

Chief Officer Key Decision Report

Date: 24th September 2021

Wards: All

Subject: Award of Call-off Contract for the Supply of Gas

Lead officer: Mark Humphries - Assistant Director, Infrastructure and Technology

Lead member: Cabinet Member for Finance

Contact officer: Richard Neal – Energy and Sustainability Manager

Recommendations:

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1. That the Council directly award a 1-year contract, via the Countess of Chester Hospital NHS Foundation Trust Commercial Procurement Service (hereafter 'COCH-CPS') Framework Agreement for the Provision of Natural Gas.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The Council's contract for the supply of Gas to its buildings is due to expire on 31st March 2022. This report seeks approval to directly award a one year contract to the Council's incumbent supplier, Gazprom Marketing and Trading Ltd via the COCH-CPS Framework Agreement for the Provision of Natural Gas.
- 1.2. The report also outlines the reasoning for seeking to award a contract of only 1 year and how this aligns with the Council's Climate Emergency 2030 aspirations.

2 DETAILS

- 2.1. The Council's Procurement board originally approved the re-procurement of the Council's Gas Supply contract on the basis of seeking a 4+1 year term in 2019. However, the Council's Declaration of a Climate Emergency has cast some doubt over the volumes required on the proposed Gas contract over the next 4-5 years.
- 2.2. With the full delivery plan for the Council's 2030 net zero carbon target not yet agreed, and the likelihood that a recommendation to undertake degasification of heating across the operational building portfolio will be included, there is the potential for gas consumption on the proposed new supply contract to fall significantly. The Civic Centre boiler replacement project, also likely to complete within the lifetime of the new contract, also has the potential to significantly impact gas volumes.
- 2.3. This considerable volume uncertainty means the Council would either have to tender the contract in such a way that suppliers are pricing in the volume risk (leading to an increased management fee paid by the council) or for the council to take on this risk and potentially pay for gas it doesn't use and/or lose the economies of scale associated with a larger portfolio.

- 2.4. In order to mitigate this risk Officers intend to defer full re-procurement for 12 months, until such a time that the Council is better able to assess its likely gas usage.
- 2.5. In order to cover the Council for the intervening period the following approach is proposed. Inspired Energy, who are the Council's contracted Energy Consultant, are also the managing agent on a single supplier gas framework let by COCH-CPS. The single supplier on the framework is Gazprom, who are also the Council's incumbent gas supplier. A call off of 1 year from this framework for the period 1st April 2022 – 31st March 2023 would ensure the Council has a supplier in place until such a time that a better determination can be made of its likely gas requirement for the following 5 years.
- 2.6. As Inspired Energy are the managing agent on this framework they would be able to manage our gas portfolio in much the same way they do under our current contracts, and have also confirmed that they will waive their management fee through the framework given we contract with them directly for these services.
- 2.7. The proposed approach also has the advantage that in continuing with our current supplier for an additional year, under what are very similar terms, avoids the risk of having to switch suppliers for a short period, and the significant administrative workload transferring the portfolio would create

3 ALTERNATIVE OPTIONS

- 3.1. Supply contracts are essential due to the excess cost of 'out of contract' rates offered by energy suppliers, in some cases these can be more than double the unit rates that would be expected on a well-managed flexible supply contract. The implication of taking Merton's electricity portfolio onto non-contract rates would likely be an increase in cost of around £500,000 per annum (though these figures may change significantly given the current uncertainty in the Energy Markets).
- 3.2. Extending the existing contract with Gazprom is not considered to be an option as this is considered to be non-compliant with Public Contract Regulations.
- 3.3. Conducting a full bespoke procurement exercise for a 1-year contract is thought to be unlikely to generate much interest from the market, especially given the high levels of uncertainty surrounding energy markets at present.
- 3.4. While conducting a full procurement of a 4+1 year contract would be expected to attract significant interest from the market, the Council would be taking on the volume risks outlined above in relation to probable reductions in its gas consumption in the future. Such a situation is likely to mean the Council being forced to "take or pay" and also pay higher management fees on such a contract.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The approach outlined in this report has been approved by the Corporate Services OPG and the Council's Procurement Board.

5 TIMETABLE

Milestone	Target Date
Forward Plan Report	September-21
Award	October-21
Contract Start	1 st April 2022

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Procurement support for a flexible gas supply contract is written into the terms of Merton's agreement with Inspired Energy. A fee of £860 may be payable if Merton request significant technical input from Inspired when calling off of the recommended framework. Inspired would not charge a management fee for their role in managing purchasing for Merton's portfolio via the framework.
- 6.2. Based on the Council's current volumes the fee payable to the framework provider (taken as a small element incorporated into the unit rate on bills) would be around £2,450 over 12 months. The total spend on the contract is estimated to be £750,000 - £1,000,000 given current consumption and expected market conditions – given both of these elements are subject to change there is a degree of uncertainty around what actual spend on the contract will be.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. A contract for gas in the forecast amounts must be compliant with the Public Contracts Regulations 2015. The proposed framework provides a lawful route to procure the gas.
- 7.2. In order to procure via direct award, the Council must ensure that it retains written evidence that the supplier provides the council with best value and meets the requirements set down in the framework.
- 7.3. Once the contract is awarded the Council must place it on the relevant directorate contract register and place a relevant notice in Contracts Finder.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None identified

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None identified

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None identified

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. None