

**REQUEST FOR DMPC DECISION – PCD 308****Title: Collaborative Procurement of Water, Waste Water and Ancillary Services****Executive Summary:**

This proposal is for the collaborative procurement of water, waste water and ancillary services following the de-regulation of the non-household water market. It involves collaboration with the London Energy Project, London Boroughs, TfL and LFEPA in a mini-competition from a Crown Commercial Services framework. The 4-year potential value is £6.2m.

**Recommendation:**

The DMPC is recommended to approve the collaborative procurement of water and waste water services through the Crown Commercial Services (CCS) Framework for Water, Wastewater and Ancillary Services, accessed by call-off from Yorkshire Purchasing Organisation (YPO), to appoint a single water retailer as coordinated by the London Energy Project (LEP). The resulting water and water waste services contract is forecast to cost £6.194million over the 4 years

**Deputy Mayor for Policing and Crime**

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

**Signature***Sybil Henderson***Date** 29/01/18

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. As a result of the de-regulation of the non-household water market in April 2017, and Cabinet Office guidance that a competitive process should take place by April 2018, this paper sets out a proposal for a procurement process to meet the guidance and deliver value for money.

#### **2. Issues for consideration**

- 2.1 As a member of the London Energy Project (LEP) <sup>1</sup> the Metropolitan Police Service (MPS) has engaged in a process to undertake market engagement to understand the opportunities available to non-household organisations following the de-regulation of the water market.
- 2.2 The proposal now is that MOPAC/MPS join the collaborative procurement being managed by LEP, using the Yorkshire Purchasing Organisation (YPO) to carry out a mini-competition from the Crown Commercial Services (CCS) framework for Water, Waste Water and Ancillary Services.
- 2.3 There is no additional cost to MOPAC/MPS for the LEP managed mini-competition. Using this route will avoid the need for the MPS to separately undertake its own procurement for this service, and provide opportunities for efficiency gains from reduced supplier margins, consolidated billing, and improved contract and account management.
- 2.4 In respect of Responsible Procurement the CCS framework considered legislative aspects including equalities and modern slavery. The mini-competition will consider further social value enhancements to be included in the final contract, with a particular focus on water consumption / sustainability / efficiency, etc. and also on employment, business, apprenticeships, etc.
- 2.5 As there is a water industry price review in 2020, the contract term has been scheduled for an initial 2 year period 2018 to 2020, with an option for a further 2 year extension.

#### **3. Financial Comments**

- 3.1 Based on the current spend and accounting for inflation and a contingency sum of £295k the 4-year contract value is £6.2m. The MPS Property Services Directorate have the funding for this expected spend.

#### **4. Legal Comments**

- 4.1 MPS/MOPAC will be required to adopt the standard terms and conditions developed by LEP for all authorities as part of this collaborative procurement action, which will allow the MPS/MOPAC to call off from this procurement framework for water and waste water services.
- 4.2 The LEP has inserted a clause into the MOU to ensure that the MPS/MOPAC retain the authority not to award contract to the chosen retailer at their discretion.
- 4.3 Failure for the MPS/MOPAC to competitively retail water services will result in non-compliance under the Public Contract Regulations 2015.

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<sup>1</sup> <https://www.londoncouncils.gov.uk/who-we-are/committees-and-networks/london-councils-capital-ambition-programme/london-energy-project/>

## **5. Equality Comments**

5.1 There are no equality or diversity implications arising from this report.

## **6. Background/supporting papers**

MPS Report

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

**Part 1 Deferral:**

Is the publication of Part 1 of this approval to be deferred? No

If yes, for what reason:

Until what date:

**Part 2 Confidentiality:** Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a **Part 2** form – Yes

**ORIGINATING OFFICER DECLARATION:**

	<i>Tick to confirm statement (✓)</i>
<b>Head of Unit:</b> The Chief Finance Officer has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
<b>Legal Advice:</b> The MPS legal team has been consulted on the proposal.	✓
<b>Financial Advice:</b> The Chief Financial Officer has been consulted on this proposal.	✓
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report.	✓

**OFFICER APPROVAL****Chief Executive**

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature

R. Lawrence

Date

23/01/18

## **COLLABORATIVE PROCUREMENT OF WATER AND WASTE WATER SERVICES FOLLOWING MARKET DEREGULATION**

**Report by Neil Grange, Head of Environment and Sustainability on behalf of Simon  
Wilson, Commercial Director**

### **EXECUTIVE SUMMARY**

A Report was presented at the Portfolio & Investment Board on the 12<sup>th</sup> December 2017 with the Board approving the collaborative procurement of water and waste water services through the Crown Commercial Services framework and coordinated by London Energy Project (LEP).

Cabinet Office guidance is that following deregulation of the water market in April 2017, a competitive process for the appointment of a water retailer must be followed by April 2018 in order to comply with the Public Contract Regulations 2015. In the newly deregulated market, the most economically advantageous approach is to collaborate with other local authorities/ functional bodies.

The LEP Team managed a pre-market engagement programme with over 60 authority stakeholders, three Central Purchasing Bodies (CPBs) (public sector buying organisations) and five water retailers to conduct an options appraisal and recommend the most appropriate delivery model for procurement and contract operation.

The recommended option is for the LEP Team to manage (at no additional cost) a pan-LEP mini competition for all LEP members to access a single retailer through a single Central Purchasing Body (CPB) framework. A CPB framework for water provides a reasonable route to market at an affordable price for service and one that makes effective use of LEP staff resources to support fit for purpose service specification and retailer evaluation, i.e. deploying LEP resources to conduct a full tender exercise would add costs but deliver little additional benefits.

This paper seeks Investment and Advisory Board (IAB) approval for the collaborative procurement of water and waste water services through the Crown Commercial Services (CCS) Framework for Water, Wastewater and Ancillary Services, accessed by call-off from YPO to appoint a single water retailer by April 2018.

The London Energy Project (LEP), with Haringey Council acting as the Lead Authority, on behalf of 36 local and other public sector authorities (including TfL and London Fire Brigade), will co-ordinate with the intention to appoint a single water and waste water retailer, with each authority having a separate contract. The resulting water and waste water services contract is forecast to cost £6.194million over the 4 years.

### **A. RECOMMENDATIONS – That DMPC approves:**

1. The collaborative procurement of water and waste water services through the Crown Commercial Services (CCS) Framework for Water, Wastewater and Ancillary Services,

accessed by call-off from YPO to appoint a single water retailer as coordinated by the London Energy Project (LEP). The resulting water and water waste services contract is forecast to cost £6.194million over the 4 years.

## B. SUPPORTING INFORMATION

### Background

2. The Water market in England was deregulated in April 2017. Compliance with Public Contract Regulations 2015 is required; Cabinet Office guidance suggests that a competitive process should have been followed by April 2018.
3. 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, advanced metering etc. The value of the retail service is on average 6% of the total water contract value.
4. Historically, Thames Water provided the majority of these services to the MPS and in 2016/17 annual expenditure was over £1.4m. The preferred procurement option is aimed at delivering better outcomes, ensuring compliance and enabling MPS/MOPAC to have a customer focussed service specification, with improved T&Cs, greater support and resilience.
5. Management of the procurement route through a Central Purchasing Body (CPB) framework mini-competition will be coordinated by the London Energy Project as the lead authority for the collaborative members (36 local authorities/functional bodies – note that this includes TfL and London Fire Brigade) at no additional cost and informed by all members including MPS/MOPAC. CPB fees are estimated to be 0.06% of the total water cost. LEP will manage the CCS framework for the mini-competition at zero cost to MPS/MOPAC.
6. A competitively tendered pan-LEP contract enables the MPS to achieve a low-cost/low-resource route to compliance, whilst pursuing a resilient, best value-for-money service. The MPS will continue to manage strategic and day-to-day service provision of the water and waste water services. The option of the MPS/MOPAC conducting its own tender or mini-competition is not recommended because the risks and costs of tender, including use of staff resources to write service specification and conduct the tender are not commensurate with potential benefits of retailer service efficiencies and savings.
7. The optimal contract duration is deemed to be two years with the option to extend for a further period of up to two years (forecast to cost £6.194million over the 4 years). This is because a contract of less than two years will not represent value for money, as the retailer set-up costs and migration process will be priced into one year, rather than a two years + two year extension arrangement. However, the water industry price review will take effect in 2020 and its impact will need to be considered as part of any contract extension.



8. The Police & Crime Plan 2017–21 identifies the need to 'invest in the tools they (officers) need to do their job' which includes the quality of the MOPAC estate and ensuring public facing buildings such as police stations and operational support facilities are fit to support the police in "doing their job".
9. The preferred option is for LEP to manage (at no additional cost) a pan-LEP mini competition for all LEP members to access a single retailer through a single CPB framework. Following award, LEP and CCS will maintain an advocacy role across the contract for all members. The MPS/MOPAC will remain as stakeholders of the LEP for water and waste water services and will be consulted on any future arrangements.
10. The strategic and day-to-day contract management of the water and waste water services will continue to be managed by the MPS utilities team within Property Services Department. This team and the Head of Carbon Management have already had significant engagement representing MPS as members of the LEP in the option appraisal and route recommendations for the collaborative procurement process.
11. Cost and consumption will be monitored by the utilities team and the water service suppliers. Ancillary services provided by the water and waste water service retailers, such as leak detection and technology trials may also be utilised to assist with ongoing efficiencies and bill reductions.
12. This report was presented and approved at the Portfolio & Investment Board on the 12<sup>th</sup> December 2017.

### **Decision Sought**

13. This report requests a decision from the Deputy Mayor to enter into the collaborative procurement of water and waste water services through the Crown Commercial Services (CCS) Framework for Water, Wastewater and Ancillary Services, accessed by call-off from YPO to appoint a single water retailer as coordinated by the London Energy Project (LEP). The resulting water and water waste services contract is forecast to cost £6.194million over the 4 years.

## **C. OTHER ORGANISATIONAL & COMMUNITY IMPLICATIONS**

### **Equality and Diversity Impact**

14. There are no negative equality or diversity implications arising from this contract. All initial evaluation exercises within the Invitation to Tender for the collaborative procurement options considered their ability to act as a responsible employer under the Equality Act 2010.

### **Financial Implications**

15. The MPS budget for water and waste water services in 2017/18 is £1,386K (£1.386million). Costs are met from the Property Services Department budget. The MPS are looking to let a four year contract with an estimated total value of £6,194K (£6.194million). This represents an annual inflationary increase of 2.5% (an average of

£36K p.a.) on the existing budget provision. Provision has been made within the Medium Term Financial Plan to meet the cost of the inflationary impact. In addition the contract value includes proposed uplift of 5% (£295K) to provide a contingency for unforeseen events the cost of which will be met from within existing property services revenue budget.

16. The most economically advantageous tender will be via a mini-competition weighted for quality, e.g. 55/45, since the competitive element, retailer margin, is a very small part of the contract value (note: the exact ratio will be set in agreement with LEP authorities steering group). This must be supported by a clear service specification and service levels geared to ensuring terms and conditions are appropriate; all collaborative authorities including the MPS/MOPAC will have their own separate contract.
17. This is not a new cost as the current water and waste water service costs are paid from the MPS/MOPAC Property Services department budget for utilities. The procurement route has changed in response to market deregulation – that allows all businesses to choose their service provider.
18. It is important to note that this contract does not commit the MPS to any expenditure. Actual costs incurred will be determined by demand for the service.
19. No allowance for a reduction in costs has been made in respect of the Estates Transformation Strategy, as whilst the size of the estate will reduce over the next 5 years, demand is expected to stay broadly in line with current requirements.

### **Legal Implications**

20. MPS/MOPAC will be required to adopt the standard terms and conditions developed by LEP for all authorities as part of this collaborative procurement action, which will allow the MPS/MOPAC to call off from this procurement framework for water and waste water services.
21. The LEP has inserted a clause into the MOU to ensure that the MPS/MOPAC retain the authority not to award contract to the chosen retailer at their discretion.
22. Failure for the MPS/MOPAC to competitively retail water services will result in non-compliance under the Public Contract Regulations 2015.
23. DLS commented that it is their view that the Contracting Authority can enter into collaborative arrangements with other public authorities but are still subject to PCR, unless it is set up in such a way that the Teckal exemption applies. It is the view of DLS that that is not relevant here.

### **Risk (including Health and Safety) Implications**

24. There are no health and safety issues regarding the collaborative procurement of water and waste water services. Failure to attain this services will impact on the health and safety of the MPS.



## Consultation Undertaken

25.

Key stakeholder engagement	Supportive / Supportive with concerns / Not supportive / Not affected
Commercial Director	Supportive
Category Director Property	Supportive
Director of Property Services Department	Supportive
Finance Business Partner, Property Services	Supportive
Solicitor, DLS Directorate of Legal Services	Supportive
Property Services (PSD)	Supportive
Senior health and Safety Advisor, Safety & Health Risk Management Senior Public Health Engineer, Safety & Health Risk Management	Supportive
Business Change Manager Business Change	Supportive
Strategic Inclusion and Diversity Unit	Supportive
Business Design Specialist. Integrated Design Authority	Supportive
Project Support Officers, Strategic Secretariat	Supportive
Benefits Lead, Portfolio Transformation Office for Benefits – One Met Model benefits	Supportive

## Responsible Procurement

26. There are no adverse responsible procurement implications associated with this solution.
27. The Public Services (Social Value) Act 2012 places a requirement on commissioners to consider the economic, environmental and social benefits of their approaches to procurement. The original ITT evaluation undertaken by CCS and other buying organisation partners considered legislative aspects including modern slavery, equalities, etc, and consequently this is not re-visited as part of further competition. However, Social Value as well as Added Value will be incorporated into the further competition including for example, aspects such as opportunities for social enterprises, SMEs, work place schemes and apprenticeships.

**PART 2: Exempt Section of the Report**

Part 2 is exempt under Article 2(2)(a) of the Elected Local Policing Bodies (Specified Information) Order 2011.

The FOIA exemption that applies is as follows:

**PIB Report - 'Updated Business Justification – Collaborative Procurement of Water and Waste Water Services, Portfolio & Investment Board 12th December 2017 - Section 43: Commercial Interests**

**Report author:**

Neil Grange, Head of Environment and Sustainability, Property Services Department.