

11 October 2012

Brighton & Hove City Council

<b>Subject:</b>	<b>Corporate Procurement of Energy – Non Half Hourly Electricity (sub 100kW) Contract Commencing April 2013</b>		
<b>Date of Meeting:</b>	<b>11<sup>th</sup> October 2012</b>		
<b>Report of:</b>	<b>Strategic Director – Place</b>		
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<b>Wards affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

### **1. SUMMARY AND POLICY CONTEXT**

- 1.1 This report explains the options available for the re-procurement of the Council's non half hourly (sub 100kW) electricity supply. The portfolio comprises the smaller council sites within the City including the majority of schools, a range of administration buildings, libraries, sports pavilions and some housing sites.
- 1.2 The Council currently procures its non half hourly (sub 100kW) electricity supply direct from a utility company. However, the energy market remains volatile and to mitigate this a more flexible method of procurement is proposed through a Central Purchasing Body similar to that successfully employed for the procurement of the Council's gas and half hourly (over 100kW) electricity supplies and as described in Section 3.0 below.
- 1.3 For many years the Council has specified that its electricity supply must be produced from 100% renewable sources. However this requirement alone does not guarantee additionality in the market and some suppliers simply sell a proportion of the renewable energy they are legally obliged to produce in any event. A further alternative is a 'Green Certified' supply where suppliers must demonstrate that the activity associated with their green tariff is in addition to what they are already legally required to do and as described in Section 4.0 below. Research has shown that Sutton and Middlesbrough, both accredited through One Planet Living, do not purchase "Green Certified" supplies and that Sutton are procuring a similar supply to the council through LASER, a Central Purchasing Body (CPB).

### **2. RECOMMENDATIONS**

That Policy & Resources Committee –

- 2.1 Authorises the Head of Property and Design to approve the procurement and award of a contract for a maximum period of four years for the Council's non half hourly (sub 100kW) electricity supply from 100% renewable sources through a flexible framework agreement offered by a Central Purchasing Body (CPB) following a Request for Information (RFI) evaluation process.
- 2.2 Notes the options available for the purchase of electricity on 'Standard', '100% Renewable' or 'Green Certified' electricity tariffs and approves the continuing minimum requirement for a '100% Renewable' tariff.
- 2.3 Authorises the Head of Property and Design to procure a 'Green Certified' supply of non half hourly (sub 100kW) electricity only if such a supply is available through the successfully evaluated CPB and at no additional cost to the 100% Renewable tariff.
- 2.4 Agrees a waiver of Contract Standing Order 12.6 to enable the contract to be entered into but not as a deed, provided that it is in a form agreed by the Head of Law.

**3. RELEVANT BACKGROUND INFORMATION:  
NON ½ HOURLY (SUB 100kW) ELECTRICITY PROCUREMENT OPTIONS**

- 3.1 The Council has three main utility contracts - one for gas and two for electricity that cover the bulk of the Council's property portfolio. The electricity provision is split into two contract groups, the half hourly (over 100kW) contract relating to large sites and the non half hourly (sub 100kW) contract relating to smaller sites. Table 1 below identifies the duration and approximate value of each contract.

**Table 1**

Utility Contract	Contract Period	Approx. Value	Supplier	Sites
Gas	01.10.2012 to 30.09.2016	£ 2.6m per annum	CPB: Laser Supplier: Total Gas & Power Ltd	All sites requiring gas including schools and housing
Electricity (over 100kW)	01.10.2012 to 30.09.2016	£1.0m per annum	CPB: Laser Supplier: NPower	Approximately 22 larger sites including Kings House, Brighton & Hove Town Halls & some secondary schools
Electricity (sub 100kW)	01.04.2010 to 31.03.2013	£2.0m per annum	Supplier: Scottish & Southern	Approximately 1400 smaller sites

- 3.2 Historically the Council has procured all of its gas and electricity supplies direct from the utility companies. However in 2010 the Council moved to procure its gas and half hourly (above 100kW) supplies through a Central Purchasing Body (CPB). This has reduced the risk to the Council of price fluctuations within the utility market through increased flexibility in purchasing as well as being part of a large bulk buying consortium.

A CPB can also provide added service benefits compared with a utility company, including a bill validation service, as part of the contract.

- 3.3 This report relates to the non half hourly (sub 100kW) electricity supply currently with the supplier Scottish and Southern that ends on 31<sup>st</sup> March 2013. To mitigate the risk of increasing electricity prices it is proposed that the Council switches the procurement of this supply to a CPB that is able to offer a flexible purchasing process allowing electricity to be bought over a period of time and in advance. The benefits of this approach are that any drops in market prices can be taken advantage of, thereby making further savings or reducing the impact of price rises and keeping overall prices as low as possible within the current volatile market. The current CPB for our half hourly electricity and gas supply contracts have estimated that such flexible terms have achieved overall savings of 7% over a fixed contract over the life of its last framework.
- 3.4 The current contract direct with a utility company operates as a fixed price procurement where the market is approached for a price on a specific day. As the market price will vary up or down on a daily basis the Council is protected from increases but conversely cannot take advantage of any price decreases over the term.
- 3.5 However a flexible contract arrangement through a CPB means that a traditional tendering exercise cannot be undertaken as the unit prices remain unknown until all of the electricity has been purchased ready for the start of the new contract in April 2013. Property & Design, together with Corporate Procurement, therefore propose to undertake a 'Request for Information' (RFI) process in order to obtain full information about the available CPB framework agreements currently in place. These will then be evaluated against various quality criteria in order for the evaluation team to recommend appointment of a single CPB. The proposed RFI document is included in **Appendix A** and details the criteria to be assessed.
- 3.6 In order to maximise the value of using a CPB, electricity must be purchased in advance of the start of the flexible supply contract to gain the best possible prices. This report therefore seeks authorisation from the Head of Property & Design to undertake the RFI process and to enter into the supply contract for a maximum period of four years to avoid delays.

#### **4. RELEVANT BACKGROUND INFORMATION: STANDARD, 100% RENEWABLE & GREEN CERTIFIED ELECTRICITY TARIFFS**

- 4.1 Various options are now available for commercial electricity tariffs to support or encourage renewable energy generation including '100% Renewable' and 'Green Certified' supplies which are described below to compare with a 'Standard' tariff.
- 4.2 Standard Tariff  
A supplier's standard tariff is normally less expensive per unit of electricity than a '100% Renewable' or 'Green Certified' supply but, for the reasons noted below, may not offer any less support to encouraging new sources of green energy than the '100% Renewable' option.

#### 4.3 100% Renewable Tariff

For many years the Council has specified a requirement for “100% Renewable” electricity when procuring its energy supply contracts. However research has shown that this description can be misleading in terms of our aim in supporting an increased proportion of the UK’s electricity generation capacity through renewable sources.

Each UK supplier of electricity is obliged by law to provide a minimum proportion from renewable sources. The proportion is increased year on year to meet the Government’s target of 15% overall by 2020. Each supplier demonstrates that they have met this commitment through Renewable Obligation Certificates (ROCs) which are issued for every megawatt hour of renewable energy produced by their electricity generators.

ROCs are bought on the open market by energy suppliers and the equivalent volume of electricity is then available for them to sell to customers on a ‘100% Renewable’ tariff. However this tariff by itself does not support any additional renewable energy generation to the UK as most suppliers are simply meeting their minimum legal obligation. Further, if the supplier fails to buy sufficient ROCs to meet their obligation they are effectively ‘fined’ by paying a ‘buy-out fee’ to OFGEM. Due to market conditions suppliers can decide that it is cheaper to opt to pay the buy-out fee than to purchase additional ROCs. However, the fees generated are redistributed to companies who do comply with their renewables obligation.

100% renewable tariffs usually attract a premium to the ‘Standard’ unit cost although for the reasons noted above there is a concern that this doesn’t encourage or support any additionality in the renewables market.

#### 4.4 Green Certified Tariffs

These are certified by the Office of the Gas & Electricity Markets (OFGEM) and include a requirement that the supplier demonstrates that their activity associated with the green tariff is in addition to what they already have to do to meet their legal obligations and the Government’s targets. This is the only form of tariff guaranteed to provide additional activity in the renewables supply market. The activity may involve paying into a fund to support investment in renewable technologies, other environmental projects or by carbon off-setting schemes. In a very few cases this may also involve the ‘retirement’ of ROCs which creates further additionality, i.e. the proportion of renewable electricity supplied under tariffs is in excess required across the board by law.

However, due to these extra requirements a ‘Green Certified’ tariff is likely to further increase the unit cost of electricity above the premium the Council already pays for a ‘100% Renewable’ supply.

In addition a ‘Green Certified’ supply may not be available in sufficient volume to fulfil the Council’s energy requirements from one supplier and may not be offered by any of the CPBs through the proposed procurement route discussed in Section 3.0 above.

#### 4.5 BioRegional One Planet Tariff Requirements

We have approached BioRegional for their advice on tariffs and the possible effect on our aspirations for accreditation as a One Planet Council.

BioRegional currently require our electricity to be certified by 'Renewable Energy Guarantees of Origin' or REGOs. Our current half hourly electricity supplier, NPower, for example declare that 9% of their overall supply is from renewable sources and that this is backed up by REGOs. As our existing '100% Renewable' half hourly supply contract with NPower ensures that our electricity is apportioned to their 9% renewable supply, strictly speaking we can remain compliant with BioRegional's minimum standards if we maintain a similar requirement in the new non half hourly contract.

#### 4.6 What Other Authorities Are Doing

Two other authorities are currently accredited under BioRegional's One Planet Living scheme - the London Borough of Sutton & Middlesbrough Council. Sutton have already committed to the same supply as we are proposing in this report, i.e. NPower's 100% renewable tariff which they have also procured through LASER. Middlesbrough currently purchase their electricity supply through NPower's Combined Heat & Power (CHP) tariff. Neither of these supplies are 'Green Certified'.

### 5. **CONSULTATION**

- 5.1 As the new contract will directly affect leasehold housing tenants, the Energy & Water Team have been liaising with Housing who are leading on the statutory consultation notifications required and sufficient time will be allowed in the procurement programme to complete this process.
- 5.2 When undertaking the Request for Information (RFI) procurement exercise each of the CPBs will be approached for information.
- 5.3 Other key council units have been consulted in the preparation of this report including colleagues from the finance, procurement, legal and sustainability teams.

### 6. **FINANCIAL & OTHER IMPLICATIONS**

#### Financial Implications:

- 6.1 The Council's annual cost of non half hourly electricity (sub 100kW) is approximately £2.0M per annum and has been in a 3-year fixed price contract which ends in March 2013. The estimated price increase from that date could be as high as 27% for the sub 100kW sites. Although Central Purchasing Bodies (CPB) would be unable to provide an indication of price structures it is evident that the ability of CPB's to purchase in bulk and the increased flexibility on purchasing reduces the risk of future fluctuations in energy price rises being passed through to the Council. As an indication of efficiencies the current CPB for half hourly electricity and gas contracts with the Council estimates savings of 7% to that of a fixed contract over the life of the last framework.

The Medium Term Financial Strategy includes pressure funding to cover increased energy costs above standard inflation for the general fund. Schools will meet energy costs through their devolved budgets. The Housing Revenue Account (HRA) recharges part of the energy costs through leaseholders and any increases will be accounted for within the long term business plan.

*Finance Officer Consulted: Rob Allen*

*Date: 28/8/2012*

Legal Implications:

- 6.2 The authority of Policy & Resources Committee is required for matters with corporate budgetary implications, such as the procurement of the Council's non half hourly (sub 100kW) electricity supply for which the costs are likely to exceed £500,000. Accordingly the Committee is entitled to agree the recommendations at section 2 above.

Further, the Council's contract standing orders require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant committee. The proposal to provide the Council's non half hourly (sub 100kW) electricity supply across a range of council property makes Policy & Resources the appropriate committee in that regard too.

The procurement of a contract through a flexible framework agreement offered by a CPB must comply with all relevant European and UK public procurement legislation as well as the council's CSOs. Legal officers will be advising on this aspect once the committee's authority to proceed is given.

In accordance with Contract Standing Order (CSO) 12.6, it would be usual to seal the contract recommended in section 2 as a deed. However, in the past, CPBs and energy suppliers have been unwilling to execute contracts as deeds. The legal risk of not executing these agreements as deeds (with a 12 year limitation period) is considered acceptable as the energy will be consumed, charged and paid for in such a short space of time. Therefore, should Policy & Resources Committee decide to approve the recommendation set out in section 2, and the chosen CPB and/or energy supplier will not agree to sign the contract as a deed, the requirement under CSO 12.6 to give contracts with an estimated total value over £75,000 under the Common Seal of the Council needs to be waived.

*Lawyer Consulted: Oliver Dixon*

*Date: 31 August 2012*

Equalities Implications:

- 6.3 There are no equalities implications.

Sustainability Implications:

- 6.4 Sustainability implications are discussed in Section 4.0 in the main body of the report.

Crime & Disorder Implications:

- 6.5 There are no crime & disorder implications.

### Risk and Opportunity Management Implications:

- 6.6 If the Council does not pursue the recommended procurement route there is a risk that value for money from our energy supply contract will not be maximised.

### Public Health Implications:

- 6.7 There are no public health implications.

### Corporate / Citywide Implications:

- 6.8 The Council will seek the best possible supplier to ensure that the contract represents value for money.

## **7. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 7.1 Section 3.0 of this report describes the alternative option of procuring electricity direct with a utility company. However the risk of market volatility is reduced by opting for procurement through a Central Purchasing Body which is also considered to represent best value for money due to economies of scale and the CPB's purchasing power.

- 7.2 Section 4.0 describes the options for procuring electricity supplies through an alternative 'Standard' or 'Green Certified' tariff. A 'Standard' tariff does not support any 'renewable' activity in the market place. A 'Green Certified' tariff will offer additional renewable activities which may include payment into a green fund to support additional renewable generation or carbon off-setting (depending on the supplier) however the availability of such a supply will often result in a unit price premium and supply through the preferred CPB procurement route is limited and therefore may not be available.

## **8. REASONS FOR REPORT RECOMMENDATIONS**

- 8.1 This report seeks approval to undertake a Request for Information (RFI) process with Central Purchasing Bodies for the Council's non half hourly (sub 100kW) electricity supply contract that ends on the 31<sup>st</sup> March 2013. The report outlines alternative procurement and framework options, including information on renewable and green tariffs, and seeks delegated powers to enable expedient contract placement in order to maximise value for money within the volatile energy market.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

Appendix A:  
Request for Information (RFI) Questionnaire

### **Documents in Members' Rooms:**

None

### **Background Documents:**

None

