

**ENERGY CONTRACT AWARD (ELECTRICITY) FOR GLOUCESTERSHIRE COUNTY COUNCIL
ESTATE AND SCHOOLS (INC ACADEMIES)**

Cabinet Date	13 December 2017
Finance and Change	Cllr Ray Theodoulou
Key Decision	Yes
Background Documents	Gas and electricity procurement for Gloucestershire County Council buildings and schools , Cabinet 10th July 2013 Extension of the West Mercia Energy (WME) Electricity Contract , Cabinet Member for Finance and Change, 3rd March 2016
Location/Contact for inspection of Background Documents	Gas and electricity procurement for Gloucestershire County Council buildings and schools , Cabinet 10th July 2013 Extension of the West Mercia Energy (WME) Electricity Contract , Cabinet Member for Finance and Change, 3rd March 2016
Main Consultees	
Planned Dates	Modification of current contract to run from 1st October 2018 to 31 st March 2020. Provider to begin forward-purchasing winter energy volumes (Oct 2018 to March 2019) on the Council's behalf March 2018.
Divisional Councillor	None
Officer	Jo Walker, Director Strategic Finance Email: joanna.walker@gloucestershire.gov.uk Tel: 01452 328469
Purpose	To seek approval to modify the term of the contract for the supply of electricity to the Council and participating schools.
Recommendations	That Cabinet authorises the Director, Strategic Finance in compliance with the Public Contract Regulations 2015, to enter into negotiations and conclude an agreement with WME to modify the term of the current electricity energy contract to include the period 1 st October 2018 to 30 th September 2019 inclusive.
Reasons for recommendations	To allow the Council to continue to purchase electricity in a way that best manages the price risk of buying energy as recommended by the Cabinet Office, using combined leverage of other Local Authorities and/or the Government Procurement Service.

	<p>The service provided to date has been good and the prices the Council has paid are comparable with market spot prices. The cost of the actual service is competitive with other suppliers and therefore it is recommended that the Council continues with the existing supplier.</p> <p>The Council requires a short term interim electricity contract to be in place until a new buying and selling arrangement can be procured. The Council will be unable to procure such a short term interim contract without incurring significant economic inconvenience and duplication of cost resulting from a change of supplier.</p>
<p>Resource Implications</p>	<p>The service charge for the WME contract and the annual cost of electricity are included within existing budgets. The electricity volumes used by the council are reducing year on year, however the cost of electricity is increasing significantly therefore it is important we contract to forward buy and not be left to purchase from the open market.</p> <p>The actual spend on electricity in 2016/17 (including the schools and Academies), was £4.7m on electricity split between circa £1m council premises; c£2m street lighting, signs and bollards, and c£1.7 m schools</p> <p>The option proposed is the most efficient way to move forward by avoiding the inconvenience of changing supplier across all users and avoiding the resource and costs of re-procuring for a short period of time.</p>

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Background

1. In July 2013 Cabinet authorised the Director, Strategic Finance in consultation with the Lead Cabinet Member to enter into a call-off contract under the framework identified as offering the Council the best strategy for the procurement and management of electricity. Cabinet approved that the contract for the provision of electricity would be for an initial term of two years with options to extend for two further periods of one year each.
2. In March 2016 the Cabinet Member for Finance and Change authorised the Director, Strategic Finance to:
 - 1) Execute a deed of variation to amend the provisions of the current West Mercia Energy (WME) Contract to allow the option to extend to be exercised for a single period of 2 years as opposed to the current provision, which provides for two consecutive periods of one year each; and
 - 2) Exercise the varied option to extend the West Mercia Energy (WME) Contract for the provision of electricity for a further period of two years from 1 October 2016.
3. The Council currently spends c£5.3m per annum on gas and electricity (including for over 300 schools), of that c£4.7m is on electricity alone, however this is subject to market conditions and may vary. In 2016/17, 47% of the total electricity consumed by the Council was sourced from renewable sources; for comparison the UK average was 24.2%.
4. The Council procured the services of WME using a managed framework from a Public Buying Organisation (PBO). The contract allows the Council to continue to purchase energy in a way that best manages the price risk of buying electricity as recommended by government, using the combined leverage of other Local Authorities and/or the Crown Commercial Service.
5. Government guidance, in line with the findings of the Pan Government Energy Project, is that all public sector organisations take advantage of framework contracts which centralise spend into a single supply contract that purchases up to three years in advance, aggregates demand and optimises energy prices.
6. PBOs offering such consortium frameworks include:
 - WME (West Mercia Energy)
 - LASER (Energy buying group for Kent)
 - ESPO (Eastern Shires Purchasing Organisation)
 - YPO (Yorkshire Purchasing Organisation)
 - LEP (London Energy Project)
 - CCS (Crown Commercial Service)
 - NEPO (North Eastern Purchasing Organisation)
7. The main differences between these organisations/frameworks are their business models and the services they offer to customers in respect of billing, energy management and information. These additional services are extremely important to the Council as they facilitate the adoption of the contract by schools and allow the Council to implement more energy efficient strategies.

8. WME's current contract was previously awarded using the following considerations:
 - How purchasing risk is managed
 - How the contract will be monitored, especially as regards pricing
 - The ability to set a maximum price paid and then should the market price fall, to pass on that discount to the contract users
 - Administration of the contract and the services offered by the provider such as demand management and bill validation
 - The fee for using the framework.
9. WME undertook a compliant open procurement to secure an electricity supply contract, awarded in 2015 to run from 1st April 2016 to 31st March 2020. At this point all Council sites, including over 300 schools, have transferred over to the new supplier.
10. On-contract schools account for over two thirds of the total volume of electricity procured through the contract. The Communities and Infrastructure Commissioners, AMPS and Street Lighting Manager are keen to achieve a solution which has the potential to minimise energy usage and continues to manage price fluctuation risk.
11. The contract with WME ends on 30th September 2018. A modification is required to the current WME contract until a new energy buying and selling arrangement is procured.

Options

Option 1: Do nothing

12. The present contract with WME ends on the 30th September 2018. Should the Council decide not to procure a new contract:
 - The Council and each school would be exposed to 'out of contract' unit rates, which would be subject to the volatility of the electricity market and pressures (Brexit, increasing international tensions, climatic events).
 - The Council would risk being in breach of Public Contract Regulations 2015 (PCR 2015) as it will have effectively directly awarded a contract without competition should the arrangement with WME continue out of contract or the Council enter a contract with a new supplier.
13. Therefore this is not a viable option. The Council needs to ensure continuation of this service to deliver its front line services and to comply with EU procurement regulations.

Option 2: Re-procure a new contract using a Public Buying Organisation (PBO) for electricity consumption

14. As considered previously by Cabinet, the preferred option is to purchase through a managed framework run by one of the PBOs. This allows the Council to aggregate volume with others, optimise energy prices, manage procurement risk through a robust purchasing strategy defined by market experts and take advantage of other services that are offered including bill validation, demand management and a rebate facility (this allows the Council to receive a percentage of the contract value back to manage the service).
15. Re-procuring this short term interim contract instead of modifying the current contract would not provide the Council with better value for money. HM Treasury

and the Crown Commercial Service estimate that re-procurement of the service would cost c£50,000. For the Council this would likely be a mix of the cost of external professional advice and staff time diverted from other procurement activity.

16. A change in PBO would result in a change of electricity provider, which all sites (including over 300 schools) would have to change over to from October 2018. This is then likely to be repeated following the Council's procurement to enable it to buy and sell energy. As such over 300 schools are likely to have to switch supplier three times from April 2016 to July 2019. There is a significant risk that schools will choose to leave the contract as a result, undermining the Council's buying power.

Option 3: Modify the existing contract with WME

17. There is no contractual option to further extend the existing contract with WME, however the Council is able to modify the contract to extend the term and allow for additional services under Regulation 72 (1)(b) and under the contract with WME. This permits the Council to purchase additional supplies and services from its incumbent supplier where a change of supplier cannot be made for economic reasons and where such a change would cause significant inconvenience or substantial duplication of costs for the Council.
18. There are economic or technical reasons that discourage a change in supplier (broker for electricity):
 - a. Any change of PBO or framework provider would involve a change in electricity provider which would result in a large amount of billing and administration resources in switching all 300 schools and corporate properties to the new provider just for a 12 month period. The option proposed is the most efficient way to move forward by avoiding the inconvenience of changing supplier across all users and avoiding the resource and costs of re-procuring for a short period of time.
 - b. The accepted industry cost for changing any energy supply contract is around £50,000 (para 15) which exceeds the service payment for WME and hence there would be no economic advantage since the value for money gains may be lost
19. A change would also cause significant inconvenience or duplication of costs. As cited in paragraph 16, tendering costs would be duplicated and 300+ schools are likely to have to switch supplier three times from April 2016 to July 2019. Therefore there is a significant risk that schools will choose to leave the contract as a result, undermining the Council's buying power. This also significantly impacts the resource requirements to manage the contract; internally and its customers, the schools. Modifying the term of the current WME contract would enable this service to continue until the Council has procured a new contract(s) to sell and buy energy.
20. The contract modification will not exceed 50% of the value of the original contract; for the 12 month period. The initial term was 2 years and the value of the contract has remained consistent.
21. WME are providing value for money. The service provided to date has been good and the prices the Council has paid are comparable with market spot prices. The cost of the actual service is competitive with other suppliers.
22. The Council and schools continue to be satisfied with the service WME provides. During the previous procurement process it was identified that only a few other PBOs

offer the services required by the Council. For example, the flexible buying approach, the rebate system, and comprehensive billing system. In addition analysis suggests that the WME buying and risk strategy provides the Council with value for money and is competitive with other PBOs. Therefore there is no evidence to suggest re-procurement will provide the Council with any savings in the short-term.

Risk Assessment

23. Although the council (and each school) is buffered by the purchasing power of a PBO, electricity pricing is subject to the volatility of the electricity market, pressures and fiscal measures which are passed on directly to the purchaser. The Department for Business, Environment and Industrial Strategy's (BEIS) long-term forecast is for the energy market to continue to rise. In addition, the schools not signing up to the contract would also increase the risk of the price rising further as the Council's purchasing power is reduced.
24. There is also the risk of challenge to the decision to modify the contract. The Council will comply with the Public Contract Regulations 2015 and serve a modification notice to minimise risk of challenge.

Officer Advice

25. Option 3 is recommended as the benefits of this option, detailed above, are such that in the current situation it provides the most cost effective solution for the Council.
26. Therefore officers recommend: That Cabinet authorises the Director, Strategic Finance in compliance with the Public Contract Regulations 2015 to enter into negotiations and conclude an agreement with WME to modify the term of the current electricity energy contract to include the period 1st October 2018 to 30th September 2019 inclusive.

Equalities considerations

27. In the development of this procurement approach 'due regard' has been given to the aims of the Public Sector Equality Duty under the Equalities Act 2010; it is concluded that the process of procuring electricity for the Council estate and schools will have no significant equality implications for the 'protected characteristics' given the nature of the services involved.

Consultation feedback

28. Not applicable.

Performance Management/Follow-up

29. There will be regular monitoring of pricing and service delivery with WME in line with the Council's contract management processes.
30. Based on good practice, internal working group monitor the performance of the contract and regular contract management meetings will continue to be held.
31. Cabinet will receive a report on the future arrangements for buying and selling electricity.

Report Title	Modification of the Electricity Energy Contract for Gloucestershire County Council estate and schools (inc Academies) Council
Statutory Authority	N/A
Relevant County Council policy	None
Resource Implications	<p>The service charge for the WME contract and the annual cost of electricity are included within existing budgets. The electricity volumes used by the council are reducing year on year, however the cost of electricity is increasing significantly therefore it is important we contract to forward buy and not be left to purchase from the open market.</p> <p>The actual spend on electricity in 2016/17 (including the schools and Academies), was £4.7m on electricity split between circa £1m council premises; c£2m street lighting, signs and bollards, and c£1.7 m schools</p> <p>The option proposed is the most efficient way to move forward by avoiding the inconvenience of changing supplier across all users and avoiding the resource and costs of re-procuring for a short period of time.</p>
Sustainability checklist:	
Partnerships	N/A
Decision Making and Involvement	Strategic Infrastructure commissioners, Street Lighting Manager, Strategic Finance, Commercial Services
Economy and Employment	N/A
Caring for people	N/A
Social Value	No significant Social Value implications or opportunities.
Built Environment	No significant impact
Natural Environment' including Ecology (Biodiversity)	The Council's procurement approach is to buy 'brown' non-renewable grid electricity unless 'green' renewable grid electricity is the same price or cheaper. In 2016/17, 47% of the total electricity consumed by the Council was sourced from renewable sources; for comparison the UK average is

Education and Information	<p>24.2%.The Council has invested in energy efficiency measures to minimise electricity use, associated costs and carbon emissions, as part of its carbon management programme.</p> <p>The Council is on target to reduce carbon emissions from its estate by 60% by 2020/21 on the 2006/07 baseline.</p> <p>No significant impact</p>
Tackling Climate Change	<p>Carbon Emissions Implications? Neutral</p> <p>Vulnerable to climate change? Yes – the vulnerability of the Council to the loss of electricity supply through the impacts of a changing climate will not be affected by this procurement.</p>
Due Regard Statement	<p>Has a Due Regard Statement been completed? No</p>
Human rights Implications	<p>N/A</p>
Consultation Arrangements	<p>N/A</p>