

LONDON BOROUGH OF CROYDON

To: all Members of the Council (via e-mail)
Access Croydon, Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE BY THE CABINET MEMBER FOR FINANCE AND RESOURCES ON 23 APRIL 2019

In accordance with the Scrutiny and Overview Procedure Rules, the following decisions may be implemented from **1300 hours on 1 May 2019** unless referred to the Scrutiny and Overview Committee:

The following apply to each decision listed below

Reasons for these decisions: are contained in the Part A report attached

Other options considered and rejected: are contained in the Part A report attached

Details of conflicts of Interest declared by the Cabinet Member: none

The Leader of the Council has delegated to the Cabinet Member the power to make the decisions set out below:

CABINET MEMBER'S KEY EXECUTIVE DECISION REFERENCE NO.: 4418FR

Decision Title: Award of short term contracts for electricity & gas supplies

Having carefully read and considered the Part A report, the associated confidential part B report, and the requirements of the Council's public sector equality duty in relation to the issues detailed in the body of the reports, the Cabinet Member for Finance and Resources in consultation with the Leader of the Council

RESOLVED: to approve the award of short term electricity and gas supplies to the suppliers named, and for the contract prices specified, in the associated Part B Report for a contract term of 17 months.

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 1 May 2019** (5 working days after the decisions were made) unless referred to the Scrutiny and Overview Committee.
2. The Council Solicitor shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair or Deputy Chair of the Scrutiny and Overview Committee and 4 members of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Victoria Lower by the deadline stated in this notice. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Council Solicitor, this would cause undue delay. In such cases the Council Solicitor will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision taker for reconsideration, setting out in writing the nature of the concerns.
8. The Scrutiny and Overview Committee may refer the decision to Full Council if it considers that the decision is outside of the budget and policy framework of the Council.
9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

10. The Full Council may decide to take no further action in which case the decision may be implemented.
11. If the Council objects to the decision it can nullify the decision if it is outside of the policy framework and/or inconsistent with the budget.
12. If the decision is within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision. The decision taker shall choose whether to either amend / withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
13. The response shall be notified to all Members of the Scrutiny and Overview Committee
14. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
15. URGENCY: The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process.

Signed: Council Solicitor and Monitoring Officer

Date: 24 April 2019

Contact Officers: victoria.lower@croydon.gov.uk

PROFORMA

**REFERRAL OF A KEY DECISION TO THE
SCRUTINY AND OVERVIEW COMMITTEE**

For the attention of: Victoria Lower, Democratic Services & Scrutiny
e-mail to
Victoria.lower@croydon.gov.uk

Meeting:
Meeting Date:
Agenda Item No:

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) Other: Please specify:

The outcome desired:

**Information required to assist the Scrutiny and Overview Committee to consider
the referral:**

Signed:

Date:

Member of _____ Committee

REPORT TO:	Cabinet Member for Finance & Resources
SUBJECT:	Award of short term contracts for electricity & gas supplies
LEAD OFFICER:	Jacqueline Harris Baker, Executive Director of Resources Mark Norrell, Director of Facilities Management & Support Services
CABINET MEMBER:	Councillor Simon Hall, Cabinet Member for Finances & Resources
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT / AMBITIOUS FOR CROYDON	
<p>The recommendations are to award contracts that ensure the council secures the best value supplies of electricity and gas to operational buildings, communal areas of housing estates participating schools and electricity for street lighting.</p> <p>The recommendations align with the Corporate Plan theme of Organisational Design through ensuring that the most cost effective supplies of electricity and gas are secured for the council's service.</p>	
FINANCIAL IMPACT	
Approval of the recommendation to award interim contracts for the provision of energy supply (electricity and gas) will be funded from existing departmental revenue budgets.	
FORWARD PLAN KEY DECISION REFERENCE NO. 4418FR	
This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.	

The Leader of the Council has delegated to the Nominated Cabinet Member the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Finance & Resources in consultation with the Leader is recommended by the Contracts and Commissioning Board to approve the award of short term electricity and gas supplies to the suppliers named, and for the contract prices specified, in the associated Part B Report for a contract term of 17 months

2. EXECUTIVE SUMMARY

2.1 This report confirms the procurement process followed and recommends the award of contracts for electricity and gas supplies following an OJEU compliant competitive tender exercise. The procurement strategy for this tender was approved by Cabinet 19/11/18.

- 2.2 The contracts were arranged as four lots
- Half-hourly metered electricity supplies
 - Non half-hourly metered electricity supplies
 - Unmetered electricity supplies
 - Gas supplies

As all-inclusive, fixed price offers were requested for the contract term, the tenders for each lot were evaluated using the criteria of 80% price, 20% quality.

2.3 All schools supplied via the council's existing contracts were consulted on whether they wished to participate in the council's re-procurement of energy supplies. Twenty five schools confirmed their participation and these supplies were subsequently included in the Invitation to Tender (ITT).

2.4 The cost of the recommended contracts will be met by existing centralised budgets for energy supplies. The estimated spend over the contract term to 30/09/20 is within the predicted budget set out in the procurement strategy report submitted to Cabinet.

2.5 The content of this award report has been endorsed by the Contracts and Commissioning Board. Pursuant to Cabinet recommendation 25/3/2019 the Leader has delegated the decision to approve the award of the contract to the Cabinet Member for Finance & Resources in consultation with the Leader.

CCB ref. number	CCB Approval Date
CCB1478/18-19	18/04/2019

3. DETAIL

3.1 Following the approved procurement strategy, the council's contracted energy broker Kinect Energy were authorised to manage an OJEU compliant tender using their own electronic tendering platform. The 'Restricted' two stage tender process was adopted.

3.2 The OJEU contract notice was published on 04/12/18 with the deadline for requests to participate being 03/01/2019. A total of 10 suppliers submitted selection questionnaire (SQ) responses, with the breakdown across the lots as shown in the table below.

- 3.3 All suppliers that submitted first stage, SQ responses were invited to submit tenders via the Invitation to Tender (ITT) that was issued on 15/02/19. The number of responses received at each tender stage, for each lot are as in the table below.

Lot	SQ responses	ITT responses
Half-hourly metered electricity supply	8	3
Non half-hourly metered electricity supply	6	3
Unmetered street lighting electricity supply	4	3
Gas supply	8	2

- 3.4 The ITT responses were evaluated against the criteria set out in the following table.

Criteria	Weighting	Description
Price	75%	Total unit charge inclusive of all regulated pass-through system charges and levies
	5%	Volume tolerance – impact on price of changes in contracted volume of supply
Quality	10%	Invoicing – provision of electronic billing, provision of full breakdown of charge elements.
	5%	Payment terms
	2.5%	Account management
	2.5%	Query management

- 3.5 Following evaluation, a moderation meeting was held between the council's broker and the council's Sustainable Development and Energy Team Leader on 27/03/19. The tender outcomes for each lot are set out in the table below which shows the ranking of each supplier for each lot.

Evaluation criteria	Supplier A	Supplier B	Supplier C	Supplier D
Half-hourly electricity supply				
Price	72.5	80	42.5	no bid
Quality	12.25	11.75	8.5	
Total score	84.75	91.75	51	
Rank	2	1	3	
Non half-hourly electricity supply				
Price	72.5	80	50	no bid
Quality	12.25	11.75	8.5	
Total score	84.75	91.75	58.5	
Rank	2	1	3	
Unmetered street lighting electricity supply				
Price	80	80	57.5	no bid
Quality	12.25	11.75	8.5	
Total score	92.25	91.75	66	

Rank	1	2	3	
Gas supply				
Price	72.5	no bid	no bid	77.5
Quality	12.25			15.75
Total score	84.75			93.25
Rank	2			1

4. CONSULTATION

- 4.1 All schools supplied by the council's existing energy contracts were written to in November 2018 informing them of the council's proposed re-procurement strategy for energy supplies. Schools were requested to confirm whether they wished to participate in the new contracts or would be making their own arrangements for energy supplies.
- 4.2 Schools were informed that if they opted to participate in the council's tender, then they would receive energy invoices directly from the contracted supplier and would be responsible for the settlement of these invoices. Twenty five schools confirmed their participation and were included in the tender.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2018/19	2019/20	2020/21	2021/22
	£'000	11 months £'000	6 months £'000	£'000
Revenue Budget available				
Expenditure				
Income				
Effect of decision from report				
Expenditure		5,081	2,771	
Income				
Remaining budget				

2 The effect of the decision

Securing the recommended energy supply contracts will avoid the risk of the council moving to 'out of contract' rates with the existing suppliers. Such prices are typically more than double those of contracted rates.

3 Risks

The dominant risk associated with energy supply is the volatility of the wholesale energy markets. The recommended contracts are all fixed-price for the contract term. The risk with this type of contract is should market prices fall during the contract term, the council will be unable to take advantage of this. The objective of letting these short term contracts is to align the council's supplies with the commencement of pan-London 'flexible wholesale' contracts being procured by the London Energy Project (LEP). These contracts will provide best practice methods of managing the wholesale price risks.

4 Options

LEP has confirmed (03/04/19) that the first pan-London energy framework will be available from April 2020. The council will therefore have the option of purchasing via these arrangements on expiry of the recommended contracts. This option will be evaluated against the alternatives in the next energy procurement strategy report.

The schools that opted to be included in this tender process will be invoiced directly by the recommended energy suppliers.

5 Future savings/efficiencies

The recommended contracts are for fixed prices over the contract term. The objective of awarding these short term contracts is to align the council's contracts with the commencement of pan-London LEP contracts as highlighted in the Risk section above.

PSP was not included in the Tender. Due to the large volume of supplies and invoices managed, the council requires electronic billing (via the Tradacoms EDI standard) with payments being made by Direct Debit. This form of billing and payment also reduces the cost to serve for the suppliers and attracts a small discount (included within the price offers submitted).

6 Approved by: Ian Geary Department Head of Finance (CCB)

6. LEGAL CONSIDERATIONS

6.1 The Director of Law and Governance comments that the legal considerations are as set out in this report.

Approved by: Sean Murphy, Director of Law and Governance and Deputy Monitoring Officer

7. HUMAN RESOURCES IMPACT

7.1 There is no change to the delivery of energy supply services to the council which must be undertaken by licensed suppliers. There are no employment considerations arising from this procurement project.

Approved by: *Gillian Bevan* on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 This procurement is for energy supplies to council operational sites and services, communal services for social housing and participating schools with the objective to secure these supplies at the best prices.
- 8.2 This procurement will therefore not have a significant impact on groups that share a protected characteristic compared to non-protected groups.

Approved by: Yvonne Okiyo, Equalities Manager

9. ENVIRONMENTAL IMPACT

- 9.1 The recommended offer for the unmetered street lighting electricity supplies is from a 100% renewable energy source. However, as highlighted in the original strategy report, it should be emphasised that this does not mean that this contract will deliver additional carbon dioxide emissions reductions that would have otherwise have occurred if this contract was not awarded.

There are no other environmental implications arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no crime and disorder impacts arising from this report

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 Awarding the competitively tendered contracts will secure cost effective supplies of electricity and gas and will avoid the council being charged 'out of contract' rates by the existing suppliers.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 Other options to secure electricity and gas supplies through existing public sector buying organisation frameworks were considered and rejected. The recommended strategy was to award fixed term contracts to align the council's contracts with the commencement of new pan-London energy contracts. At the time of agreeing the procurement strategy and tender process, it was not known if these latter contracts would be in place by the intended start date of 1st April 2020. The expiry date of 30th September 2020 was therefore set for the recommended fixed term contracts to allow for contingency.

CONTACT OFFICER: Bob Fiddik, Sustainable Development & Energy Team Leader

BACKGROUND DOCUMENTS: None