

Cabinet – 19 November 2008

Contract for the supply of gas June 2009 – May 2013

Portfolio:	Councillor Arif, Procurement, Transformation and Performance Management
Service:	Property Services
Wards:	All
Key decision:	Yes
Forward plan:	No

1. Summary of report

- 1.1 Following a cabinet report in November 2007 Property Services engaged the specialist energy consultant Yorkshire Purchasing Organisation (YPO) for the procurement of energy supplies for both gas and electricity.
YPO are the largest of six endorsed (by the Office of Government Commerce) Energy specialists with the relevant knowledge and the requisite aggregated consumption values, to effectively carry out risk managed flexible Energy purchases on a national basis, through an existing EU compliant framework contract.
- 1.2 The councils gas supply is currently contracted through YPO expires on the 31st May 2009 and this report recommends that the Council continues to procure its gas supplies through YPO and identifies the type of contract to be used.
- 1.3 The proposed new YPO gas framework will commence on the 1st June 2009 for a four year period up to and including 31st May 2013. YPO recently tendered for gas supplies and this sought to fix the cost element such as transportation, but not the cost of gas at this stage. This tender provides 2 options for the purchase of gas:

1.4 Option One:

No change, continue as the current contract through YPO framework contract where by the Council purchases its total Gas requirement on one day, when the market conditions are favourable for the period 1st June 2009 to 31st May 2010. This will fix the rate of gas for 12 months based on the cost on the day of tender.

1.5 Option Two

A flexible purchasing option (flexible Contract) whereby YPO will purchase the Council's Gas requirements over several transactions. The Council will be notified of the Gas price for the full 12 months contract year before it starts on the

1st June 2009. If the Council is to take up the YPO Contract, it will be required to commit to using the YPO framework by 28th November 2008.

1.6 This option has several advantages:

- Price certainty for the full twelve months in advance of the Contract starting each year.
- Removing the 'one day' risk identified in option 1.
- Lower fixed cost element
- It follows OGC transforming Government guidelines

1.7 Flexible Contracts

1. Wholesale energy prices are influenced by a range of factors including supply security, weather trends, exchange rates, European prices, geopolitical issues, market sentiments and so on. This complicated mix can result in price volatility of 5-10% over the course of a few days.

2. Purchasing annual or longer term energy supplies on a single day is a high-risk strategy, with a 1-in-220 chance (220 working days in the year) of getting the best price. Purchasing the same energy requirement, but instead buying chunks over multiple trades and over longer periods of time (known as flexible procurement) avoids the high-risk strategy of single day purchasing. Flexible procurement enables the adoption of a robust risk management strategy that can mitigate the price risks inherent in the current energy markets.

3. In the highly volatile energy market, adopting a hedging strategy through an aggregated flexible contract avoids fixing prices at the highest points in the market. Over the past three years public sector organisations that have been operating flexible contracts have delivered 5% cost reductions against the wholesale markets. In addition, by buying direct from the wholesale market and by aggregating volumes organisations can reduce costs in other areas, such as the supplier's cost to serve. This can lead to an additional 5% savings for customers.

2. Recommendations

Cabinet are recommended to approve the following:-

- 2.1 To move to EU compliant flexible purchasing and employ energy suppliers for gas at the expiry of the existing contract.
- 2.2 To continue with Yorkshire Purchasing Organisation and its framework contract as the energy specialist consultant, and delegate to the Executive Director, for Regeneration and Performance and Assistant Directors of Regeneration and Performance authority to commit to the framework.
- 2.3 To delegate to the Executive Director, Regeneration and Performance and Assistant Directors of Regeneration and Performance authority to accept tenders and appoint suppliers of gas subject to EU procurement procedures

3. Background information

- 3.1 The Council currently owns approximately 550 buildings/sites throughout the Borough to which Gas services are required.
- 3.2 The management of the energy services is provided by Property Services, who following a cabinet report in November 2007 engaged the assistance of a specialist consultant in the energy field – Yorkshire Purchasing Organisation (YPO).
- 3.3 The Office of Government Commerce (OGC) Transforming Government project recommends that organisations use a Contract with the ability to fix volumes over a series of purchases in Wholesale traded Gas markets. This is the flexible purchase option identified above in option 2.
- 3.4 YPO are a purchasing consortium procuring various services for local authorities but particularly energy. YPO provide their services free of charge to their portfolio of approximately 50 authorities collectively purchasing energy. They also have the experience of having worked with the OGC on government/local authority contracts and have also developed an EU compliant framework, this provides a ready platform for obtaining competitive tenders from major energy suppliers through electronic processes.
- 3.5 OGC carried out its second Audit of YPO in September 2008, and the flexible procurement model was examined in detail. The approach was endorsed as being fully compliant with Transforming Government procurement guidelines and fit for purpose for use by Local Government and other public bodies for the period 1st June 2009 to the 31st May 2013.
- 3.6 On the request of in-house corporate procurement and legal services, an external legal firm by the name of Cobbetts were requested to check documentation and verify that YPO framework agreement complies with EU procedures, and it is available to Walsall to use.

4. Resource considerations

4.1 Financial:

The Energy supply market continues to be volatile, and estimates of future increases have been provided to Financial Services. Financial Services will be advised of the actual costs of gas prior to the start of the first contract year commencing 1st June 2009.

4.2 Legal:

- 4.2.1 Property Services have engaged Cobbetts for the Council's panel Commercial lawyers to review documentation and verify that the YPO framework agreement complies with EU procedures, and it is available to Walsall to use.
- 4.2.2 Preliminary advice from Cobbetts is encouraging in that there appear at this stage no obstacles to the council using this contract, any decision to act on the recommendations in this report would be subject to full and final legal advice and consultation with colleagues in Corporate Procurement.
- 4.2.3 The YPO tender was advertised in the Official Journal of the European Union and appeared under Notice 2008/S32-043906 on the 15th February 2008.
- 4.2.4 The period of contract was advertised as being four years from 1st June 2009 to 31st May 2013 inclusive. The tender sought to identify suitable shippers capable of managing the consumption offered by the aggregation of the demand for gas for those authorities and public bodies involved in the YPO tender.
- 4.2.5 The process identified five suppliers who were awarded frameworks namely: British Gas, Corona Energy, E.On, Gaz de France and nPower and accordingly a Contract Award notice 2008/S 108-144013 was published in the OJEU on the 5th June 2008.
- 4.2.6 Each supplier had been given the consumption schedules of all the Authorities (including Walsall MBC) involved.
- 4.2.7 Suppliers were informed that, as well as a quality service for both options, on the Flexible offering, YPO would also require the following.
 - The ability to fix all non-energy costs prior to contract start up.
 - The ability to buy all of the gas required prior to the start of the contract year.
 - The ability to buy in multiple tranches (i.e. Flexibly) as appropriate.
- 4.2.8 With the total consumption at the consortia disposal, if all Members go for the flexible proposal, buying in "clips" will permit YPO eighteen separate opportunities to buy the Gas, which will enable better management of the extremes of price volatility.

4.3 Staffing:

There are no staffing implications.

5. Citizen impact

- 5.1 The recommended method of procurement will minimise the financial impact of purchasing gas for the council and its citizens.

6. Community safety

There are no specific implications

7. Environmental impact

7.1 The Council is committed through its Environmental Policy to achieve reductions in carbon dioxide emissions.

7.2 The burning of natural gas emits pollutants, including gases that cause acid rain and carbon dioxide emissions. Energy conservation, sustainability and climate change measures are being developed and implemented where possible.

8. Performance and risk management issues

8.1 Risk:

Any decision to delay the renewal of the gas supply contract is likely to have detrimental financial effect on the Council by extending current contracts and would not be advantageous in that limits negotiable options.

8.2 Performance management:

The energy market is extremely volatile with prices varying significantly on a daily basis, moving to a flexible framework will enable the council to manage risks and better control costs by aggregated flexible, risk managed energy procurement.

9. Equality implications

As part of the procurement evaluation procedures, evaluation of equality policies will be included, and will be in line with the West Midland Forum for equality in council contracts that Walsall form part of.

10. Consultation

Property Services has advised Financial Services of potential future energy price increased and is working with Corporate Procurement with the future procurement proposals.

Background papers

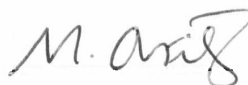
None

Author

Kevin Kendall
Head of Property Services
(01922) 471259
kendallk@walsall.gov.uk

A handwritten signature in blue ink, appearing to read 'Tim Johnson', followed by a vertical line.

Tim Johnson
Executive Director
Regeneration & Performance
31 October 2008

A handwritten signature in blue ink, appearing to read 'M. Arif'.

Councillor Arif
Procurement, Transformation
and Performance Management
11 November 2008