

Birmingham City Council

Report to Cabinet

18 January 2022



Subject: Utilities Procurement Strategy and Award April 2022 to March 2026

Report of: Richard Tibbatts, Head of Category – Corporate, Corporate Procurement

Relevant Cabinet Member: Councillor Tristan Chatfield – Finance and Resources

Relevant O &S Chair(s): Councillor Mohammed Aikhlaq MBE - Resources

Report author: Adele Rawlins, Sub-Category Officer - Place

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008907		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Paragraph 3 Information relating to the financial or business affairs of any particular person (including the council)		

1 Executive Summary

- 1.1 This report seeks approval to the award of a contract for a period of four (4) years for the purchasing of gas and electricity and associated bill validation and payment services to West Mercia Energy (WME).

2 Recommendations

That Cabinet

- 2.1 Approves the award of a contract to West Mercia Energy for a period of four (4) years for the purchase of energy. Based on current market conditions and the significant spike in wholesale energy prices, costs are currently estimated at £30m

per annum (this includes a management and purchasing cost of £96K per annum) and bill validation and payment services to the value of £121,463 per annum.

2.2 Authorises the Interim City Solicitor (or their delegate) to agree and complete all documents to give effect to the above recommendation.

3 Background

3.1 This report provides details regarding the recommended strategy for the procurement of utilities (electricity and gas) and bill validation and payment services for the period 1st April 2022 to 31st March 2026.

3.2 The Council is currently using the West Mercia Energy Framework for the procurement of utilities. The sole supplier under this framework for the supply of both electricity and gas is Total Energies Ltd.

3.3 In order to determine the utilities procurement strategy from 1st April 2022 a benchmarking exercise and options appraisal was undertaken with questionnaires being issued to the market in order to determine which framework is best suited to the needs of the Council.

3.4 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
- Bill Validation and Payment Services
- Flexible Purchasing Options
- Experience and Expertise
- Management of Supply Contracts for gas and electricity

3.5 Responses were received by the following framework providers; CCS, United Learning Trust, West Mercia Energy. CCS were unable to provide pricing for the bill validation service and the framework had to be signed up to in September 2021 for the following April 2022.

3.6 Responses were considered in order to determine the most suitable framework for the Council with the recommendation that the Council continue to use the West Mercia Energy Framework for both energy and bill validation and payment services for 4 years from 1st April 2022 to 31st March 2026. The Exempt Report contains confidential details of the individual bidder's responses, including fees.

3.7 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.

- 3.8 The use of the validation and payment services will mean that the Council will not pay incorrect invoices, raise a query and then await rebilling by the supplier; anything failing validation will not be passed to us for payment as WME pay the supplier and then we pay WME only for those invoices that pass validation.
- 3.9 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 in the past has shown that in recent years this has, on average, outperformed the Purchase in Advance pricing. The price is capped at a maximum level with this option, allowing greater budget certainty.
- 3.10 The management fees are based on consumption and a fixed price per supply and so will reduce where there are corresponding reductions in consumption and disposal of sites. The fees are based on separate purchasing baskets for BCC schools with options to commit for 1, 2, or 3 years allowing them greater flexibility. The framework allows development of the Council's own risk strategy.

4 Options considered and Recommended Proposal

- 4.1 A tender exercise was considered but discounted as we do not have the necessary energy purchasing expertise in house.

5 Consultation

- 5.1 Officers from Highways, Housing and Birmingham Property Services as the services areas most impacted were consulted in the preparation of this report.

6 Risk Management

- 6.1 Use of the WME Framework includes robust risk management strategies in the purchasing of electricity and gas on the wholesale market.

7 Compliance Issues:

- 7.1 This contract will support the vision, outcomes and priorities as set out in the Council Plan 2018-22;
- 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 through fixed and variable wholesale purchasing arrangements throughout the contract term.

7.2 Legal Implications

- 7.2.1 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.
- 7.2.2 Under S111 Local Government Act 1972 the Council is empowered to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions

7.3 Financial Implications

- 7.3.1 Utilities spend during the period 1st October 2020 to 31 September 2021 was £18.2m for electricity and £3.9m for gas. £4m of this spend is by schools who directly manage their own budgets. However, we have seen a significant increase in energy prices which means that projected costs for 2022/23 and beyond are £25m per annum for electricity and £4m for gas for Corporate sites and £6m for electricity and £4m gas for schools.
- 7.3.2 There are many variables that impact on the City Council's expenditure on electricity and gas. These include movement in wholesale prices, buildings occupied by the City Council, level of occupancy, weather conditions and energy consumption. It is therefore difficult to predict future expenditure and for the purposes of this procurement it has been assumed that consumption will continue at the same level as the previous year.
- 7.3.3 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 in 3.10.
- 7.3.4 With the current high market prices, mitigating against higher prices is partly dependent upon a reduction in consumption, however, prices will continue to be compared to the market prices to show the benefits of implementing the proposed purchasing strategy.
- 7.3.5 The actual energy only forms 65% of the cost of gas 35% of the cost of electricity, the rest being made up of non-commodity charges and environmental levies which are non-negotiable and will be the same whichever supplier we use.
- 7.3.6 A management fee is charged by Framework providers for the management of the arrangements with utility providers and the cost of operating a trading desk to purchase energy.
- 7.3.7 West Mercia Energy will be carrying out a Capacity Review as part of the bill validation and bureau service. This will ensure that the Council is not paying more for Maximum Import Capacity charges for its half-hourly supplies than is necessary. It is expected that this will result in savings of around £152,000 per annum.

7.3.8 A marginal levy will be included in the energy price which contributes to the balancing of the budget for Corporate Procurement Services.

7.4 Procurement Implications

7.4.1 Procurement implications are dealt with throughout the Report.

WME and their supplier, Total Energies have committed to sign up to the BBC4SR. Social value, which includes decarbonisation, is a scored question within all WME's key supplier tenders and the section represents 20% of the quality criteria within their OJEU gas and electricity tenders. Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of contracts along with submission of an action plan setting out social value commitments that are proportionate and relevant to the contract. The approved action plan will then be implemented and monitored during the contract period.

This includes the following commitments:-

- Provision of a Social Value fund made available to schools specifically on the BCC energy contract. This fund to be used to support environmental activities within schools.
- WME will provide Streamlined Energy & Carbon Reporting (SECR) reports to schools using the Council's utilities contract free of charge.
- WME aim to be carbon neutral by April 2023.
- WME and their four Member Authorities, have made a commitment that any profits generated by WME and returned to the Member Authorities will be ringfenced specifically for investment in public sector green initiatives, thus supporting the wider public sector net zero ambition.
- Through the lifetime of this contract WME and TGP have committed to working with BCC to develop greener products to support the Councils net zero ambitions, this includes offsetting products to provide a more economic option to the current costs of procuring green gas.
- Both WME and Total Energies have committed to taking on at least 1 apprentice to work on the BCC contract.

8 Appendices

- Exempt Appendix A

9 Background Documents

9.1 Spend Reports utilities 1st April 2020 to 31st March 2021