CABINET

DATE	15 February 2023
REPORT OF	Councillor Stephen Harness (Portfolio Holder for Finance, Resources and Assets)
RESPONSIBLE OFFICER	Sharon Wroot, Executive Director of Place and Resources
SUBJECT	Electricity and Gas Basket Framework
STATUS	Open
FORWARD PLAN REF NO.	GENERAL EXCEPTION. Not included on the Forward Plan therefore, to be considered under the General Exception provisions of the Constitution.

CONTRIBUTION TO OUR AIMS

The report seeks approval for a further call off from the existing electricity and gas framework. The call off process is being managed by the Council's transformation partner, Equans Services Ltd, utilising the expertise available within the ENGIE group to maximise financial savings for the Council. As well as providing for the corporate portfolio/maintained school, the framework is accessed by local academy schools/academy groups, Lincs Inspire, CATCH and Your community Hub (CIC). Access by these groups supports a stronger economy by allowing them to benefit from the lower energy rates procured. The framework supplier provides electricity from renewable sources, that contributes to reduction in carbon, supports the Council's revised zero carbon goal and our ambition to invest in a green future.

EXECUTIVE SUMMARY

Following a procurement process in 2020 managed by Equans Services and undertaken with its partner, ENGIE Impact, the Council implemented an energy supply framework with TotalEnergies. Operation of this framework has enabled ENGIE Impact has allowed the Council to benefit from significant cost avoidance over the course 2020-2024 supply period.

Over the term of the current framework, a cost avoidance on electricity of over 48% (c.£2.6m p.a.) and on natural gas 55% (c.£0.9m p.a.) has been achieved compared to the market average prices across the whole period. This provides a combined electricity and gas commodity cost avoidance benefit to the Council of 50% (c.£3.5m p.a.) since the increases to energy price caps in August 2021. However, the current framework is due to expire in March 2024, at which point the cost avoidance benefit achieved for the Council will no longer be available.

The estimate total annual cost increase to the Council, based on current market rates available for 2024 and beyond, is £3.86m p.a. This impact was included in the budget estimates for the Council's medium-term financial plan.

This Cabinet report seeks approval to carry out a further call off from the existing framework to help avoid risks of additional cost increases associated with the Council trying to re-procure its energy frameworks during a period of extreme market volatility.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Delegates authority to approve a further call off from the Electricity and Gas Basket Framework to the Executive Director of Place and Resources, in consultation with the Portfolio Holder for Finance, Resources and Assets.

2. Authorises the Chief Legal and Monitoring Officer to complete all legal documentation in relation to the matters outlined above.

REASONS FOR DECISION

Approving the decisions will allow the Council to put measure in place to help mitigate the increases in the costs of utilities and the pressure this provides to the Council's budgets. The decision will also assist the Council's to achieve its commitment to reducing the organisation's carbon emissions to net zero by 2030.

1 BACKGROUND AND ISSUES

1.1 The Council's combined average annual spend on gas and electricity is currently £2,602,293 p.a. In addition, the Council currently procures £945,701 p.a. of combined gas and electricity on behalf of local academies. However, it is estimated based on current market averages that the Council's total combined spend energy will increase to £6.46m from the 31st of March 2024 onwards.

1.2 Schedule 29 of the services agreement between the Council and Equans Services Ltd requires that Equans administer the Council's electricity and gas supply and also procure electricity and gas on behalf of the Council as and when required. The specific activities relating to energy trading are carried out by ENGIE Impact.

1.3 The Council has signed a Deed of Amendment (DoA) which deals with additional specific risks associated with the energy frameworks and enables Equans to act on behalf of the Council in respect of any revenues generated.

1.4 Through the framework agreement, all parties, Equans, ENGIE Impact, the Council and TotalEnergies, have worked collaboratively to build a strong working relationship. The trading activities of ENGIE Impact has achieved a combined electricity and gas commodity cost avoidance benefit of 50%.

1.5 The framework attracts a fee from joining named bodies outside of the boundaries of North East Lincolnshire that are paid to the Council as Framework Owner. The fee is shared 50/50 with the Framework Manager (ENGIE Impact) and will cover any administrative costs of running the framework.

1.6 Since August 2021, the wholesale energy market has been subject to unprecedented volatility due to the global pandemic and now war in Europe, resulting in exceptionally high energy prices both here in the UK. Over the last decade or so, electricity prices have remained stable with little fluctuation. However, in the last 10 months recent' spot prices have risen to prices that have never been seen before. In addition to the war in Ukraine, there remain underlying issues with an aging French nuclear fleet. This has meant that electricity generation from France has fallen, restricting the amount of electricity that can be exported, thus putting more strain and demand on interconnected countries, such as the UK.

2 RISKS AND OPPORTUNITIES

2.1 There is a risk that not acting now to call off the existing energy framework would incur additional costs for Electricity and Gas supplies. The historic benefits of trading activity by ENGIE Impact indicate that giving ENIGE Impact the maximum opportunity to carry out trade prior to the end date of the current call off could help mitigate against the commodity cost increases outlined above. The natural pattern of market energy prices means that this opportunity will be greatest during spring/summer of 2023 for the year-ahead prices available for summer 2024.

2.2 If the Council were to allow the current framework to expire at its current date, it would be seeking to procure a new supplier at a point when the number of suppliers available in the market is reduced. The trading activity for the new framework could not take place until the contract was awarded and the framework participants were committed. This would be at the point when the market is most volatile and energy prices will likely be at their highest.

2.3 Failure to award a future tender would mean that the Council would have failed to enter a renewed Electricity and Gas contract prior to the termination of its existing contract. As a result, the supply rates charged across its portfolio would swap to deemed rates, which would incur significant additional costs.

2.4 This situation would also apply to all framework participants and may result in those participants seeking financial redress from the Framework Owner. The only option to avoid this would be to formally terminate the framework and give notice to framework participants. This would lead to loss of income due to non-Council framework participants seeking their own supply agreements.

2.5 The current framework saw a switch to a green energy supply. This means that the supplier offsets the energy used via the framework with an equal quantity sourced from carbon neutral providers. This option strongly contributes to delivery of the Council's carbon reduction agenda. The current supplier offers this option at no additional premium to the Council.

2.6 Non-Council participants do not have to commit to the framework until after the tender is complete. If they are not satisfied with the outcome, they may choose to move to utility solutions. There is a risk that the resulting shrinkage of the Council's basket would reduce the volume therefore not securing as favourable result. Further there would be a loss of income to the Council.

3 OPTIONS CONSIDERED

Option 1: Do nothing until the current framework is due to be retendered

Advantages

- There are none for this option.

Disadvantages

- Decreased interest from suppliers as they are carefully considering taking on new business.
- No response from the market would lead to the basket going on to deemed rates.
- Loss of basket size/disaggregation of the basket.
- Certain financial pressure
- Loss of income from the revenue achieved from the fee that named bodies outside of the boundaries of North East Lincolnshire that is paid to the Council.
- Although Academies are free to move suppliers, independent Academies/Schools (i.e., those not within wider academy groups) will be left unsupported

Option 2: Carry out a further call-off from the North East Lincolnshire Council Electricity and Gas Basket Framework for a further four years (2024-2028) with the same supplier.

Advantages

- Calling off in 2023 will secure the basket and will allow the maximum time for trading to ensure the best market rate.
- The supplier non-commodity rates procured through the framework will remain fixed at point where the equivalents available at market will have increased.
- Continued fee from joining named bodies outside of the boundaries of North East Lincolnshire that is paid to the Council as Framework Owner.
- The performance of the current frameworks has demonstrated continual cost avoidance on the wholesale market costs, which accounts for 45% of the overall spend. It is hoped that the new call off from the existing framework will achieve additional cost avoidance for the Council. This benefit will continue offsetting the non-commodity charges which accounts for 55% of overall spend.
- By 2027/2028 the market is predicted to return to pre-covid rates. Therefore, will be in a more favourable position to procure.

Disadvantages

- There aren’t any for this option. The additional call off for 4 years is equivalent to the same contract period that would be tendered at market at the end of the current framework period.

Option 3: Go to Market and procure a new North East Lincolnshire Council Electricity and Gas Basket Framework for a further four years (2024-2028) with a potential new supplier.

Advantages

- There aren’t any for this option

Disadvantages

- Reduced market as suppliers are carefully considering taking on new business. Some suppliers have withdrawn from commercial supplier due to the associated risks.
- No response from the market would lead to the basket going on to deemed rates.
- Loss of basket size/disaggregation of the basket.
- Certain financial pressure.
- Loss of income from the revenue achieved from the fee that named bodies outside of the boundaries of North East Lincolnshire that is paid to the Council.
- Although Academies are free to move suppliers, independent Academies/Schools (i.e., those not within wider academy groups) will be left unsupported

Option 4: **Conclude the current framework and revert to a Pro5 arrangement**.

This option terminates the current framework arrangements and reverts the Council back to the use of frameworks procured through the Pro5 purchasing organisations, e.g., Yorkshire Purchasing Organisation (YPO).

Advantages

- The Pro5 arrangements are compliant with the Public Contract Regulations 2015.
- The Council receive a small rebate from the YPO as a result of being part of their larger basket.

Disadvantages

- The current YPO framework expires March 2023. They are procuring and trading at a time when the market at its highest.
- More onerous process of supply transfer and billing, with multiple suppliers
- A certain increase in utility spend/budget due to adopting a more risk averse trading strategy and given the current market conditions. It should be noted that the move away from the Pro5 arrangements in 2015 secured a cost saving to the Council of £470k p.a.

- Reputational damage as the commitment was made by the Council in 2015 to procure energy independently of the Pro5 arrangement.
- Although Academies are free to move suppliers, independent Academies/Schools (e.g., those not within wider academy groups) will be left unsupported.

Recommendation

It is recommended that **Option 2** is approved for the following reasons:

Due to the current wholesale energy market environment, energy suppliers are very carefully considering their position on new business. So much so, that there are now a number of energy suppliers that have either withdrawn completely from the Industrial & Commercial markets, such as Scottish Power and British Gas Business, or have temporally suspended sales activity for new business. Some suppliers have recognised that they are better served on protecting their existing business rather than having the added risk and administrative demands of new business. Some suppliers have also been negatively affected by the challenges of staffing and recruitment following working pattern changes post Covid.

4 REPUTATION AND COMMUNICATIONS CONSIDERATIONS.

4.1 Failure to secure favourable rates would be damaging to the Council's reputation.

4.2 The Council's intention to carry out a further call off will need to be communicated to non-Council participants.

5 FINANCIAL CONSIDERATIONS

5.1 The estimate cost increase to the Council for energy from March 2024 is based on the forecast market rates for that period currently available, as set out in the medium-term financial plan.

5.2 Allowing more time for energy trading by awarding the additional call-off in advance of the current framework termination date provides a potential mitigation against some of the estimated cost increases.

5.3 Creation of the framework demonstrates VfM and could result in electricity and gas savings for the Council and any framework participant through continued cost avoidance.

5.4 Failure to award the electricity and gas contract on time will result in significantly higher revenue costs for gas for the Council and any framework participants.

6 CONSULTATION WITH SCRUTINY

There has been no consultation with Scrutiny at this stage.

7 FINANCIAL IMPLICATIONS

7.1 The recommendation aims to achieve best value for money for the Council from its electricity and gas contracts.

7.2 The estimated impact of increases in energy prices is being reflected in the Council's latest Medium Term Financial Plan, with the proposed extension of the current framework aiming to mitigate those pressures reported.

8 LEGAL IMPLICATIONS

8.1 The advantages, and rationale, for the recommendations are clearly outlined within the body of the report.

8.2 A call off from an approved framework ensures the Council complies with its best value duty and obligations under the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.

8.3 Relevant procurement and legal officers will support, as appropriate.

9 HUMAN RESOURCES IMPLICATIONS

There are no direct HR implications

10 WARD IMPLICATIONS

This proposal affects all wards.

11 BACKGROUND PAPERS

There are no background papers.

12 CONTACT OFFICERS

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