

## **Cabinet –14 December 2016**

### **Procurement of Corporate Gas Supply**

**Portfolio:** Councillor Nawaz, Personnel and business support

**Related portfolios:**

**Service:** Integrated Facilities Management

**Wards:** All Wards

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Summary**

Walsall Council currently contract with Yorkshire Purchasing Organisation 'YPO' for the provision of Corporate Gas. The contract is due to expire on 31 March 2017 and a new contract is required for this supply from 1 April 2017.

- 1.1 In order to ensure that the Council complies with its 'Best Value' duty and Public Contract Regulations 2015, the Council's Procurement team supported the completion of a benchmarking exercise, using approved Central Purchasing Body Frameworks. The outcome of the benchmarking exercise has established that the Eastern Shire Purchasing Organisation 'ESPO' Framework is proven to be the most suitable to service the needs of the Council and most cost effective.
- 1.2 Services to all Walsall Council service users will remain unchanged and the decision to enter into contract for the provision of Gas Supplies Contract via the ESPO Framework is based primarily on financial savings and improved customer service from the service providers

#### **2. Recommendations**

- 2.1 That Cabinet approve the award of contract, for the provision of Gas Supplies contract to Eastern Shire Purchasing Organisation for a period of 3 years, from the 1<sup>st</sup> April 2017 until 31<sup>st</sup> March 2020, with the option to extend the initial term by up to 1 year.
- 2.2 That Cabinet delegate authority to the Head of Business Change, in consultation with the portfolio holder for Personnel and Business Support, to enter into a new contract for the provision of Gas Supplies via the Eastern Shire Purchasing Organisation (ESPO) Mains Gas Supply (Framework Number 192), by using the most appropriate procedures and subsequently authorise the contracts and any associated documents.

### 3. Report detail

- 3.1 Walsall Council (the 'Council') currently procures its corporate gas supply contracts via the Yorkshire Purchasing Organisation, a public sector energy buying group; however, the contract with the Yorkshire Purchasing Organisation ("YPO") has been in place for many years, and requires the Council to pay for its partners debts. For example, the Council is liable for an unpaid bill by a school; however any refund is paid directly to schools, causing financial losses to the Council.
- 3.2 A soft market testing and benchmarking exercise established that the Council could get 'Best Value' by entering into a new contract via the Eastern Shire Purchasing Organisation (ESPO) Mains Gas Supply Framework Number 192. The Framework provides large economies of scale and has generated significant energy cost savings for other councils in recent years.
- 3.3 Under the current framework agreement, gas is supplied by British Gas via the Yorkshire Purchasing Organisation across 327 gas sites, made up of 99 schools and 228 council owned and sub let buildings. The total gas expenditure for corporate buildings, state schools, academies and homeless hostels managed by the Council comes to approximately £1,833, 655 million per annum, as summarised in the table below. The Council has experienced a number of difficulties with the Automated Meter Readers supplied by British Gas and this makes it difficult to gather intelligence about usage in order to ensure efficient management. In addition to this difficulty, the Council is paying an estimated bill in some sites. This means that the Council could be paying more than what is actually used. The current advice takes all these factors into consideration and recommended actions are aimed at avoiding similar risks in the new contract.

#### 3.4 Summary of Walsall's energy cost, consumption (2015/16)

Key Information	Cost	Usage Kwh	No. of Sites
Education	£694,365.00	17,779,168	99
Corporate	£1,139,290	28,858,610	228
Total annual consumption (kWh)	£1,833,655	46,637,778	327

- 3.5 A benchmarking exercise has been carried out to establish which of the five Central Purchasing Bodies below were most suitable to service the needs of the Council and most cost effective:
- ESPO
  - CCS
  - LASER
  - YPO
  - Inspired Energy PLC

- 3.6 The Officers from the Integrated Facilities Management team and Procurement Team met with representatives from LASER and ESPO and had extensive discussions with the Crown Commercial Services' energy team, based on the Council's statement of requirements. Inspired Energy PLC and YPO were reviewed but were discounted as they were considered not like for like in the service delivery. Following meetings, a benchmarking exercise was carried out to assess the capability, capacity and experience of each Central Purchasing Organisation and establish how well they were able to deliver effective price risk management and value for money energy supply contracts consistently over a period of time.

### **3.7 Procurement Options (Procurement Framework Option Appraisal)**

- 3.7.1 Here are three options considered for the purchase of energy:

#### **Option 1 - Procure energy direct from energy supplier(s)**

This option has not been considered as the Council's existing resources are insufficient to deal directly with 327 corporate sites and schools requiring management of a large number of energy invoice queries, metering, invoice validation, addressing payment issues, monitoring market trends, new regulations and other relevant support. Additionally, the Council had already commissioned an external energy management bureau service to manage queries relating to invoice validation, payment issues, and Carbon Reduction Commitment returns assessing the councils carbon emissions and enabling the purchasing of the correct value of carbon credits from the Department of the Environment. Procuring energy directly from suppliers is also not recommended by the government due to the high price risk and requirement for a specialist energy tendering exercise. This option is not recommended. It was therefore more cost effective for Integrated Facilities Management to explore other options.

#### **Option 2 - Procure energy by use of a Central Purchasing Bodies as recommended by Pan Government Energy Project**

Central Purchasing Bodies are operated by another public sector contracting authority or by an "agent" appointed to act on behalf of a public sector contracting authority. Crown Commercial services, LASER, (a division of Kent County Council Commercial Services), Yorkshire Purchasing Organisation and Eastern Shire Purchasing Organisation are recognised as central purchasing bodies. A soft market testing and benchmarking exercise has been carried out to understand the strength of each of the above Central Purchasing Bodies. The Procurement team along with the Energy team met with representatives from LASER and ESPO and had extensive discussions and exchanges with the Crown Commercial Services' energy team, based on the Council's statement of requirements. Following meetings and a benchmarking carried out and based on information provided, the Procurement team assessed the capability, capacity and experience, of these central purchasing bodies to ensure that they are able to deliver effective price risk management, and value for money energy supply contracts consistently, over a period of time. Their procurement price quotes and additional benefits has also been weighted and option 2 was retained as the best option going forward.

### Option 3 – To remain with British Gas.

This option would mean that the Council would be on out of contract rates which are higher in cost and payment would revert to payment in period and its associated risks of volatile pricing. Energy and cost forecasting would not be achievable putting the council at risk financially and inaccurate Carbon Reduction Commitment reporting. This option has been discounted due to the higher financial risk the Council would be exposed to.

#### 3.7.2 Preferred Option

Option 2 is recommended for the following reasons -

The Central Purchasing Bodies energy purchasing performance and ability in meeting the Council's requirements has already been evaluated, hence, these bodies have carried out an OJEU compliant process to select the preferred suppliers for the framework.

The Council can participate in the framework and utilise the flexible supply contracts put in place by these Central Purchasing Bodies without any requirement to tender.

Having retained option 2 to procure, the next stage was to select a central purchasing body that can meet the Council's energy procurement objectives in an efficient and productive way. It was assessed whether:

To extend the existing contract with our current provider Yorkshire Purchasing Organisation ('YPO'):

Difficulties to proactively assist the Council in solving billing issues with British Gas, coupled with the lack of flexibility in their contract made it difficult to enter into a new contract with them. Therefore, it is advised that YPO framework should not be used going forward and a notice served immediately informing them that the current contract will not be renewed when it expires.

To use Crown Commercial Services flexible framework:

Crown Commercial Services has a skilled in-house trading team that tracks the markets using live trading screens, allowing minute by minute buying decisions that capitalise on advantageous price movements on the wholesale markets. Their risk managed purchasing model provides flexibility and reduces risk; ESPO and LASER have claimed to use similar methods. However, the Crown Commercial Service's procurement only price was slightly higher compared to other frameworks benchmarked against. In addition, their fee was difficult to understand, and they provided no assurance to help the Council's energy team solve any query with the supplier after the procurement exercise. For this reason, the Crown Commercial Services was discarded.

To use LASER:

LASER is set up by Kent County Council and now has over 110 local authorities in the UK using them to procure their energy supply. Procurement's performance assessment indicates that both LASER and ESPO can generate great value for

Walsall Council. The procurement team had to compare each of these providers' fees and support mechanisms provided, to establish who had the relative advantage over the other. LASER's Fees are a bit higher than Eastern Shire Purchasing Organisation and additionally provided a better solution for dealing with complaints and schools' portfolio than LASER.

The Council wanted to set up a three year contract to align with the electricity contract along with the bureau service expiration, so that all these services could be tendered together in 2019. LASER was offering a 4 years contract with an option for two years, but with a condition to serve notice on the first day. This option appears a complicated and a riskier. It is advised to keep LASER as the reserved option.

To use ESPO:

This recommended because having weighted all options, it came down to experience and ascertaining who offered better value for money than the others; who could help the Council manage the contract associated risks better; who provide a better customer service and who could help Walsall solve the billing issues with schools more proactively. ESPO is the preferred option because they will:

- (a) Help the Council split the portfolio into Corporate and non corporate commitments, reducing financial liability of the Council in regards to schools and other third party debt.
- (b) Facilitate the process in managing interface between the Council and schools, ensuring that schools are charged the same rate as the Council.
- (c) Coordinate the rebate so that all partners are contributing towards the procurement and bureau costs.
- (d) Offer a single point of contact and a dedicated Account Manager to deal with the Council's queries during the life of the contract.
- (e) Ensure the supplier holds regular quarterly meetings where necessary with the Council to discuss issues arising from the contract.
- (f) Balancing charges to the Council or its partners will not be incurred throughout the life of the contract; therefore any costs associated with not taking our nominated load / or for taking in excess (often the case with others frameworks, when the winter is harsh) will not bear additional costs.
- (g) Install automatic Meter Reading devices on the whole portfolio at no additional cost to ensure that the Council and its partners receive accurate invoices. For an optional fee of £50 per annum per site an enhanced package for more detailed energy usage information is available if the Council or its partners. This option is only necessary if the Council or its partners will monitor usage and are proactive.
- (h) Procurement price is half of the price proposed by LASER.
- (i) Will validate the Council and its partners' first bill before it is forwarded for payment. These added benefits justify procurement advice to select ESPO as preferred procurement body for the council's corporate gas supply.

### 3.8 Flexible procurement contracts –

The Pan-Government Energy Project (part of the Cabinet Office) recommends that all public sector organisations adopt aggregated, flexible and risk-managed energy procurement and develop best practice recommendations for energy procurement in consultation with central purchasing bodies. Flexible purchasing

allows the price of energy to be fixed over a number of trades on the wholesale market. The benefits of flexible purchasing are:

- (a) Transparency of costs that make up the delivered price of energy
- (b) Focus on controllable energy cost element
- (c) Purchasing conducted in real time
- (d) No long term price lock in
- (e) Reduced forward risk premium
- (f) Responsive to market trends
- (g) Managed supplier transfers

#### **4. Council priorities**

- 4.1 Lifelong health, wealth and happiness, priority related to a robust, flourishing economy - under this contract 99 schools will be affected in Walsall and will have better services, community organisations will benefit from improved services and the new contract had identified savings that will contribute to the overall council's efficiency savings
- 4.2 Sustainable change and improvement for all - the new contract will improve working relationships with the provider; help provide accurate Carbon Reduction Commitment return, ensuring accurate payment in carbon footprint tax.
- 4.3 Safe, resilient and prospering communities - The council have engaged with various stakeholders to ensure their needs are captured within a new contract, all partners feel supported and championed and this will help strengthen community pride and cohesion.

#### **5. Risk management**

- 5.1 The energy supply market is extremely volatile with prices varying significantly on a daily basis. Should this option not be accepted, this will have a significantly adverse financial effect on the Council.
- 5.2 If the council do not have arrangements in place the Council would not meet its statutory obligations of completing accurate carbon reduction data and purchasing of the associated carbon credits to cover the Councils carbon emissions and some disruption to the delivery of Council services could occur.

##### **5.3 Risk Table**

<b>Risk</b>	<b>Mitigation</b>	<b>Risk Rating</b>
Reduction in gas consumption due to schools not remaining in partnership with the Council could cause the Council to pay higher commodity cost per unit.	The contract will allow flexibility on consumption.	
If no contract arrangements are in place by 1st March 2017, the Council	Ensure a new contract is in place as soon as possible.	

may end up incurring high gas price when the contract expires.	Work with the bureau service to resolve any issues arising from the current contract including paying for outstanding debts.	
Risk of choosing the wrong buying option: this will result in higher price for the commodity	Reassess buying option and work with the framework provider to identify the best option during the changeover.	
Risk of choosing the framework: they will not respond to our requirements and possibly result in higher prices.	Continue to monitor the market and carry out a desktop benchmarking where necessary between now and the time we enter into a contract with the new provider	
The risk of incurring balancing charges	Choose a framework that does not pass on balancing charges; include this clause in the contract.	

## 6. Financial implications

- 6.1 The savings will be achieved from the raw energy costs, savings will be gained by sharing the procurement and management costs with schools. The measurable cost reductions will be £47,000, this will be dependant on the energy purchasing strategy and market conditions.
- 6.2 With the new proposed contract the gas will be purchased in 2 lots, the first buying option will be corporate responsibilities and liabilities. The second buying option will be for partnering organisations (schools, academies and other local groups) who will benefit from the purchasing options, although the liability of the invoicing will remain with the organisations and not with the Council, as is the case at present. This will reduce the financial liability the Council is exposed to.

## 7. Legal implications

- 7.1 All contractual arrangements have been procured in compliance with the Public Contracts Regulations 2015 and in accordance with the Council's Contract Rules.
- 7.2 In consultation with the Council's Legal Services team and the Council's Procurement Team, Integrated Facilities Management will ensure that call-offs are made from the ESPO's framework in a compliant manner.

## 8. Procurement Implications

- 8.1 The proposed contractual arrangements have been procured via the Eastern Shire Purchasing Organisation, in compliance with the Public Contracts Regulations and are compliant with the Council's Contract Rules. The Council

can therefore purchase gas supplies in a compliant manner without any further requirement to tender.

**9. Property implications**

None

**10. Health and wellbeing implications**

None

**11. Staffing implications**

None

**12. Equality implications**

None

**13. Consultation**

- 13.1 Following discussions with the Council's Procurement team, it was agreed that no consultation will be required as there will be no changes to either the level of service or costs to the service provided.

**Background papers**

None

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