
A separate report is submitted in the private part of the agenda in respect of this item, as it contains information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972 as amended. The grounds for privacy are that it contains information relating to the financial and business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Cabinet
Council

12th March 2024
19th March 2024

Name of Cabinet Member:

Cabinet Member for Strategic Finance and Resources – Councillor R Brown

Director approving submission of the report:

Director of Regeneration and Economy

Ward(s) affected:

All

Title:

Procurement of a New Contract for the Supply of Electricity and Ancillary Services

Is this a key decision?

Yes - the proposals involve financial implications in excess of £1m per annum and are likely to have a significant impact on residents or businesses two or more electoral wards in the City.

Executive summary:

Electricity spending fluctuates due to various factors like global events affecting energy markets. The current contract covers electricity for over 250 Council facilities and around 100 other places like schools.

The Council's electricity contracts end on September 30, 2024. By starting the process early, the chosen supplier can buy energy over time instead of all at once, which helps avoid sudden price increases in the market.

Since 2016, the Council has been using the Eastern Shires Purchasing Organisation (ESPO) framework to buy electricity. ESPO acts as an intermediary, allowing the Council to access wholesale markets typically only available to large buyers. While this framework has helped manage market volatility to some extent, it's not very flexible and historically has not taken full advantage of renewable energy and new market opportunities.

By partnering with E.ON as the new Strategic Energy Partner, the Council can access a customized supply arrangement that opens up opportunities to save costs and generate revenue from new energy market mechanisms. This partnership allows the Council to tap into E.ON's expertise and resources in ways that weren't possible before.

The recommended option presents the best available opportunity for the Council to minimise the costs associated with the supply of electricity. Besides potential cost savings and flexibility, this new approach also aims to deliver more social value directly related to the Council's electricity needs.

This report :-

- a) Seeks approval to enter contracts with E.ON UK PLC and its subsidiaries Npower and E.ON Next, as part of the Strategic Energy Partnership contract procured via competitive dialogue in compliance with Procurement Regulations 2015, signed on September 12, 2023.
- b) Informs Council of the decision undertaken by the Chief Executive on 19th December 2023 in accordance with the Constitution to exercise emergency functions to secure an immediate hedging of energy using an interim 12 month standard flex contract which will be superseded by the supply contract in this report should the recommendations be approved.

Recommendations:

Cabinet is requested to recommend that Council:

- 1) Approves the proposal to enter into an electricity supply contracts pursuant to the Strategic Energy Partnership for the supply of electricity up to 31st March 2030.
- 2) Delegates authority to the Director of Finance and Resources, following consultation with the Director of Regeneration and Economy and the Director of Law and Governance, to finalise the terms and conditions of the supply contract and any other legal agreements required to facilitate delivery of the electricity supply and its ancillary services.
- 3) Delegates authority to the Head of Energy Services, following consultation with the Director of Regeneration and Economy, to oversee the ongoing management of the wholesale purchasing strategy during the term of the contract.
- 4) Notes the exercise of the emergency functions by the Chief Executive on 19th December 2023 pursuant to Paragraph 3.8 (a) of Part 2M of the Constitution to secure an immediate hedging of energy using an interim 12 month standard flex contract.

Council is requested to:

- 1) Approve the proposal to enter into an electricity supply contracts pursuant to the Strategic Energy Partnership for the supply of electricity up to 31st March 2030.
- 2) Delegate authority to the Director of Finance and Resources, following consultation with the Director of Regeneration and Economy and the Director of Law and Governance, to finalise the terms and conditions of the supply contract and any other legal agreements required to facilitate delivery of the electricity supply and its ancillary services.
- 3) Delegate authority to the Head of Energy Services, following consultation with the Director of Regeneration and Economy, to oversee the ongoing management of the wholesale purchasing strategy during the term of the contract.
- 4) Note the exercise of the emergency functions by the Chief Executive on 19th December 2023 pursuant to Paragraph 3.8 (a) of Part 2M of the Constitution to secure an immediate hedging of energy using an interim 12 month standard flex contract.

List of Appendices included:

None

Background papers:

None

Other useful documents

Pan Government Energy Project Reports (OGC)
National Energy Category Strategy for Local Government 2022 (LGA)

Has it or will it be considered by Scrutiny?

No

Has it or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Yes - 19th March 2024

Report title: New Contract for the Supply of Electricity and Ancillary Services

1. Context (or background)

1.1. Energy Demand

The purchase of electricity is a core requirement to enable the Council to operate. The Council's demand for electricity is associated with almost every aspect of service from traditional functions like our buildings and streetlighting but increasingly for new aspects such as the Council's electric fleet. The quantity of electricity that the Council consumes on an annual basis has been increasing since the pandemic largely due to the electrification of heat and transport and is expected to rise further due to the expansion of the streetlighting and traffic management networks in the city.

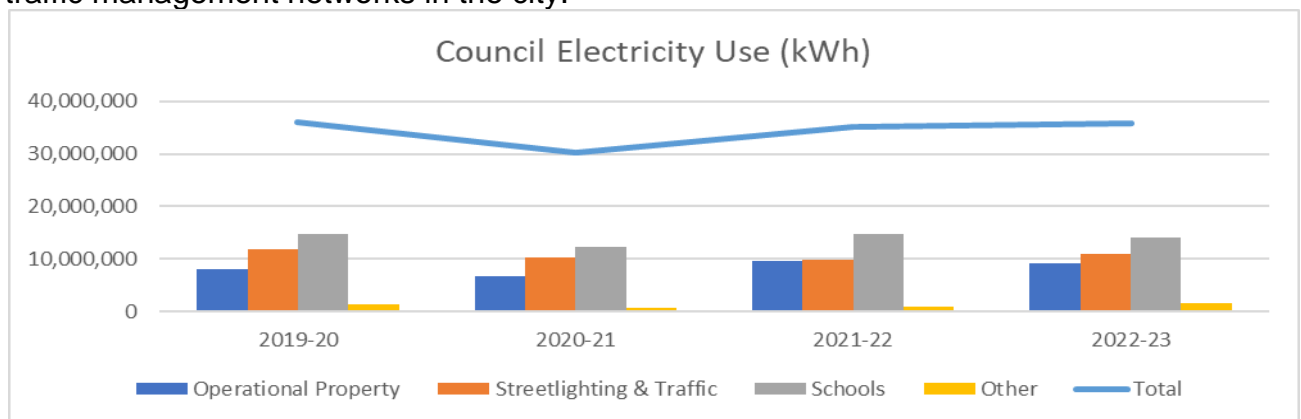


Figure 1 - Annual Electricity Use of Supplies on Coventry City Council's Contract by Sector

Some of this additional demand has been offset through efficiency improvements made to our assets and some has been met through the deployment of Solar PV across the Council estate over the past few years. The below shows the growth in onsite renewable energy generation that has supported the operational property demand above.

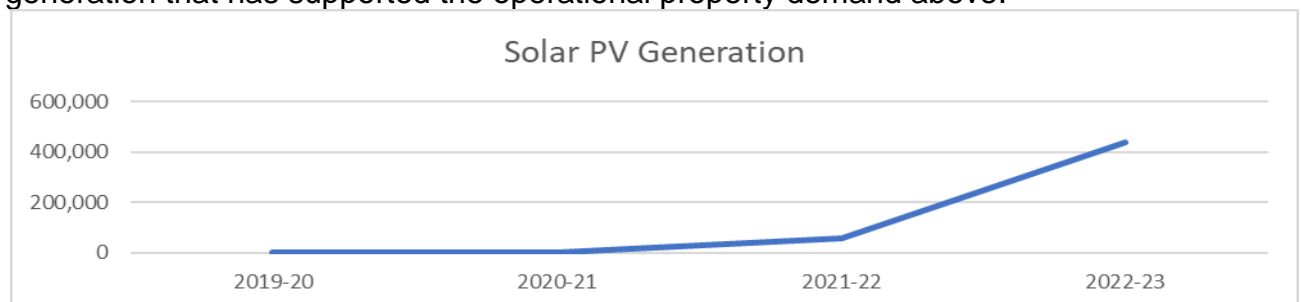


Figure 2 - Annual Solar PV Generation from Council Owned Systems on Operational Properties

1.2. Energy Costs

The cost of energy has also seen significant increases over recent years due to global geopolitical events and changing UK policies. The price of electricity is made up from 4 main components: Wholesale Costs, Network Costs, Social & Environmental Costs and Supplier Costs. The below figure provides an average split of these various elements currently on a typical Council bill.

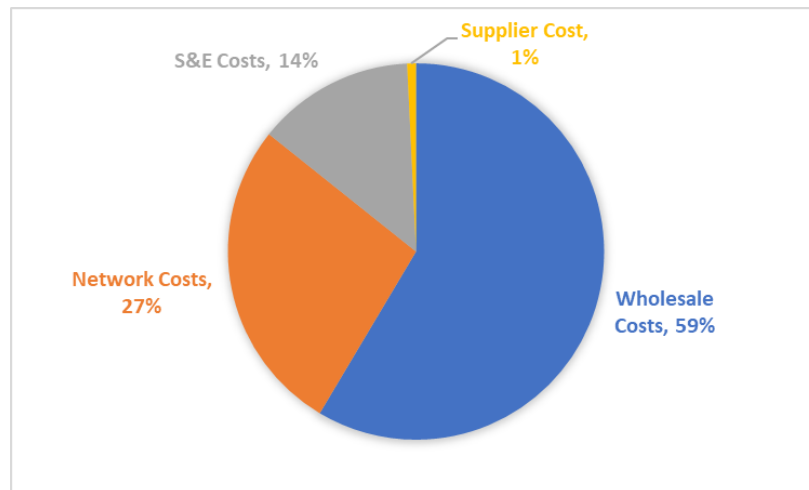


Figure 3 - Typical Breakdown of Current Electricity Spend by Cost Type

The unprecedented turmoil in the energy markets over the past couple of years have presented significant cost pressures in relation to the cost of electricity. At its peak electricity costs were over 10 times the recent average. The Council's current approach to procuring electricity using flexible procurement has successfully limited the impact of this market variation

Network Costs have also seen significant increases recently following the outcomes of the Electricity Market Reform process. This has seen a shift in how the costs associated with the management and improvement of the transmission and distribution networks are recovered. Many of these charges are set as part of regulated price reviews undertaken by Ofgem but are also subject to annual adjustment index linked to inflation. The high rates of inflation over the past year have seen significant increases in these charges.

Social and Environmental Costs have increased significantly over the past decade as a result of national policies. These charges are mechanism introduced to recover the costs of various national schemes such as incentives for Solar PV and other renewable energy programmes. Whilst these schemes are often time limited in terms of duration and therefore should fall over time, they are also often index linked to inflation. The current high rate of inflation has resulted in significant increases in these charges.

The Supplier Costs associated with the cost of electricity are only a very small proportion of the overall cost of electricity. These charges relate to the administration costs and supplier margins relating to the supply of electricity. The current cost of living crisis and associated wage inflation has resulted in these costs increasing across the industry. To remain commercially competitive there has been significant consolidation within the supplier base and a general move to the use of digital and automated processes.

1.3. Contract Value

Forecasting the spend on each year of the contract accurately is complex due to the number of variables involved. The actual spend will depend on both how the consumption varies as well as how the various cost elements vary over the term of the contract. The recent volatility in energy markets, high inflation and requirements for Net Zero all add additional uncertainty in the overall contract value for the electricity contract.

In order to align the energy pricing periods with the Council's financial year and to enable the schools to access the 24-month pricing period we are seeking to enter into a contract until 31st March 2030.

The actual contract spend for each year will be forecast and reviewed annually during the Council's overarching budget setting process. The forecast contract spend is defined by the Council's current budget expectations.

Not entering into the contract by October 2024 would result in the Council being charged variable deemed rates which would drive significant financial risk as the spend would be based upon market factors at the time.

1.4. Energy Contract Types

There are generally 3 types of electricity contract available: **Fixed Price Contracts**, **Flexible Fixed Priced Contracts** and **Flexible Variable Price Contracts**. Each option has its own benefits and drawbacks.

Fixed Price Contracts set prices at a single point of time based on the wholesale market at that time. These contracts provide complete certainty of costs for the contract period however places risk on what the prevailing market conditions are on the day they entered into. Customers required to renew their fixed price contracts were most exposed to the high market conditions last winter.

Flexible Fixed Price Contracts are where all energy is purchased in advance over a defined period with prices finalised at the start of each contract year. This allows greater flexibility as to when energy is purchased and therefore enables prices to be locked in early if prices are rising or locked in late if prices are falling. This approach also provides a level of certainty as the prices become fixed at the start of each contract period. This is the recommended approach for public sector organisations.

Flexible Variable Price Contracts are where some energy is purchased in advance over a defined period with the remainder purchased within the contract year. The degree of variability is agreed in advance and determines how frequently the prices are locked in during the contract year. This approach maximises the opportunity to achieve lower prices (particularly in a falling market) but reduces budget certainty as prices can rise or fall during the course of the contract year dependent on market conditions.

Only the use of Flexible Fixed Price Contracts is therefore considered in this report to align with the recommendations for public sector organisations by the Pan Government Energy Project undertaken by The Office of Government Commerce.

1.5. Additional Considerations

The increase in renewable energy generation in the UK energy supply mix has introduced increasingly complex and dynamic solutions to ensure the reliability of supply in the UK. This has resulted in a range of new incentives and opportunities for organisations to benefit financially from adjusting their energy use dynamically in response to network demands. Innovative solutions such as Time of Use tariffs or Demand Flexibility Services are increasingly becoming available in the market. The recent deployment smart heating systems and battery storage solutions within Council buildings and the electrification of the fleet have

potentially provided the Council with opportunities to take advantage of such incentives and offset the unavoidable increase in costs associated with the core supply of electricity.

Electricity usage is currently the largest contributor to the Council's carbon footprint. Therefore, the carbon intensity of the electricity purchased should be taken into consideration. There are direct and indirect options for the Council to make an impact on the emissions related to power use. The Council can deploy low carbon energy solutions directly reducing the amount of imported energy used (for example with a Solar Farm). This will need a flexible contract that does not penalise the Council for reducing the volume of energy it purchases. Alternatively, the Council can indirectly reduce emissions through considering the supplier's fuel mix as part of procurement.

1.6 Exercise of Chief Executive Emergency Functions

Part 2M of the City Council's Constitution provides for the Scheme of Functions delegated to Employees including the Chief Executive/Head of Paid Service.

Paragraph 3.8(a) of Part 2M of the Constitution enables the Chief Executive, following consultation with the Leader, to make decisions required in an emergency.

The Chief Executive was satisfied that the following decision was required to be taken pursuant to the emergency provision and that, in all cases, the circumstance constituted an emergency:-

- a) securing an immediate hedging of energy using an interim 12 month standard flex contract.
- b) Delegation of authority to the Director of Business Investment and Culture in consultation with Head of Energy Services and Law and Governance Services to enter into the necessary legal documentations

The purpose and objectives of the contract is:-

- to enable immediate hedging of energy using an interim 12-month standard flex contract;
- currently energy prices are not being too greatly affected by international geopolitics or network issues and are benefiting from the mild start to the winter. This could change over the next couple of months resulting in significant market movement which could result in additional costs to the Council;
- delaying the start of trading to February or March 2024 would increase the risk that the Council has to pay a higher price for energy than it would have otherwise paid;
- the arrangement provides a route to market and enter into a contract immediately as a result of the procurement of the Strategic Energy Partnership (SEP);
- the value for money element is access to hedging now rather than waiting as prices are relatively low; and

- The additional flexibility available from not being contracted within a centrally managed, multi-organisation framework arrangement ESPO our existing contract, offers the electricity contract to be an enabler for other activity that the Council wishes to investigate with the SEP. It allows for the Council and the SEP to utilise the electricity contract as another tool to enable innovative Net Zero action.
- Continue with existing energy arrangements with schools and other community associated organisations that account for approximately 1/3 of the overall annual spend on the contract.

The above decision including the reasons for the decisions taken, have been published on the City Council's website.

2. Options considered and recommended Proposal.

2.1. Do Not Enter a Contract (Not Recommended)

If the Council does not enter an electricity supply contract, the building supplies would remain with the existing supplier but move onto Variable Deemed Rates. These rates can change monthly and are dictated fully by the market conditions at the time and are usually around double the cost of being in a basic contract. The Council would also only have the most basic protections provided by statutory regulated terms and conditions.

This option is not recommended due to the additional cost and risk associated with being out of contract.

2.2. Standalone Procurement of Energy Supplier or Broker (Not Recommended)

The council could run a stand-alone procurement activity to directly appoint an energy supplier or broker. This is not an approach undertaken by most Local Authorities as it loses the ability to benefit from the savings associated with collective purchasing via a public sector framework. Whilst this approach would access the full electricity supplier market, it would add significant additional risk, cost and resourcing requirements to facilitate the process. This approach can sometimes be effective for short-term contracting or very low volume requirements, particularly where a fixed price contract is desired, however, it can lead to a restricted range of contracting options.

This approach is not recommended for the Public Sector as it historically has not delivered financial savings compared to the use of a Public Sector Frameworks via a Public Buying Organisation.

2.3. Call-off Public Sector Framework via a Public Buying Organisation (Not Recommended)

There are a number of Public Sector Frameworks available for the procurement of electricity supplies. Through this route the Public Buying Organisation (PBO) undertakes the procurement of the framework supplier, undertakes price negotiation, manages the contract with the supplier and usually manages the trading decisions on behalf of the organisations using the framework. The framework terms and management practices align with the best practice recommendations of the Pan Government Energy Project. Most frameworks offer 1 or more "baskets" to be a part of. Each "basket" offers a specific buying strategy.

Of the 6 PBOs with energy frameworks available, 3 currently use Npower, 2 use EDF Energy and 1 uses Total Energies. Due to the difference in Contract Period for each of the frameworks moving between them can result in either short periods of Variable Deemed Rates or fixed price rates if the desired “basket” has already begun hedging energy.

These frameworks historically have derived financial savings compared to standalone procurement exercises due to the scale of purchasing being undertaken, however, the Council has less direct control in the terms of the contract and therefore it can limit the Council’s ability to benefit from regulatory changes and technology innovations that develop, or significant market events as was observed during Covid 19. The variety of buildings and other electricity using activities within the Council’s responsibility means that often compromises need to be made when selecting the appropriate “basket” to join.

This option is not recommended as it would deliver less flexibility for risk management and overall value for money compared to the bespoke contract available to call-off via the Strategic Energy Partner Contract.

2.4. Bespoke Contract Call-off from Strategic Energy Partner Contract (Recommended)

The Council has the unique opportunity to call off the new Strategic Energy Partner (SEP) Contract with E.ON UK. The ground-breaking SEP contract has enabled a bespoke electricity supply contract arrangement to be offered to the Council that blends the hedging practices of traditional public frameworks with additional agility, control and cost saving opportunities that delivers the best potential for the Council to achieve financial savings compared to other contracting options.

The main structure of the proposal is based around the governance and best practice approaches of a PBO energy framework. This is however enhanced by making use of the smaller volume requirements that now exist for wholesale market participation, the recently deployed solar PV and battery storage assets the Council owns and anticipation of the changes in regulation coming through from the Electricity Markets Reform. A key aspect of the proposal is providing the Council with sufficient flexibility within the contract to not only minimise the cost of purchasing the electricity commodity itself but also operating our buildings and pricing mechanism such that it minimises the exposure to the increasing non-commodity costs that currently make up a significant part of the electricity bill.

This option delivers a financial saving on the fixed costs related to the contract such as Management Fees, Supplier Margins and Metering Service Costs compared to the current PBO framework contract. These costs account for less than 1% of the overall contract spend and therefore are less significant than the opportunities for savings relating to the wholesale energy costs and network costs that this option enables compared to a standard PBO framework contract.

The proposal also offers the inclusion of “affiliate” and “member” customers within the contract. This enables the Council to potentially support stakeholders in the city without the need to set up a Local Authority energy company.

The observation that Npower has been awarded the supply contract for 50% of the PBO frameworks recently tendered provides additional confidence in their ability to provide appropriate trading services to the Public Sector. This option also delivers specific additional

social value activities compared to contracting via a PBO framework. Further enhancement over the standard PBO frameworks is that this bespoke contract commits to providing an increased proportion of certificated renewable energy compared to the current PBO contract. This enables the Council to further support its key priority of tackling the causes of climate change.

Through the SEP, E.ON UK have been able to draw upon its expertise and develop a bespoke solution as outlined above for Coventry that better serves the Council's requirements than the standard market products and presents better opportunities to deliver savings in relation to electricity purchase. Therefore, this bespoke option is recommended in preference to a call-off from an existing PBO framework.

3. Results of consultation undertaken

- 3.1. The possible options for electricity supply were consulted with the 3 primary services that currently rely on the contract: Corporate Property, Streetlighting and Education. The benefits and drawbacks of each option were discussed, and all services agreed that the proposed recommendation of awarding via the Strategic Energy Partnership presented the best solution to their respective needs.
- 3.2. Following consultation, it was recommended that education and 3rd sector organisations that are currently supported through access to the Council's energy contracts should continue to be offered this support however additional governance is to be introduced to better protect the Council's position in the event of any default. The proposal is to achieve this with supplementary contract arrangements between the relevant organisations, the supplier and the Council.

4. Timetable for implementing this decision.

- 4.1. The contract will commence as soon as the terms and conditions have been agreed.
- 4.2. In relation to the exercise of the emergency function, in light of the urgent nature of the matter detailed in paragraph 1.6 above, the decisions were implemented immediately.

5. Comments from the Director of Finance and Resources and the Director of Law and Governance

5.1. Financial Implications

By entering into the supply contract at the values indicated, this does not fix the contract cost based on a fixed unit price or level of activity which can be subject to fluctuation dependent on annual energy consumption and any changes to the asset base supported. If the total contract value at any time was expected to be above that indicated, further approval would need to be sought.

The 2024/25 contract values assumed in this report are in line with the budget proposals considered by Council on 20th February 2024. The Council reviews its energy budgets annually in line with the budget setting process and will reflect any changes to consumption, asset base and price as part of this process over the life of the contract.

The values assumed within the contract reflect an estimate of potential growth and inflationary increase which if realised will form the basis of future budget considerations. The total contract value also includes costs of electricity of schools and other independents within the city that enables them to purchase from the same contract and support delivery of net zero in the city. As highlighted in the legal implications, these organisations will be required to sign contracts with the council to ensure financial risk of this part of the contract is managed.

Of the overall contract value, 57% is for the estimated Council cost of the contract over the contract period with the balance of 43% representing schools and independents.

5.2. Legal Implications

The Council has the power to enter into the electricity supply contract under section 1 of the Localism Act 2011 ("LA 2011"), which broadly gives the Council the power to do: -

- anything that an individual may do;
- for a commercial purpose or otherwise for a charge; and
- for the benefit of other areas than the Council's administrative areas,
- such power generally being known as the "General Power of Competence" or "GPC" for the purpose of this report.

The Council as part of achieving net zero will also be purchasing energy on behalf of schools and independents to help achieve greater savings across Coventry. The Council will enter into contracts with schools and other independents who participate in this electricity contract.

The Council as part of purchasing electricity on behalf of the Schools and Independents will provide the following services: -

- Procurement Management
- Contract Management
- Drafting the Service Level Agreements and entering into the necessary agreements
- Hedging Strategy Management
- Bill Validation and Query Support
- Provision of Data Management/Record Management
- Site Works Support

The cost of providing this will be recovered through an administration charge for the costs incurred by the Council on a cost recovery basis.

The Council has several powers to directly provide and charge for services including for the Schools and Independents: -

- (1) s93 of the Local Government Act 2003 ("**LGA 2003**") – which provides the Council with the power to charge for discretionary services; and
- (2) s1 of the Local Authorities (Goods and Services) Act 1970 ("**LAA 1970**") which allows the Council to provide and charge for goods and services (including administrative, professional and technical services).
- (3) s93 of the LGA 2003 only allows the Council to charge on a 'cost-recovery basis'; and
- (4) s1 of the LAA 1970 only permits trade with other public bodies.

5.3. Procurement Compliance

The Council undertook a Public Contracts Regulations 2015 compliant competitive dialogue procedure to identify and appoint a Strategic Energy Partner and enter into a contract with E.ON UK PLC on the 12th September 2023 (the SEP Procurement).

In addition to the mandatory and discretionary exclusion grounds, the bidders were tested against technical capability, value for money and social value (as well as Legals for the final contract form), complying with the PCR2015 requirement of “Most Economically Advantageous Tender”. The process was transparent throughout, with the detailed requirement outlined in the Prior Information Notice (PIN), Contract Notice (CN) and subsequent Contract Award Notice (CAN) published on the mandated Find A Tender portal.

The supply of electricity contract is procured under CPV Code 09300000 which is included in the SEP Procurement.

From a value for money perspective – the offer provides the following:

- Reduction in overall fixed costs associated with administration fees, commission and service fees required to deliver the electricity supply provision to the Council.
- The ability to secure a greater level of revenue savings relating to the Council’s existing renewable energy assets.
- The Council will have additional flexibility within the contract to minimise the cost of purchasing the electricity commodity and reduce exposure to increasing non-commodity costs.
- Additional Social Value commitments including educational support and energy advice to Coventry schools, volunteering commitments with Coventry based community organisations and work experience opportunities for young people in Coventry and benefits associated with local employment involved in the delivery of the contract.

Exercise of Chief Executive Emergency Functions

Part 2M of the City Council’s Constitution provides for the Scheme of Functions delegated to Employees, including to the Chief Executive/Head of Paid Service. Paragraph 3.8 of Part 2M enables the Chief Executive, following consultation with the Leader, to make decisions in an emergency.

6. Other implications

6.1. How will this contribute to the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

This approach ensures that all parts of the council can benefit from a coordinated and managed electricity supply contract. The proposed approach looks to build on the financial savings by enabling further non-commodity savings and potential revenue opportunities through participation in emerging ancillary energy markets.

This also allows for the Council to act as an enabler to provide other Coventry organisations such as schools and community organisations to access the route to market should they wish to participate. The opportunity to facilitate helps support the Council's ambition to be a partner and enabler for wider stakeholders. Through the Council acting as an agent not a supplier, it enables the widest possible approach that supports the One Coventry Plan without the risks associated with directly operating an energy company.

The contract guarantees to supply an increased proportion of renewable energy. This helps to discharge the Council's existing Climate Change Strategy commitments. This will reduce the Council's impact on Climate Change as a result of its activities and support the One Coventry Plan key priority of tackling the causes and consequences of climate change.

6.2. How is risk being managed?

The basis of Flexible Procurement for electricity purchasing is the key risk management consideration in the proposal. Furthermore, the proposal utilises the trading experience within the Strategic Energy Partner to guide and support the Council through the complex wholesale market environment in a transparent manner. The proposal also includes for a series of governance and performance management measures that will enable the Council to support contract management and delivery of the service. This helps to support the aims and objectives of the Strategic Energy Partnership with E.ON UK PLC.

The contract is to be managed by the Council's Energy Management Services team within Property and Development Directorate. This is a multi-award-winning energy services team that has specialist capability in relation to energy management, bureau services and energy projects and now centrally oversees all of the Council's utility supplies including electricity, gas, water, heat and Solar PV arrangements.

6.3. What is the impact on the organisation?

The approach enables the Council to have a greater level of flexibility and control of outcome without requiring significant additional resource to be identified and funded. Making use of the Strategic Energy Partnership will help to reduce costs for delivering an effective electricity supply contract whilst also significantly opening up opportunities for the Council to be agile in the energy market and deriving additional benefits throughout the contract term.

6.4. Equalities / EIA?

This project does not have any direct impact on the Council's equality responsibilities although it is anticipated to assist with the continuation of broader service delivery through mitigation of cost implications with provision of electricity. There is also enhanced social value associated with the proposed contract route including support to schools and employment opportunities for disadvantaged Coventry residents.

6.5. Implications for (or impact on) climate change and the environment?

The contract is indirectly supporting the furthering of actions that help to address and mitigate the causes of climate change. The contract has the ability to deliver 100% renewable energy if required but more importantly has flexibility to maximise the benefit from the Council's ability to actively reduce energy usage, increase local renewable energy generation and adopt

smart technology. The enhanced freedom and benefits that the proposal offers will help to remove barriers and support the financial viability of transitioning to Net Zero.

6.6. Implications for partner organisations?

The proposed arrangement allows for partner organisations to benefit from the Council's electricity contract subject to E.ON UK PLC and CCC consent. Schools are one such example of organisations that will have the ability to benefit from the contract.

Report author:

Lowell Lewis
Head of Energy Services

Service Area:

Property Services and Development

Tel and email contact:

Tel: 024 7697 1916

Email: Lowell.Lewis@coventry.gov.uk

Enquiries should be directed to the above person

| Contributor/approver name | Title | Service Area | Date doc sent out | Date response received or approved |
|---|--|-----------------------------------|--------------------------|---|
| Contributors: | | | | |
| Gurbinder Singh Sangha | Corporate and Commercial Lead Lawyer | Law and Governance | 11/01/2024 | 08/02/2024 |
| Ewan Dewar | Head of Finance | Finance and Resources | 11/01/2024 | 08/02/2024 |
| Hakan Bikim | SEP Delivery Manager | Strategic Energy Partnership | 11/01/2024 | 22/01/2024 |
| Daniel Peters | Head of Facilities Management | Property Services and Development | 11/01/2024 | 22/01/2024 |
| Rachael Sugars | Head of Education Improvement and Standards | Education and Skills | 11/01/2024 | 22/01/2024 |
| Michelle Salmon | Governance Services Officer | Law and Governance | 15/02/2024 | 15/02/2024 |
| Names of approvers for submission: (officers and members) | | | | |
| Oluremi Aremu | Head of Legal and Procurement Services, Law and Governance | | 08/02/2024 | 16/02/2024 |
| Richard Moon | Director of Property Services and Development | | 08/02/2024 | 15/02/2024 |
| Colin Knight | Director of Innovation | | 08/02/2024 | 15/02/2024 |
| Kirston Nelson | Director of Partnerships and Performance | | 08/02/2024 | 15/02/2024 |
| Barry Hastie | Director of Finance and Resources | | 08/02/2024 | 16/02/2024 |
| Andy Williams | Director of Regeneration and Economy | | 08/02/2024 | 19/02/2024 |

| | | | |
|------------------------|--|------------|------------|
| Councillor P Hetherton | Cabinet Member for City Services | 16/02/2024 | 19/02/2024 |
| Councillor K Sandhu | Cabinet Member for Education and Skills | 16/02/2024 | 19/02/2024 |
| Councillor J O'Boyle | Cabinet Member for Jobs, Regeneration and Climate Change | 16/02/2024 | 19/02/2024 |
| Councillor R Brown | Cabinet Member for Strategic Finance and Resources | 16/02/2024 | 19/02/2024 |

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