

Report No.
HPR2022/031

London Borough of Bromley

PART 1 - PUBLIC

Decision Maker: COUNCIL
WITH COMMENTS FROM EXECUTIVE 29 JUNE 2022 AND
PRE-DECISION SCRUTINY FROM EXECUTIVE, RESOURCES & CONTRACTS
POLICY DEVELOPMENT & SCRUTINY COMMITTEE 22 JUNE 2022

Date: 18 July 2022

Decision Type: Urgent Executive Key

Title: AUTHORISATION TO PROCEED TO CONTRACT: ENERGY SERVICES

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Chief Officer: Sara Bowrey, Director of Housing, Planning, Property and Regeneration

Ward: Wards

1. REASON FOR REPORT

- 1.1 The Leader, on behalf of Executive, agreed in October 2020 the procurement strategy for energy supplies. The agreed approach was to award contracts for the supply of electricity and gas via the United Learning Trust Procurement Services framework over a period of five years, with an initial fixed term deal of two years.
- 1.2 The agreed approach was subject to a review within the first two years, prior to any further call offs from the framework.
- 1.3 This report presents a review of the current gas and electricity contracts and seeks approval to award further contracts for LBB's electricity and gas supplies via a flexible energy purchasing route for a further 3 years using the United Learning Trust framework following a mini-competition.
- 1.4 This report also highlights that, subject to members' consideration, the budget for green sourced gas and electricity supplies will need to increase to £5.12M due to increase in supply costs.

2. RECOMMENDATION(S)

2.1 The Executive is recommended to:

- 2.1.1 Approve the award of further contracts for the supply of electricity and gas via the United Learning Trust Procurement Services framework via a mini-competition for a contract duration of 3 years commencing October 2022.
- 2.1.2 Approve an annual budget from October 2022 of £4,026k for the purchase of Renewable Energy Guarantees of Origin (REGO) backed electricity, an increased requirement of £1,888k on the existing budget. Members should note that the cost would be £3,965k for brown electricity, which would be a required budget increase of £1,827k.
- 2.1.3 Approve an annual budget from October 2022 of £1,095k for the purchase of Renewable Gas Guarantees of Origin (RGGOs) backed gas, an increased requirement of £736k on the existing budget. Members should note that the cost would be £979k for brown gas, which would be a required budget increase of £620k.
- 2.1.4 To agree a drawdown from the unallocated inflation provision in the 2022/23 Central Contingency of £1,312k for renewable energy, or £1,224k for brown energy, for the part year increased cost in 2022/23, and to reflect the full year annual budget impact in the financial forecast.
- 2.1.5 Note that the sums above are the indicative cost for first year of the 3 year contract. Energy market volatility is hard to predict and cost may go up in years 2 and 3 or may fall.
- 2.1.6 Purchase REGO electricity and RGGO gas which will cost more than brown energy.
- 2.1.7 Opt for flexible procurement energy contracts to purchase energy in tranches during the period of the contracts.
- 2.1.8 Delegate authority to the Chief Officer to select suppliers based on quality and cost (management and delivery) criteria following the mini-competition. The cost criteria are the supplier management fees for servicing the account and delivering the flexible product mechanism. These elements are charged and added by the supplier to the cost of wholesale energy prices. The actual cost of energy shall be determined by the wholesale energy prices at the point of purchase plus the supplier's management and delivery fees and any other and any 'industry set' pass through network charges.
- 2.1.9 Delegate authority to the Chief Officer to finalise the energy prices based on the quote at the point of the procurement .

Impact on Vulnerable Adults and Children

1. Summary of Impact:
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Corporate Policy

1. Summary of Impact: Existing Policy
 2. BBB Priority Excellent Council Quality Environment Regeneration
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Financial

1. Budget head/performance centre: Individual departmental property budget heads
 2. Total current budget for this head: £ 2.497m per annum
 3. Source of funding: Existing revenue budgets for 2022/23 for energy consumption
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Personnel

1. Number of staff (current and additional): 1
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
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Procurement

1. Summary of Procurement Implications: The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. BACKGROUND

3.1 In October 2020, the Leader, on behalf of Executive, approved the following recommendations for the procurement of the Council's energy and gas supplies:

- Energy contracts be awarded for the supply of electricity and gas via the United Learning Trust Procurement Services framework via a mini-competition for a contract duration of 5 years.
- Contracts be awarded for gas and electricity supplies for a fixed period of two years.
- The indicative costs of £2.6m per annum for gas and electricity supplies
- Green energy be procured
- It was noted that the actual prices could only be confirmed at the point of agreement due to the nature of the market and therefore authority be delegated to the Director of Housing, Planning and Regeneration to finalise the price point and select and contract suppliers based on the quote on the day at point of the agreement.
- The situation be reviewed in two years' time when the fixed term deal expires

3.2 The Senior Energy and Sustainability Manager has undertaken a review of the current electricity and gas contracts provided to the Council and has concluded that they provide:

- Better transparency on usage and spend than previously provided.
- Direct contact with suppliers, enabling the quick resolution of issues.
- Opportunity to set quality criteria as part of the energy tender to obtain good value for money.
- Avenues to select green suppliers and procure green energy in line with the Council's net-zero emissions target.
- Better financial risk management, owing to the protection from the current energy market volatility.
- The current electricity and gas arrangements are REGO and RGGO backed.

3.3 The information, reviews and recommendations provided in this report are based on data available at the time of the report.

3.4 The current wholesale energy price is at record a high. The market volatility has no financial impact on the Council's current energy contracts as LBB opted for fixed contracts when prices were low. Members will be aware that the current record high energy prices is a national issue and not a localised one.

Energy Pricing

3.5 Wholesale energy prices are currently at record high levels and since August 2021, suppliers have increased their out of contract rates between 100% - 200%.

3.6 Energy prices have been steadily rising over the last 12 months or so, but prices have been particularly volatile for about six months now.

3.7 Wholesale energy costs have fluctuated over the last few months - after a steep increase in December 2021, prices have been particularly volatile in 2022. Although they have fallen and risen quite sharply, the overall trend is upwards.

3.8 The graphs below from Ofgem's wholesale market indicators show how both gas and electricity prices have risen throughout 2021 and into 2022.

How have gas prices increased in 2022

- 3.9 As can be seen from the graph below, prices were seen at record highs in December 21 due to an existing energy crisis. However, the new record highs were recorded in March following the Russian invasion of the Ukraine with prices of 371 p/t the equivalent of 12.66 p/kwh.



Ofgem graph showing how the gas cost of Winter 22 has risen and fluctuated during the past year and into 2022.

How have electricity prices increased in 2022

- 3.10 As can be seen from the graph below, prices were at their highest levels in mid-December 2021, when gas prices hit a high of 24.058 p/kWh. Prices have been consistently rising during this time, but they did dip towards the end of the month.



Ofgem graph showing how the electricity cost of Winter 22 has risen and fluctuated during the past year and into 2022.

Source - Ofgem and ICIS

- 3.11 Wholesale prices are high due to a series of events that are impacting the market at the same time - some globally and some just from the UK.
- The conflict in Ukraine is currently having a huge impact on what was already a big problem with energy prices (see below), but the following issues have also combined to inflate energy rates:
 - Gas shortages across Europe, caused by a prolonged cold winter between 2020 and 2021, drained natural gas storage.
 - High demand for liquefied natural gas (LNG) from Asia has led to lower LNG shipments to Europe.

- Delays and complications to the Nord Stream 2 pipeline, which is an \$11 billion link across the Baltic Sea with the capacity to send 55 billion cubic metres of gas a year directly from Russia to Europe, bypassing Ukraine (hence the complications).
- An increase in demand as lockdown restrictions eased across the globe.
- Low winds mean lower renewable energy generation. This, coupled with outages at some nuclear power stations, means that a higher percentage of UK electricity generation is using gas during its production.
- A greater need for energy since March and April last year has seen gas prices increase more than five-fold and return to pre-pandemic levels. For the wholesale electricity market, there has been a reduction in available power supplies compared to last year which, combined with higher gas prices, has led to an increase in the wholesale price of electricity.
- Higher electricity distribution and transmission costs have driven a rise in network costs, as has an increase in policy costs, such as the Renewable Obligation (RO). For reference, the RO is a levy placed on all licensed electricity suppliers to encourage them to source a proportion of the electricity they supply from renewable energy sources.
- Fire at a National Grid site in Kent knocked out a power cable that runs between England and France and is used to import electricity from the continent. This isn't expected to be fully back up and running until 2023.
- The UK has some of the lowest gas reserves in Europe, which means there's almost no way of stockpiling gas to use it when needed. Capacity is equivalent to roughly 2% of the UK's annual demand, compared with 25% for other European countries and as much as 37% in Europe's four largest storage holders.

Ukrainian War Impact

- 3.12 One of the main reasons why this conflict is having such an impact on UK energy prices is because of how reliant Europe has become on Russian gas. In 2021, Europe sourced more than 40% of gas imports from Russia and conflict with Ukraine could seriously disrupt this supply and push up prices. Although the UK isn't as heavily reliant on Russian gas, it does import almost half of its gas from Europe. This means any price hikes for European supply will have a knock-on effect for the UK.
- 3.13 The situation is causing panic in the energy market. Wholesale gas prices have risen by as much as 33% and some suppliers have temporarily pulled out of the market.
- 3.14 There is no price cap on business energy means that suppliers can increase their out of contract rates by as much as they see necessary to cover their increased costs. This has seen out of contract rates (also known as deemed rates) rise by an average of 100% since August 2021.

Council's Existing Arrangements

- 3.15 The previous Total Gas & Power (TGP) gas and npower electricity contracts procured under the Laser Framework ended on 30 September 2020 while the current TGP gas and DRAX electricity contracts managed by Inspired Energy and procured under a United Learning Trust Framework commenced on 01 October 2020 and 02 November 2021 respectively. LBB was out of electricity contract from 01 October 2020 to 01 November 2020, and as a result, was billed on deemed rates during this period.
- 3.16 Therefore, the energy costs and usage of the financial years ending April 2019-March 2020 and April 2021- March 2022 provide a full financial year basic review of LBB's annual energy spend and usage on the previous and current energy contracts as shown below:

Financial Year	Electricity Cost (£)	Electricity Usage (kWh)	Gas Cost (£)	Gas Usage (kWh)	Grand Total (£)
2019/20	2,174,875.71	13,905,001	380,264.34	12,696,951	2,555,139
2021/22	1,667,827.71	10,740,269	331,940.20	11,827,386	1,999,767

3.17 The possible reasons for the lower contracted energy cost in 2022 compared to 2020 are due to lower energy consumption, increased monitoring of energy usage, change of energy purchasing strategy, new energy contracts and reduced estimated billing recorded in 2021/2022.

3.18 Opting for a flexible energy purchasing contracts for the Council's energy supply from 2022-2025 can help the council manage its financial risks due to current energy market volatility and high prices.

Estimated Costs for 2022 onwards

3.20 The wholesale market prices are currently at record highs. Energy prices vary daily. The actual electricity and gas prices can only be confirmed at the point of purchase due to the nature of the market. Estimates for the Council's Energy Consumption have been obtained and are provided below:

ELECTRICITY: £4,026,427.21 for the purchase of Renewable Energy Guarantees of Origin (REGO) backed electricity. Members should note that the cost would be £3,965,230.01 for brown electricity.

GAS: £1,095,273.87 for the purchase of Renewable Gas Guarantees of Origin (RGGOs) backed gas. Members should note that the cost would be £979,422.95 for brown gas.

REGO TOTAL: £5.122M PA

BROWN TOTAL: £4.936M PA

3.21 The energy usage data used for the cost estimations were obtained from the industry's database. Electricity Central Online Enquiry Service (ECOES) and Xoserve are the electricity and gas industry's database. These databases get usage data from suppliers every month and use the data to forecast annual energy usage of energy meters. The energy usage forecast also considers factors such as weather and location. For electricity, ECOES updates its database every October with the annual usage of every electricity meter, and the quote provider has used it to forecast energy consumption for the next 12 months at around 13 GWh. For gas, Xoserve updates its system every month and the quote providers have used Bromley's last 12 months gas usage data (held at Xoserve) to forecast the next 12 months gas usage at around 12 GWh.

3.22 Due to the high market price, a flexible energy purchasing option for the years 2022-2025 can help manage the Council's financial risk by providing opportunities for the Council to make energy purchases in tranches whilst monitoring the market for stability.

3.23 The Senior Energy and Sustainability Manager has investigated the Council's current electricity and gas contracts as required by The Executive, decision made on 22nd October 2020. The energy market is currently highly volatile. The most cost effective route to market is outlined below.

3.24 It is proposed to continue the use of the United Learning Trust's Framework Agreements for the Provision of Natural Gas and Electricity. The broker under this framework is Inspired Energy. Inspired Energy is a utility broker with over 20 years of experience in public sector energy procurement. It has a specialist division dedicated to delivering procurement solutions for the public sector.

3.25 The Multi Suppliers Framework enables Inspired Energy to run a mini- competition on LBB's behalf to obtain best fit and price for the Council's needs and objectives. The framework also provides the Council with the option of choosing suppliers with social and green credentials that can provide some or all of our energy from green sources now or in the future to meet the council's net-zero carbon target. It also enables LBB to set operational demands and KPIs for suppliers to satisfy the energy management team's operational needs.

- 3.26 The Council has an existing contract in place with Inspired Energy to use the United Learning Trust's Framework until 2025 at a cost of £6,462 per annum. This cost is paid from the existing Energy Management and Reporting budget.
- 3.27 The Council opts for flexible energy purchasing option due to the current market volatility
- 3.28 It is anticipated that the procurement and appointment of electric and gas suppliers will take approximately 4 weeks.
- 3.29 It is recommended that delegated authority be given to the Chief Officer to select suppliers based on quality and cost (management and delivery) criteria following the mini-competition. As the actual cost of energy shall be determined by the wholesale energy prices at the point of purchase plus the supplier's management and delivery fees and any other and any 'industry set' pass through network charges then further delegation is authorised to the Chief Officer to finalise the energy prices based on the quote at the point of the procurement

Summary of Business Case

- 3.30 The benefits of the proposed energy procurement project are as follows:
- access to green energy
 - choose suppliers that best meet the Council's quality, social, financial and environmental criteria
 - direct access to suppliers to resolve utility issues, thereby saving time and enabling transparency
 - opportunities to review the wholesale market prices throughout the contract term and purchase energy in tranches when prices are favourable
 - Management services to improve energy efficiency, eliminate estimated billing, procure energy (via brokerage services) at the most efficient price throughout the contract term and achieve compliance obligations to metering and reporting requirements

Social Value

- 3.31 The Council has embedded quality, social and environmental value criteria into the tender. This provides the Council with good value for money.
- 3.32 The Council has a net zero carbon emission target. As a result, the Council should procure REGO electricity and RGGO gas.

Stakeholder Engagement

- 3.33 Discussions have taken place with the Council's carbon management team. This procurement will ensure accurate and quality data is used for carbon and energy reporting requirements for stakeholder satisfaction.
- 3.34 Procuring renewable energy will play a vital role in helping the Council achieve their 2027 net zero carbon target.

Procurement and Project Timescales and Governance Arrangements

- 3.35 **Estimated Contract Value:** £5.1m per annum for energy supply, £15.3m whole life value
- 3.36 **Proposed Contract Period:** Three years electricity and gas contracts commencing on 1 October 2022 and 01 November 2022 respectively. A further competition will be managed through the Broker with evaluation based on 70:30 price/quality.

Impact Assessments

- 3.37 The proposed procurement route will provide clearer information on usage and costs to LBB, enabling the council to demonstrate and achieve transparency in energy and carbon reporting.
- 3.38 The project provides an opportunity for LBB to procure REGO electricity and RGGs gas (subject to cost considerations) that will allow LBB to contribute to their organisational net zero plan.
- 3.39 The opportunity for LBB to cut carbon helps to improve air quality, thereby contributing the clean development of Bromley.
- 3.40 The use of Inspired Energy, a company within the local government, for the purchase of energy allows LBB to increase its use of local contractors, thereby stimulating the economic growth of organisations within Bromley.
- 3.41 The proposed project will facilitate the removal of sold and leased sites from LBB energy portfolio, thereby saving LBB energy spend.

4. POLICY CONSIDERATIONS

- 4.1 This report accords with the the ambition of the Council in 'Making Bromley Even Better' concerning 'scrutinising everything LBB does and how the Council operates to provide efficient services' and 'continue a financial strategy that focuses on stewardship and sustainability'.
- 4.2 This activity also contributes to delivering the Council's agreed objective for the Carbon Management Programme to reduce energy consumption, costs, and carbon emissions.
- 4.3 This project will also contribute to achieving the Council's 2027 net zero carbon target.

5. STRATEGIC PROPERTY

- 5.1 The energy usage reported in this Report relates to the Council's property portfolio and interests which either consume electricity or gas.
- 5.2 The Council has ensured that it does not provide energy to third parties unless it is reimbursed either through leasing or other legal binding contracts for recovery of costs.
- 5.3 The proposed contracts are based on consumption pricing – therefore should the property portfolio decrease as a result of the Operational Property Review, then consumption would decrease accordingly.

6. PROCUREMENT RULES

- 6.1 This report seeks to utilise the United Learning Trust Procurement Services framework
- 6.2 In accordance with Clause 3.5 of the Contract Procedure Rules, the Head of Procurement has been consulted regarding the use of the Framework. The award will be conducted in line with 7.4 of the Council's Contract Procedure Rules. As the value of the contract is above the thresholds set out in the PCR 2015, it must be conducted in line with cl. 33 of the same.
- 6.3 The Council is able to make use of the Framework and has been properly included on the Contract Notice.
- 6.4 A call off contract duration of 3 years is permitted under the terms of the framework. For each requirement, an order form and template call off contract must be completed.
- 6.5 For the requirements set out above, the method of further competition can be used under the terms of the framework.

- 6.6 The utility brokerage service with access to the United Learning Trust Framework will enable access for LBB to select suppliers from the framework via a mini competition.
- 6.7 As the contract value is over £25k, an award notice will need to be published on Contracts Finder. As the contract value is over the thresholds set out in the PCR 2015, a Find A Tender award notice must be published.
- 6.8 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

7. FINANCIAL CONSIDERATIONS

- 7.1 The actual payments made in 2021/22 for electricity and gas consumption were approximately £2m. These costs are funded from individual property revenue budgets which for 2022/23 total c£2.5m.
- 7.2 A comparison of projected costs, for both renewable and brown energy, for the new proposed contract with existing budgets is as follows:

(£'m)

	Electricity		Gas		Total	
	Renewable	Brown	Renewable	Brown	Renewable	Brown
New contract price	4.026	3.965	1.095	0.979	5.121	4.944
Existing budgets	2.138	2.138	0.359	0.359	2.497	2.497
Increase	1.888	1.827	0.736	0.620	2.624	2.447

- 7.3 This indicates that an increase in the energy budgets of £2.624m would be required for renewables, or £2.447m for brown energy. Subject to members' decision, this increase would need to be included in the Council's financial forecast. There will be a part year impact in 2022/23 of £1.312m (renewables) or £1.224m (brown) which would need funding by a drawdown from Central Contingency.
- 7.4 As set out in February's budget report to Executive, the Council is already facing significant inflationary pressures, and the impact of the contents of this report increases those pressures still further.
- 7.5 It is important to note that these figures are the estimated future usage which are largely based on recent past consumption as set out in the report above. They do not therefore take into account any future energy consumption reducing measures nor reflect revised energy requirements that may result from any possible changes to the Council's estate following implementation of the Operational Property Review.
- 7.6 Consequently, given these circumstances, the unprecedented increases in energy prices and the significant ongoing uncertainties in the energy supply market, there will need to be regular reviews through the budget and performance monitoring processes to track usage and actual costs, and identify if any savings are being generated against the increased budget. In addition, any changes to the Council's estate that may be identified through the Operational Property Review will need to be identified and any savings reflected in the Council's financial forecast and future years' budgets.

8. LEGAL CONSIDERATIONS

- 8.1 This report recommends, in addition to a number of budgetary recommendations, that the Executive proceed to award contracts for the supply of electricity and gas via the United Learning Trust Procurement Services framework via a mini-competition for a contract duration of 3 years from October 2022 while delegating authority to the Chief Officer to select suppliers based on quality and cost and finalise the energy prices.
- 8.2 The Council has been using this framework agreement successfully for the last two years as detailed in this report. Under the Public Contract Regulations 2015 (the "Regulations") the procurement of these supplies is a public contract within the meaning of the Regulations. As the value exceeds the relevant

threshold under the Regulations, the Council is required to carry out a fully compliant procurement exercise. Regulation 33, however, enables the Council to call-off from a compliant framework established by a central purchasing body. The Framework must be used compliantly in order to satisfy the Regulations.

- 8.3 As has been confirmed in the Procurement comments, the Council's use of these framework arrangements under Contract Procedure Rule 3.5 has been complied with.
- 8.4 The Executive is permitted to delegate authority to a Chief Officer under Section 101 of the Local Government Act 1972 in order that this officer can finalise the selection of suppliers and their energy prices.
- 8.5 Officers are advised to instruct Legal Services at the earliest opportunity after contact award so that the necessary legal documentation can be concluded in good time.

Non-Applicable Sections:	Personnel Considerations
Background Documents: (Access via Contact Officer)	[Title of document and date]