

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: **CABINET**

*Exempt
information
paragraph
number – if
private report:*

Report of: **Head of Contract Management, Commissioning and Procurement Services**

Date of Decision:

SUBJECT: **UTILITIES PROCUREMENT STRATEGY AND AWARD 2019-2022**

Key Decision: Yes / No

Relevant Forward Plan Ref: 005406/2018

If not in the Forward Plan:
(please "X" box)

Chief Executive approved ☐

O&S Chair approved ☐

**Relevant Cabinet Member(s) or
Relevant Executive Member**

Cllr Brett O'Reilly – Finance & Resources

Relevant O&S Chair:

Cllr Sir Albert Bore, Resources

Wards affected:

All

1. Purpose of report:

- 1.1 This report provides details of the procurement strategy for the purchase of gas and electricity for Council buildings and schools within the Council area.

2. Decision(s) recommended:

That Cabinet:-

- 2.1 Notes the contents of this report.

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3. Consultation

3.1 Internal

Officers from Birmingham Property Services, Housing, Street Services Division and Finance have been consulted on the contents of this report.

3.2 External

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, outcomes and priorities as set out in the Council Plan 2018 - 2022;

- By ensuring continuity of supply of gas and electricity to Council premises and schools
- By seeking to optimise the price paid for gas and electricity operation of fixed and variable wholesale purchasing arrangements throughout the contract term.

4.1.1 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR was assessed as part of the evaluation and will form part of the conditions of contract. The action plan of the successful supplier(s) will be implemented and monitored during the period of the agreement.

4.2 Financial Implications

Utilities spend during 2017/18 was £19.33 million for electricity and £4.53 million for gas.** Approximately £10 million of this annual spend is by schools who directly manage their own budgets. The costs are funded by approved Directorate revenue budgets and delegated schools' budgets.

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, weather conditions and consumption. It is therefore very difficult to predict future expenditure and for the purposes of this procurement it has therefore been assumed that consumption will continue at the same level as the previous year. The proposed framework includes opportunities to minimise the effects of the volatile energy markets by the adoption of a risk management approach to purchasing utilities on a fixed or flexible basis, as explained at 5.11.

With the current trend of annual price increases any savings are dependent upon a reduction in consumption. However, prices will continue to be compared to market prices to show the benefits of implementing the proposed purchasing strategy. The actual energy forms only 62-70% of the cost of gas and 35-46% of the cost of electricity, the rest being made up of non-commodity charges and environmental levies which are non-negotiable.

A management fee is charged by Framework providers for the management of the agreements with utility providers and the cost of operating a trading desk to purchase energy requirement. These costs have been evaluated and this is included in Appendix 1 of Private Report.

As with the existing agreement with CCS, a marginal levy will be included in the energy price which covers the cost of the Council's energy bureau service contract and a contribution to the CPS budgeted utility rebate.

** Source: STC Monthly Executive Report BCC Estate March 2018.

4.3 Legal Implications

The provision of gas and electricity under this framework relates to Council owned buildings and schools across the Council's area. Because of the numerous Council services and functions carried out from such buildings it is not practical to include, in this report, details of all relevant legislation enabling those services and functions to be carried out.

4.4 Public Sector Equality Duty

A relevance test to decide whether the Utilities Strategy has any relevance to the equality duty contained in Section 149 of the Equality Act 2010 of eliminating unfair/unlawful discrimination and to promoting equality and human rights has been conducted. The screening identified there was no requirement to assess it further and completion of an Equality Assessment form was not required.

5. Relevant background/chronology of key events:

- 5.1 This report provides details regarding the recommended strategy for the procurement of utilities (electricity and gas) for the period 1st April 2019 to 31st March 2022.
- 5.2 The Council's current framework agreement for the procurement of utilities through the Crown Commercial Services Framework (CCS) expires 31st March 2019. Utilities Purchasing (gas and electricity) operate 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.
- 5.3 As a consequence CCS require 6 months' notice from the Council to terminate participation in the Framework Agreement should the Council procure a different supplier. In order to implement this new procurement strategy the Council needs to serve notice on CCS by no later than the 30th September 2018.
- 5.4 The current framework contracts provided by CCS are:-
British Gas Business- Electricity, Non Half Hourly Metered
EDF Energy – Electricity, Half Hourly Metered and Unmetered Supplies
Corona Energy – Natural Gas
- 5.5 In order to determine the utilities procurement strategy from 1st April 2019, a benchmarking exercise and options appraisal was undertaken. A list of the major organisations that offer access to a OJEU compliant Utilities Framework were identified. These Framework providers were sent a questionnaire which included: purchasing options, organisational structure, risk management, transfer processes, Social Value, innovation, query resolution and the following framework providers were evaluated:
- Crown Commercial Services
 - NHS – Countess of Chester Hospital NHS Trust
 - West Mercia Energy
 - ESPO
 - Laser
 - Genesis Housing Trust
- 5.6 The questions were drawn up based on a number of key outcomes that the Council needs to achieve from accessing such a framework. These outcomes are;
- Social Value
 - Value for Money
 - Billing and Accuracy of Data
 - Flexible Purchasing Options
 - Experience and Expertise
 - Contract Management of Utilities Companies

- 5.7 Responses to each question along with providers pricing proposals were evaluated based on 10% Social Value, 70% Quality, 20% Price. The results of the evaluation are shown in Appendix 1 of the Private Report. The price element only consists of the Framework Management Fee, not the actual cost of energy as this cannot be accurately estimated for the next financial year. The Private Report contains confidential details of the individual bidder's responses, including fees.
- 5.8 The result of the evaluation is to recommend that the Council use the West Mercia Energy Framework for 3 years from 1st April 2019 and give notice to Crown Commercial Services of termination by 30th September 2018.
- 5.9 West Mercia Energy is a purchasing organisation jointly owned by Shropshire, Herefordshire, Telford & Wrekin and Worcestershire County Councils so use of this framework promotes collaboration between local authorities. Their portfolio currently consists of Local Authorities, District Councils and Schools.
- 5.10 The Framework offers flexible energy purchasing options: Purchase Within Period and Purchase in Advance. The Purchase in Advance option provides greater budget certainty and in the past schools have opted for this. This means that all the energy is purchased prior to 1st April and the prices are averaged and applied as a fixed rate for the entire 12 month period. Purchase Within Period is the option used by the rest of the Council as this means that not all the energy is purchased prior to 1st April, giving a longer buying period. Evidence shows that in recent years this has, on average, outperformed the Purchase in Advance pricing but means that the prices can vary throughout the year: the price is capped at a maximum level with this option, allowing greater budget certainty.
- 5.11 The Private Report contains confidential details of the individual bidder's responses.
- 5.12 Management fees within the WME Framework are based on consumption so will reduce where there are corresponding reductions. The fees are based on setting up a separate purchasing basket for BCC and schools allowing greater flexibility and also the development of BCC's own risk strategy.
- 5.13 CCS have indicated that their fees will increase from 1st April 2020 were we to remain with them.
- 5.14 The award of this contract for the supply of energy for the Council's own use will not undermine a business case for a wholly owned energy company. Were the wholly owned company, once established to supply the Council they would have to bid in competition with other providers or set up a separate "Teckal" Company.

The contract period of 3 years with WME will allow time for the Energy Company FBC to be developed and to be up and running and in a position to bid for or to supply the Council's own supply should it choose to do so.

Schools currently only commit to using the Council's contracts for 12 month periods and are asked every year whether they wish to continue. They have a choice whether or not to use the Council's contracted energy suppliers, so if it a wholly owned energy company would provide another choice to schools.

6. Evaluation of alternative option(s):

- 6.1 The Council procures its own energy outside of a known public sector framework, this was discounted as the necessary resources and skills are not available within the Council.

7. Reasons for Decision(s):

- 7.1 To enable the Council to enter into Agreements with West Mercia Energy and the successful tenderer for the purchasing and supply of gas and electricity.

Signatures

Date

Cabinet Member
Councillor Brett O'Reilly
Cabinet Member for Finance and Resources

Nigel Kletz
Director of Commissioning and
Procurement

List of Background Documents used to compile this Report:

STC Monthly Executive Report BCC Estate March 2018

List of Appendices accompanying this Report (if any):

1. Questionnaire

Appendix 1

The following questions were sent to a number of public sector utilities framework providers and the responses were evaluated:-

Social Value	
Birmingham City Council requires all new contractors to sign up to the Birmingham Business Charter for Social Responsibility; do you have similar Social Value conditions within your contracts/Framework, if so please provide, copies. As the framework provider, how would you assist the Council in the implementation of this requirement?	
Value for Money	
1	Please provide an appropriate case study to demonstrate how you have delivered value for money for customers.
2	Please confirm whether your solution can offer pricing in advance of delivery and when / how this would work in practice.
3	What are the typical payment terms for your providers and is there any scope for negotiation?
4	Does your solution offer or allow customers to include a rebate mechanism within the supply contract and if so what is the structure of this and how can it be varied?
Billing and Accuracy of Data	
5	Does your solution have a self-service on-line facility that allows customers access to their own billing and data. Please set out to what extent is this accessible, Corporate and/or site level?
6	What Management Information is available to assist customers in validating invoices, debt and credits including statements of account? How frequently are your providers obligated to submit this to customers?
Flexible Purchasing Options	
7	Please outline your fixed and flexible procurement options available within your framework.
8	Does your solution allow providers to be innovative and flexible in the way they provide their services and improve the offerings made e.g. fixed pricing, advance pricing / spot prices, renewable energy only etc..
9	Please summarise your current Energy Purchasing and in particular setting out your hedging and risk strategy.
10	What notice period is required to leave or join the framework and can sites be added or terminated at any time during the year?
Experience and Expertise	
11	Please describe the experience and structure of your energy trading team that would provide this service to the Council.

12	Birmingham City Council, currently use an external provider to perform: bill validation, day to day query resolution, market Intelligence and various other ancillary services. Please set out the full range of energy and utilities services available to Birmingham City Council to complement this activity.
13	Given the size and complexity of the Council's estate how would you work with the Council, our incumbent suppliers and our current energy bureau service provider to effect a seamless transition? Please set out a high level transition plan.
14	What processes are in place to assist individual sites, particularly schools, with resolving billing queries and chasing missing payments?
Contract Management of Utilities Companies	
15	How do you monitor your supplier's performance?
16	What Key Performance Indicators do you have with your suppliers?
17	Who is currently responsible for query resolution within the framework?
18	Please provide details of your escalation processes for contractual issues and disputes?
19	Please set out your account management structure for your customers?