

<b>Report to:</b>	Cabinet	<b>Date:</b> 07 September 2022
<b>Subject:</b>	Electricity and Ancillary Services - Contract Renewal	
<b>Report of</b>	Cabinet Member for Corporate Affairs and HR	

## 1. Summary

- 1.1. The purpose of this report is to seek formal approval to use the YPO electricity supply framework for the purchase and supply of the Council's corporate electricity for the period 1 April 2023 to 31 March 2027, with the option to extend for a further two-year period to 2029 and for a further two years until 2031.
- 1.2. The Council's corporate electricity supply contract covers the supply of electricity to office buildings, schools, community centres, libraries, leisure facilities and buildings occupied by Persona and Six Town Housing. This comprises in excess of 500 supply points across the borough.
- 1.3. Bury Council is an associate member of YPO, a Public Buying Organisation established in 1974 to maximise the value from consolidating demand and procuring collaborative supply contracts on behalf of its members and associates.

## 2. Recommendation(s)

- 2.1. Cabinet is asked to:
  - Approve the use of the YPO Energy Framework Agreement to administer the purchase and supply of the Council's corporate electricity contract for the period 1 April 2023 to 31 March 2027 (at an annual cost of circa £7m per annum). The total estimated contract value will be circa £28m over a four-year period, with options to extend to 2029 and 2031. (The annual and total contract value may change significantly as current energy prices have been significantly affected by the conflict in Ukraine).
  - Approve the use of YPO's appointed framework supplier, Npower Business Solution, for the supply of electricity through the framework duration.
  - Provide delegated authority to the Executive Director of Operations and Executive Director of Finance, in consultation with the portfolio lead for Corporate Affairs and HR, to award the contract and facilitate the execution, implementation, and operation of the contract.

### **3. Reasons for recommendation(s)**

- 3.1. The proposed arrangements ensure that the Council has a compliant contract in place and has tested the market for best value.

### **4. Alternative options considered and rejected**

- 4.1. As with all public sector procurement, the procurement process for electricity supplies must comply with Public Contracts Regulations 2015 (PCR2015) and demonstrate best value for money.
- 4.2. In determining the appropriate procurement route, consideration must be given to the value of the contract to be awarded and the alternative compliant processes. The alternative options considered are outlined below: -

#### **4.2.1. Spot Buy (Fixed Price Contracts)**

This is where the Council would buy short-term contracts for a fixed price over the time period. Although savings could potentially be made, the council would be more exposed to the vagaries of the wholesale market (a price is fixed on a single day in the year) and could pay higher off-contract prices until an appropriate new contract is in place. It is also not compliant with either Contract Procedure Rules (CPR) or public procurement legislation. This was ruled out due to the risk of price volatility, lack of in-house expertise and the fact that this does not comply with Council Constitution.

#### **4.2.2. Procure our own energy by direct tender**

This option is possible, but it would involve a standalone OJEU (Official Journal of the European Union) tender to secure contracts directly with the selected energy provider(s) (or via a broker see option 6.2.3). This approach is unlikely to produce the best results due to the relatively small scale of the portfolio compared to that of most large purchasing organisations. In contrast, a Public Sector Buying Organisation such as YPO, can obtain good wholesale prices through aggregating the demand of a large number of public sector organisations. In addition, a direct tender would require the Council to engage additional resources (skilled energy traders and additional staff for contract management) and provide greater risk of exposure to energy price fluctuations. It was therefore determined as unviable.

#### **4.2.3. Procure through a Private Sector based provider**

The Council would be required to invite tenders for a private sector Third Party Intermediary (TPI) to procure energy supply (as per 4.2.2), but it would need to be sure that it would be getting best value through a truly aggregated, flexible contract. Full price transparency of all costs, including TPI fees and any commission paid by suppliers to the TPI would be needed. By aggregating the Council's volumes, the TPI could access the wholesale market on our behalf, but we may only receive

prices based on the supplier's view of the market. A full OJEU tender process would be required to engage with such a provider with all the associated resource and time implications this would entail. TPIs may have issues regarding business continuity in the present economic climate and are unlikely to be able to aggregate the council's volume with other customers in an OJEU compliant manner or to the same level or offer the same additional and social value as the YPO contract. Due to this level of complexity and lack of in-house resources to deliver this, this option was dismissed.

#### 4.2.4. **Do nothing**

This is not an option as the Council and users of its buildings rely on energy to operate. It would place a requirement on services, schools, Persona and Six Town Housing to procure their own energy supplier or run out of contract which is a cost with a premium.

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## **5. Background**

- 5.1. The Council's electricity consumption represents a significant but necessary cost to the Council.
- 5.2. Electricity Consumption is monitored through use of a dedicated energy management system (EMS).
- 5.3. The annual spend on electricity consumption was £3.53m in 2021/22 and this has risen significantly to a projected cost of £7.07m in 2022/23.
- 5.4. The strategy set out in this report ensures the Council reduces exposure to peaks in energy prices by spreading our purchasing over several months. In addition, the aggregation of our consumption with other public sector bodies helps reduce costs further, through economies of scale.

## **6. Reasons for Decision**

- 6.1. Achievement of Best Value for Money:
  - achieve better budget, price, and risk management through the continued aggregation of the Council's electricity supplies with the rest of the public sector portfolio managed by YPO

- adapt to the changing energy supply market, the changing make up of energy cost and move away from a transactional relationship with the appointed energy supplier
- implement arrangements where the supplier is required to facilitate better energy consumption data analysis to support energy efficiency measures, improved billing quality and increase efficiency of back-office processes

## **7. Current Position**

- 7.1. For a number of years, Bury Council has procured energy through collaborative framework contracts. Since 2014 contracts have featured a flexible purchasing strategy managed by the framework provider. Energy is traded as a commodity on the futures market, and as such is subject to the actions of speculators which creates significant volatility and makes the task of accurately predicting price trends extremely difficult. As a result, following a government review into public sector energy procurement, a recommendation was made that contracts should be based on a flexible pricing model. This means energy is purchased on the futures market in advance of requirements in order to mitigate the risk of price spikes, thereby reducing price volatility and increasing budget certainty. By using this type of strategy financial risk is minimised.
- 7.2. The Council currently procures electricity supplies through a Yorkshire Purchasing Organisation (YPO) framework, which expires on the 31 March 2023. YPO have procured a new electricity supply contract which is to commence on the 1 April 2023 and run until the 31 March 2027, the attached appendix explains the procurement process in detail.

## **8. Procurement Approach**

- 8.1. The recommended approach is to use a Public Sector Buying Organisation (PBO) to purchase electricity. A PBO (or Central Purchasing Body in EU terminology) is defined as 'a contracting authority which provides centralised purchasing activities, and which may also provide ancillary purchasing activities'. PBOs often set up and operate framework agreements which are accessible to contracting authorities such as the council.
- 8.2. There are a number of advantages to using a PBO, including better prices through economies of scale, lower transaction costs, improved capacity and expertise. A key role of most PBOs is the conclusion of framework agreements or other consolidated procurement tools. Framework agreements seek to achieve efficiency gains and greater value for money in the public procurement process using the aggregated purchasing power and expertise of PBOs that creates economies of scale in both supply and demand.

- 8.3. Yorkshire Purchasing Organisation (YPO) is one of a number of PBO's with frameworks in place for the supply of electricity. Others include Crown Commercial Service (CCS), Eastern Shires Procurement Organisation (ESPO), LASER Energy Buying group, Central Buying Consortium (CBC) and North East Procurement Organisation (NEPO).
- 8.4. The advantages of procuring through a framework established by a Public Buying Organisation can be summarised as:-
- Reduced resources required for evaluation as suppliers are pre-vetted during the framework procurement process;
  - Pre-agreed terms and conditions of contract reducing legal dialogue;
  - Improved pricing negotiated due to the volume procured through the framework;
  - Complies with Government best practice which advises adopting aggregated, flexible and risk managed energy procurement strategies using a PBO;
  - May include technical and commercial support from the framework operator which reduces need for internal resources and adds value in management of the supplier.
- 8.5. Bury Council are associate members of the Yorkshire Purchasing Organisation (YPO) and have accessed its frameworks for the procurement of energy (as well as a range of other supplies and services) for a number of years. All ten GMCA authorities currently use the YPO energy frameworks, for either gas, electricity or water as do over one hundred other local authorities and public organisations. As an associate member, Bury Council has access to YPO network events and peer information sharing activities and can contribute to the development and execution of procurement strategies to ensure local objectives are delivered. Associate members also receive an annual rebate based on overall spend with YPO, Bury Council received a rebate of £10,501 in 2021.
- 8.6. The YPO framework has therefore been identified as the best value option for the Council's procurement of electricity supplies.
- 8.7. The procurement process followed by YPO is fully compliant with PCR2015 and is described in detail in the attached Appendix 1.

## **9. Conclusion**

- 9.1. The YPO electricity supply contract will be procured for an initial four-year period with an option to extend for a further two periods of two years. This option has been put in place to allow consideration of alternative future GM collaborative energy procurement options should these become available.
- 9.2. The YPO electricity supply contract is a procurement compliant low risk strategy that delivers value in both monetary and quality terms.

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## **10. Links with the Corporate Priorities:**

The Let's Do It Strategy sets out the corporate priorities and includes the ambition to be Carbon neutral by 2038. The rising costs of electricity make reducing the amount of energy used across the council's estate a key priority. Current activity taking place to reduce energy usage across the council is outlined in Appendix 2.

Further information is provided under Section 12.

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## **11. Equality Impact and Considerations:**

The proposal doesn't bring about any changes that would impact on one protected characteristic over and above another, it doesn't result in increased/decrease access to services or provision for any particular group of the population or cause any disadvantage to a community of interest. The approach is to ensure value for money in electricity supply for the council and thus strive to mitigate Council costs, which would benefit all residents

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## **12. Environmental Impact and Considerations:**

The current electricity contract provides a fuel mix which includes 30.7% generation from renewable sources, the new YPO electricity contract provides a fuel mix of 40% generation from renewable sources. The increased renewable generated electricity links into the Council's drive to carbon neutrality

There is an option within the new contract to purchase 100% electricity generated from renewable sources, this would have a financial impact on Council resources as there would be an increased cost of £9 per mWh. For the financial year 2021-22, this would have increased electricity costs by £214,290.18.

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## **13. Assessment and Mitigation of Risk:**

<b>Risk / opportunity</b>	<b>Mitigation</b>
Electricity contract expires without being renewed resulting in inflated energy prices	September Cabinet approval will enable the Council to confirm to YPO that we wish to be part of the contract. This will provide the opportunity for YPO to secure cheaper prices through greater volumes and ensure the contract is in place in time for the commencement date of 1 April 2023.

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#### **14. Legal Implications:**

The YPO **single supplier** framework **utilising Npower** is appropriate for the procurement of the electricity supply. Use of frameworks is an established method of reducing the timescales involved whilst adhering to the Procurement Regulations. This results in significant cost savings and enables the contracting authority to develop a strategic relationship with the supply chain over a long period and also achieve better value.

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#### **15. Financial Implications:**

A number of options as described in this report have been investigated with regards to the Electricity and Ancillary Services contract renewal with the recommended option being the use of YPO's appointed framework supplier, Npower Business Solution, for the supply of electricity through the framework duration.

This option provides value for money benefits not delivered by the other options investigated and these are described in Section 6 above with the key financial benefit being the achievement of better budgetary reporting, price, and risk management.

With regards to the increasing price of electricity this is being considered as part of the development of the 2023/24 Medium Term Financial Strategy and is also being closely monitoring as part of the current year budget monitoring process.

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#### **16. Background papers:**

- 16.1. Appendix 1 – YPO Procurement Customer Report
- 16.2. Appendix 2 - Actions in Progress to Mitigate Impact of Increases in Energy Costs

#### **17. Contact Details:**

- Jason Kelly – Energy Surveyor and Contract Manager
- Chris Beadsworth - Head of Corporate Landlord
- Laura Swann – Assistant Director (Operations Strategy)

#### **18. Glossary of Terms:**

<b>Term</b>	<b>Meaning</b>
YPO	Yorkshire Purchasing Organisation
PBO	Public Sector Buying Organisation

PCR2015	Public Contracts Regulations 2015
CPR	Contract Procedure Rules
HR	Human Resources
TPI	Third Party Intermediary
OJEU	Official Journal of the European Union
EMS	Energy Management System
CCS	Crown Commercial Services
ESPO	Eastern Shires Procurement Organisation
CBC	Central Buying Consortium
NEPO	North East Procurement Organisation
GMCA	Greater Manchester Combined Authority
GM	Greater Manchester