

REPORT TO:	CABINET 19 NOVEMBER 2018
SUBJECT:	ELECTRICITY AND GAS SUPPLIES CONTRACTS
LEAD OFFICER:	RICHARD SIMPSON, EXECUTIVE DIRECTOR OF RESOURCES AND S151 OFFICER MARK NORRELL, DIRECTOR OF FACILITIES & SUPPORT SERVICES
CABINET MEMBER:	CLLR HALL, CABINET MEMBER FOR FINANCE & RESOURCES
WARDS:	'ALL'

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

Priority 2 of the Corporate Plan “Contracts Review” is directly relevant to this project.

The council is kept informed on changes in the UK energy markets through its membership of the LEP and the London Boroughs Energy Group (LBEG). The UK electricity market has undergone significant regulatory change over the last two decades. The objectives of this change have principally been to ensure that sufficient generation capacity is available, along with incentivising new generation from renewable energy sources. These changes have resulted in an increase in the regulated, pass-through charges which cannot be avoided. Contracts that manage the wholesale price risk continue to be the best practice approach to achieving the best overall energy prices.

The current administration has made a commitment to “*achieving 100% clean energy across the full range of council functions by 2050*”. Current national policy is to meet the carbon reduction target set by the Climate Change Act (2008) by 2050. This will require the complete decarbonisation of the electricity supply grid by this date. The mechanisms for achieving this are currently through incentives and guaranteed minimum payments which are funded by levies added to the energy bills for all customers. Many suppliers in the market offer “renewable” electricity tariffs, choosing to buy these does not necessarily result in additional renewable generation and carbon savings beyond those incentivised by the regulatory mechanisms. The only clear ways to achieve this are to:-

- Develop local generation (e.g. solar photovoltaics)
- Contract with remote renewable energy generator via a Power Purchase Agreement (PPA). This would be a long term contract to buy power directly from a generator. As the supply would still be via the grid, there would need to be an additional contract with a licensed supplier to manage and charge for all the grid services (i.e. transportation/distribution etc.). However this form of contract could be attractive in the future (and is being explored as an option in the collaborative London Energy Project contracts for 2020).

For gas supply there are no ‘renewable gas’ contracts (although there are very small quantities of ‘biogas’ injected into the public supply network). As gas is consumed across the council estate for heating, the only route to ‘100% clean energy’ target is to convert to zero carbon heating systems. This would need to be achieved through a

longer term strategy and program.

FINANCIAL IMPACT

The financial impact is detailed in section 5 Financial & Risk Assessment Considerations.

FORWARD PLAN KEY DECISION REFERENCE NO.: TBC for award report

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 approve the strategy identified within this report to procure suppliers to be appointed to provide Electricity and Gas Supplies for a term of 18 months from 1st April 2019 to the Council and to such schools and academies as shall elect to access the arrangements for a total estimated contract value of £10,500,000.
- 1.2 note that it is proposed to depart from the standard evaluation split of 60:40 (cost/quality) required under Regulation 21 to allow a weighting of 80:20 (cost/quality)
- 1.3 authorise the use of the Council's energy broker 'Kinect Energy' to run an OJEU compliant procurement exercise on the Council's behalf using their own e-tendering system to select suppliers for recommendation to the Council for appointment to the Council's new energy suppliers

2. EXECUTIVE SUMMARY

- 2.1 The council's current electric and gas contracts expire on the 31st March 2019 and the purpose of this report is to outline, and seek approval of, the proposed strategy to re-procure new contracts for electricity and gas supplies from 1st April 2019.
- 2.2 The proposal is for short term 18 month contracts to bring the councils supplies into alignment with the new pan-London energy supplies contracts which the council proposes to use in the future.
- 2.3 Costs will be met from existing centralised electricity and gas budgets.
- 2.4 The successful bidder/s will be responsible for registering and transferring the supply accounts from the existing suppliers.
- 2.5 The Sustainable Development & Energy Team will be responsible for managing the contracts and communicating the details of the new supply contracts to any participating third party schools or academies.

2.6 The contents of this report is endorsed by the Contracts and Commissioning Board

CCB Approval Date	CCB Ref. Date
31 st October 2018	CCB1420/18-19

3. DETAIL

3.1 The outcomes that are sought from the recommended approach are:-

- To secure best value, short term (18 month) electricity and gas supply contracts
- To bring the council’s electricity and gas supply contracts into alignment with the start date for the new pan-London energy supply contracts currently being developed by the London Energy Project (LEP).

3.2 The unit cost of energy comprises three elements, these are as set out in the following table, along with the average breakdown for electricity and gas.

Charge element		Electricity	Gas
Commodity	Cost of energy from the wholesale markets	55%	60%
Regulated	Fixed, pass-through charges for use of energy networks, metering and government set fees and levies	44%	39%
Supplier	Costs of billing, administration and profit	1%	1%

3.3 The UK’s gas and electricity networks are connected to Europe and wholesale trading results in markets that are highly volatile and subject to weather and geopolitical events. This wholesale market volatility represents the dominant price risk when securing energy contracts. The best practice approach to managing this risk is to procure energy via ‘flexible wholesale’ contracts. Such contracts give customers access to the wholesale markets so that different amounts of energy can be purchased at different times, both before the start of, and during the contract period. This strategy spreads the risk of fixing the price of the whole energy portfolio at one point in time, which may retrospectively be a peak in the market.

3.4 A large energy portfolio is required for this approach because of the size of the smallest ‘clip’ of energy that can be purchased from the markets. Several public sector buying organisations have established flexible wholesale contracts which pool the energy requirements of their clients to create a large single portfolio. Croydon Council previously secured its energy supplies via such contracts let by Crown Commercial Services (CCS) and LASER (Kent County Council Commercial Services). However, Croydon’s own gas and electricity portfolios were sufficient to establish its own bespoke flexible wholesale contracts as set out over page:

Supplier	Service/utility	Contract period
Scottish Power	All electricity supplies (including unmetered street lighting)	01/04/16 – 31/03/19
Corona Energy	All gas supplies	01/04/16 – 31/03/19
Kinect Energy	Wholesale purchase of gas & electricity, provision of market intelligence and advice.	01/04/16 – 31/03/19

- 3.5 The objectives of taking this approach were to:-
- Have direct control of the wholesale purchasing strategy (which is implemented by Kinect Energy)
 - Have a one-to-one contract relationships with the suppliers, with dedicated account management.
- 3.6 The current contracts have delivered the expected benefits of this approach, particularly with significantly improved and pro-active account management provided by the two framework suppliers.
- 3.7 While this ‘bespoke’ approach is recommended for future contracts, the council’s gas and electricity portfolios have decreased with a large number of schools and academies opting to withdraw from the council’s framework contracts to arrange their own supplies. This volume reduction and future uncertainty is a barrier to the effectiveness of a ‘flexible wholesale’ contract as the total energy demand can only be broken down into a limited number of purchasing decisions (due to the minimum ‘clip’ size). The recommended future approach is therefore to join with other authorities to provide a combined ‘core’ portfolio that is large enough to manage changes in individual authorities’ estates (e.g. sale or closure of sites).
- 3.8 The council is a member of the LEP, a shared service established by London boroughs to develop and share best practice in energy procurement and management. The LEP is currently developing ‘flexible wholesale’ energy contracts which use the combined energy portfolios of its member boroughs. These contracts will provide a compromise between the full control of a bespoke contract, and the lack of control offered by the large public sector buying organisation contracts. As the majority of London boroughs currently purchase energy via CCS and LASER, the LEP are planning to let the new contracts with start dates of April and October 2020 which are the respective expiry dates via these buying organisations.
- 3.9 The existing contracts with Scottish Power and Corona Energy were let through an OJEU compliant tender with no option to extend. Both the suppliers and the council would be open to legal challenge and subsequent contractual risk if the council simply opted to extend these arrangements. The recommended strategy is therefore to let fixed price, fixed term contracts for a period of 18 months. This will then align the council’s energy supply contracts with the LEP contracts start date of October 2020.

3.10 Those schools and academies currently purchasing energy via the council's contracts, and who have not yet stated that they wish to withdraw from the council's arrangements will be consulted with. They will have the option of either:-

- being included in the fixed price tender, or
- arranging for their own energy supply contracts

Social Value

3.11 Energy supply is a regulated and licensed activity. It is also a 'remote' service largely comprising the management of data flows and charging information across all providers within the supply system i.e.:-

- The cost of commodity (power and gas) purchased from generators, shippers and traders
- The costs of balancing the system (ensuring that energy supplied is equal to energy purchased)
- Fixed regulated costs – i.e. use of the network charges, government levies and taxes
- The costs of metering and collection of consumption data
- Generation of final invoicing to the customer

3.12 There is therefore very limited scope to drive social value outcomes through these contracts. However, the government does mandate energy suppliers to deliver a specific element of social value through the "Energy Company Obligation" (ECO). This mechanism requires suppliers to fund a set level of support to fuel poor households. This takes the form of grant funding to install energy savings measures (e.g. new boilers, insulation etc.). This funding stream is completely separate from energy supply contracts. Households are eligible to receive ECO funding if they are in receipt of specific qualifying benefits.

3.13 Some suppliers deliver their ECO funded works themselves (e.g. where they have home energy services businesses) while others meet their obligations through agents. London receives less ECO funding per capita than the rest of the country as it costs more to deliver energy efficiency works in the region. The Mayor of London recently established the 'Warmer Homes' scheme to help secure more supplier ECO funds for the capital. The council has established its own free home energy visit scheme "Croydon Healthy Homes" to tackle fuel poverty. This scheme will refer eligible households to the Mayor's Warmer Homes Scheme and to other sources of ECO funding identified by the council.

GDPR compliance

3.14 No personal data will be processed by these electricity and gas contracts. The only personal data that will be held by each supplier will be that required for contractual or regulatory purposes i.e.:-

- Contract manager and energy team contact details
- Site emergency contacts for gas safety purposes (for largest consuming sites only)

Decommissioning Strategy

- 3.15 Transfer of energy supplies is a comparatively simple process. All data required for suppliers to register new supplies will be provided as part of the tender process. The incoming suppliers undertake the registration process and manage the transfer of each supply from the incumbent suppliers.
- 3.16 The existing suppliers may object to the transfer of any accounts that are in debt. Where an account does not transfer on the start date of the new contract, the existing supplier will continue to invoice, but at much higher 'out of contract' rate. However, this is a very low risk as 95% of the electricity and gas accounts are paid via Direct Debit.

Procurement Strategy

- 3.17 It is proposed that the council's contracted energy broker, Kinect Energy manage an OJEU compliant 'Restricted' tender on behalf of the authority. Kinect Energy managed the original OJEU tender process which established the current framework arrangements.
- 3.18 Electricity market prices are settled on a half-hourly basis, while the gas market is settled on a daily basis. In addition, as the electricity system must be in balance at all times, supplies with accurate 'half-hourly' metering attract lower 'volume risk' prices than those that are manually read.
- 3.19 As fixed prices are being requested for the 18 month contract period, it is recommended that the electricity portfolio is divided into four lots according to the type of metering. Suppliers can bid for all 4 lots and contracts will be awarded to the best MEAT score (80 price/20 quality) for each lot. The recommended lots are as set out in the following table.

Utility	Meter type	Description
Electricity	Half-hourly metered	<p>These supplies are</p> <ul style="list-style-type: none"> ○ mandatory half-hourly metered with remote data collection ○ are large to medium sized buildings <p>This accurate data attracts a low volume risk price</p>
	Unmetered street lighting	<p>Croydon's street lighting inventory is controlled via a Central Management System which provides remotely accessed half-hourly data.</p> <p>This accurate data attracts a low volume risk price</p>
	Non half-hourly metered	<p>These are manually read meters and suppliers will apply a 'typical' estimated daily profile.</p> <p>These supplies will attract higher volume risk prices. Such supplies will be low-consuming, domestic scale consumption.</p>
Gas	All metered supplies	

Tender process

- 3.20 As the council's current contracted energy broker, Kinect Energy already have schedules of the council's electricity and gas supplies, along with all associated consumption and half-hourly metered data it is recommended that Kinect Energy manage the OJEU compliant restricted tender process via their own electronic tendering platform.

Proposed timetable

Activity	Proposed Date
Contracts and Commissioning Board Approval	Virtual
Cabinet Meeting	19/11/18
Specification and Tender Documents Agreed	27/11/18
OJEU contract notice published	30/11/18
Deadline for submission of SSQ responses	28/12/18
Deadline for submission of ITT responses	08/02/19
Contract Award	04/03/19
Contract Start	01/04/19

Tender evaluation

- 3.21 As the proposed tender is for fixed prices for the 18 month contract period, it is recommended that the Price/Quality ratio split is as follows:-

Price 80% All inclusive – wholesale and all pass-through charging
Quality 20% Customer service and billing operations

Financial evaluation

- 3.22 Bidders will be requested to provide audited accounts so their financial viability can be evaluated.

Contact Terms and Conditions

- 3.23 Energy supply in the UK is a highly regulated activity where providers must be licensed by the market regulator (Ofgem) to supply customers. As the licence conditions set out how suppliers must provide their services, suppliers offer standard terms and conditions to the market which they will not vary.

- 3.24 A legal review of the successful bidders' contract terms and conditions will be commissioned to ensure that there are no significant issues or risks to the council.

Performance management

- 3.25 As energy prices will be fixed for the duration of the 18 month contracts, there is no requirement for ongoing price performance monitoring (as with flexible wholesale contracts). The key performance issue will be billing accuracy, this will be monitored as set out in the table over page:

<p>% of rejected invoices per batch of electronic invoices received</p>	<p>Electronic invoices uploaded to the council's energy bill management system (TEAM Sigma) are validated through an automated checking process.</p> <p>Invoices may be rejected if there is a change to the format of the electronic file. This can arise from regulated changes (e.g. addition or removal of a pass through charge or levy). Invoices rejected due to such changes will be excluded from the measure.</p>
<p>Number of queries raised per quarter for the 3 highest consuming electricity supply accounts</p>	<p>60% of General Fund electricity spend is due to Bernard Weatherill House (2 supply accounts) and the borough's street lighting (one account). These are half-hourly metered supplies and invoices comprise a large number of fixed pass-through charge elements. These accounts are monitored in detail and each charge element is validated against the published rates. Queries will be raised with the supplier where any of these charges are incorrect.</p>

4. CONSULTATION

- 4.1 Schools and academies currently purchasing via council contracts as well as Finance, HR and Legal have, and will continue to be, consulted with.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

Revenue consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2018/19	2019/20	2020/21	2021/22
		6 months		
	£'000	£'000	£'000	£'000
Revenue Budget available				
Expenditure	5,503	2,751		
Income				
Effect of decision from report				
Expenditure	5,841	2,921		
Income				
Remaining budget	338	170		

- 5.1 A risk register for this procurement project is attached as Appendix 1 to this report.

5.2 The effect of the decision

The current contracts were let with no extension options available. Should the council opt to continue with the current supply arrangements, via a variation to the term until the LEP contracts were in place, the supplier's and the council could be open to a legal challenge from competitor suppliers. This could result in the extended contract arrangements being declared null and void, and the council would be at risk of being charged 'out of contract' energy rates which are typically more than double contracted rates. The recommended approach is therefore to let new short term contracts to mitigate this risk. An estimate of £10.5m has been used to allow for any price or volume risk, although current expenditure trends would suggest expenditure of nearer £8.7m for the 18 month period.

5.3 Risks

The dominant risks associated with energy supply contracts are the volatility of the wholesale energy markets. The objective of this procurement strategy is to let short term contracts to bring the council's energy supplies to align with the commencement of the LEP pan-London 'flexible wholesale' contracts which adopt best practice methods of managing wholesale energy price risk.

5.4 Options

If the LEP contracts have not been established before the expiry of the contracts recommended within this report, the council will still have the options to either:-

- Let subsequent short term fixed price contracts – according to the wholesale market conditions at the time, or to;
- Purchase via the 'flexible wholesale' framework contracts available from the national public buying organisations.

5.5 A significant risk for the current contract arrangements has been the recharging of school and academy clients. For historical reasons, school energy supplies were included within the council's portfolio and paid via Direct Debit. The council would then recover the energy charges by recharging the schools. However, this has now become a resource intensive process as manual invoices have to be generated for both academies and maintained schools.

5.6 The council invoicing cannot provide the same level of consumption and meter reading detail provided by the suppliers' electronic invoices. Schools are therefore provided with online access to a user-friendly version of the council's energy management system (TEAM Sigma) where they can view the supplier invoices. However, this is a far from ideal solution for the clients who have to match information from two separate sources to validate their charges. Therefore, for these contracts (and for future arrangements) schools that opt to have their supplies included within the council's tender will be directly invoiced by the successful suppliers.

5.7 Future savings/efficiencies

It is only the wholesale cost of electricity and gas that can be influenced by the adopted purchasing strategy. Both markets are subject to high levels of volatility which is driven by a wide range of international factors ranging from weather and economic conditions to geopolitical situations and conflicts. As such it is not possible to target any level of savings. The objective of this strategy is therefore to manage this wholesale price risk.

PSP will not be included in the Tender. Both current and future energy supply contracts to the council will adopt electronic billing (via the Tradacoms EDI standard) with payments being made by Direct Debit. This form of billing and payment attracts a small discount to the energy unit charges related to the reduced costs to serve for the suppliers.

Approved by: Ian Geary, Head of Finance, Resources & Accountancy

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council comments that there are no additional legal considerations directly arising from this report.

Approved by Sean Murphy Head of Commercial and Property Law and Deputy Monitoring Officer on behalf of the Director of Law and Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 There is no change to the delivery of energy supply services to the council which must be undertaken by licensed suppliers. There are no employment considerations arising from this procurement project.

Approved by: Gillian Bevan on behalf of the Director of Human Resources.

8. EQUALITIES IMPACT

- 8.1 This procurement is for energy supplies to council operational sites and services, communal services for social housing and participating schools with the objective to secure these supplies at the best prices.
- 8.2 This procurement will therefore not have a significant impact on groups that share a protected characteristic compared to non-protected groups.

Approved by: Yvonne Okiyo, Equalities Manager

9. ENVIRONMENTAL IMPACT

- 9.1 There are no environmental sustainability impacts arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no crime and disorder impacts arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The current contracts expire 31st March 2019 so replacement contracts are required in the short term until the LEP contracts are available to access.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Extending the current contracts has been considered and rejected as the current contracts were let with no extension options available.

CONTACT OFFICER: Bob Fiddik, Team Leader – Sustainable
Development & Energy. Resources Department

BACKGROUND DOCUMENTS: None