

Cabinet

Date of Meeting: 10 April 2018

Report Title: Procurement of the Council's Energy Supply

Portfolio Holder: Councillor Ainsley Arnold; Housing, Planning and Regeneration

Senior Officer: Executive Director of Place

1. Report Summary

- 1.1. Cheshire East Council currently contracts with West Mercia Energy (WME) to provide the procurement of the Council's energy (gas and electricity) and the direct provision of associated billing and management services. The contract with WME for the managed service has a value of £50,000 per annum. As part of that service WME competitively procure the Council's energy, which amounts to approximately £6m per annum.
- 1.2. The existing contract is due for renewal on 1st April 2019.
- 1.3. The Council preferred option is to procure a fully managed service whereby the provider purchases energy for and on behalf of the Council via a compliant framework. This provides a flexible procurement method of purchasing energy and provides an end-to-end billing and management service. This negates the need for the Council to deal directly with the energy providers with the provision of energy bills being administered electronically.

2. Recommendation/s

That Cabinet :

- 2.1 Approves the preferred option to continue using a fully managed service.
- 2.2 Notes that the Executive Director of Place will commence procurement to select a preferred bidder.
- 2.3 Delegates authority to the Executive Director of Place to enter into a contract with the successful provider, for a period of 3 years.
- 2.4 Notes that the Council will enter into individual Memoranda of Understanding with such Schools and Academies that indicate they wish to participate in the contract (subject to the Council's contract with the successful provider allowing such participation).

3. Reasons for Recommendation/s

- 3.1 The existing contract is due for renewal on 1st April 2019. However, selecting a preferred supplier before then will maximise the supplier's ability to include our future energy requirements within their decision process when purchasing volumes on the futures market. Delaying our decision limits the window of opportunity for our future energy usage to be included.
- 3.2 It is important to note that this recommendation complies with the best practice guidance and recommendations from the Pan Government Energy Project, who advise that improved prices can be achieved through adopting a flexible, aggregated, risk managed energy procurement process, which provides economies of scale across the framework.

4. Other Options Considered

- 4.1 The Council could utilise a framework for the supply of energy only, without the managed service elements being included. The disadvantages to this are:
 - 4.1.1 The Council would need to employ additional in-house resources to cover the work currently undertaken by the managed service provider to ensure that all gas and electricity bills were validated and to manage any subsequent billing queries.
 - 4.1.2 There is a risk to budget management as billing queries could take longer to resolve or errors could be missed altogether.
 - 4.1.3 It would not be possible to split those bills that supply schools/academies where there are joint use arrangements in place e.g. for leisure centres or children's centres and additional resources would also be required to manage this process of energy recharges.
- 4.2 The Council could go out to tender detailing specific requirements for Cheshire East. However, it would not be able to attract the same value for money energy rates as could be obtained by the Central Purchasing Organisation (CPO) due to lower economies of scale.

5. Background

- 5.1. Cheshire East Council has opted for a flexible purchasing model, as recommended by the Pan Government Energy Project, since April 2016. This has proven to be successful as the current contract has delivered gas and electricity prices 7.9% lower than the market average during the period of the contract.
- 5.2. The current contract for electricity and gas supply agreements, which have a combined annual value of approximately £6m per annum, are due to expire on 31st March 2019.

5.3. The Council currently utilises a managed service through a third party (West Mercia Energy) who, in turn, uses a compliant framework for the supply of gas and electricity to the Council. This is the preferred option for future energy procurement, as it brings with it the benefits identified in paragraph 5.4.

5.4. The Benefits of a Managed Service are that :

5.4.1 All costs are broken down to include energy prices, pass through costs and management fees. Trading gains made from capturing falls in the energy market are also shown transparently. The management fee is fixed for the duration of the contract.

5.4.2 Each month every site is contacted via email to remind them to read their utility meters which include a link to a central website.

5.4.3 Each month every site is contacted via email to notify them that their bills have been produced and can be viewed on a central website.

5.4.4 Bills are issued by the managed service provider rather than directly from the utility company. A major advantage of this arrangement is that the monthly charges can be split into separate bills, based on a percentage ratio, so that multiple occupants can be billed directly (such as where there is joint use of a site, e.g. a school and a leisure facility). This arrangement eliminates the need for the host site to recharge the tenant.

5.4.5 Every bill has to pass multiple checks before being included in the group bill for the period. Those bills that fail the validation will not be issued until it has been corrected by the supplier.

5.4.6 Technical support is provided regarding industry and legislative changes.

5.4.7 Regular reviews of the whole portfolio's billing queries are undertaken.

5.4.8 An annual consultation regarding the setting of capped prices including a mid term review and the validation of revisions as a result of any adjustments is provided

5.4.9 The service provides budget advice for individual sites and for the portfolio as a whole.

5.4.10 The service includes a dedicated site works coordinator to liaise with builders, contractors and electricians for new connections, meter installations, the upgrade of existing supplies, meter relocations and disconnections.

- 5.5. A managed service also provides the option to collect a customer service delivery oncost element within the annual unit rates of all bills on behalf of the Council.
- 5.6. In summary a Managed Service provides a compliant way of securing the Council's energy requirements using a flexible procurement strategy.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.2 The Council may buy works, goods and services from or through a Central Purchasing Organisation (CPO) and in doing so will be deemed to have complied with the Public Contracts Regulations 2015 (the Regulations) to the extent that CPO has itself complied with Regulations. CPOs supply gas and electricity via separate framework agreements which have been entered into as a result of a competitive process.
- 6.1.3 Whilst the purchase of the energy itself would be compliant (purchasing gas and electricity via a CPO complies with EU regulations and the Council's own internal rules), the purchase of the managed service itself would be a direct award of contract under the Council's own internal rules unless there has been a competition to decide to award this element of the services.
- 6.1.4 Cabinet authority is sought to procure the Council's energy via a flexible procurement approach and award a contract for a maximum of 3 years. The contract value for the managed services is approximately £150,000.
- 6.1.5 Whilst the contract value of the managed service element is below EU threshold, in undertaking any procurement where there is deemed to be cross border interest, a contracting authority must comply with the key principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment (derived from the Treaty of Rome and the fundamental freedoms of the EU). There are no formal rules governing whether a contract will attract cross-border interest. If the contract is deemed to be of cross-border interest then the opportunity should be advertised in the OJEU. The Commission states that the subject matter of the procurement, the place of performance or delivery and the size and structure of the relevant service market are significant factors.
- 6.1.6 As the value is below the EU Threshold for Services of £181,302 it would be acceptable to undertake a procurement process in accordance with the Council's Contract Procedure Rules and so to conduct a Request for Quotation exercise via the E-Tendering portal.

6.2. Finance Implications

6.2.1 Annual expenditure on gas and electricity procured via the contract is approximately £6m covering Corporate Buildings, Street Lighting, Schools and Academies. This is funded both from the Council's revenue budget and those of Schools and Academies.

6.2.2 The benefits of utilising this flexible purchasing model have been demonstrated since its adoption by the Council - this has been proven to be successful as the contract has delivered gas and electricity prices 7.9% lower than the market average during the period of the contract since April 2016; a two year performance review has indicated that WME prices have been £195.6k below the market average.

6.3. Equality Implications

6.3.1 Not applicable

6.4. Human Resources Implications

6.4.1 Not applicable

6.5. Risk Management Implications and overview of Flexible Purchasing

6.5.1 Flexible purchasing allows the Council to take advantage of price changes in the energy market. By choosing this purchasing strategy, it spreads its price risk over a number of purchasing decisions throughout the year.

6.5.2 The commodity, gas or electricity, is purchased over multiple occasions direct from the wholesale market. Our future energy requirements are split into base load and peak volume blocks for electricity, or into tranches for gas, that can be bought in monthly, quarterly or seasonal periods. Any residual load covering additional volume requirements can be traded separately.

6.5.3 In utilizing a fully flexible procurement approach the Councils risk of exposure to market variations can be controlled and monitored as volumes will be aggregated with the ability to take advantage of fluctuating market prices.

6.5.4 There is budget certainty for each financial year with the benefit of a capped price that could be reduced within the period. Energy prices/budgets can be determined as the Council will agree on capped 12 month prices so if costs increase, the Council/users will be protected from the increases and will be able to budget sufficiently.

6.5.5 If energy costs fall, prices will be monitored and the provider will be able to unlock/unset tranches of energy thus enabling the participating authorities to benefit from the lower market rates. Any such saving facilitates a reduction in the capped price within the specific 12 month period.

6.5.6 Because of the nature of flexible purchasing a Capital At Risk fund is established (in the current contract this is equivalent to 5% of the contract value. This fund is held in reserve and will be returned at the end of the agreed contract period).

6.5.7 Potential trading gains when prescribed conditions occur which are used to offset unit costs.

6.5.8 This trading provides added value over and above the ability to secure competitive market prices.

6.6. Rural Communities Implications

6.6.1 There are no direct implications for rural communities.

6.7. Implications for Children & Young People

6.7.1 There are no direct implications for children and young people.

6.8. Public Health Implications

6.8.1 There are no direct implications for public health.

7. Ward Members Affected

7.1. All

8. Consultation & Engagement

8.1. Not applicable

9. Access to Information

9.1. The background papers relating to this report can be inspected by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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