

Report of Group Manager (Energy and Water)/ Asset Management

Report to Chief Asset Management and Regeneration Officer

Date: 15th July 2014

Subject: Contract extension to GdF Suez for Supply of Gas for one month from October 1st 2014 to October 31st 2014, to the value of £250,000

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The general contract for supply of gas to LCC operational premises is currently undergoing procurement, with a supply period starting on October 1st 2014
2. Due to a programming error, there is insufficient time to carry out a full OJEU procurement, and at the same time, allow potential suppliers time to transfer registration of sites between the “start of contract” date, and “start of supply” date.
3. To ensure compliance with OJEU rules, it is necessary to extend the existing best-value contract for one month, under its existing terms and conditions, than to employ other contractual means of maintaining a contracted supply.
4. Continuing to take gas, at more than 850 sites, with no contract in place, would more than double the costs for the given period.
5. The disconnection of 850 gas supplies is not considered to be an option under any circumstances.

Recommendations

6. The Chief Asset Management and Regeneration Officer is recommended to waive CPR 9.1 and 9.2, so that GdF Suez may be awarded an extension contract to supply gas, for one additional month, based on the existing best-value contract terms and conditions.

1 Purpose of this report

- 1.1 The report seeks approval for the recommendation to waive CPR 9.1 and 9.2, awarding a one-month extension to the existing best-value gas contract.

2 Background information

- 2.1 LCC currently procures gas for all of its operational properties through a single risk-management-based, flexible purchasing contract, where the terms and conditions, fixed costs, and pass-through costs are defined at the start of the contract, while the “utility” is purchased on the wholesale market, through the trading desk of the supplier.
- 2.2 The current contract has been found to be the most economical means of procuring gas available for a portfolio such as LCC’s, without incurring unacceptable price volatility risks.
- 2.3 Currently, the expertise underpinning risk-management based procurement is largely in-house, in the hands of one officer, backed up with independent verification of market data and trading positions
- 2.4 The new procurement seeks a similar risk-management-based flexible-purchasing contract. However, it seeks to move the “expertise” to become part of the supply of the new contract, so as to remove the potential “single point of failure” caused by lack of cover from LCC staff.

3 Main issues

- 3.1 There have been difficulties in defining the exact scope of the contract, combining a supply contract with a brokerage contract. This has taken a month longer than anticipated to generate due to issues with definitions of performance, quality and value.
- 3.2 The cost of gas under the new contract is likely to be only slightly different from the existing contract, since it has been proved that this technique is currently the best available practise for a large, mixed portfolio such as LCC’s. The risk of cost variation produced by offering a one month contract, compared to the likely cost of the first month of the proposed supply period is currently of the order of $\pm 5\%$ of the total value for September. This variation is likely to be outweighed by the seasonal variation caused by weather variability.
- 3.3 The outcome of attempting to shorten the programme so as to start supply by October 1st would open LCC to criticism for creating unfair competition, or for imposing terms that could only be met by the existing supplier.
- 3.4 The likely benefits from allowing an extra month for procurement of the new contract arise from allowing a fully transparent OJEU procurement to take place with no jeopardy to probity, scrutiny or fairness to contractors.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Since the report recommends waiver of CPR 9.1 and 9.2, the Procurement Governance & Regulation Manager has been consulted
- 4.1.2 This report recommends the continuation of the current procurement situation of one month only. There would be no changes of principle on which to consult

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 This report has no direct implications for equality, diversity, and integration.

4.3 Council policies and City Priorities

- 4.3.1 This strategy aims to support the Core Value of 'Spending Money Wisely' and the Council's Carbon and Water Management Plan, 2011-2021.

4.4 Resources and value for money

- 4.4.1 The Energy Purchasing Strategy aims to minimise the cost of energy procurement while protecting the Council's energy budget from sharp increases in market prices

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This is a key decision as this is a new contract and expenditure will exceed £250k.
- 4.5.2 This decision has not been on the list of forthcoming key decisions for 28 clear days, however, it is impracticable to delay the decision for the following reasons:
- Without this interim arrangement in place, the cost of gas to the Council will double for the month.
- 4.5.3 A key decision may also be Exempt from Call In if the decision taker considers that the decision is urgent (i.e. that any delay would seriously damage the Council's or the public's interests). This decision is exempt from call-in as any delay will significantly increase the cost of gas for the interim period and discontinuation of gas supply is not considered an option under any circumstances.

4.6 Risk Management

- 4.6.1 The Energy Procurement Strategy takes into consideration the inherent risks of a volatile and uncertain energy market. In addition, the recommendation to tender for an energy consultant aims to address the risks arising from relying on one officer to make the purchasing decisions
- 4.6.2 The risk if this procurement is not undertaken is that that gas consumed by the council's operations would increase in cost by 50%, as from 1st October 2014, when "deemed prices" would replace agreed contract values.

5 Conclusions

- 5.1 The proposed waiver would enable a smooth change from the outgoing supplier to an incoming supplier to take place with a full OJEU procurement regime, without making impossible demands on contractors to change over supply arrangements in a time scale much shorter than the agreed industry norm.

6 Recommendations

- 6.1 The Chief Asset Management and Regeneration Officer is recommended to waive CPR 9.1 and 9.2, so that GdF Suez may be awarded an extension contract to supply gas, for one additional month, based on the existing best-value contract terms and conditions.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.