

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2187

Title: Energy for Londoners – Energy Supply Company

Executive Summary:

The Mayor announced in his draft London Environment Strategy (LES) the intention to tender for the delivery of an energy supply company to deliver fairer energy bills for Londoners. Development of this proposal (which is subject to consultation) is a novel exercise for the GLA and requires specialist external advice and support, which the GLA does not have in-house.

If this decision is approved, the GLA will be able to procure specialist commercial advice to inform the tender process and legal advice to help determine the best way of setting up the project. A further MD would be brought forward prior to the launch of the project, seeking permission to proceed.

Decision:

That the Mayor approves:

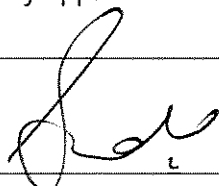
- Expenditure of up to £150,000 on a contract for commercial advice to support the development, design and delivery of the energy supply company / partnership; and
- up to £100,000 for external legal advice over the course of the project.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

6/11/12

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 There are growing and widespread concerns that electricity and gas markets are not delivering fair prices for households. In 2014 the economic regulator (Ofgem) referred the sector to the Competition and Markets Authority (CMA), which conducted an investigation and found various problems and introduced various remedies from 2016. Despite this, there is evidence that many households are still paying hundreds of pounds per year more than they need, for example Which? published research on 3 October showing that the difference between the cheapest and most expensive deals was over £500 per year for typical household consumption. There is continuing national political debate about the need for further action and on 12 October 2017 the Government published a draft bill to give Ofgem powers to set a price cap. The form that this will eventually take is likely to take some time to play out and GLA officers will monitor developments closely.
- 1.2 Until recently Government policy, and to some extent the CMA report, have focussed on encouraging households to switch their energy supplier, ie. to shop around for a cheaper supplier. This works well for those who do switch, especially as the market has become more competitive. However, the CMA found that 70 per cent of 'Big Six' domestic customers nationally were on expensive, default standard variable tariffs. The CMA estimated these customers could save over £300 by switching to a better deal.
- 1.3 Moreover, poorer customers are more likely to be on pre-payment meters (PPM) and unlikely to pay by direct debit so tend to have less access to good deals. The CMA found differences between the cheapest prepayment and direct debit tariffs, of between £260 and £320 per year. The CMA quantified the disadvantage faced by prepayment customers of the Big Six as an 12 per cent of a typical bill, substantially more than customers paying by direct debit (eight per cent) and standard credit (seven per cent). As a result of the CMA work, there is now a cap on the costs of PPM tariffs.
- 1.4 There has been increased competition in the market recently with a rise in independent suppliers. Around 15 independents had three per cent market share between them in 2013. This has risen to nearly 50 suppliers holding 16 per cent market share today. However, whilst this has led to some more competitive rates this has not driven down prices overall especially for the fuel poor, as mentioned above.
- 1.5 These national problems are particularly acute in London. London has the lowest proportion of domestic customers on dual fuel contracts (which tend to offer the cheapest deals) in the country. In London, 21 per cent are on electricity prepayment meters, compared to 17 per cent nationally. Only 45 per cent pay for electricity by direct debit, which is the second lowest rate in the UK, with the Southern region the highest at 67 per cent. London also has the lowest proportion of gas customers paying by direct debit, the lowest levels of switching of all regions in the UK for gas, and is below the national average for electricity. So there is potential to save money for many Londoners and not just the fuel poor, which represent around ten per cent of London's total households.
- 1.6 For these reasons, the Mayor put in place a programme of work, as part of Energy for Londoners (EFL), to determine the best means of quickly delivering fairer tariffs to Londoners, particularly the 335,000 households living in fuel poverty.
- 1.7 Following initial discussions with key stakeholders and analysis by GLA officers, energy consultants (Cornwall Energy) were contracted to undertake a detailed feasibility study (DD2077 approved this expenditure). This study showed that the Mayor's desired environmental and fuel poverty outcomes for EFL can be delivered equally effectively under both a white label plus and a fully licensed route¹.

¹ The fully licensed route would mean the GLA setting up a licensed supplier, including associated systems, from scratch. "White labelling" generally means partnering with an existing supplier to market their tariffs under a specific brand. "White Label Plus" is a relatively new approach that involves a greater degree of control (eg. developing bespoke tariffs) than "White Label".

A fully licensed supply route would not however deliver the Mayor's goals as quickly and would take at least nine to 15 months longer than a white label plus to set up. Further discussions with stakeholders have supported these conclusions.

- 1.8 The quickest way of delivering fairer energy bills for Londoners is to tender for an energy supply company to work with the GLA to deliver the Mayor's aims. Working with an existing energy supplier would also expose the GLA to significantly less risk, both financial and regulatory, at a time when the market is changing rapidly. This approach was announced in the Mayor's draft London Environment Strategy approved by MD2140.
- 1.9 We intend to use an outcome-based specification to challenge energy suppliers to come up with an innovative offer that meets the Mayor's objectives to offer fairer tariffs, particularly to the fuel poor, and to meet broader environmental objectives.
- 1.10 Note that this initiative – focussed on supply to households – is separate from (albeit complementary to) Licence Lite, which is designed to provide a market to small local generators and sell their power to commercial customers, initially TfL. The EfL programme will ensure that we maximise synergies between them, especially in the medium to long term.

Proposed next steps

- 1.11 GLA officers are currently designing a procurement process to deliver the Mayor's objectives. Initially this will involve testing the market by holding a supplier day with potential suppliers and obtaining their feedback before proceeding with a tender exercise. The procurement process will involve shortlisting suppliers, and then entering into dialogue with a small number of selected suppliers before issuing the final tender documentation. There will be a further Mayoral Decision seeking approval to go ahead with the project.
- 1.12 As noted in paragraph 1.7, there has been considerable internal work undertaken already, drawing on the feasibility study carried out by external consultants and discussions with key stakeholders, including councils who have or are undertaking similar exercises.
- 1.13 This is the first time the GLA has proposed intervening in the energy supply market, other than running switching campaigns, and this is a much more significant undertaking. To make it a success we require external, specialist support in two areas:
 - 1.13.1 specialist commercial support to draw up a specification for the tender and support the procurement process, including evaluating bids and supporting discussions with bidders
 - 1.13.2 external legal support, which will be managed by TfL Legal, to draft the bespoke energy supply arrangement/s and support if necessary the procurement process and the development of our own models for operating this scheme
- 1.14 We plan to procure and appoint specialist commercial support to help the development, design and deliver of the energy supply company or partnership. An Invitation to Tender (ITT) for this support will be issued following this Mayoral Decision. Procurement will be conducted in accordance with the GLA Contracts and Funding Code.
- 1.15 Legal support will be procured by TfL Legal in accordance with call-off procedures from the legal panel already in place.
- 1.16 Oversight of the project will be provided by weekly meetings chaired by the Deputy Mayor for Environment and Energy and include senior representatives from the Environment Unit and the EfL energy supply company project team.

2. Objectives and expected outcomes

- 2.1 The purpose of the EfL energy supply company or partnership is to offer fairer energy tariffs for Londoners, especially those in fuel poverty. The proposed commercial specialist will advise on appropriate measures of this which will be incorporated in the ITT and then the contract with the successful bidder.

3. Equality comments

- 3.1 The GLA will take appropriate steps to ensure that there are no potential negative impacts expected on those with protected characteristics. Those with protected characteristics will gain from the positive benefits of this scheme in equal measure should they choose to switch to our supply company, and there will be equality of access to participate in the delivery and benefit from the scheme, without discrimination. Given the disproportionate impacts of high energy prices on the most vulnerable Londoners there will be a positive effect in tackling social and health inequality through this programme of activity.

4. Other considerations

- 4.1 The key risks and issues for delivery of this project are set out in the table below:

Risk	Likelihood (out of 5)	Impact (out of 5)	Rating	Mitigation
Lack of expert commercial advisers who wish to be involved in this project	1	5	5	Mitigate by networking and ensuring that suitable specialists bid. GLA officers have already reached out to many organisations and leading experts in this field and are confident that a sufficient number of commercial specialists will want to take part in this work, given the project's profile and potential impact.
Government price cap renders the work unnecessary	2	3	6	The draft Tariff Cap Bill requires Ofgem to impose a price cap that still leaves room for differentiation. GLA officers will keep the impact of the cap under review as part of project development.
Complexity of project means that delivery slips against timetable and exposes the GLA to significant risk	2	3	6	This advice will help ensure that internal team has access to the right advice.

5. Project Costs

- 5.1 The total commercial advice costs across the lifetime of this project are likely to be around £130,000, with that estimate based on market knowledge of the market. In addition, this provides for some contingency, eg. more bids than expected may mean the need for our lead consultant to sub-contract to an associate for a short time, or additional more specialist advice may be needed.
- 5.2 The estimate of legal costs has been obtained via TfL Legal. The project has allowed £100,000 for legal assistance, which includes a contingency given the novel nature of the project.

6. Financial comments

- 6.1 Mayoral approval is being sought to spend up to £150,000 to award a contract for commercial advice to support the development, design and delivery of an energy supply company (or partnership) and to spend up to £100,000 for external legal advice over the course of the project.
- 6.2 Fifty per cent of this funding (£125,000) will be drawn down from the £4m 2017-18 capital budget set aside for the energy supply company budget, via a capital/revenue swap. The remaining £125,000 will be requested as part of 2018-19 budget setting process and is therefore subject to further approval. If this £125,000 is not approved as part of budget setting process, the Environment Team will need to fund this from other budgets as agreed in the 2018-19 revenue budget.
- 6.3 It is expected that up to £125,000 of the budget will be spent in 2017-18 with the remaining budget spent in 2018-19.

7. Legal comments

- 7.1 The GLA's principal purposes, under section 30 of the Greater London Authority Act 1999, are promoting economic development and wealth creation, promoting social development, and promoting the improvement of the environment, all in Greater London. The GLA has power under section 30 of the Greater London Authority Act 1999 to operate in the area of energy supply and related matters, on the basis that such operation is calculated to produce social and environmental benefits.
- 7.2 Further, the Authority also has a subsidiary power pursuant to Section 34 of the Act which covers the procurement of a commercial consultant and external legal support to provide advice in relation to the tender as set out above.
- 7.3 Sections 1 to 3 of this report indicate:
- that the decision requested falls within the GLA's statutory powers to do things considered to further, or which are facilitative of, conducive or incidental to the discharge of, its general functions; and
 - that due regard has been had to the principle that there should be equality of opportunity for all people further details on equalities are set out in section 3 above.
- 7.4 Section 4.1 of the GLA's Contracts and Funding Code (the "Code") requires the GLA to undertake a formal tender process or make a call off from an accessible framework for procurements with a value between £10,000 and £150,000. As noted in paragraph 1.14, Officers will follow the Code. Officers must ensure that an appropriate contractual document is put in place. With regard to procuring external legal support, the support will be called-off the legal panel available to the GLA and managed by TfL Legal.

8. Planned delivery approach and next steps

Activity	Timeline
Award contract for commercial and legal expertise	November 2017

Appendices and supporting papers: none

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason: the publication is being deferred until after the procurement of commercial advice so that we can secure best value for money by not disclosing our expected project costs.

Until what date: 1 December 2017

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

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Stephen de Souza has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Sponsoring Director:

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Shirley Rodrigues has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 30 October 2017.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

Date

M. T. Clarke
Tom Middleton on behalf of Martin Clarke

30.10.17

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

Date

D. Bellamy

2/11/2017.