

# OVERVIEW AND SCRUTINY COMMISSION

## Agenda Item 44

Brighton & Hove City Council

<b>Subject:</b>	<b>Corporate Procurement of Energy - Sub 100Kw Energy Contract</b>		
<b>Date of Meeting:</b>	<b>17 September 2009 Cabinet 20 October Overview and Scrutiny Commission</b>		
<b>Report of:</b>	<b>Director of Finance &amp; Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Angela Dymott</b>	<b>Tel: 29-1450</b>
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<b>Key Decision:</b>	<b>Yes</b>	<b>Forward Plan No: CAB11828</b>	
<b>Wards Affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To seek approval from Cabinet for the re-tender, in compliance with the European Union Public Procurement Directive, of the Brighton and Hove City Council sub 100kw Electricity contract which expires on 31 March 2010 and authority for the Director of Finance & Resources, under delegated powers, to act immediately on any suitable quotation obtained. As in previous tenders the sub100kW contract will be awarded to the most competitive offer supplied from 100% renewable sources in line with council's sustainability and use of natural resources commitments. The energy market remains volatile and as utility prices are beginning to rise again the council should test the market now to try and secure an advantageous price.

#### 2. RECOMMENDATIONS:

That Overview and Scrutiny Commission note the report.

#### RECOMMENDATIONS AGREED BY CABINET

- 2.1 That Cabinet gives approval for a tender exercise following the official journal of the European Union (OJEU) process to be undertaken and a contract awarded to the most competitive offer supplied from 100% renewable sources, following appraisal and recommendations from the council's energy adviser and Energy & Water Manager.
- 2.2 That Cabinet grants delegated power to the Director of Finance & Resources to award the contract following consultation with the Cabinet Member for Central Services and take all other steps necessary for the implementation of the proposals.

### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council has three main utility contracts: one for Gas supplies across the council portfolio and two electricity contracts covering the council portfolio. The electricity provision is split into two contract groups - the 100kW contract that relates to large sites for which, due to their high consumption, organisations are statutorily obliged to provide half hourly data via automatic metering and the Sub 100kW contract that relates to smaller sites for which it is not mandatory to have automatic metering data. The table below shows the utility and identifies the contract duration and value.

Utility	Contract Period	Value	Supplier	Example sites
Gas	1 October 2008 – 30 September 2010	£2.7m per annum	Eon	All sites requiring Gas including schools and housing
Electricity 100kw	1 October 2009 - 30 September 2010	£1.1m per annum	Eon	22 Large sites- Kings House, Hove and Brighton Town Halls ,Brighton Centre King Alfred, and 7 secondary schools,
Electricity Sub 100kW	1 April 2008 - 31 March 2010	£2m per annum	Eon	1330 sites - The smaller sites, majority of schools, admin buildings, libraries, sports pavilions and some housing sites

- 3.2 This report relates to the sub100kw electricity supply contract is for 1330 sites within the City Council's portfolio that ends on the 31 March 2010. The portfolio comprises of the smaller sites within the City that includes the majority of schools, a range of administrative buildings, libraries, sports pavilions and some housing sites. In total the current contract value is approximately £2m per annum.
- 3.3 This contract is corporately procured in order to ensure that all these sites and services can benefit from the Council's overall purchasing power and to ensure consistent implementation of the corporate energy procurement policy.
- 3.4 The electricity contract for housing covers lighting of common ways internally and externally to some blocks of flats, communal heating for two blocks of flats (Broadfields and Elwyn Jones Court) and housing offices. The increased cost will be considered as part of the 2010/11 HRA budget report.

#### **Tender process**

- 3.5 The council's energy advisor Team Q has been commissioned to re-tender the contract in accordance with the council's Contract Standing Orders, European Regulations and OJEU standards. A European advert has been placed and tender documents will be issued on return from interested parties. The provisional OJEU timetable is as follows:

<b>Event</b>	<b>Time Scale</b>	<b>Date</b>
Issue Tender notice for publication – Inviting expressions of interest from licensed suppliers.		24th August
Tender Period.	52 days	24 August – 16 October
Tender Closes.		16 October
Tender Evaluation – review tender returns and present findings to Council Officer with delegated powers.	3 days	19 -21 October
Seek Tender Revisions – Seek revised prices based on preferred Council terms and conditions.	5 days	21st-27 October
ALCATEL stand still period ends	10 days	6 November
Contract Acceptance – Place a letter of intent (Subject to Contract) with preferred bidder.		9 November
Review contract terms and conditions	10 days	23 November
Contract Starts		1 April 2010

- 3.6 As in previous exercises prices have been invited for a 12, 24 and 36 month period, with an option to extend for a further period, subject to negotiation. Tender documents will request suppliers to provide tariff structures that will ensure that electricity is provided from 100% renewable sources i.e. wind, water, sun. Emphasis will also be placed on provision of a suitable customer service structure to support the council's needs and suppliers will be asked for separate proposals for an Automatic Meter Reading (AMR) rollout programme.
- 3.7 The number of suppliers operating in the sub 100kW market has significantly reduced over the course of the contract as evidenced by the pending withdrawal of the incumbent supplier E-On from the market place. Further reductions have also been seen due to corporate mergers.

### **Market Volatility**

- 3.8 The market volatility is due to a number of economic reasons, the most influential being the price of oil in the international supply market. The close link between UK electric prices and this globally traded commodity has meant that as significant world events occur, such as high oil demand in emerging economies, the "credit crunch" and various geopolitical events, the UK energy prices are also affected. Suppliers are now placing an element of risk within the unit prices in their pricing structure on all contracts. Recent tender exercises carried out by the council's energy advisor, Team Q, suggest that despite the current low energy price, an increase in the region of **15%** could be expected based solely on this applied risk element. Based on the current contract value, this would see an increase of approximately £300K per annum.

- 3.9 During the period since the placement of the current contract, we have seen huge fluctuations in the price of wholesale electricity, driven by the global price of oil which rose to \$148/ barrel in October 2008 before falling back in the subsequent months. Oil prices which currently sit at around \$68/ barrel, are now beginning to rise, taking wholesale electricity prices with them, (see Appendix A). Current predictions estimate that the price of oil will reach \$100/ barrel by the end of the year. With this in mind the council would be well placed to fix a price as quickly as possible.

### **Carbon Reduction Commitment**

- 3.10 The Carbon Reduction Commitment (CRC) is a mandatory emissions trading scheme which will commence in April 2010. Within the scheme, each organisation's emissions are capped and a value placed on these carbon emissions. It should be noted that under the CRC the procurement of green energy will not be viewed as a mitigation factor.
- 3.11 One of the early action metrics of the scheme, which form 100% of the league table assessment in the first year and are the sole means to secure the available year end bonus payment, is the introduction of automatic meter reading (AMR). In to meet these criteria, the successful tender will include a roll out programme for the provision of AMR across the council portfolio by March 2011.

### **Commitment to Green Energy and proposed OJEU Procurement Route**

- 3.12 Since 2004 the council has procured its electricity from 100% renewable sources, this policy is in line with the council's sustainability, use of natural resources strategy and climate change policy.
- 3.13 Recent tender exercises such as the +100kW electricity contract have indicated that the procurement of Electricity from 100% renewable sources currently attracts a premium of approximately 5%. Based on the current value of the contract this would equate to an additional **£100K per annum**.
- 3.14 The Utilities Act 2000 has placed an obligation on all suppliers to provide 3.6% each supplier's electricity from renewable sources. Approximately 2.5% of electricity is purchased from renewable sources and the government aim is to achieve 20% production of electricity from renewable sources by 2020, in line with the European Union commitment which was ratified by the UK government in June 2007.
- 3.15 Climate Change Levy (CCL) is a government tax aimed at reducing CO<sub>2</sub> emissions through taxation and tax incentives on the installation of energy conservation technology. The tax applies an additional charge for electricity consumed in commercial and industrial applications. Only sites that are used for domestic, residential purposes and those using very small amounts of electricity are exempt from Climate Change Levy. Sources of power that can be shown to be renewable, such as solar or wind power are exempt from this tax.

### **Other Procurement Options**

- 3.16 Whilst the council remains totally committed to continuing its policy of procuring energy from 100% renewable sources, all other alternatives are being explored

to ensure an accurate market appraisal and to illustrate the financial implications of this policy decision.

- 3.17 The option to purchase electricity via a Framework supplier as offered by Buying Solutions (formerly OGC) was also investigated. Purchasing via a consortium does allow some flexibility in purchasing volumes and has consistently been seen to provide discounts. However this route will not allow us to secure a price at this time as Buying solutions operate in specific windows of time ie. we could not benefit from a good price now. This route will also only allow energy to be sourced from one supplier, EDF, who as demonstrated by the recent +100kW soft tender exercise and reinforced through discussions with the Buying Solutions framework supplier, are unable to supply electricity from 100% renewable sources.
- 3.18 Aligned purchasing with East Sussex County Council was also investigated. The ESCC contract will expire at the end of September 2009 and as such does not offer the opportunity the align contracts. ESCC are not seeking electricity from renewable sources and as such, are likely to utilise Buying Solutions for their next contract.

### **Recommendations**

- 3.19 A contract is to be awarded to the best electricity bid from 100% renewable sources, following appraisal and recommendations from the council's energy adviser and Energy & Water manager.
- 3.20 The prices returned are only valid for the day they were quoted and will have to be re-quoted when a firm decision is made by the Council. The energy consultant will require the authority of the Council to approach the selected supplier, subject to contract and council final approval, as soon as possible. As such it is requested that powers be delegated to the Director Finance and Resources in consultation with the Central Services Cabinet Member to ensure this is carried out with the minimum delay. Once the council has agreed to the price it will remain fixed for the contract start in April 2010.

## **4. CONSULTATION**

- 4.1 Market evaluation has been carried out by the council's energy consultant and assessed by the council's Energy & Water Manager. Further benchmarking has been carried out in association with East Sussex County Council Energy Management team and the national framework with Buying Solutions. Further advice on procurement routes was obtained from the council's senior procurement advisor.
- 4.2 The Right To Buy Team in Housing Management have a statutory obligation to consult with leaseholders of any changes which would increase their annual service delivery above £100. Following advice from our energy consultant that the financial increase to the contract may be 15% it is expected this may affect approximately 90 leaseholders by an additional £40 per year (average). Housing Management are currently considering the options of leaseholder consultation with regard to potential price increases arising from the new contract.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

Financial Implications:

- 5.1 Electricity prices are highly volatile and as such it is difficult to estimate with any certainty what price the council will be able to secure. Any cost increases relating to school premises will be funded from delegated school budgets. Any increases will take effect from April 2010 and so will need to be factored into the 2010/11 budget submissions for both the general fund and HRA. It is estimated that procurement from 100% renewable sources will cost approximately 5 % more. This contract will have significant impact on budgets for the foreseeable future as utility costs continue to rise year on year. Going to the market at this time will enable the council to obtain an advantageous price to try and mitigate against the potential budget pressures.

*Finance Officer Consulted: Patrick Rice*

*Date: 24/08/09*

Legal Implications:

- 5.2 The Cabinet has authority to agree the recommendations set out in section 2. Relevant legislation is referred to in paragraphs 3.10-3.11 and 3.12-3.15.
- 5.3 A contract providing this type of service at the anticipated value requires compliance with the EU Procurement Directive and accompanying UK Regulations. As a result, the contract is subject to the full application of both the Directive and Regulations. The report refers to the contract notice being advertised in the OJEU, which complies with the relevant legislation, as does the remainder of the anticipated procurement process. Contracts over £75,000 must be prepared in a form approved by the head of Law. The council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

*Lawyer Consulted: Alison Leitch*

*Date: 24/08/09*

Equalities Implications:

- 5.4 An Equalities impact assessment has not been carried out as it is unlikely that the renewal of the contract will have any equalities implications

Sustainability Implications:

- 5.5 *Sustainable Consumption and Production* - The renewal of the contract will not directly impact the consumption on production however we will aim to minimise consumption.
- 5.6 *Climate Change and Energy* – The ability to secure the sub100kW electricity contract from renewable sources will greatly reduce the council's carbon emissions and footprint and supports the council's Sustainability policy and Climate Change action plan. However, it should be noted that incoming legislation around the Carbon Reduction Commitment (CRC), does not confer any benefit for the use of green energy.

- 5.7 *Natural Resource Protection and Environmental Enhancement* – The council has consistently stated it's commitment to the use of electricity from 100% renewable sources. A commitment that has been again stated in the ongoing CAA natural resources audit.
- 5.8 *Sustainable Communities* –Consultations have been conducted with relevant parties and will need to be undertaken with schools.

Crime & Disorder Implications:

- 5.9 There are no crime and disorder implications

Risk & Opportunity Management Implications:

- 5.10 There are no additional risk or opportunity management implications

Corporate / Citywide Implications:

- 5.11 Key corporate implications are the possible increase in unit price. The council will seek the best possible price and will ensure that the successful tender represents value for money.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The options researched and analysed by the council's energy consultant and Energy & Water Manager include OJEU, Buying Solutions and alignment with ESCC.
- 6.2 Brighton & Hove City Council is committed to procuring from 100% renewable sources. As such the alternative purchasing routes identified and evaluated have been discounted as they would not allow the council to continue this commitment.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The council's sub 100Kw electricity contract supplied from 100% renewable sources is on a fixed offer that expires at the end of March 2010. The main grounds for the recommendations that are sought are to allow the council to benefit from the best price available and obtain value for money within a volatile market where prices are held for a maximum of 24hrs.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Appendix A - Graph of electricity prices over time

**Documents in Members' Rooms**

None

**Background Documents**

None

