

Cabinet – 11 September 2013

Extension of Flexible Electricity Supply Contract to Council owned buildings, Traffic Signals and Public lighting from November 2014 – March 2015.

Portfolio: Councillor A Andrew, Deputy Leader, Regeneration and Transport

Related portfolios: Councillor C Towe, Portfolio Holder, Resources

Service: Regeneration and Neighbourhoods

Wards: All Wards

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 The Council's current flexible purchasing electricity supply framework contract for council owned buildings, traffic signals and public lighting contracted through Yorkshire Purchasing Organisation (YPO) expires on 31st October 2014. To permit an advantageous re-alignment of the electricity contract to 1st April year, it is proposed to extend the current framework contract for an additional five month period from 1st November 2014 to 31st March 2015 inclusive.
- 1.2 By aligning the electricity contract to 1st April year, it would permit greater market advantage on purchasing of our electricity loads in months, quarters and seasons at competitive prices in the wholesale electricity market.
- 1.3 Flexible purchasing contracts involve YPO (the buyer) purchasing tranches of energy (depending on market conditions) on behalf of the consortium members before the contract start period and a fixed price is then set for the contracted supply period.
- 1.4 Flexible purchasing, managed by approved Public Sector Purchasing Consortiums, are recommended for all public sector bodies by the Pan-Government Energy Project (part of the Cabinet Office). Such organisations are termed "Central Purchasing Bodies" in regulation 2 of the Public Contracts Regulations.

2. Recommendations

Cabinet is recommended:

- 2.1 To approve a five month extension of the flexible electricity framework contract from 1st November 2014 – 31st March 2015 with YPO.

- 2.2 To delegate to the Executive Director - Regeneration in consultation with the Portfolio Holder, authority to extend the existing flexible electricity framework contract with the preferred supplier npower.

3. Report detail

- 3.1 The Council currently owns about 300 sites and has 29,969 streetlights, traffic signals, illuminated signs and bollards throughout the Borough to which electricity services are required.

- 3.2 The Council's building sites are classified as metered supplies and the traffic signals, street lights, illuminated signs and bollards are unmetered supplies.

- 3.3 The management of both metered and unmetered energy supplies are currently procured from a consortium, Yorkshire Purchasing Organisation (YPO). A cabinet report was produced by Property Services in November 2007 and approved. The recommended route (reconfirmed at Cabinet on 12th December 2012 to procure the Council's gas supplies), engaging the assistance of YPO, a "Central Purchasing Body" (CPB).

- 3.4 The management of the unmetered electricity supply for the public lighting contract is provided through a PFI contract signed in March 2002. The energy supply contract was between the PFI Contractor (Walsall Public Lighting Ltd) and the energy supplier. This was procured through a market testing procedure. The market testing found that the YPO consortium provided the best rates and services. In 2010 the arrangements were changed such that the energy supply contract was made directly between npower and the Council. Combining metered and unmetered supplies enhances the benefit of bulk buying. The supply contract and periods are the same for both metered and unmetered supplies for the Council.

- 3.5 YPO as a contracting authority and member of the Pro5 Group representing five of the largest professional buying organisations in the UK awards contracts and sets up a range of best value compliant frameworks agreements for the supply of goods and services on behalf of local authorities, education establishments and the wider public and third sectors at competitive prices. The Pro5 Group members are:

Central Buying Consortium (CBC)
Eastern Shires Purchasing Organisation (ESPO)
North Eastern Purchasing Organisation (NEPO)
West Mercia Supplies (WMS)
Yorkshire Purchasing Organisation (YPO)

- 3.6 YPO has in place over 100 fully EU compliant contracts procured by their specialist teams covering a diverse range of service areas including energy. YPO is a not-for-profit organisation that provides their services free of charge to their portfolio of customer's across the country including schools, academies, colleges and universities, in addition to local government authorities, charities, social enterprises, and the emergency services. They have the experience of working in conjunction with the UK's principal Buying Organisations, the Government Procurement Service on Central and Local Government contracts, providing a

ready platform for obtaining competitive tenders from major energy suppliers through electronic bidding processes.

- 3.7 The YPO tenders were published in the Official Journal of the European Union (OJEU) and appeared under Contract Notices 2007/S 217-264150 and 2009/S 60-086218 on the 12 November 2011 and 25 March 2009 respectively with the intention of inviting competing bids from OFGEM registered electricity suppliers to enable an award to be made to the successful tenderer.
- 3.8 Following the publication of the requisite PIN notices in the OJEU journal the electricity supply framework contracts were awarded to npower for a 48-month contract period commencing 1st November 2010 to 31st October 2014 inclusive. Accordingly Contract Award notices 2008/S 35-047752 and 2009/S 152-221617 were published in the OJEU on the 18th February 2008 and 7th August 2009 respectively.
- 3.9 An options appraisal has been conducted in conjunction with Procurement and Public Lighting colleagues in order to maximise potential purchasing power under future arrangements. The conclusion is that to maintain supplying power, under a contracted compliant arrangement which represents value for money, an extension to the flexible electricity supply framework contracts with npower for an additional five month contract period commencing 1st November 2014 to 31st March 2015 inclusive, should be agreed.
- 3.10 YPO has taken the decision not to publish a Voluntary Ex-ante Transparency notice (VEAT) stating their intention to extend the contract for an additional five months in the Official Journal of the European Union. Instead, YPO contacted all OFGEM registered suppliers in an attempt to secure their views with particular regard to any possible challenge. YPO received written assurances from EDF, E.ON, Haven Power, Scottish & Southern, Total Gas and Power, Smartest Energy, British Gas and Scottish Power to the effect that they would not object to YPO's intention to extend npower contract 000073 until 31st March 2015. This action effectively minimises the risk of any potential challenge by an interested third party to the proposed extension on the basis that it is a non-compliant material change to the current framework contract that was otherwise procured in a compliant way in accordance with the EU procurement regime.

4. Flexible procurement contracts

- 4.1 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 public sector buying organisations.
- 4.2 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:
 - Transparency of costs that make up the delivered price of energy
 - Focus on controllable energy cost element
 - Purchasing conducted in real time
 - No long- term price lock in
 - Reduced forward risk premium

- Responsive to market trends
- Managed supplier transfers

5. Council priorities

Property Services in conjunction with Procurement and Public Lighting will facilitate greater purchasing power to obtain optimum energy cost savings. Putting customers' needs at the centre of our service delivery is outlined in the Corporate Plan and complies with European competition rules.

6. Next Steps

The next steps will be to strategically secure medium to long term cost effective energy supplies across the Council as a whole. New proposals will be submitted to Cabinet to ensure fit for purpose continuity of supply at the end of the current contracted arrangement.

7. Risk management

- 7.1 The energy supply market is extremely volatile with prices varying significantly on a daily basis. Should this option of the contract extension not be accepted, this will have a significantly adverse financial effect on the Council and would not be cost-effective.
- 7.2 The consequence of the Council not signing the five month contract extension would be that the Council would have to initiate a tender process to procure a supplier to provide our metered and unmetered electricity supplies on a fixed priced contract from 1st November 2014.
- 7.3 If we do not have arrangements in place the Council would not meet its statutory obligations and some disruption to the delivery of Council services could occur.

8. Financial implications

- 8.1 The energy supply market continues to be extremely volatile, and estimates of future prices shall continue to be provided to Financial Services. Property Services and Public Lighting shall advise Financial Services of the actual electricity costs prior to the start of the five month contract commencing 1st November 2014.
- 8.2 The current estimated electricity expenditure for the extended contract period 1st November 2014 – 31st March 2015 for Council owned buildings, traffic signals and public lighting are approximately £1.554m and £0.931m respectively, in total £2.84M based on current market prices.
- 8.3 To date this framework arrangement has delivered savings in the region of 6% against market prices.

9. Legal implications

- 1 The Council's Commercial Team, Legal Services have verified all relevant documentation regarding Yorkshire Purchasing Organisation framework contract extension.

10. Property Implications

The continued work of Property Services will enable the delivery of electricity supplies to Council buildings. The PFI project management agreement for Public Lighting will continue to deliver the electricity supplies to all Council public lighting, illuminated signs and bollards.

11. Health and wellbeing implications

None

12. Staffing implications

None

13. Equality implications

None

14. Consultation

14.1 In consultation with Legal Services, Corporate Procurement and Finance.

Background papers

Cabinet Report dated 21 November 2007.

Synopsis & Briefing Note dated 3 March 2010

CMT Report dated 5 January 2012

Authors

Mark Bassett
Interim Head of Property Services
☎ 01922-655918
✉ bassettm@walsall.gov.uk

Mark Brian
Compliance Manager
☎ 01922-471225
✉ brianm@walsall.gov.uk

Elizabeth Thomas
Public Lighting PFI Manager
☎ 01922-652555
✉ thomase@walsall.gov.uk



Signed:
Simon Neilson
Executive Director
Regeneration
11th September 2013



Signed:
Councillor Adrian Andrew
Deputy Leader
Portfolio holder: Regeneration and Transport
11th September 2013