



Committee Decision Report

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Report to: *Strategy and Resources Committee*

Date of Decision: *15/09/2022*

Subject: *Provision of the Councils Gas Supply*

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? (TBC)				
Has appropriate consultation taken place?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below: -				

Purpose of Report:

This report seeks approval to award a further 1-year contract to Total Gas and Power via the Crown Commercial Services (CCS) framework for the supply of gas to the Council. There is a requirement for a corporate contract to supply natural gas for heating and hot water across the authority's portfolio of sites as well as for some schools and academies.

The gas needs of these buildings are currently being supplied by Total Gas and Power Ltd and contract managed through Facilities Management and Procurement and Supply Chain Team. The contract was procured for a period of four years from 1st April 2021 to 31st March 2025.

To allow forward purchasing of gas to take place for the following year (2025/26), and to bring this contract in line with the electricity contract, the Council will need to extend the current arrangement for a further one year before the 15th of September 2022.

Recommendations:**That strategy and Resources Committee approves;**

- 1) The Council commission of a further 1-year provision, for the period from 1st April 2025 to 31st March 2026 for the Council's gas supply, as outlined in this report.

Approves the procurement strategy and contract award of a 1-year contract to Total Gas and Power via the Crown Commercial Services (CCS) framework RM6011

Background Papers:*Appendix 1G – Procurement Strategy – Corporate Supply of Gas*

Lead Officer to complete: -		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Kerry Darlow
		Legal: <i>Henry Watmough-Cownie</i>
		Equalities & Consultation: <i>Louise Nunn</i>
		Climate: <i>Kathryn Warrington</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	SLB member who approved submission:	<i>Ajman Ali</i>
3	Relevant Policy Committee	<i>Strategy and Resources</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Jason Peck</i>	Job Title: <i>Contract Manager</i>
	Date: <i>06/09/22</i>	

1. PROPOSAL

1.1 Background

In 2021, the Council entered a 4-year contract via the Crown Commercial Services Energy framework with Total Gas and Power Ltd from 1st April 2021 to 31st March 2025 for the Council's gas supply. The decision was taken having carried out a full and thorough appraisal of the procurement options available (as set out in the 2021 Corporate Gas Executive Director Decision report, and the Gas Procurement Strategy). The rationale for the recommendation and decision to join the CCS framework was that it offered the best route for purchasing the Council's gas supply.

The Council has just undertaken a review of the Council's Corporate Electricity contract and recommended a decision to move to the CCS Energy framework for its electricity supply for a period of 3 years from 1st April 2023 to the 31st March 2026. One of the outcomes of the recommendation for the electricity retender is that the contract for the Council's gas supply be extended for a further period of 1 year to bring this in line with the expiry of the Electricity contract for the following reasons:

- to allow future trading under the existing arrangement (trading basket) to continue until the end of the current CCS framework expiry which covers both gas and electricity (it should be noted that the original decision to enter into contract with CCS should have been taken for a period of 5 years (instead of 4) which would have allowed trading under the existing framework to continue until its expiry)
- to align both the gas and electric contract renewal decisions to co-terminate (the same join and termination dates for CCS trading baskets apply to both)
- to avoid duplication of effort and provide consistency in decision making

Under the CCS energy framework (for gas and electricity) which expires in October 2023, trading under the CCS baskets can take place until 31st March 2026. The Council nominated trading basket is Variable 30 (V30) which requires an advance notice period of 30 months to exit. Failure by SCC to provide the required notice period to exit the Council's nominated trading basket (V30) by 15 September 2022 would result in an automatic extension of that basket, and therefore contract until 31st March 2026. Therefore, this report seeks to confirm and formalise that extension for a further year only.

To bring all future contract renewals (and council decisions) in line with the CCS framework renewal date (due October 2023), the next gas commissioning decision would be required by 15 September 2023, and every 4 years after that (15 Sept 2027, and so on), to enter the council into contract (aligned with the 4 year framework term) for a period of 4 years.

Recommendation

1.2

Contracting through a Public Buying Organisation (PBO) offers the Council the best value procurement route. Following a review of the existing Corporate Gas contract with Total Gas and Power, procured via the Crown Commercial Services (CCS) framework, it is recommended that:

The existing CCS framework offers the best route for purchasing the Council's gas supply, and that the Council extend its contract with Total Gas and Power Ltd for a further period of 1 year effective from 1st April 2025 to 31st March 2026.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 Consideration of and bench-marking the options available for purchasing the Councils gas supply will ensure to the best of our ability value for money and flexibility. Ensuring we engage experts in the field of purchasing the Councils gas supply, i.e., with the knowledge and tools to monitor and forecast commodity price changes allowing them to purchase gas at the lowest price on behalf of the Council and its other customers. Actions that ensure a minimal spend on procurement of gas while ensuring quality of provision, i.e. best value.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 No consultation, but careful evaluation of the options available to ensure best value for money.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 Overall, there are no significant differential, positive or negative, equality impacts from this proposal. It will benefit all sites through achieving best value.

4.2 Financial and Commercial Implications

4.2.1 The contract will be automatically extended for a further period of 1 year. Using the latest forecast data the total estimated spend for the financial year 25/26 will be £17,078,591. This amount is not within any current budget framework and at the moment would be a pressure for that year. Details below. Although schools and academies will be supplied through the contract, they do not form part of the Council's budget and are billed directly by the supplier.

The Councils procurement strategy of purchasing over an extended period is considered the best option of managing any peaks in the market, but energy markets remain extremely volatile and there is no indication that prices will return to what would be considered normal levels in the medium to long term and prices may continue to rise.

The contract will be managed through the Council's Facilities Management Energy Team and Procurement and Supply Chain Team. These teams will have the opportunity to work with CCS having regular review meetings which will ensure SCC understand any changes in the market. This activity will inform any changes to purchasing strategy allowable within the contract. The Facilities Energy Management Team will report on the forecast cost of gas to Finance Business partners on a monthly basis, or in the event of a significant change as soon as practicable.

		2019/20	2020/21		2021/22		2022/23		2023/24		2024/25	
Site Type	Utility	Annual Cost	% Change	Annual Cost	% Change	Annual Cost	Current Forecasted % Cost Change	Current Forecasted Cost	Current Forecasted % Cost Change	Current Forecasted Cost	Current Forecasted % Cost Change	Current Forecasted Cost
Corporate	Gas	£2,712,503	-22%	£2,115,170	-10%	£1,893,865	+107%	£3,920,301	+79%	£7,017,339	+21%	£8,490,980
Schools	Gas	£1,937,705	-22%	£1,508,907	-11%	£1,348,134	+40%	£1,887,387	+355%	£8,587,611	N/A	N/A
Corporate	Elec	£3,080,895	12%	£3,436,897	-10%	£3,085,699	+111%	£6,510,825	+110%	£13,672,733	N/A	N/A
Schools	Elec	£3,480,495	6%	£3,695,764	-13%	£3,220,006	+111%	£6,794,213	+110%	£14,267,847	N/A	N/A
Streetlighting	Elec	£2,055,358	11%	£2,289,268	13%	£2,053,080	+111%	£4,331,998	+110%	£9,097,195	N/A	N/A
* Figures in the above table are subject to change												

Under the existing CCS contract terms, the Council will be extending its contract for gas supply by a further year with the existing supplier.

The overarching framework agreement between CCS and the supplier (Total Energies for Gas and EDF for Electricity) is deemed commercially sensitive but all areas that relate to the CCS customer are covered in the CCS Customer Access Agreement and the Model Contract with the supplier (Total Energies for Gas and EDF for Electricity). The Councils contract is with CCS (Customer Access Agreement) and this is the main contract. In addition, there is the Model Contract with the supplier (Total Energies for Gas and EDF for Electricity). Schools/academies would not

have a direct contract/relationship with CCS or the supplier and any information they require would need to go through SCC. If the schools and SCC want to change this so the schools would have to a directly contract with CCS.

4.3 Legal Implications

- 4.3.1 The Council also has a specific power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions (s111(1) Local Government Act 1972). The proposed gas supply contract renewal is incidental to the Council's statutory functions.

Use of a compliant Framework also complies with the requirements of the Public Contracts Regulations 2015 and Council's Contract Standing Orders.

Commercial services advise that they have reviewed the CCS terms and conditions and do not deem these to be contradictory to any of the Council's policies.

4.4 Climate Implications

- 4.4.1 Overall, there are no significant differential, positive or negative, climate impacts from this proposal.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 Option 1 - Do nothing

Advantages:

- There are no benefits with this option

Disadvantages:

- The Council will be unable to continue trading under its preferred strategy until the end of the current CCS framework.
- The Council will not be able to align both electricity and gas purchasing.
- A continued fragmented decision-making process for the purchase of gas and electricity and consequential duplication of effort.

Option 2 – SCC procure directly from a supply company:

Advantages:

- SCC able to run a fully compliant tender process to establish a supply agreement to purchase energy through various strategies including on the day spot purchasing or flexible contract. The council would tender only the known 'fixed' price element of the gas (this includes suppliers profit margin/fee and estimated non-commodity costs over delivery period). The commodity costs are subject to live trading which will be made with the nominated supplier.
- Opportunity to work collaboratively with other local councils to achieve some economies of scale and potential income generation as lead authority.
- Council avoids paying any management fees to third parties for administrating any frameworks/contracts.
- Increased potential to maximise economic, social and environmental benefits through a Council led procurement process (by ensuring social value is captured in tender specifications and contract)

Disadvantages:

- Requires significant expertise and knowledge to manage energy purchases in a complex market. It requires ongoing monitoring of energy markets and relies on officers going to the market on the right time and day. These purchases will be made through the nominated supplier.
- Limited volume of spend in comparison to PBOs who aggregate large volumes, means this is less attractive to suppliers resulting in higher prices.
- Time consuming and requires significant lead in time to implement the new arrangements/contracts. If contracts are not awarded in time, we may incur out of contract rates from current suppliers increasing costs.

Option 3 – SCC procure through an energy broker:

Advantages:

- Potential to secure prices direct from suppliers by monitoring market prices. Independent energy brokers are like PBO's but without the benefit of aggregating large Local Authority portfolios.

Disadvantages:

- Brokers will most likely charge a fee for their service. Types of

- contracts include fixed (broker charges fixed fee for service), hybrid (brokers costs built into unit cost of energy) and inclusive (cost of service built into total cost of energy)
- Smaller brokers may not have access to all supplier offerings
 - SCC would need to ensure that the arrangements have been subject to a full procurement process to ensure PCR compliance.

Option 4 – Continuation of the Use of The CCS Framework.

Advantages:

- Compliant with PCR 2015.
- The Framework centralises spend into single supply contracts aggregating demand by combining energy volumes across organisations to form one large portfolio making it more attractive for suppliers. CCS can deliver energy prices which are lower than the Council would be able to achieve on its own.
- The risk of market volatility is reduced by opting for procurement through CCS which is also considered to represent best value for money due to economies of scale and purchasing power. CCS will optimise energy prices by purchasing in advance and ensure risk is managed and controlled by market experts.
- Increased certainty of utility commodity costs due to forward purchasing arrangements
- Scale of Operations – large aggregation of Public Sector energy spend
- experienced energy staff including energy Specialists providing customer support
- established governance arrangements in place such as committees and boards

Disadvantages:

- CCS charge a small management fee for accessing their arrangements

6. REASONS FOR RECOMMENDATIONS

- 6.1 The Council do not currently have expertise in energy market trading, therefore contracting through a Public Buying Organisation (PBO) such as CCS offers the Council the best value procurement route.

The commissioning decision taken in 2021, and the reasons provided in the decision report to use the Crown Commercial Services (CCS) framework still apply and therefore are considered to offer the best route for purchasing the Council's gas supply.

To bring all future contract renewals (and council decisions) in line with the CCS framework renewal date, the next decision would be required by 15 September 2023, and every 4 years after that (15 Sept 2027, and so on), to enter the council into contract (aligned with the 4 year framework term) for a period of 4 years.

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