

Subject:	Corporate Procurement of the Council's Water and Wastewater Services		
Date of Meeting:	7th October 2021		
Report of:	Executive Director, Economy Environment & Culture		
Contact Officer:	Name:	Angela Dymott	Tel: 01273 291450
		Kelvin Newman	01273 290599
	Email:	angela.dymott@brighton-hove.gov.uk	
		kelvin.newman@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE.

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report outlines recommendations for the corporate contract provision of water and wastewater services to Brighton & Hove City Council's operational portfolio from 1st February 2022. This includes supplies to general fund, housing, and school assets. The Council has around 420 water supply points with an annual total spend of approximately £1.05m.

2. RECOMMENDATIONS:

2.1 The Policy & Resource Committee grant delegated authority to the Executive Director of Economy, Environment & Culture to enter into a call off contract using the YPO (Yorkshire Purchasing Organisation) Central Purchasing Body framework (Water, Wastewater and Ancillary Services – 1008) for the Council's water supply and wastewater services, for a maximum term of 32 months.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Background around current Water & Wastewater Market

3.1.1 The non-domestic water market in England was deregulated in April 2017, meaning that commercial customers could now choose their own supplier for water and wastewater retail services or, alternatively, apply for a 'self-supply' licence to administrate the retail element themselves.

3.1.2 There are currently around 20 retailers licensed to supply eligible commercial companies in England. Water and wastewater retail services are defined as billing, meter reading and account management. Retail services are currently the only negotiable cost element of water supply contracts and estimated to be 1-5% of the total contract value. The remainder of the contract value, and vast proportion of the costs remain payable to our deemed Wholesaler at fixed rates.

- 3.1.3 Water Wholesalers are fixed based on geographic location and cannot be changed. The Water Wholesaler for Brighton & Hove City Council is Southern Water. The wholesaler) is responsible for the physical supply and removal of wastewater, as well as maintenance and management of the water infrastructure & meters. Wholesaler responsibilities represent approximately 95% of the total contract value.

The Council's current Water & Wastewater Supply Provision

- 3.2 Brighton & Hove City Council currently have a retail contract in place with Castle Water. This contract was procured under the Crown Commercial Services (CCS) framework in a joint venture with Orbis (agreement with Brighton & Hove City Council, East Sussex Council and Surrey Council). The contract was signed in February 2019 for 2 years with the option to extend for a further year. Brighton & Hove City Council decided to extend for a further year, meaning the contract with Castle Water is due to expire on 31/01/2022.
- 3.3 The council are currently responsible for 420 water supply points across the city, which includes services to corporate buildings, schools, and housing properties. The current annual spend is approximately £1.05m per annum, which is made up of:
- £985,000 paid to Castle Water under the CCS contract (1.6% of this payable for retail services, the remainder is passed on to Southern Water as wholesaler)
 - £73,000 for Council residential supplies – These fall out of the scope of deregulation so cannot move away from their default Southern Water arrangement.

Current Contract Performance

- 3.4 Although a reasonably competitive retail margin was secured in the last procurement exercise, this has been somewhat of a false economy. Various contract management issues have arisen over the contract term such as, poor, and incorrect invoicing data and low meter reading frequency. Query resolution has been slow and required a disproportionate commitment of officer capacity to facilitate. Poor quality of consumption data can increase the risk of slow detection of expensive and wasteful leaks, as well as difficulties around revenue forecasting for budget holders.
- 3.5 It is therefore recommended that the council look to appoint a supplier through a compliant framework which has a greater emphasis on quality and customer service than delivering the lowest possible price.

Rational for Recommended Route to Market – YPO Water, Wastewater and Ancillary Services Framework.

- 3.6 The preferred route to market offers public sector customers compliant access to a singly appointed supplier via direct award and defined quality standards supported by robust and verifiable performance indicators. The framework places greater emphasis on quality and customer services in their tender evaluation criteria. – ***A full breakdown of the evaluation criteria weightings is included in Appendix 1.***

- 3.7 The main advantages of this route to market are:
- Compliance with public contract regulations
 - Economies of scale
 - Terms and conditions identifiable from start of process.
 - Active water management service delivered for free, helping to increase accuracy of data, and identify wastage and opportunities for efficiency
 - Access to additional ancillary water efficiency measures (further detail in 3.5).
- 3.8 YPO awarded the Water, Wastewater & Ancillary Services framework to Anglian Water Business (National) Limited trading as 'Wave Utilities' from 1st November 2020. The company was formed by two established regional companies (Anglian Water & Northumbrian Water Group), who currently work with over 300,000 commercial customers in the deregulated market. Wave's performance in the market in terms of contract management is demonstrated in the Annual Market Performance Report, which is authored by the Market operators MOSL (Market Operator Services Ltd). - ***Summary of the annual performance of retailers in the market is included in Appendix 2.***

Ancillary Services & Water Efficiency Measures

- 3.9 An additional benefit of utilising the YPO framework is being able to access ancillary water efficiency services through the same lot. This opens up the opportunity to work alongside the supplier to implement ad-hoc measures such as leak detection, AMR devices and water efficiency audits.
- 3.10 Any suitable opportunities for ancillary efficiency measures within the council portfolio would need to be fully specified and costed to ensure that there would be a cost negative or neutral impact on the contract value. All implemented measures to be monitored for performance to ensure that water, cost & carbon savings are delivered.

Procurement Advisory Board

- 3.11 A report detailing the recommendations and explanation of various options was presented to the Procurement Advisory Board(PAB) on 26th July 2021.

RESOLVED: The Procurement Advisory Board to provide recommendations to Policy & Resources committee on the following:

That the Committee support the recommended procurement route to enter into a call off contract using the YPO (Yorkshire Purchasing Organisation) Central Purchasing Body framework (Water, Wastewater and Ancillary Services – 1008) for the Council's water supply and wastewater services, for a maximum term of 32 months. This includes both the retail element (around 1-5% of the total contract value) and fixed wholesale costs (the remaining 95%-99%).

- 3.12 PAB feedback ;

The Energy and Water Manager summarised the paper which concerned the supply of water and wastewater services for the Council's operational property portfolio.

Councillor Druitt was informed that:

- There is a lot of duplication working with ORBIS and not a large amount of saving to deliver by using them.
- The Council are currently constrained by the frameworks available and 2 years arrangement would be the most that could be achieved.
- The legal advice is that there should be a meter reading every 2 years, however issues with COVID have reduced the amount of readings.
- Ancillary Efficiency services are being considered to help the workload.

Councillor Osbourne was informed that the lowest bid possible was taken in 2019 however all the meter readings should have been deliverable.

The Chair noted the information and put the recommendations to the vote which were carried.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Delivering Retail Services In-House 'Self-Supply'

4.1 Instead of appointing one of the existing retailers, water deregulation also allows for 'Eligible Customers' to apply for a 'Self-Supply' licence from the industry regulator to purchase water & waste services directly from the 'Wholesaler' and to provide their own 'Retail' services.

4.2 Potential Advantages

-Self-supply licence holders acquire certain rights within the water market, including membership and voting rights in meetings with MOSL.

4.3 Potential Disadvantages

-It has been estimated that an additional resource of 3 FTE would need to be appointed to meet the regulatory requirements of a self-supply license. An additional requirement for consultancy, finance and legal input would also be needed to ensure regulatory compliance. The estimated cost of these posts including on-costs is £100,740 per annum, which would far outweigh any saving from avoiding the retail element.

-Exposure to regulatory risks due to having to meet market performance standards, failure to comply would leave the council liable for penalty charges.

-The council would be subject to the additional cost of the self-supply application and on-going annual fees to MOSL (Market Operator Services Ltd) and CMOS (Central Market Operating System) which is the market software system.

4.4 Main Rationale for Not Being Preferred Option

De-regulation and self-supply of the retail element (5% of the contract) have previously been investigated through a Policy & Resources Committee report following a Notice of Motion in October 2019. Members approved the recommendation against pursuing this as there was no justifiable business

case, the market remains undeveloped and the disadvantages stated above with significant in-house resource implications still stand.

4.5 **Laser Energy Water Procurement Framework**

LASER established a compliant Framework agreement for the supply of water, sewage and additional services in 2017. The framework expired on 25/04/21 and has been extended until 03/06/22.

Potential Advantages

- Contract Standing Order compliance
- Economies of Scale
- Additional ancillary services available

Potential Disadvantages

- Requires 15-week process to put together mini competition
- Direct award currently is not an option so no advance knowledge of retailer performance, as well as potential risk of re-appointing a poor performer.

Main Rationale for Not Being Preferred Option

Likely to be a longer procurement process than the preferred option and small risk of re-appointing incumbent supplier.

4.6 **Crown Commercial Services (CCS) Framework**

As a current CCS Water Framework user, CCS conducted a water aggregation on behalf of Brighton & Hove City Council. In May 2021 the results of the April 21 Aggregated Water Competition were released. The successful bidders were:
LOT 1A Monthly Billing - CASTLE WATER LIMITED
LOT 1B Quarterly Billing - SCOTTISH WATER BUSINESS STREAM LIMITED

Potential Advantages

- Aggregation already completed so would only need to opt-in and sign new contracts.
- Contract Standing Order compliance
- Economies of Scale
- Additional ancillary services available

Potential Disadvantages

- Previous issues with retailer performance
- Call off period is only up to 2 years with no option of extension.

Main Rationale for Not Being Preferred Option

Shorter Contract length available through CCS aggregated purchasing framework.

4.7 **Energy Broker/Conduct own tender exercise by contacting retailers directly**

The Council is approached regularly by consultancies and brokers that secure prices direct from suppliers.

Potential Advantages

- May offer flexibility in terms and conditions and tailoring of contract requirements.

Potential Disadvantages

- Slight risk of exposure to market fluctuations
- Resource intensive procurement process, broker may not have experience working with Local Authorities.
- Potential loss of benefits of aggregated purchasing volume of large frameworks.

Main Rationale for Not Being Preferred Option

Most resource intensive procurement option and potential exposure to increased costs due to lower aggregated purchasing volumes.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 As residential supplies will not be included in this exercise and will remain with the deemed wholesaler, the Housing Management Team will not need to carry out statutory consultation notifications with council tenants.
- 5.2 The Procurement Advisory Board were consulted on available options and preferred route to market as noted in paragraph 3.6.

6 CONCLUSION

- 6.1 Securing a direct award contract through the YPO Water, Wastewater & Ancillary framework for the council's water services is the preferred route to market from those assessed.
- 6.2 The main potential benefits of the preferred option are:
- The prospect of improved customer service standards resulting in more efficient use of council resource.
 - The option to work alongside the supplier to implement efficiency services to highlight and reduce water wastage and associated carbon emissions.
 - Potential of improved data quality reducing the risk of missing leaks and wastage, and increased confidence in revenue forecasting & budget management.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 Preliminary market engagement suggests that retail costs are rising across the board, although the exact impact of this will not be known until supplies are priced. It is unlikely that there will be a notable reduction in unit rates, and any revenue savings from this procurement exercise will have to be driven by reductions in consumption across the contract term. The majority of the costs

payable to the Wholesaler are at fixed rates, hence there are not expected to be reductions in spend or savings generated across the contract period.

- 7.2 The council has an annual spend of approximately £1.050m for water supply and waste-water services for the corporate buildings, schools, and housing properties within the authority. Budgets are within the Corporate Landlord portfolio as well as service departments. Budgets receive annual inflationary increases in line with the council's budget process.

Finance Officer Consulted: Rob Allen

Date: 26/08/21

Legal Implications:

- 7.3 The Policy & Resources Committee is the appropriate committee for the recommendations set out in paragraph 2 above in accordance with Part 4 of the Council's constitution.
- 7.4 By using a Framework, the council is complying with the Public Contracts Regulations 2015 in relation to the procurement and award of contracts above the relevant financial thresholds for services, supplies and works and the council's Contract Standing Orders (CSOs). In order to comply with CSO 3.1, authority to enter into contracts in excess of £500,000 must be obtained from the relevant Committee.

Lawyer Consulted:

Manjinder Nagra

Date: 25/08/21

Equalities Implications:

- 7.5 Full scrutiny of call-off contract & framework documents will be carried out to ensure that the appointed supplier & any appointed subcontractors will reflect the council's commitment to Equality, Diversity and Anti-Discrimination in all areas of the service provision.

Sustainability Implications:

- 7.6 The South East of England is one of the most arid parts of the UK therefore water efficiency and conservation is vital in this area. Additionally, around 600 tonnes of CO2e emissions were associated with the supply and treatment of water across all council sites in 2019/20. There is the ambition to reduce water consumption and associated Carbon emissions, by working alongside our appointed supplier to identify opportunities for implementing efficiency measures.

Any Other Significant Implications:

- 7.7 None

Corporate / Citywide Implications:

- 7.8 Supports Environment, Economy & Culture Directorate Plan 2021/24 - Objective 4: Sustainable City, & Corporate Plan 2020/23 Objective 5.1 – Become a Carbon Neutral City by 2030.

SUPPORTING DOCUMENTATION

Appendices:

1. *YPO Water, Wastewater and Ancillary Services Framework – 1008: Evaluation Criteria.*
2. *MOSL (Market Operator Services Ltd) Peer Comparison Performance League Table 2020/21*

Background Documents:

1. *Self-Supply Water License – Policy & Resource Committee 10th October 2019, Agenda Item 51.*