

Significant Operational Decision to place an Advanced Order for Solar Photovoltaic (PV) systems prior to Contract Award

Date: 11 June 2021

Report of: Project Manager

Report to: Chief Officer Sustainable Energy & Air Quality

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

- In April 2021, the Chief Officer provided Authorisation for the procurement and contract award to Engie Regeneration Ltd (Engie) for the design and build of Solar PV systems, to be delivered by c£25m grant funding awarded through the Public Sector Decarbonisation Scheme (PSDS). The Council has not yet entered this contract.
- The Solar PV marketplace is extremely volatile due to local, national, and global events which are causing issues with supply chains and consequential price increases as demand for PV systems exceeds the supply that is currently available.
- The supplier of PV systems Engie had intended to use has confirmed they are unable to supply the volume of panels we require for our projects within the timescales we need them to meet the funding conditions of the PSDS grant award. Back up suppliers have also reported the same issues.
- Engie have identified an alternate supplier who has stock in the UK. This supplier has agreed to reserve PV systems on a short-term basis. To secure this supply, an order needs to be placed immediately. If this order is not placed there is a high risk that we will not be able to complete any installations within the deadline that is a prerequisite of the funding award.
- As the Council is not yet in contract with Engie, there is a requirement to establish a mechanism to place the order to secure supply, ahead of design and build contract award.
- This report sets out the mechanism for Advanced Ordering and asks the Chief Officer to take a Significant Operational Decision to place the order.

Recommendations

The Chief Officer Sustainable Energy & Air Quality is asked to:

- a) Approve the use of an Advanced Orders mechanism to place an order for Solar PV systems ahead of entering into the design and build contract with Engie.
- b) Release £410,291.20 of funding to secure c3000 panels (equating to c50% of the overall scheme requirements) for installation at priority sites.

Why is the proposal being put forward?

- 1 The Council has secured funding on the premise of being able to deliver Air Source Heat Pumps and Solar PV projects at c35 sites. The two technologies are intrinsically linked, the Heat Pumps cannot be installed without Solar PV systems, as the PV systems are required to offset the additional electricity consumption of the Heat Pumps, and the Solar PV systems cannot be installed in isolation as this would not satisfy the requirements of the funding conditions, because the primary objective of the PSDS is the decarbonisation of heat.
- 2 The absolute project deadline is 31 March 2022, with an initial target date of 30 September 2021. Extensions to March 22 will only be awarded in extenuating circumstances, therefore 30 September 2021 is driving the programme.
- 3 Activity to install Heat Pumps is well underway and works have commenced at three buildings. Due to the volatility of the PV market there is now a risk that the dependency between Heat Pumps and Solar PV will be disrupted, and puts the deliverability of the entire scheme at risk which would have major consequences for the Council, including but not limited to: increased energy bills, stakeholder dissatisfaction, clawback of grant funding, failure to meet carbon reduction targets.
- 4 Volatility in the PV marketplace is being driven by:
 - Global demand: Most PV systems are manufactured in China. The global Climate Emergency is creating massive demand on finite production capacity.
 - National and local demand: Schemes such as PSDS have created lots of competition to secure PV systems to deliver schemes that have been grant funded.
 - Suez canal: The blockage of the Suez canal disrupted supply chains and ramifications of the blockage are still being experienced at ports and customs around the world. This has created a bottleneck, systems that normally would have been available are caught up in blockages, creating additional squeeze on an already limited supply for which there is competition.
- 5 The volatility in the marketplace is also pushing prices upwards. Already there has been an increase in prices between the PSDS bid stage and final design submission, and there is no indication of a reversing trend.
- 6 There is a requirement to secure PV systems now to ensure the grant funded PSDS schemes can be delivered, and further to protect the Council from further price increases which will ultimately affect the viability of the overall project and limit the benefits that Council wishes to secure from the systems.

What impact will this proposal have?

Wards affected: None

Have ward members been consulted?

Yes

No

What consultation and engagement has taken place?

- 7 Procurement and Commercial Services (PACS) have been consulted. The Head of PACS has provided a legal document that ensures the Council's position of risk is protected through placing an order ahead of being in contract with Engie.

What are the resource implications?

- 8 The Council's Sustainable Energy and Air Quality (SEAQ) service has been granted £25.2m in grant funding from SALIX Finance Ltd's Public Sector Decarbonisation Scheme, c£4m of this funding is earmarked for installations of Solar PV by Engie
- 9 This report is solely concerned with placing an Advanced Order for Solar PV systems, as such describes the requirement to underwrite a budget of £410,291.20. As this budget is fully grant funded, there are no pressures on the Council's capital budget arising from placing this order.

What are the legal implications?

- 10 The main issue arising from placing an order ahead of being in contract is the passing of title of the materials. The Advanced Orders document (example attached at Appendix 1) sets out a process for the use of 'vesting certificates' to mitigate this risk. The use of vesting certificates ensures that the materials are marked up as being owned by the Council whilst they are in storage. This offers protections in the event an unforeseen event happens, such as the storage facility going into administration. Creditors would not be able to claim the materials to offset debt because the title passes to the Council through use of the vesting certificates.
- 11 Confidential appendix 2 sets out the pricing schedule for the panels. This information is commercially sensitive as such is marked as confidential under Access to Information procedure rule 10.4 (3): Information relating to the financial or business affairs of any particular person (including the authority holding that information).

What are the key risks and how are they being managed?

- 12 In addition to the risk of passing of title (described above) the other key risk is site specific issues occurring at the sites the systems are earmarked for, that prevent installations going ahead. This Advanced Order is being placed for c50% of requirements to mitigate this risk, in the event any site-specific issues arise that prevent install, the PV systems can be used at other sites included in the overall programme.
- 13 The supplier being utilised for the Advanced Orders has not been implicated in any recent modern slavery reports linked to China.

Does this proposal support the council's three Key Pillars?

Inclusive Growth

Health and Wellbeing

Climate Emergency

14 Installation of Solar PV systems on our corporate estate will provide renewable energy to power Heat Pump systems and other electricity use, reducing our carbon footprint and energy bills.

Options, timescales and measuring success

What other options were considered?

15 Do Nothing: Ruled out.

- If we do nothing the deliverability of the entire project is at risk. The heat pump installs (dealt with separately to Engie) are dependent on Solar PV systems to offset the increased electricity consumption. There is an urgent requirement to ensure we can secure PV supply.

16 Wait until the design and build contract is awarded: Ruled out.

- While good progress has been made on getting to contract award, there are still final governance steps to complete which will take time. The volatility of the marketplace means that changes are happening on a daily basis, there is far too much risk involved with delaying the order.

17 Place an order in advance of being in contract: Recommended.

- This route offers us a guarantee of c3000 panels, which allows us deliver 10 of our projects before the project deadline date of 30 September 2021.

How will success be measured?

18 Success will be measured by confirmation that the order has been placed, that the panels are stored in the dedicated warehouse and marked up with vesting certificates.

What is the timetable for implementation?

19 Immediately upon signature of the DDN.

Appendices

20 Appendix 1 – draft Advanced Orders letter.

21 Confidential Appendix 2 – Pricing summary

Background papers

22 None