

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: CABINET
Report of: DIRECTOR OF COMMISSIONING AND PROCUREMENT
Date of Decision: 6th March 2018
SUBJECT: CONTRACT EXTENSION FOR GAS AND ELECTRICITY PROCUREMENT
Key Decision: YES
Relevant Forward Plan Ref: N/A
If not in the Forward Plan: Chief Executive approved ☒
(please "X" box) O &S Chairman approved ☐
Cabinet Member(s): Councillor Majid Mahmood, Cabinet Member for Commercialism, Commissioning and Contract Management
Relevant O &S Chairman: Councillor Mohammed Aikhlaq, Corporate Resources and Governance
Wards affected: ALL

1. Purpose of report:

- 1.1 To provide details of the requirement to enter into a contract extension with Crown Commercial Services for the continued purchasing of gas and electricity supplies.
- 1.2 These arrangements will commence on 1st April 2018 for a period of 12 months with the option to extend for a further 12 months.
- 1.3 This matter was not included in the Forward Plan because it was originally intended that authority to extend these agreements was included within the Cabinet Report and Business Case to establish an Energy Company, however this proposal has now been withdrawn at the current time.

2. Decision(s) recommended:

That Cabinet:

- 2.1 Notes the rationale for retrospective approval of this contract extension.
- 2.2 Approves the continued procurement of gas and electricity through the Crown Commercial Services (CCS) Framework Agreement with their contracted suppliers for a period of 12 months commencing 1st April 2018 with an option to extend for a further 12 months subject to business requirements.
- 2.3 Delegates the award of the further 12 month extension, if required to the Director of Commissioning & Procurement in conjunction with the Corporate Director of Finance and Governance (or their delegate) and the City Solicitor (or their delegate).
- 2.4 Authorises the City Solicitor to negotiate, execute and complete all necessary documents to give effect to the above recommendations.

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3. Consultation

3.1 Internal

3.1.1 Officers from Legal and Governance, Procurement and City Finance have been involved with the preparation of this report.

3.1.2 The Chief Executive and the chairman of the Corporate Resources and Governance Overview and Scrutiny Committee have been sighted on the requirement for this report.

3.2 External

3.2.1 No external consultation was undertaken or required.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

This contract will support the Vision and Forward Plan priorities;

- By ensuring continuity of supply of gas and electricity to Council offices and schools.
- By seeking to optimise the price paid for gas and electricity operation of fixed and variable wholesale purchasing arrangements with Crown Commercial Services.

4.1.1 Birmingham Business Charter for Social Responsibility (BBC4SR)

The Public Services (Social Value) Act 2012 does not apply to the main supply contracts for electricity and gas.

4.2 Financial Implications

4.2.1 The total spend through the CCS framework on electricity and gas for corporate and schools during the 2017 calendar year was £26,771,402 of which £20,920,745 related to electricity charges and £5,850,657 gas.** These costs were funded from approved service directorate and schools budgets.

4.2.2 Of the above the Council's corporate estate incurred £14,565,563 in electricity charges and £2,064,959 in gas, £16,630,522 in total.**

4.2.3 There are many variables that impact on the City council's expenditure on electricity and gas. These include movements in wholesale prices, buildings occupied by the City Council, staff numbers etc. It is therefore very difficult to predict future expenditure and for the purposes of this procurement it has therefore been assumed that expenditure will continue at the same level as the previous year.

4.3 Legal Implications

- 4.3.1 This contract extension supports a wide range of services provided by the Council such as power and water to all Council buildings and also the electricity to street lighting.

4.4 Public Sector Equality Duty

- 4.4.1 There are no changes from the original U70 Utilities Procurement Strategy 2014 – 2018, approved by Cabinet on 16th September 2013.

5. **Relevant background/chronology of key events:**

Background

- 5.1 The Utilities Procurement Strategy (U70) was approved by Cabinet on 16th September 2013 along with the continued procurement of gas and electricity through the Crown Commercial Services (CCS) Framework Agreement with their contracted suppliers for the period 1st April 2014 to 31st March 2018.
- 5.2 Approval to award annual contracts under the CCS Framework was delegated to the Assistant Director of Corporate Procurement Services in conjunction with the Director of Finance and Director of Legal and Democratic Services or their nominated representatives.
- 5.3 Utilities Purchasing (gas and electricity) operates within a specific window where purchases start to be made from 1st October each year to ensure the majority of users' energy requirements are secured in preparation for the supply year which commences on 1st April. This 6 month window allows fixed and flexible energy purchases to be made based on fluctuations in the wholesale energy prices. The CCS trading desk monitor fluctuations in wholesale market prices with the aim of making energy purchases at times when prices are lowest in order to obtain the best overall commodity price for customer.
- 5.4 In addition, the terms and conditions of the CCS Framework require a 6 months' notice to terminate, the deadline for termination was therefore 1st October 2017 for a 1st April 2018 contract year. Not serving notice of termination by this date effectively locks the Council into a further 12 month period up to 31st March 2019. The 6 month notice period is required due to the fact that CCS start purchasing energy on the wholesale market from 1st October for a supply year that commences 1st April the following year for the reasons set out in 5.3 above.
- 5.5 In preparation for the expiry of the CCS Framework Agreement on 31st March 2018 an options appraisal was carried out by officers from Corporate Procurement Services, Property Services, Housing, Highways and Street Services in October 2016 with a view to developing and implementing a future procurement strategy by 31st March 2018. This procurement strategy was placed on hold pending Cabinet consideration of the Full Business Case for the proposed Birmingham Energy Company.
- 5.6 Consequently the Council was not in a position to advise CCS of its intention to extend or terminate the Agreement by 1st October 2017. As notice was not served the Council is contractually obligated to continue to buy gas and electricity through the CCS Framework until 31st March 2019.

- 5.7 A recommendation to extend the contract with CCS for 12 months (plus a further 12 months extension option as a contingency) was included in the planned Cabinet Report to establish the energy company. To date this report and business case has not been submitted for consideration by Cabinet and therefore the Council remains without formal Cabinet approval to continue the existing arrangement with CCS.
- 5.8 Consequently Cabinet approval is now sought to extend the Agreement with CCS from 1st April 2018.
- 5.9 This extension provides the Council with the opportunity to revisit the utilities procurement strategy options appraisal undertaken in 2016 and will enable a robust review of the future procurement strategy.
- 5.10 In order to better inform this options appraisal Corporate Procurement Services have engaged an energy purchasing consultant on a free of charge basis to undertake benchmarking by way of a mock reverse auction.

This exercise will determine if the Council's current energy prices are on market or there is an opportunity to achieve better value for money by either self-procuring a new contract or accessing another national energy purchasing framework.

- 5.11 The mock reverse auctions were planned for the end of February 2018 and the results are therefore not available at the time of the submission of this report.
- 5.12 The outcome of this benchmarking will be used to undertake a refreshed options appraisal during March with the expectation that a utilities procurement strategy will be presented to Cabinet in April \ May 2018.
- 5.13 To enable the Council to conclude this options appraisal and to provide flexibility and contingency it is recommended that the existing agreement with CCS is extended for a period of 12 months with an option to extend for a further 12 months subject to business requirements.

6. Evaluation of alternative option(s):

- 6.1 Use of an alternative Framework is not possible at this stage given the default contractual position with CCS.

7. Reasons for Decision(s):

- 7.1 To enable the Council to formalise the extension of the existing utilities supply agreement with Crown Commercial Services for a period of 12 months, from the 1st April 2018 with an option to extend for a further 12 months subject to business requirements whilst the future procurement strategy is developed and implemented.

Signatures:

Councillor Majid MahmoodDate.....
Cabinet Member for Commercialism, Commissioning and Contract Management

Nigel Kletz:.....Date.....
Director of Commissioning and Procurement

List of Background Documents used to compile this Report:

1. STC Monthly Executive Report Birmingham City Council Estate – December 2017.

List of Appendices accompanying this Report (if any):

None.