

**SURREY COUNTY COUNCIL****CABINET****DATE: 30 APRIL 2019****REPORT OF: MS CHARLOTTE MORLEY, CABINET MEMBER FOR CORPORATE SUPPORT****LEAD OFFICER: DONALD FARQUHARSON, CHIEF PROPERTY OFFICER****COMMUNITY COUNCIL  
VISION  
OUTCOME:****SUBJECT: ENERGY PROCUREMENT STRATEGY – AWARD OF SUPPLY CONTRACTS FOR THE PROVISION OF GAS AND ELECTRICITY****SUMMARY OF ISSUE:**

This report sets out recommendations arising from work on options for the provision of energy and ancillary services to premises owned or operated by the county council.

Historically, the three sovereign authorities within the Orbis partnership (Surrey County Council, East Sussex County Council and Brighton & Hove City Council) have procured their utilities requirements independently through national frameworks. Consequently, the current landscape is varied as contracts have different durations, differing end dates, different risk profiles, different commitments to forward buying and differing service provisions.

In August 2018 work commenced to look at an Orbis-wide approach to jointly procure gas and electricity, combining the authorities' energy volumes to obtain economies of scale and generate efficiency savings.

Surrey County Council's contract is with Laser and expires on 30 September 2020.

The procurement process is at the stage where Cabinet approval is required in order to enter into appropriate Customer Access Agreements with the Crown Commercial Service (CCS) to access their framework agreement for the supply of energy and ancillary services with an anticipated start date of 1 October 2020.

Each publicly funded school in Surrey will then be able to make use of the procurement arrangements put in place. This will allow Academies and Voluntary Aided schools as well as Voluntary Controlled and Local Authority Maintained Schools to take advantage of the agreed rates for these services should they wish to do so.

## **RECOMMENDATIONS:**

It is recommended that Cabinet

1. Delegates authority to the Director of Procurement, Chief Property Officer and Head of Highways & Transport in consultation with the relevant Cabinet Member to enter into appropriate Customer Access Agreements through the Crown Commercial Service framework agreement for the supply of electricity, gas, other fuels and ancillary services.
2. Delegates authority to the Director of Procurement, Chief Property Officer and Head of Highways & Transport in consultation with the relevant Cabinet Member to procure and award a call off contract under a Crown Commercial Service framework agreement for the council's gas and electricity supplies for a term of up to four years.

## **REASON FOR RECOMMENDATIONS:**

Energy supplies are essential in order for the Council to continue operating its premises in a way which is compliant with relevant standards of health and safety. The price paid for energy is expected to increase over the medium to long term, driven up by increases in the non-commodity charges, which are set by government regulations. This will place additional pressure on Council finances, which can be mitigated to some extent by using the expertise of a Central Purchasing Body to buy energy in the wholesale markets when conditions are more favourable.

The award of this contract will enable uninterrupted provision of the service whilst also allowing flexibility to accommodate any possible change in the level of usage. Even though initiatives such as the Surrey Transformation Programme and LED street lighting investment will reduce the council's demand for energy significantly, energy costs are likely to remain at a level requiring attention of the council's members and senior leaders for the foreseeable future. The award will deliver estimated financial cash releasing and non-cash releasing benefits of:

- £20k pa in reduced buying agency management fees
- £233k pa mitigation of expected increases in the wholesale cost of energy
- 500 hours of staff time in Procurement activity.

## **DETAILS:**

### **Business Case**

1. A joint Orbis-wide approach has been undertaken to combine the usage volumes of the three Orbis partners to obtain optimum value for money, jointly benefit from best practice internally and externally, optimise value for money in relation to our combined demand, reduce spend on additional managed service fees and explore opportunities for further efficiency savings through standardisation (e.g. reductions in the amount of staff time required to manage the customer accounts as we will have fewer Central Purchasing Bodies (CPBs) and suppliers to deal with).

## Aims and objectives

2. The primary objective is to consolidate utilities arrangements across the three authorities, ensuring that the authorities gain maximum benefit from the procurement routes available.
3. Additional objectives are to:
  - a. Ensure each authority receives best value for money for its arrangements;
  - b. Optimise leverage across the Orbis partners;
  - c. Focus on collaboration and common agreement, but allow for individual needs to be met where this is needed;
  - d. Increase best practice across utilities management and purchasing;
  - e. Improve sustainable sourcing where this does not affect best value;
  - f. Create efficiencies and reduction in resource requirements related to the procurement of, and management of contracts

## Scope

4. Included in the scope of this energy procurement exercise are the supply of:
  - a. Electricity (Half Hourly, Non-Half Hourly and Unmetered)
  - b. Natural Gas
  - c. Fuel Oil/Heating Oil
  - d. Biomass Fuel
  - e. Operation and Management of Meters
  - f. Data Collection services including those utilising automatic meter reading (AMR) equipment and smart meters

The whole portfolio of the three Orbis partners is covered, which includes corporate and school buildings as well as electricity for street lighting.

## Deliverables

5. Consolidating energy volumes across the three Orbis partners will deliver the following benefits:
  - a. Compliant frameworks used extensively by the public sector in line with Government best practice guidance for the purchase of energy
  - b. Obtain economies of scale
  - c. Jointly benefit from best practice internally and externally
  - d. Optimise value for money in relation to our combined demand
  - e. Reduce spend on additional managed service fees
  - f. Offer the opportunity for further efficiency savings through standardisation (e.g. reductions in the amount of staff time required to manage the customer accounts as we will have fewer CPBs and suppliers to deal with).

## Options Considered

6. A number of different ways of buying energy were considered.

### Option 1 – Spot Buy

7. Once out of their current agreements the sovereign councils will be more exposed to the vagaries of the wholesale market and may find themselves paying higher off-contract prices until an appropriate contract is in place. It is also not compliant with either Procurement Standing Orders (PSOs) or public procurement legislation.

### Option 2 – Procure our own energy by direct tender

8. This option is possible, but it would involve the sovereign councils undertaking a standalone OJEU (Official Journal of the European Union) tender to secure their own energy, independent of a Central Purchasing Body (CPB) or any other intermediary. In this case each council would be contracting directly with the selected energy provider(s). This approach is unlikely to produce the best results due to the relatively small scale of the Orbis portfolio compared that of most large purchasing organisations. In contrast, a CPB is able to obtain good wholesale prices through aggregating the demand of a large number of public sector organisations. In addition, a direct tender would require the sovereign councils to engage additional resources (skilled energy traders and additional staff for contract management) and provide greater risk of exposure to energy price fluctuations.
9. In January 2007 HM Treasury announced 'Transforming Government Procurement', an initiative to review government spending. In response, the Pan-Government Energy Project was launched to promote best practice in energy procurement for local authorities, educational establishments, health trusts, central government departments and other public bodies. Following consultation with customers and public sector buying organisations, it concluded that that all public sector bodies should adopt aggregated, flexible and risk-managed energy procurement. Contracting directly with energy suppliers would therefore be against this advice, which still remains valid.

### Option 3 – Procure through a Private Sector based provider

10. The sovereign councils could use a private sector Third Party Intermediary (TPI) to procure energy supply, but it would need to be sure that it is 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 our 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 that would be entailed.
11. Based on the research carried out on the market there will be a number of drawbacks to using a TPI:
  - a. The TPI are a profit driven organisation and using their service would take money away from the public sector

- b. Business continuity may be uncertain in the present economic climate
- c. TPIs are not subject to statutory regulation
- d. TPIs cannot aggregate the council's volume with other customers in an OJEU compliant manner
- e. TPIs may not have a full access to the energy market
- f. TPIs may not have the same level of buying power and influence to the energy supplier as the large CPB's
- g. There may be a lack of independent benchmarking data to assess the performance of individual TPIs
- h. TPIs cannot provide the same level of additional services as CPB's
- i. A small number of local authorities have used TPIs in the past and all those that are known to have done so have ultimately resumed using the services of a CPB.

#### **Option 4 – Procure from generators**

12. The sovereign councils could purchase electricity via an OJEU procedure from nominated generators. Power Purchase Agreements (PPAs) typically facilitate the sale of energy from the operators of small scale off site renewable generation assets including Combined Heat and Power (CHP) plant, wind turbines, solar PVs and anaerobic digestion. The sovereign councils could combine such energy with that provided from a conventional supplier. As a customer, this could help increase the sovereign councils' environmental credentials through being seen to invest in generation from low carbon and renewable sources. Depending on the type of PPA, it could also reduce the impact of power/price volatility on the organisations as it is possible to fix prices on a long term basis (typically up to 5 years ahead) as well as provide an element of supply assurance where less demand is sourced offshore.
13. Such arrangements tend to be more commercially attractive if the electricity can be supplied from the generator directly to the user without involving the national grid (i.e. over 'private wires') as this reduces the amount of transmission and distribution charges payable. This is unlikely to be applicable to the sovereign councils' portfolio of buildings spread across each county.
14. In any case, a conventional licensed supplier would need to be involved to ensure that the sovereign councils receive an adequate supply of electricity. It would also remain necessary to make suitable arrangements for the purchase of gas and oil. It would still be possible to procure from generators even if the sovereign councils decide to procure energy via a CPB for the remainder of their energy supply requirements.

#### **Option 5 – Generate own energy**

15. The council/s could invest in their own electricity generating assets and use the output to contribute towards the supply of electricity to council owned or operated buildings. A licensed supplier would still need to be involved to facilitate this and to ensure that the councils still received an adequate supply

of electricity. It would of course also remain necessary to make suitable arrangements for the purchase of gas and oil.

16. This option would still be subject to procurement regulations and there are a number of options open in relation to this including a direct approach to the market or developing a strategy through the current energy supplier if the framework allowed.
17. This option would also require a large amount of time and resource to scope with a risk that it would not be sufficiently developed by the time current arrangements expire. It would therefore require commitment from the councils to pursue this and make the necessary investment, which would be significant. As with option 4 above, the opportunity to generate their own energy could remain available even if the councils decided to procure energy via a CPB and this possibility can be explored in the future.

### **Option 6 – Procure via Central Purchasing Bodies (CPB)**

18. The Public Contracts Regulations 2015 define a Central Purchasing Body (CPB) as 'a contracting authority which provides centralised purchasing activities and which may also provide ancillary purchasing activities'. CPBs often set up and operate framework agreements which are accessible to contracting authorities such as the council.
19. There are a number of advantages to using a CPB, including better prices through economies of scale, lower transaction costs, improved capacity and expertise. A key role of most CPBs 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 CPBs that creates economies of scale in both supply and demand.
20. The Pan-Government Energy Project referred to in option 2 above recommends aggregated, flexible and risk-managed energy procurement. Purchasing via a CPB is entirely consistent with this advice. There are several CPBs who offer this approach and they – along with their frameworks - were assessed during the development of this commercial strategy.
21. The vast majority of local authorities and central government departments purchase supply in this manner, and it is the method the three Orbis partners have employed for a number of years.

### **Preferred option and reasons**

22. The preferred option for the provision of utilities across Orbis is Option 6 - Procure via Central Purchasing Bodies (CPB), for the reasons outlined above.
23. The recommendation is that the three sovereign authorities of the Orbis partnership align contracts for the supply of energy to their buildings, schools and street lighting using the Crown Commercial Service frameworks, for the following reasons:
  - a. CCS offers greater commercial benefits and lower management fees.

- b. CCS has the most significant buying power of any CPB. Based on volume of output detailed below, CCS is just behind the big six suppliers in terms of market influence
- c. CCS's electricity framework spend is £935m p.a. with 800 customers and 17,656 meters across central government and the wider public sector (2016/17). These figures relate only to those larger supplies which are required to have automated 'half hourly' type meters.
- d. The gas framework spend is £400m p.a., with 885 customers and 30,000 meters across central government and the wider public sector (2016/17)
- e. The benefits of purchasing energy in aggregated volumes with the client base described above for each of the three councils is greater than for all the other options identified including other CPBs.
- f. CCS has a range of purchasing options (baskets) which can offer the Councils advantages depending on the length of commitment, risk and cost certainty they wish to carry.
- g. CCS has the most comprehensive set of key performance indicators (KPIs) with which to manage supplier performance and the most effective way of responding when KPI targets are not being met.

### **Procurement Strategy**

- 24. To ensure the continuity of energy supply, new contracts must be in place to start on 1 October 2020. In order to achieve best value for money, a trading/access agreement must be in place as early as practicable before this date so that energy can be traded in advance on behalf of SCC/Orbis. Trading can take place up to two or three years ahead depending on the chosen purchasing strategy and market conditions.
- 25. In September 2018, Surrey County Council served a 24 month notice to LASER, which means this arrangement will cease when the current agreements expire on 30 September 2020.
- 26. From August to November 2018, a number of the utilities market's key players from both the private and public sector were invited to present their offers to Orbis: Crown Commercial Services, Kinect, LASER and Yorkshire Purchasing Organisation (YPO). Additionally, desk top research, telephone conversations and face-to-face discussions took place with the London Energy Project (LEP) and Energy For Good.
- 27. The services offered by these organisations have been thoroughly assessed against Orbis requirements that included account management, billing, ability to self-serve, social value, purchasing options, metering and renewable energy.
- 28. Commercial benefit figures (that is, the difference between the organisation's price for electricity and gas and the average market price) were also compared, where available.
- 29. The result of this assessment was that CCS was considered to offer the best value for money to all three Orbis partners due to its greater financial non-cash releasing benefits, lower management fees and other reasons outlined above.

30. Although the framework we intend to use is not yet operational (framework award is estimated to take place in August 2019), CCS is establishing a very similar model to the current one that will have the same trading strategy behind it. The only possible difference is that the supplier might change but fundamentally, the framework will work the same. This is the over-riding factor that determines value for money, not who the supplier is.
31. This procurement exercise will not have a traditional scoring / evaluation approach. Instead, an assessment will be carried out in the near future to determine which purchasing strategies (baskets) will be implemented across Orbis, including the mix of green/renewable energy.
32. The assessment will also include consideration of the type of assets and type of supply (e.g. unmetered) to ensure the right basket is selected for either all or each of those respective elements.
33. With reference to the mix of green and renewable energy, choosing a particular mix of sustainable energy may entail payment of a small additional cost on a p/kwh basis. This won't affect the basket price or performance from a value for money perspective.
34. Benefits which will be generated by the implementation of the new framework with CCS are as follows
  - a. **SCC Cash releasing benefits** – there will be a saving of £20k per annum due to the management fees of CCS being lower than that being paid presently.
  - b. **SCC non-cash releasing benefits** – this procurement activity has delivered a solution with identified financial non-cash releasing benefits of £233k per annum to the council through mitigation of expected increases in the wholesale price of energy.
  - c. **Social Value** – As a public sector buying organisation CCS is committed to helping customers secure social value benefits at all stages of the procurement process and in line with legislation including the Public Services (Social Value) Act 2012. Further details are available in the CCS Social Value Policy statement published in April 2017. However, the opportunities to deliver social value as part of an energy supply contract were considered as part of the Procurement Strategy and found to be relatively limited due to the nature of the industry.
  - d. **Income generation** – all councils will receive a rebate from the supplier. The value of this will depend on the performance of the advanced purchasing strategy and the overall framework's energy demand.
  - e. **Possible future financial benefits** – Surrey County Council currently uses the 'Fully Managed' service provided by LASER which includes validation of bills, management of queries and support with budgeting and reporting. The total cost incurred by the council and its schools in respect of this service is around £150k per annum. Similar services are offered by third parties via the CCS frameworks and it may be possible for the council to either make a saving or generate revenue



by changing the way this service is provided. In particular, the business case for bringing this service in-house will be explored in advance of the start of the new arrangements in October 2020.

- f. **Other benefits** – Consolidating procurement activities means a reduction of around 500 hours of Procurement staff time. The consolidation of Orbis partner volumes and requirements has resulted in a single provider across the 3 partner sites. This will reduce the number of supplier invoices and queries currently being processed. The accuracy of forecast expenditure for budget monitoring can be improved as the CCS purchasing periods align with the financial year; LASER buy for an October start each year, whereas CCS can provide an April to March price with no variation mid-year.
35. The price paid for energy is expected to increase over the medium to long term, driven up by increases in the non-commodity charges which are set by government regulations. This will place additional pressure on council finances which can be mitigated to some extent by using CCS who will use the benefit of their scale to buy energy in the wholesale markets at more favourable prices.
36. Further benefits could be achieved once assessment of the various purchasing baskets that will be available under the new CCS framework is completed and will be reported at a later date.

#### **CONSULTATION:**

37. Stakeholders that have been consulted in relation to this project are as follows:-
- Paul Hasley – Orbis Energy Manager, Property
  - Claire Barrett – Deputy Chief Property Officer
  - David Cogdell – Orbis Public Law
  - Claire Sibley – Head of Procurement, SCC
  - Louise Lawson – Senior Principal Accountant, Orbis & Business Services Finance

#### **RISK MANAGEMENT AND IMPLICATIONS:**

38. The award will be to a provider via a public procurement framework, which means that that they will have successfully completed satisfactory financial checks as well as competency in delivery of similar contracts at the pre-qualification stage. The following key risks associated with the contract have been identified, along with mitigation activities:

<b>Category</b>	<b>Risk Description</b>	<b>Mitigation Activity</b>
Financial	Increase in energy costs during the term	Effective buying strategies being employed and accurate price forecasts provided by CCS
	Provider has poor financial standing	Internal Financial checks carried out

	Financial penalties for consumption being lower than anticipated	Regular review of consumption forecasts to keep suppliers and traders updated
Performance	Customer service issues.	Comprehensive set of key performance indicators (KPIs) with which to manage supplier performance and effective ways to respond when KPI targets not being met.
Personal data	General Data Protection Regulation (GDPR)	Low risk due to nature of services being provided i.e. no customer names or personal details will be processed.

### **Financial and Value for Money Implications**

39. The overall estimated value of the contract for SCC over the potential 4 years is currently £30 million.
40. The annualised commercial benefits to Surrey County Council of the new framework with CCS compared to that offered by LASER are presented in the table below.

<b>Portfolio</b>	<b>Commercial Benefit with LASER</b>	<b>Commercial Benefit with CCS</b>	<b>Difference</b>
	<b>£k per annum</b>	<b>£k per annum</b>	
Corporate Estate and Street Lighting <sup>(1)</sup>	469	638	168
Schools <sup>(2)</sup> (including Academies)	376	442	65
<b>Total</b>	<b>846</b>	<b>1,079</b>	<b>233</b>

Notes:

1. Includes all traffic signals and street furniture fed from unmetered supplies
2. All publicly funded schools in Surrey are able to purchase energy through the frameworks set up by either CPB. This includes Academies and Voluntary Aided Schools as well as Voluntary Controlled and Local Authority Maintained Schools. Figures are calculated based on those schools currently purchasing energy through the council's framework arrangements continuing to do so.
41. The procurement activity has delivered a solution with identified total financial non-cash releasing benefits of £233k per annum to the council through mitigation of expected increases in the wholesale price of energy.
42. There will be a financial cash releasing saving of £20k per annum due to the management fees of CCS being lower than that of LASER.

43. The financial benefits to Surrey County Council can be realised regardless of whether it acts independently or its volume is aggregated together with that of the other sovereign authorities in the Orbis partnership. This is because the amount of energy being purchased, even when combined with that of East Sussex and Brighton & Hove, is so small compared to the total amount of energy traded by CCS. The benefit of using CCS is therefore unlikely to be diminished by any possible changes which may be considered to the Orbis partnership.
44. All figures are based on current knowledge of energy demands across the Surrey County Council portfolio. Even though initiatives such as the Surrey Transformation Programme and LED street lighting investment will reduce the council's demand for energy significantly, energy costs are likely to remain at a level requiring attention of the council's members and senior leaders for the foreseeable future. The procurement is sufficiently flexible that such changes can be accommodated and the recommendations in this paper remain valid even if there is a significant reduction in the volume of energy being purchased.

#### **Section 151 Officer Commentary**

45. The estimated level of expenditure and savings in this report are included in the current Medium Term Financial Strategy.
46. Property and Highways Services are expected to have in place appropriate controls to ensure energy purchased through the contract is necessary, based on operational requirements and within the context of the Council's financial situation.
47. The procurement exercise to establish the contract ensures that energy services are market tested and provide value for money.

#### **Legal Implications – Monitoring Officer**

48. The Council is a 'best value authority' by virtue of Section 1 of the Local Government Act 1999. This means the Council "must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness." The proposals in this report are intended to meet this duty through combining re-procurement activities together with Brighton & Hove City Council and East Sussex County Council and as explained further in main body of the report.
49. A procurement of services of this value must be undertaken in accordance with the requirements of the Public Contracts Regulations 2015 ('PCRs') and the Council's own Procurement Standing Orders. The Council's legal officers will advise during the procurement to ensure that it complies with all relevant legal requirements.
50. In reaching its decision and making the proposed delegations, Cabinet should be cognisant of its fiduciary duties to Surrey residents in managing the Council's limited resources.

#### **Equalities and Diversity**

51. There are no equalities implications.
52. There are no TUPE implications as a result of this contract.

<b>Climate change/carbon emissions implications</b>
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53. Electricity generated from low carbon and renewable sources will be available from the suppliers on CCS frameworks. The costs and benefits can be assessed as circumstances change from year to year.

<b>WHAT HAPPENS NEXT:</b>
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54. The Energy team, with support from the Procurement team and from the Customer Specialist Lead at Crown Commercial Services, will develop an energy purchasing strategy that meets the risk profiles of different groups within the portfolio – Corporate Operations, street lighting, schools. Once the purchasing strategy is agreed, the Director of Procurement and Chief Property Officer will sign Customer Access Agreements accordingly.
55. The timetable for implementation is as follows:

Action	Date
Cabinet decision to award	30 April 2019
Customer Access Agreement Signature	Summer 2019
Contract Commencement Date	1 October 2020

**Contact Officer:**

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**Consulted:**

- Wendy Mcrae-Smith – Orbis Public Law
- Claire Barrett – Deputy Chief Property Officer
- Claire Sibley – Head of Procurement, SCC
- Louise Lawson – Senior Principal Accountant, Orbis & Business Services Finance
- Andy Royse – Street Lighting Team Leader, Highways, Transport & Environment, SCC

**Annexes:**

None

**Sources/background papers:**

Pan-Government Energy Project  
 CCS Social Value Policy Statement