

Report to:	Cabinet	Date of Meeting:	2 November 2017
Subject:	Supply of Liquid Fuels		
Report of:	Head of Commissioning Support and Business Intelligence	Wards Affected:	(All Wards);
Portfolio:	Cabinet Member - Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

To agree the approach for the procurement of Liquid Fuels for the period from 1st December 2017 to 30th September 2019.

Recommendation(s):

That Cabinet considers the contents of this report, the options for the procurement of Liquid Fuels and:

1. Agrees to procure Liquid Fuels for the period 1st December 2017 to 30th September 2019 through an existing EU compliant Framework;
2. Authorise officers to award a contract for the supply of Liquid Fuels for the period 1st December 2017 to 30th September 2019 to the winning tender obtained through the mini-competition already undertaken under the Yorkshire Purchasing Organisation (YPO) Liquid Fuels Supply Framework.

Reasons for the Recommendation(s):

Sefton Council needs to procure substantial quantities of liquid fuels (automotive and heating oils) in order to operate its daily business and the level of expenditure (approximately £950k per annum) requires Cabinet approval. It is considered that the Council can best be assured of value for money in terms of price and security of supply by procurement through the YPO Framework.

Alternative Options Considered and Rejected: (including any Risk Implications)

The Council could decide not to procure Liquid Fuels through the YPO Liquid Fuels Framework and instead either procure through an alternative Framework or undertake its own procurement process. Officers have run mini-competitions through two major OJEU compliant Frameworks and, for the reasons set out in this report, judge that the YPO Framework provides the best value for money. A Sefton specific procurement process would need to be an EU compliant procurement process and would take approximately 6 months to complete. The main risk and the reason this option has not been recommended is it is considered that the separate procurement of lower volumes of fuel (i.e. Sefton procuring fuel alone) is likely to result in a higher price, potentially greater fluctuation in price and potentially less reliable supply. If Council was to decide to undertake its own procurement process, it is still recommended that procurement continues through the YPO Framework whilst that procurement is undertaken, for the reasons stated above.

What will it cost and how will it be financed?

(A) Revenue Costs

The total cost of procuring through a Framework is made up of Commodity Cost (which changes on a weekly basis and is driven by the industry specific Platts Index), YPO Framework Management Fee and Supplier Profit Margin (both of which will remain fixed until during the period of supply). Therefore cost comparisons can only be regarded as indicative given the potential weekly fluctuation in the commodity cost. Based on current market conditions and current levels of fuel usage the anticipated Liquid Fuel costs are approximately £948k per annum. This compares with approximate costs of £952k in the last 12 months under the previous agreement. This cost of procuring fuel will be funded through existing supplies and services budgets with the relevant service areas.

(B) Capital Costs

None

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):
Legal Implications:
The report has been prepared in accordance with Section 5A of the Local Government and Housing Act 1989.

Equality Implications:

There are no equality implications

(Please delete as appropriate and remove this text)

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Not applicable

Facilitate confident and resilient communities: Not applicable

Commission, broker and provide core services: The Council uses substantial quantities of Liquid Fuel Oils (Biodiesel, Kerosene and Heating Oils) to deliver core services, i.e. operation of its vehicular fleet and heating some schools. Agreeing to the recommendation is considered the best way of securing value for money in terms of price and security of supply for liquid fuels essential for service delivery.

Place – leadership and influencer: Not applicable

Drivers of change and reform: Not applicable

Facilitate sustainable economic prosperity: Not applicable

Greater income for social investment: Not applicable

Cleaner Greener: The Council requires substantial quantities of Liquid Fuel Oils (e.g. Biodiesel and Kerosene) to fuel its vehicular fleet delivering core recycling, refuse collection, street scene and greenspace services. Agreeing to the recommendation is considered the best way of securing value for money in terms of price and security of supply for liquid fuels essential for service delivery.

What consultations have taken place on the proposals and when?**(A) Internal Consultations**

The Head of Corporate Resources (FD 4904/17) and Head of Regulation and Compliance (LD 4188/17) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

None

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 Sefton Council needs to procure substantial quantities of liquid fuels (automotive and heating oils) in order to deliver core service, fuelling its vehicular fleet and heating a number of schools that have oil-based heating systems. On the basis of historic usage and market prices at 18th September 2017, the annual level of expenditure is approximately £950k, consequently Cabinet approval is required.
- 1.2 The level of expenditure is above the EU threshold and so requires the use of an EU compliant procurement process. There are three approaches that the Council could choose to adopt: a Sefton Council only procurement; a collaborative procurement; or procurement from an externally managed supply Framework.
- 1.3 Sefton Council has historically sourced its Liquid Fuel requirements via an externally managed supply framework. This approach provides the advantages of another organisation resourcing the procurement process and ongoing framework management, usually recovered through charging an access or management fee to those using it (see below); a swifter procurement for participating organisations; and more competitive prices and service provision due to the attraction of supplying much larger quantities. A number of EU compliant Frameworks do exist and the Council uses different ones for the procurement of different goods, works and services, subject to an assessment as to which offers the best value for money for the Council for the period and goods, works or services to which the procurement relates. In recent years The Council has utilised a Framework managed by Crown Commercial Service (CCS) for Liquid Fuels and this covers an annual spend on Liquid Fuels in the region of £240m across over 400 organisations across Government and the UK Public Sector.
- 1.4 The cost of Liquid Fuel (both Automotive and Heating fuel) through a Framework typically consists of three elements :
 - i) Commodity Cost
 - ii) Framework Owner's Management Fee
 - iii) Supplier's Profit Margin
- 1.5 The framework owner's management fee and the supplier's profit margin are fixed for the period of supply but the commodity cost, which is controlled by the industry

specific Platts Index, is set on a weekly basis and fluctuates over the course of the supply period. As the extent of these fluctuations is not known at the beginning of that period, cost comparisons and historical spend can only be regarded as indicative of future actual spend.

- 1.6 A Sefton Council only procurement is unlikely to provide the best approach for the Council, as the much lower value/volumes being procured are likely to result in less competitive offers on price and service provision. It would also require the Council to resource the procurement exercise in entirety. Such a process would typically take approximately 6 months to undertake.
- 1.7 The Council could consider leading or participating in a specific collaborative procurement exercise, for example with other LCR authorities. However, there is not understood to be any appetite for this across the LCR footprint at this point in time as other authorities are also currently procuring fuels through national Frameworks such as the CCS Framework or Yorkshire Purchasing Organisation (YPO) Framework. Whilst collaboration across the LCR would increase the value/volume of fuel being procured, it would still fall far short of the value/volumes procured through national frameworks. The cost of resourcing the process and Framework Management would fall to the participating authorities. Such a process would typically take approximately 6-8 months to undertake.

Procurement Activity Undertaken

- 1.8 Due to the value of liquid fuel procured, the Council's Contract Procedure Rules (CPR) require approval to commit expenditure, and so commence a procurement process, be given by Cabinet prior to commencement of that procurement activity. This should also be done in timely manner, such that the permission is given, the procurement activity completed and the new arrangement implemented in line with the expiration of any existing arrangement. Cabinet is asked to note that, due to an administrative error, the fact that an earlier report was not submitted to Cabinet as intended was not recognised and procurement processes (i.e. mini-competitions on two existing EU compliant national Frameworks) have already been undertaken. These processes have involved limited Council staff time and do not commit the Cabinet to any particular decision/procurement option. Cabinet should note that, whilst the failure to obtain timely pre-procurement approval from Cabinet is contrary to the Council's CPR, it is not a breach of public procurement legislation and the procurement activity undertaken (mini-competitions on two national frameworks) is wholly compliant with public procurement legislation and EU rules. As procurement is an executive function, this oversight has been brought to the Executive's attention accordingly. Processes have been reviewed and in order to ensure better tracking of report progress and prevent a recurrence, earlier use will be made of the ModGov report management system.
- 1.9 The activity already undertaken has consisted of mini-competitions run through two separate Frameworks, one operated by Crown Commercial Services (CCS) and the other by Yorkshire Purchasing Organisation (YPO). A mini-competition comprises of a bidding process, open to providers on the Framework, to identify the best available option at that point in time. The method of evaluation is normally prescribed within the Framework and in these cases consists of an assessment of MEAT (Most Economically Advantageous Tender) taking into consideration a balance between Quality and Cost. This approach is the approach that was to be

recommended to Cabinet through the earlier pre-procurement report, referred to above, that unfortunately was not submitted to Cabinet as intended. For this reason officers are still recommending that this represents the most appropriate approach for the procurement of liquid fuels.

- 1.10 The evaluations identified the same provider as the bidder with the most economically advantageous tender through both Framework mini-competitions. Cost comparisons between the previous CCS Framework agreement and the prices obtained through the two mini competitions, utilising historical usage volumes at 18/9/2017 across the products of Gas Oil, Kerosene and Biodiesel are as follows:

Cost through previous CCS Framework agreement:

Gas Oil	£200,997.07
Kerosene	£370.10
Biodiesel	<u>£751,528.26</u>
	£952,895.43 per annum

Cost through new CCS Framework agreement

Gas Oil	£194,200.65
Kerosene	£352.60
Biodiesel	<u>£755,108.86</u>
	£949,662.11 per annum

Cost through new YPO Framework agreement

Gas Oil	£192,592.03
Kerosene	£349.60
Biodiesel	<u>£754,711.02</u>
	£947,652.65 per annum

- 1.11 On the basis of the above cost comparisons, If Cabinet were to decide to procure Liquid Fuels through an existing Framework Agreement in line with the mini-competitions already undertaken, the adoption of the YPO framework would yield an annual saving of approximately £5242.00, subject to weekly commodity cost fluctuations and the Council's product usage going forward.
- 1.12 Sefton Council is an Associate Member of YPO and consequently also benefits from an annual rebate back from YPO dependent upon the volume of spend via their frameworks. Channelling the Council's Liquid Fuel expenditure through the YPO Liquid Fuels framework should generate a further annual rebate of between £1500 and £2000 back to the Council, dependent upon product usage and overall performance of YPO.
- 1.13 For the reasons set out in this report, officers consider that the best approach for the procurement of Liquid Fuels for the period to 30th September 2019 continues to be procurement through a national Framework and, on the basis of the information in paragraphs 1.10-1.12 above, the YPO Framework in particular, but it remains open for Cabinet to decide upon a different approach.
- 1.14 Cabinet are asked to note that, in order to prevent any impact upon services through a disruption to supply and to ensure the Council benefits from the most competitive prices currently available, a Waiver of CPR 1.10.1 has been approved

at officer level. The effect of this waiver is to waive the requirement for pre-procurement approval to commence a procurement process, solely for the period from 1st October 2017 to 30th November 2017, so as to enable utilisation of the most competitive Framework price obtained, and only until such time as Cabinet are able to consider the matter and agree the approach to be adopted. The value of fuel likely to be procured over that time period is below the EU spend threshold and so this action is compliant with public procurement legislation. The purpose of this report is to secure Cabinet approval for the procurement of Liquid Fuels for the period 1st December 2017 to 30th September 2019, prior to that period commencing, and to recommend that because the exercises already undertaken are fully EU compliant that Cabinet agree to award a contract in accordance with the most favourable outcome from those exercises.

- 1.15 That if Cabinet were to decide not to Procure liquid fuels in accordance with paragraph 1.13 above and instead implement an alternative procurement approach, officers would recommend Cabinet to approve use of the above Framework until such time as an alternative arrangement is in place (subject to the agreement of the Framework organisation and Liquid Fuel supplier).