEP member authorities will deliver better outcomes for everyone, enabling the LEP members to have an authority focussed service specification with clear service level agreements and key performance indicators, improved terms and conditions and the potential for enhancements, such as a dedicated LEP customer services and account management provided by the retailer at no additional cost and enhanced services, such as technology deployment trials; and that through appropriate specification and robust tender evaluation criteria, these outcomes can be delivered through a Central Purchasing Body (CPB) framework mini-competition, with the CPB being able to offer greater resource to the procurement and contract because of the single LEP approach and value.
- 3.7 In order to ensure the contracts for LEP members are procured as efficiently as possible, it is proposed that the London Borough of Haringey acts as the lead authority, procuring under the CCS framework using its Contract Standing Orders and Financial Regulations. Brent Officers would however have input into the procurement process and be on the evaluation panel.
- 3.8 The timescales required for this procurement are restricted given that the contract should be in place by 1st April 2018. In the circumstances delegation to the Strategic Director of Resources is recommended.

4.0 Opportunity, Savings and Efficiencies

- 4.1 There is an opportunity to make significant efficiency gains, through consolidated billing, improved contract and account management. Pro-active water management and reduction and tariff optimisation services could deliver reasonable financial savings.
- 4.2 The most significant opportunity for savings and efficiencies comes through the LEP aggregation. The co-ordinated approach to the market provides the ability to achieve better account management, customer service, contract

conditions and terms, reduced supplier margin and subsequently strategic supplier and contract management through the LEP team. This will not require any resource from Brent, nor will it incur any additional cost.

- 4.3 Compliance with Public Contracts Regulations 2015 is required; Cabinet Office guidance suggest that a competitive process should have been followed by April 2018. Therefore, a competitively tendered LEP contract enables London Borough of Brent to achieve a low-cost/low-resource route to compliance. LEP collective objectives are:

- **Savings** – contain costs and reduce price and contractual risks, approaching the market with a common set of requirements that ensure the business is commercially attractive to improve commercial, social and environmental outcomes.
- **Commercial & Innovative** – establish the most appropriate products, services and delivery models that meet the business requirements of LEP for quality and value – service specifications that are bespoke to authorities without additional costs.
- **Efficiencies** – promote and maintain collaboration and the aggregation of Pan-LEP expenditure to reduce procurement, supplier, contract management and back-office costs and enable efficient use of available resources.
- **Collaboration** – shape the supply market as a customer group, ensuring we take full advantage of the combine expenditure to improve products and services and introduce innovative commercial models and technology deployment; increased focus on efficient operation, continuous improvement and innovation.

5.0 Financial Implications

- 5.1 The Council's Contract Standing Orders state that contracts for supplies, services and works exceeding £500k shall be referred to the Cabinet for approval of the award of the contract. The estimated value for a water and waste water retail service contract is £1.2m over four years. (NOTE; this value may increase/decrease as we obtain more accurate financial data).

6.0 Legal Implications

- 6.1 From April 2017, pursuant to regulations made under the Water Act 2014, business customers in England are able to select who provides retail water and wastewater services to their organisation as a result of water market deregulation. Given that the Council now has to select retail water and wastewater services, there is a requirement that the selection of a provider is done so in accordance with the Public Contracts Regulations 2015 (PCR 2015).
- 6.2 The estimated value of the Council's proposed contract for retail water and wastewater services is £1.2m over four years and is thus over the relevant threshold for full application of the PCR 2015. The intention is to use a framework agreement to procure the contract which the Council is permitted

to do where such framework itself has been procured in accordance with the PCR 2015.

- 6.3 Given that the estimated value of the Council's proposed contract is £1.2m, it is classified as a High Value contract under the Council's Contract Standing Orders and Financial Regulations.
- 6.4 As detailed in Section 3 of the report, Officers recommend the procurement of retail water and wastewater services by way of a collaborative procurement led by the London Borough of Haringey. Given Haringey are leading on the procurement, it is proposed that their Contract Standing Orders and Financial Regulations are used. Contract Standing Order 85(c)(ii) provides that Cabinet approval is required for the use of another authority's Contract Standing Orders and Financial Regulations, such approval only to be given where there are good operational and / or financial reasons. Members are referred to paragraph 3.7 for such justification.
- 6.5 As the proposed retail water and wastewater services contract is a High Value Contract, Cabinet approval is required for award. For the reasons detailed in paragraph 3.8, delegated approval to the Strategic Director of Resources, in consultation with the Deputy Leader is sought to award the contract.

7.0 Equality Implications

- 7.1 There are no equality implications.

8.0 Consultation with Ward Members and Stakeholders

- 8.1 Consultation with ward Members and Stakeholders not required.

9.0 Human Resources/Property Implications (if appropriate)

- 9.1 There are no Human Resources implications for Council staff/Property implications arising from the Recommendations in this report.

Report sign off:

ALTHEA LODERICK
Strategic Director of Resources