

## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Award of energy contract - Gas
<b>Cabinet Member:</b>	Councillor Damian White
<b>CMT Lead:</b>	Jane West – Chief Operating Officer
<b>Report Author and contact details:</b>	Mark Butler, 01708 432947 mark.butler@onesource.gov.uk
<b>Policy context:</b>	Supporting the Havering Vision as an enabler via the effective procurement of energy resources
<b>Financial summary:</b>	The corporate energy contract for gas is worth around £1.15m per annum, the cost of which is met from budgets across a range of services. The sufficiency of these budgets would need to be considered following the procurement. Consumption and consequent expenditure is mitigated where possible by a number of energy efficiency measures.
<b>Reason decision is Key</b>	(a) Expenditure of £500,000 or more
<b>Date notice given of intended decision:</b>	3rd January 2020
<b>Relevant OSC:</b>	O&S
<b>Is it an urgent decision?</b>	Yes
<b>Is this decision exempt from being called-in?</b>	Yes

The subject matter of this report deals with the following Council Objectives

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

For the reasons set out in the report the Chief Operating Officer (as the Statutory Section 151 Officer) is asked to agree the award of a call-off contract to Corona Energy4Retail Ltd from Pan-LEP Energy Contracts for Flexible Procurement and Supply of Daily and Non-Daily Metered Natural Gas, including Product Classes 1, 2, 3 & 4 with Additional Services for the supply of gas to various Council Buildings for a period of one year (April 2020 - March 2021).

### AUTHORITY UNDER WHICH DECISION IS MADE

Authority for member of SLT under Section 3 of the Constitution as follows

#### **Contract powers**

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than Contracts covered by Contract Procedure Rule 16.3

### STATEMENT OF THE REASONS FOR THE DECISION

The Council currently procures its corporate energy supplies (gas and three electricity contracts) via a framework operated by Crown Commercial Services (CCS). The contracts mainly cover energy supplies to Council buildings, schools, highways lighting, and common parts in housing schemes and are worth around £3.5m per annum. The existing arrangements for both gas and electricity are due to expire on 31<sup>st</sup> March 2020. The required six months' notice has been submitted to CCS indicating the Council's intention to re-procure its supply contract to commence at the end of the current arrangement.

The energy supplies span four contracts as follows:

<b>Supply</b>	<b>Value (per annum) 2018/19</b>
Half Hourly Electricity	£1.15m
Non Half Hourly Electricity	£1.06m
Unmetered Electricity	£0.485
Gas	£1.15m

The annual value for each type of energy for 2019/20 is not known and will not be known until all the debt has been paid, and corrections for incorrect tax coding and other errors in billing are made.

It is not possible to provide an accurate forecast of what the whole life cost will be for 2020/21 as energy usage is very dependent upon weather conditions, which can be affected by unusual sea conditions, wind direction, geophysical events, etc. What can be said is that given similar weather conditions throughout the year 2020/2021 to those of 2018/19 then the annual value for each type of energy contract is likely to increase by a small sum due to the increase in non-commodity charges such as taxes, standing charge and other pass through charges.

## Key Executive Decision

Contracts with a total value of more than £150,000 are required to be executed under seal in accordance with Article 10.04 of the Constitution unless the Director of Legal and Governance approves otherwise. The Contracts provided by the suppliers will utilise the DocuSign process, so will need to be signed electronically and, accordingly, Legal approval is sought.

As the offer of the gas rates is included within the Contract, the signing of which signifies acceptance, a waiver of the requirement for a 5 day call-in period following the decision to accept the offer is also requested.

### OTHER OPTIONS CONSIDERED AND REJECTED

Options Energy	Advantages	Disadvantages
<b>1. Buy Direct i.e. Procure from market and manage our own partner brokerage</b>	<ul style="list-style-type: none"><li>• Savings (Not determined as outside recommended practice)</li><li>• Control of own strategy</li><li>• Flexible in market</li><li>• Concurrent to market</li><li>• Flexible in demand</li></ul>	<ul style="list-style-type: none"><li>• Does not conform to the Pan-London Energy Project recommendation that all Public Sector organisations adopt aggregated, flexible and risk-managed energy procurement.</li><li>• Procuring the supply will require a full OJEU process</li><li>• Increased staff resources required</li><li>• In-House technical broker expertise becomes a single point of failure and high risk factor</li><li>• Best price limited to current market</li><li>• LBH would have to provide all service management</li><li>• Volume tolerance is applied by providers limiting the in-contract changes allowed and they may apply penalties</li><li>• Would not represent best practice as not forming part of an aggregated, flexible and risk-managed, energy procurement strategy</li><li>• Low procurement volume would not drive best price model.</li></ul>
<b>2. Full out-source</b>	<ul style="list-style-type: none"><li>• We retain strategic</li></ul>	<ul style="list-style-type: none"><li>• Need to compliantly procure the</li></ul>

## Part B - Assessment of implications and risks

### **LEGAL IMPLICATIONS AND RISKS**

If a framework is not used to procure the Council's energy needs then there is a risk of non-compliance with the Public Contracts Regulations 2015 (PCR 2015). There is also risk of non-compliance with the EU Directive on energy efficiency measures like DEC, EPC, etc. The value of the contracts means that their procurement is subject to full compliance with the PCR 2015. Compliance with the Regulations is met by utilising an existing compliant framework which is accessible to the Council for call-off arrangements.

In relation to the activities which are the subject of this report the Council has powers under s111 Local Government Act 1972 to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council is also empowered to enter into contracts for the discharge of its powers under the Local Government (Contracts) Act 1997. These powers can be coupled with the Council's general power of competence under s1 of the Localism Act 2011 to do anything that corporate individuals generally may do as long as there are no statutory bars.

### **FINANCIAL IMPLICATIONS AND RISKS**

The sufficiency of the corporate budgets will need to be considered as the procurement progresses. The energy budgets are due to be reviewed and necessary adjustments including expected savings relating to the new contract will be taken into account during the process.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no anticipated HR issues resulting from the decision to award energy contracts

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

There are no equalities implications as a result of these energy contracts. The members of the energy frameworks are required to answer questions regarding their equalities policy and any adverse findings as part of their procurement of a public sector framework.

### **BACKGROUND PAPERS**

None