

# ENERGY SUPPLY PROJECT

PROJECT REF: RMP/ENERGY/SUPPLY/14

## SUMMARY BID EVALUATION REPORT

### The Procuring Partners:



September 2014

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## 1. Preface

The purpose of this report is to summarise the process to date, and the results and potential implications, of a bid process to appoint, or not, an energy partner from the private sector, with whom the procuring partners will seek to supply energy locally within the Borough boundaries of Cheshire East.

This report does not seek to influence, or indeed, pre-determine, a final decision to proceed further in the process, but rather, seeks to be an “aid” in the decision making process.

Any comment and synopsis is given freely and objectively and represents a consensus view from the following contributors (who all took part in the procurement and or evaluation process to a lesser or greater degree):

Cheshire East Council –	Regeneration & Major Projects Department
Cheshire East Council -	Procurement Department
Cheshire East Council –	Legal Department
Cheshire East Council –	Finance Department
Registered Providers:	Wulvern Housing
	Peaks & Plains
	Plus Dane Group
Gyron LLP	Consultant
ESP	Consultant
Addleshaw & Goddard	Legal Advisor

## 2. Background

Cheshire East Council (CEC) has adopted a wide ranging energy strategy which aims to maximise the energy resources within the Borough and deliver affordable energy sources to its residents, businesses and organisations.

The reduction of fuel poverty is high on the political agenda for Members/Councillors within the Borough and is a key objective within the overall strategy.

CEC are looking at various commercial strategies, including the creation of commercial legal entities, and, as part of the overall approach, officers have been instructed to explore the possibility of partnering with an energy supplier to provide affordable energy supplies to residents and directly within the Borough.

CEC have consulted with Registered Providers (RPs) operating within the Borough and have identified 3 such providers who’s aims, in respect of fuel poverty, are aligned with its own.

Those RPs are:

Wulvern Housing  
Plus Dane Group  
Peaks & Plains

CEC have agreed a "Memorandum of Understanding" (MoU) with the above RPs, and which outline the parties' aims, mutual interests, and collaborative approach to setting up an energy supply scheme within the Borough. CEC, together with the RP's, will form the "Procuring Partners" to any venture with the private sector. It is intended that such an energy supply scheme will have its own licence, either held in partnership or direct. It is envisaged that the entity will act commercially and independently within the UK energy market place.

The initial target customer base, expected to benefit from such an initiative, has been identified by the Procuring Partners, as those residents within the borough who would be defined as "fuel poor". If successful, however, the "product" may be offered to other user groups including businesses, registered organisations, and the wider public within the Borough and potentially beyond CEC borders.

To this end, a project team, including the appointment of market specialists, has been set up under the direction of Major Projects within the Regeneration & Major Projects Department of Cheshire East Council, to test the market's "appetite" for such a venture.

## 2.1 Market Background & Operating Context

### Deregulation of the UK Energy Market

After privatisation, and 20 years of deregulation, the UK energy supply market is still dominated by six large, privatised firms, although over 20 new and smaller energy supply companies now exist. Many of the "Big Six" have integrated vertically with other organisations (e.g. energy generators, energy distributors) to increase their market power and income streams.

It is important to understand the relationship that the UK Government has with Energy Sector. This is controlled via the granting of various energy licences for generation, distribution and supply of energy by the industry regulator, OfGEM. The energy companies cannot operate or access UK markets unless they hold the relevant licences. These companies are private entities in pursuit of profit to satisfy their shareholders and are free to operate any part of their business in the UK or not, as they see fit to reach that aim. Four of the Big Six UK energy supplier licence holders are owned by non-UK companies and all have access to energy produced both in the UK and internationally.

The UK is a net importer of energy fuels at a time when increasing competition for those energy fuels is being driven by exponential population growth and increasing economic progress of Newly Industrialised Countries (NICs) including India, China, Brazil and others. This has caused much government concern and debate of security of (energy) supply and the need to make better use of energy (through energy efficiency measures) as part of making energy supply meet demand in coming years.

The UK's energy market also faces major upheaval as existing energy generating infrastructure reaches end of life or needs major overhaul to meet environmental legislation and distribution infrastructure needs upgrade and extension to cope with the increase geographically distributed renewable energy generation assets.

Deregulation continues to focus on further diversification of ownership of the energy supply sub-sector, energy distribution assets and assets for energy production. There is a political and populist desire to create disruption in UK Energy generation and supply markets, and in particular through the encouragement of more local ownership of all parts of the Energy Market.

Choices therefore, for any new entrant into the sector, are:

1. Set up an independent company to trade and supply energy within the market
2. Partner with a company who holds the relevant licences and operate under a contractual arrangement
3. Become a generator of energy and sell to the supply market
4. Become a generator and a supplier to the market (vertical integration)

### 3. Client Objectives

The project brief is simply interpreted as follows:

*"To procure, set up, or partner with, an appropriate commercial energy company, by the most appropriate open and competitive tendering means available. The new entity must be capable of delivering the aims, both social and economic, of the Procuring Partners' short, medium and long term energy supply policies and aspirations, and must, at its business core, seek to help alleviate fuel poverty within the local and wider regions if possible".*

Having consulted with the Procuring Partners, the core objectives which must be satisfied, to some degree or other, in any final solution with the private sector are as follows: (In no particular order of priority)

- To deliver guaranteed affordable energy supplies to vulnerable residents within the Borough
- To minimise public sector financial commitment\*
- To help alleviate "fuel poverty"
- To maximise private sector funding and expertise
- To create a stand-alone energy supply scheme capable of flexible growth to meet future demands\*\*, and align with local and regional energy policies\*\*\*
- To allocate risk fairly and appropriately between the public and private sector partners with those parties most fit to manage that risk.

Qualifying Statements:

\*Not precluding a limited "one-off" seed capital contribution, but precluding any long term or on-going liability for costs and investment, or demand/revenue risk liability.

\*\*Allow Expansion of the Scheme to the wider public and business community energy users, locally and regionally where demand opportunities may arise.

\*\*\*To take a lead in the commercial exploitation of all energy resources within the Borough

#### 4. Client Requirements

Whilst CEC and the RP's were in agreement in their aims and objectives they were not so sure as to the type and nature of the final entity and how best to deliver the energy supplies within the local region.

There were, however, certain requirements that were agreed and included in the brief regardless of the choice of final solution:

- That any tariff offer should be without a standing charge as a minimum
- That all billing statements will be clear and straight forward
- That the same tariff would be offered to all regardless of payment method
- That the "product" could, over time, be capable of being offered to businesses and the general public
- That the entity could be capable of trading or in place for the winter period 2014.
- That any legal agreement entered into must contain or prescribed obligations and clauses as advised by Legal representatives and must be cognisant of the State Aid Rules and restrictions for public bodies

Regeneration & Major Projects were commissioned by The Chief Operating Officer (CEO) on behalf of the procuring Partners to deliver the project in April 2014.

#### 5. Client Instructions

The following broad tasks were instructed:

1. Carry out "soft market" testing within the energy supply market
2. Appoint suitably experienced Energy Consultants
3. Appoint suitably experienced Legal Advisors
4. To establish the "best fit" procurement route\*
5. To deliver a procurement and selection exercise within very tight deadlines\*\*
6. Obtain written agreement of all the Procuring Partners as to the levels of co-operation, delegation, and cost sharing to carry out a procurement process
7. To establish a project delivery plan

After discussions, with key Client representatives and officers, it was agreed that the "Competitive Dialogue"(CDP)\* Procurement route was the most appropriate. It was further agreed that the procurement would most likely be affected by the Public Procurement Regulations and would therefore be subject to advertisement in the OJEU.

This choice of procurement route is not generally one which is compatible with time constraints and traditionally "Competitive Dialogue" would be employed over a 12-24 month tender and selection period.

The Client required the procurement route to be completed to appointment stage within 5 months, and this required adopting a new "fast track approach" to CDP. The process to date has delivered a viable tender within the timescales set.

6. COMPETITIVE DIALOGUE PROCESS & CRITERIA

THE PROCESS

A CDP is often chosen as a procurement route when the “procuring” party has a “business” need, but;

- Is aware of the general requirement but does not know how best to deliver it, and, or
- Cannot “accurately” specify that requirement, output, value, and or,
- Recognises that there is more than one way in which the “solution” may be delivered by the private sector and be acceptable to the procuring authority.

A CDP endeavours to identify, and engage, with appropriate private sector providers to explore what those “solutions” might be. After a Pre-Qualification (PQQ) stage, the short-listed providers are then invited to submit their initial “solutions” which are then discussed and potentially refined, by agreement, in a series of structured dialogue meetings with the procuring authority. The process is confidential and separate for each bidder.

In this procedure the initial “solutions” were not formally marked for evaluation, however, informal comments were taken as the process progressed to assist the appointed evaluation panel in dialogue discussions and in challenging how well the proposed solution met the minimum client requirements. After successful completion of the dialogue stage both bidders were issued with an “Invitation to Tender” (ITT), and invited to submit a final and refined and commercially viable bid, which should have reflected the issues raised and agreed through the dialogue meetings.

The final refined submissions were assessed and evaluated as a competitive bid, and in line with the assessment criteria contained within the Invitation to Participate in Dialogue (ITPD).

After this assessment a “preferred bidder” (winning tenderer) has been identified for progression to contract fine tuning and financial close, and as the “best fit” for the Procuring Partners’ risk profile.

The invitation to participate in dialogue, however, was not a guarantee to progression to “preferred bidder” status.

After issue of the initial OJEU Notice some 16 organisations registered an interest and requested the Pre-qualification Questionnaire (PQQ).

Only 2 PQQs were submitted by the stated return deadline. Both PQQs were judged as acceptable and allowed to progress to the initial stages of the Competitive Dialogue process, and invited to submit an initial offer, an “outline Solution”(ITSOS)

The ITSOS is an opening “offer” by the bidders and is the focus of the competitive dialogue meetings.

AWARD CRITERIA

Notwithstanding any mandatory submissions, the overall Award Criteria Weighting and split were set as follows:

Technical	20%
Services	40%
Commercial & Financial	40%
<b>TOTAL</b>	<b>100%</b>

Within these overall headings further sub criteria were identified. Marks were awarded against the following and adjusted on pro-rata basis back to a weighted score;

Each section had a series of evidence based questions to demonstrate compliance against the Client’s minimum requirements (marked).

Technical Quality of the Proposal	10%
Deliverability of the Proposal	10%
Back Office Provisions	20%
Service Delivery & Customer Satisfaction	20%
Tariff(s), Pricing & Procurement Strategies	30%
Proposed Amendments to Contractual Structure	10%
<b>TOTAL</b>	<b>100%</b>

A maximum mark of 8 (eight), and a minimum of mark of 0 (zero), could be awarded, in increments of 2, against each of the requirements. A “zero” mark indicated no compatibility with client requirements, and a score of “eight” indicated the requirement to be exceeded.

**7. COMPETITIVE DIALOGUE MEETINGS**

Both Bidders were invited to attend a series of meetings over a two week period in July 2014, covering a minimum of two full days of dialogue:

They were split accordingly:

2 half day sessions with each bidder

1 full day session with each bidder

All sessions were private and separate. The areas for discussion were focused on the particulars of each individual bid but general areas of discussion from the panel focussed on the following areas:

- a) The bidders ability to trade within the Client timeframes
- b) The contractual relationship with supply partners and back office proposal
- c) The level of tariffs and costs
- d) The Marketing and customer take up and responsibility and function
- e) Areas where each bid might be improved and costs reduced
- f) Control/Influence over Debt Management & Customer Service Policies

- g) The type of contractual arrangements and relationship proposed by the each bidder
- h) Establishing the expectation of the bidders of the Procuring Partners
- i) The Break-even point of the proposal
- j) Reward and risk sharing

The first meeting with each bidder was purposefully more structured and aimed at getting a “fuller” understanding of the offer and bid by the Procuring Partners, and indeed an opportunity for the bidders to understand the Client Requirements.

The Evaluation Panel was made up of senior officers of Cheshire East Council and a delegated representative from the RP’s. The Panel were supported at the meetings by technical support from the incumbent legal department, legal advisors, and energy specialists Gyron LLP. In the background further technical input was available by request from pricing and energy strategists, the Energy Services Partnership (ESP).

Bidders were advised to bring senior representation to the meetings who were capable of making commercial decisions and agreements.

The content of subsequent meetings were dictated by the vagaries of each individual bid.

The process was completed 24<sup>th</sup> July 2014. Both Bidders were invited to submit their final submission and final offers by way of tender on the 30<sup>th</sup> July 2014.

2 compliant final bids were received on the 19<sup>th</sup> August 2014, and on the due date for submission.

**8. Bid Assessment & Results**

The bid assessment took place between 20<sup>th</sup> and the 27<sup>th</sup> August 2014. The Evaluation Panel was augmented by input from Gyron LLP and ESP for specific parts of the bid submissions.

Marking was undertaken in 2 phases, the first an independent review by the individual, and secondly, at a “consensus meeting” held on the 27<sup>th</sup> August (2014), where final marks were agreed between all the panel, and awarded to each of the bids in accordance with the criteria laid out in section 6 above. At this meeting any disparity in marks were discussed and a final figure agreed.

Summary Final Scores are given below:

The final weighted scores for both bidders are summarised as follows:

<b>Bidder Name/Organisation</b>	<b>Weighted Score</b>	<b>Rank</b>
Bidder A	60%	2
Bidder B	80%	1

As a result of this assessment **the winning bidder is Bidder B** by some 20% weighted margin.

**Procurement Implications for Procuring Partners:**

In accordance with procurement rules, and tendering etiquette, a procuring body may not elect to award to a losing bidder organisation.

## 9. Conclusions & Next Steps

The “tendering” aspect of the procurement process is now complete. The process now moves into a second phase pending decision to proceed.

Should the Procuring Partners consider the current recommendation and proposal not to be sufficient or acceptably aligned with its objectives and requirements then the current procurement process should be abandoned and another solution sought from the market under separate process.

However, should the Procuring Partners wish to proceed with the procurement process to financial close/award then the following next steps & milestone dates are indicated:

1. Cabinet Meeting	14 <sup>th</sup> October	2014
2. Cabinet Decision Published	15 <sup>th</sup> October	2014
3. Call in Period End	21 <sup>st</sup> October	2014
4. Debrief Bidders/Start Standstill	22 <sup>nd</sup> October	2014
5. STANDSTILL Period End	3 <sup>rd</sup> November	2014
6. OJEU Award Notice	4 <sup>th</sup> November	2014
7. Contract Fine Tuning Start	4 <sup>th</sup> November	2014
8. Contract Signing	30 <sup>th</sup> November	2014
9. Set up period start	1 <sup>st</sup> December	2014
10. Full Operational Service	February	2015

The above dates are considered to be the most realistic time periods for effective delivery and are based on assumptions that all decisions and associated work streams are completed within prescribed timescales, and run concurrently.

The work streams that are associated and dependent on the above are identified as:

1. PR & Media campaign
2. Agreement of all contractual conditions –
3. Fine tuning of contracts – “Preferred Bidder”
4. Branding and marketing strategy