

CABINET

13 December 2022

CONTRACT UTILITIES PROCUREMENT

Report of the Portfolio Holder for Policy, Strategy, Partnerships & Economy

Strategic Aim:	A modern and effective Council Sustainable lives	
Key Decision: Yes	Forward Plan Reference: 160922	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Lucy Stephenson, Leader of the Council and & Portfolio Holder for Policy, Strategy, Partnerships & Economy	
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Ward Councillors	ALL	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the procurement of electricity energy contracts via both the ESPO Standard Total Energies Fuel Mix and CCS Zero Carbon for Business L6 frameworks direct award arrangement.
2. Approves the procurement of gas energy contracts via the ESPO framework direct award arrangement.
3. Approves the procurement of water services utility contracts via ESPO framework direct award arrangements.
4. Authorises the Strategic Director for Places, in consultation with the Portfolio Holder for Property, to award the contracts resulting from these framework agreements.

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| 5. Approve the £249k additional budget as a result of the Procurement as per section 10 |
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1. PURPOSE OF THE REPORT

- 1.1 This report sets out the background, process and proposed award options for the procurement of electricity, gas and water supply contracts by the Council along with recommendations for approval and delegation of final awards.
- 1.2 Economic & geopolitical volatility has introduced abnormal challenges to electricity and gas marketplaces restricting option availability. Remaining with our current framework providers will ensure access to favourable rates at this time and Council approval is sought to ratify this position.
- 1.3 Opportunities to support sustainability and carbon zero strategies are available for electricity supply sources with a recommendation made about supply sources.

2. BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Office of Government Commerce (OGC) in its report *OGC Energy Buying: Working Together for Better Results, 2009* recommended the use of Central Purchasing Bodies (CPB's) when sourcing energy contracts to effect greater value for money by consolidating buying power through accredited organisations who apply best practice criteria.
- 2.2 Rutland County Council has historically secured energy contracts from a mix of providers and frameworks all subject to differing contract renewal dates and unit charge rates. Details are provided at Appendix A. Most contracts require action to meet upcoming contract end dates. Other contracts are held on evergreen arrangements that automatically renew after the initial term expires.
- 2.3 Consolidating contracts will provide greater control, certainty and efficiencies to the Council in managing contracts and budgets.
- 2.4 Energy frameworks generally secure energy on international wholesale markets requiring clients to sign up at least 12 months in advance to enable buyers purchase at preferential rates. Clients are able to sign up to frameworks after initial deadlines but tariffs will be subject to what are known as secondary basket spot purchases until the subsequent anniversary of the framework, with these often at less preferential rates.
- 2.5 Most existing framework electrical contracts held by the Council benefit from a level of renewable or green energy supply but these are subject to a premium charge. These frameworks may also have included nuclear supply via hybrid supplies.
- 2.6 The proposed Crown Commercial Services (CCS) electricity framework gives an option to convert to standard or nuclear supplies at no extra charge or a hybrid of nuclear and green energy with a 50% reduction on UK renewable premiums. The proposed Eastern Shires Purchasing Organisation (ESPO) electricity framework gives an option for a hybrid solution of 43% renewables, 11% nuclear and the remaining traditional supplies, or a 100% green supply which currently attracts a

premium.

- 2.7 Recent geopolitical pressures have created volatility in pricing with a significant impact on budgets. 2022/23 gas energy unit rates have increased approximately 70% and electricity unit rates by 100 – 120%. These expected increases are applicable across all procurement solutions and impact all energy utility users.
- 2.8 The Council recently commissioned a review by The Carbon Trust in response to Carbon Zero 2050 legislation. The final report is expected to make recommendations in relation to baseline information and data collection, management and reporting with specific reference to energy usage of RCC assets and their contribution to the Council's total emissions and carbon footprint.
- 2.9 Water Services management, highlighted in the Carbon Trust report, is an area requiring more detailed review to understand liabilities and responsibilities especially to sites where there are no physical buildings i.e. car parks, cemeteries etc.
- 2.10 De-regulation of the water services industry in 2017 remains complicated and less well-developed than energy markets and as a result there are fewer options available in the market place for efficiencies and price competition.
- 2.11 Water services provision for the Councils portfolio is unlikely to generate substantial efficiency savings due to the lack of robust competition in the market. Efficiencies associated with management reporting and service control could be achieved by consolidation with one provider estimated in the region of 3 -5%.
- 2.12 In the event of supplier failure or inability to deliver services needed the framework provider will obtain services from alternative suppliers in the market and within the framework.
- 2.13 Utility services provision for the Councils portfolio is set out in Appendix A.
- 2.14 Details of available frameworks are shown in Appendix B.
- 2.15 Utility charges are recharged 3rd party occupiers of assets at The King Centre and Oakham Enterprise Park.

3. FRAMEWORK PROVIDERS FOR ELECTRICITY AND GAS

- 3.1 There are two framework providers currently available to the Council – ESPO and CCS. Details are shown in Appendix B.
- 3.2 ESPO, as a purchasing agent, acts as a specialist intermediary buying energy in volume on the wholesale commodity market. Frameworks are flexible and permit addition or removal of properties supplied in the event of changes in property ownership or occupation.
- 3.3 ESPO energy unit rates, routinely negotiated on an annual basis and fixed for a period of time helping budgetary control, are delivered via one of the following arrangements:
 - a. Fixed charge contract term between 12 – 48 months

- b. Flexible term contract with 12 month fixed unit rates based on criteria including preferential tie-in, energy consumption criteria and meter solution.
- 3.4 CCS as a purchasing agent acts as a specialist intermediary buying energy in volume on the wholesale commodity market. The framework arrangement is a four year cycle but contracts can continue on an evergreen basis subject to 12 months' termination notice.
- 3.5 CCS energy unit rates, negotiated with the wholesale commodity market, provide several options to fix rates allowing users to consider risk appetite and organisational need. Unit rates reflect the commodity market conditions at the time of engagement and are not known in advance. Options are shown in Appendix C.
- 3.6 Energy invoices are made up of consumption and non-consumption energy costs. Non-consumption charges include distribution, transmission and agent charges, government taxes and climate change levy. These non-consumption charges are defined and negotiated by OFGEM and are applicable to all providers.
- 3.7 Anticipated energy contract values for 2022/23 are based on 2021/22 consumption with unit rates adjusted to reflect expected inflationary pressures.
- 3.8 Both ESPO and CCS electricity frameworks enable clients to decide about energy sources from renewable, nuclear, fossil or a hybrid/mixed supply and supporting wider corporate objectives. The ability to make this decision can help support wider corporate objectives and policies and needs to be made on initial award.

4. FRAMEWORK PROVIDERS FOR WATER

- 4.1 There are two framework providers currently available to the Council – ESPO and CCS. Details are shown in Appendix B.
- 4.2 ESPO offer direct award within its existing framework for water services.
- 4.3 CCS water services framework commencing January 2023 requires a further competition exercise.
- 4.4 Both water services framework providers offer smart metering solutions, regular management reports and partnership working to analyse water consumption and leak detection.

5. ELECTRICITY

- 5.1 Current Provision:
- CCS framework supplies electricity to Oakham Enterprise Park, highways street lighting and traffic control provision.
 - ESPO framework supplies electricity to 16 Council property assets.
 - Car park electricity supplies are in the process of being consolidated with the highways street lighting and traffic controls contract agreement.
 - Unit charges vary across each current framework.
- 5.2 Proposed Arrangement:

- To enable the Council maintain access to competitive electricity contracts the following new direct award framework solutions are recommended for approval:

Framework	Asset	Supply Source	Carbon Emission	Premium Payable	Start Date	End Date
ESPO	All assets except OEP, Highways & car park services	Standard Total Energies Fuel Mix (renewable 43%, nuclear 11%, gas 38%, coal 6%, other 2%)	Not available	No	Oct 2024	Sept 2028
CCS	OEP, Highways & car park services	Zero Carbon for Business L6 (ZC4B Nuclear)	Zero	No	Oct 2023	Sept 2027

6. **GAS**

6.1 Current Provision:

- ESPO framework gas to 9 Council property assets

6.2 Proposed Arrangement:

- To enable the Council maintain access to competitive gas contracts the following new direct award framework solution is recommended for approval:

Framework	Asset	Start Date	End Date
ESPO	OEP, Catmose, Catmose Cottage, Jules House, Museum, Castle, King Centre, Oakham Library, Uppingham Library	Apr 2023	Oct 2027

- 6.3 The award of gas energy contracts under the ESPO framework will result in the first 12 month term being at an increased unit rate due to the initial sign-up date having passed however rates will then revert to the preferential rates available.

7. **WATER**

7.1 Current Provision:

- Due to the geographical location of Rutland, waste water and clean water service provision is directly provided by both Severn Trent Water and Anglian Water. The exception to this arrangement is The King Centre which is subject to a separate management intermediary contract with Everflow Ltd. There is limited opportunity for water utility cost savings with the potential exception of Oakham Enterprise Park.

7.2 Proposed Arrangement:

- It is proposed to pursue a consolidated position due to the ongoing complexities of mixed providers for individual buildings. The following new direct award framework solution is recommended for approval.

Framework	Asset	Start Date	End Date
ESPO	All assets	Oct 2020	Sept 2024

8. CONSULTATION

- 8.1 The proposed process and recommendations have been discussed with relevant Council services, the Portfolio Holder for Property and Cabinet Members.

9. ALTERNATIVE OPTIONS

- 9.1 An alternative framework PAGABO is potentially available but cannot be considered at this time as they have confirmed no energy providers are willing to engage new portfolio contracts until further notice.
- 9.2 Failure to procure will expose the Council to greater uncertainty with utility supplies and exposure to greater cost increase. The Council benefits from the buying power of other organisations by securing supplies via frameworks rather than securing its own contracts direct with suppliers.
- 9.3 The approval of award of the contracts could be brought back to Cabinet for approval rather than delegated to the Portfolio Holder and Strategic Director Places however the award will be made in line with the nominated framework criteria that Cabinet approve and therefore the only alternative to not approving the award would be if there was reasonable grounds to not award at all.

10. FINANCIAL IMPLICATIONS

- 10.1 As described throughout the report it is extremely difficult to state with any certainty what the impact on the Councils costs will be.
- 10.2 The exact costs and resulting additional pressure will not be known until the contract(s) are awarded as prices are still fluctuating. Costs are expected to increase between 100% - 120% on electricity and 70% on gas. The 22/23 forecast as per the mid year report is £579k for Electricity and £86k for Gas.
- 10.3 The full impact of the pressures will not be realised until 24/25 due to current contracts running until October 2023 meaning only a half year impact will affect the

councils MTFP in 23/24

10.4 The cost of the procurement is expected to be £510k of which £224k will be met by increasing recharges to tenants and £37k transferring of other property budgets under utilised at present (mainly less water usage as Catmose House is not fully occupied). This will result in a full year pressure to the Councils MTFP of c£249k in total from 24/25 but only £149k in 23/24 due to contract start dates.

10.5 It is expected that the water element of utilities will be able to be met from existing budgets as they have not seen the same inflationary increases as gas and electricity.

11. LEGAL AND GOVERNANCE CONSIDERATIONS

11.1 Procurement processes will be managed by the Council to ensure it complies with the requirements of all legislation including the Public Contracts Regulations 2015.

11.2 Access to the recommended frameworks will be undertaken in accordance with the Council's Contract Procedure Rule 16 and the direction of Cabinet and will enable the Council secure priority unit rates within the commodity market purchase cycles for 2024 onwards and reflecting electricity source preferences.

11.3 Legal advice on the process has been sought and further advice will be taken as the process proceeds, including advice on contracts terms and conditions.

12. DATA PROTECTION IMPLICATIONS

12.1 A Data Protection Impact Assessment (DPIA) has been completed. No adverse or other significant risks or issues were found.

13. EQUALITY IMPACT ASSESSMENT

13.1 An Equality Impact questionnaire has been completed. No adverse or other significant risks or issues were found. As such a full Equality Impact Assessment (EqIA) has not been completed.

14. COMMUNITY SAFETY IMPLICATIONS

14.1 Provision of lighting, heating and water, as appropriate to asset type, is important to maintain safe environments.

15. HEALTH AND WELLBEING IMPLICATIONS

15.1 None

16. ORGANISATIONAL IMPLICATIONS

Environmental implications:

The Council will be able make a decision about its preferred electricity source from renewable, nuclear, fossil or a hybrid/mixed supply.

Human Resource Implications:

None at present

Procurement Implications:

The Council's Commissioning Manager and Welland Procurement Unit will continue to support the procurement and ensure all relevant legislation and guidance is followed.

17. SOCIAL VALUE IMPLICATIONS

- 17.1 Framework award criteria include specific accreditation to Social Value opportunities allowing the selection by the Council of energy sources from renewable, nuclear, fossil or a hybrid/mixed supply. This enables the Council to align decisions about energy sources with other policies and strategies and future carbon footprint.

18. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 18.1 In order for the procurement process to commence Cabinet is required to approve the proposed transition to the new framework agreements. The frameworks have been carefully considered to ensure providers are capable of meeting the requirements and can deliver appropriate quality services in Rutland.
- 18.2 Approving the recommended frameworks for electricity supplies reduces Council carbon emissions and results in no additional premium charges being paid.

19. BACKGROUND PAPERS

- 19.1 There are no additional background papers to the report.

20. APPENDICES

- 20.1 Appendix A - Rutland County Council Utility Provider Arrangements 2022/23
- 20.2 Appendix B - Future Available Utility Frameworks and Recommendations
- 20.3 Appendix C - Electricity and Gas Framework Options and Recommendations

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

APPENDIX A

Rutland County Council Utility Provider Arrangements 2022/23

Energy Source	Provider	Asset(s)	Contract End
Electricity	Total Energies Gas & Power Ltd / ESPO	16 assets	1 October 2024
Electricity	EDF Ltd / CCS locked 6 trading basket	Oakham Enterprise Park (HV supply)	1 October 2023
Electricity	EDF Ltd /CCS	Highways street lighting & traffic controls	1 October 2023
Electricity	N Power Ltd/ No framework	Public Car Parks	1 October 2023
Electricity	Eon Ltd/ No framework	Cottage 2 Ashwell depot	Evergreen contract
Gas	Total Energies Gas & Power Ltd/ ESPO	9 assets	31 March 2023
Water services	Wave & Water Plus (formally known as Seven Trent & Anglian Water) / No framework	28 sites	No prescribed termination clause however industry practice 120 days advance notice.
Water services	Everflow water Ltd/ No framework	The King Centre	21 July 2023 – 120 day notice required of termination

APPENDIX B

Available Utility Frameworks and Recommendations

Provider	Utility	Start date	End Date	Preferential Rate Deadline	Recommendation
ESPO	Electricity	Oct 2024	Sept 2028	Oct 2023	Yes
CCS	Electricity (See options available below)	Oct 2023	Sept 2027	Mar 2023	Yes
PAGABO	Electricity	Oct 2024	Sept 2028	n/a	
ESPO	Gas	Apr2023	Apr 2027	Apr 2022	Yes
CCS	Gas	Oct 2023	Oct 2027	Mar2023	
PAGABO	Gas	Oct 2024	Sept 2028	n/a	
ESPO	Water Services	Oct 2020	Sept 2024	Direct award	Yes
CCS	Water Services	Jan 2023	Jan 2027	n/a	
PAGABO	Water Services	Oct 2024	Oct 2028	n/a	

APPENDIX C – Electricity and Gas Framework Options and Recommendations

CCS Framework Electricity Options Preferences Available:

Solution Option	Carbon Emissions	Premium Payable	Recommendation
REGO renewable	Zero	Yes - wholesale market defined	
Zero carbon for business (ZC4B Nuclear) – See Options Available below	Zero	No	Yes
Blend ZC4B / REGO	Zero	50% REGO premium applicable	
Standard (Brown)	129g/KWH	No	

CCS Electricity Options Available:

CCS energy unit rates, negotiated with the wholesale commodity market, provide several options to fix rates allowing users to consider risk appetite and organisational need. Unit rates reflect the commodity market conditions at the time of engagement and are not known in advance.

- a. L12 –purchase window 12 months before energy delivery (12 month fixed rates)
- b. L6 – Purchase window 6 months before energy delivery (12 month fixed rates) – recommended option – Recommended
- c. V6 – Purchase window 6 months before energy delivery but purchasing continues throughout energy delivery timeline (variable monthly rates)
- d. L12 locked – Purchase window 10 weeks prior to delivery, provides advance notice of rates (Prices fixed for 12 months).
- e. V6 Variable – Purchase window 18 months but commences 6 months before delivery (prices fixed on a month by month basis only)
- f. V30 – 42 month purchase window with 30 months prior to delivery (price fixed 12 months at a time)

ESPO Framework Electricity Options Preferences Available:

Solution Option	Carbon Emissions	Premium Payable	Recommendation
Pure Green Energy	Zero	Yes - wholesale market defined	
Standard Total Energies Fuel Mix (43% renewable / Nuclear 11% / Gas 38% / Coal 6% / other 2%)	Not available	No	Yes