

## **Committee: Cabinet**

**Date: 6 December 2021**

Wards: All

## **Subject: Award of Contract for the Supply of Power**

Lead officer: Mark Humphries - Assistant Director, Infrastructure & Technology

Lead member: Cabinet Member for Finance

Contact officer: Richard Neal – Energy and Sustainability Manager

### ***Exempt or confidential report***

*The following paragraph of [Part 4b Section 10 of the constitution](#) applies in respect of information within the appendices and they are therefore exempt from publication:*

*Information relating to the financial or business affairs of any particular person (including the Authority holding that information).*

*Members and officers are advised not to disclose the contents of the appendices.*

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### **Recommendations:**

- A. That the Council Award a 4+1 year contract for the supply of power to Bidder A.
- B. That authority to take up the optional 1 year extension on the contract be delegated to the Chief Officer & Director of Corporate Services.
- C. That Authority to take up the option to purchase Renewable Energy Guarantee of Origin Certificates (REGOs) via this contract be delegated to the Director of Corporate Services.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

1.1. The Council's contract for the Supply of Power to its buildings (including schools which choose to opt in) is due to expire on 31<sup>st</sup> March 2022. This report seeks approval to award a 4 year contract, with the option of extending by an additional 1 year at the Council's discretion, to Bidder A.

1.2. The report outlines the compliant tender exercise that was conducted, the key benefits of the preferred supplier's bid, and the financial implications for the Council over the term of the proposed contract.

## **2 DETAILS**

2.1. The Council's existing contract for the supply of power is due to expire on 31<sup>st</sup> March 2022, and the Council's Procurement Board has approved re-procurement of this contract.

2.2. The total value of the Council's Power Supply contract is estimated to be around £10,000,000 over the full 5-year term, though the majority of this expenditure will be

made up of pass-through charges and the cost of wholesale energy. The actual supplier fees are anticipated to make up around 0.5% of this value.

2.3. The approach selected was for the Council's Energy Consultant / Third Party Intermediary (TPI), Inspired Energy, to conduct a PCR compliant Open tender to select a new supplier.

2.4. Inspired are considered uniquely placed to manage this exercise given their extensive experience in procuring energy, their comprehensive industry knowledge, and understanding of the public sector. They took the lead in developing the tender documentation (in consultation with Commercial Services).

2.5. Publication of the ITT was delayed for a few weeks due to the onset of the ongoing energy crisis. Council officers discussed the extreme volatility in the market with Inspired, and it was felt that as several suppliers were indicating they were waiting to see how the crisis developed before taking on any new business, making the opportunity available at that time would lead to a very poor level of interest.

2.6. Around 14 days into the energy crisis, Inspired advised that the market was indicating a renewed willingness to tender for new business. This combined with shortening timescales to get an energy supply contract in place and purchase energy on the wholesale market led to a the decision to proceed with the procurement.

2.7. The ITT was published on 24<sup>th</sup> September and was made available to all interested parties via Inspired on their MyTenders procurement portal.

2.8. 9 suppliers initially registered an interest in bidding via the portal, but ultimately only 1 response was received.

2.9. The bid was evaluated by a panel of 3 officers, comprising 2 from Inspired Energy, and the Council's Energy and Sustainability Manager, Richard Neal. A representative from Commercial Services was present to oversee the moderation meeting, which took place on 28<sup>th</sup> October.

2.10. The tender was assessed based on a split of 40% Price / 60% Quality, with quality criteria including questions covering customer service, billing, wholesale trading functions, social value and sustainability.

2.11. As only a single bid was received it scored 100% for the Price section. However the panel conducted a comparison of the pricing offered against both the Council's current contract, and against other prices Inspired are seeing offered in the wider market. This analysis can be found in exempt Appendix A.

2.12. Overall, excluding the cost of REGOs, the offer represents a small saving against current pricing. Please refer to the exempt Appendix A for Pricing information.

2.13. The Council currently purchases REGOs, which certify that the Council's power comes from a 100% renewable source. The price offered, while in line with current market conditions, does represent a very large increase on the one Merton are currently benefiting from.

2.14. The Council currently purchases REGOs to cover 100% of its electricity consumption, and this is considered to be an important part of achieving the Council's 2030 Climate Emergency target as it allows the Council to demonstrate that all of the power it consumes comes from a zero carbon renewable source.

2.15. Purchasing REGOs for the forthcoming contract is entirely at the Council's discretion. Given the value of the REGOs it is recommended that the decision of whether to take up this option is delegated to the Director of Corporate services.

2.16. At current market prices purchasing REGOs will add 1-2% to the council's overall power costs (annualised costings for REGOs can be found in exempt Appendix A). Given the increasing profile of the Climate Emergency across the UK, and associated demand for zero carbon power it is considered likely that the price will continue to increase.

2.17. Bidder A's overall quality score was 48.69% out of a possible 60%, and scored particularly well in areas such as Onboarding, provision of renewable energy, billing transparency, and trading support. Full details of the quality scoring can be found in exempt Appendix B.

2.18. Bidder A evidenced a strong corporate commitment to sustainability, as well as being an industry leader in meeting the two UN Sustainable Development Goals most relevant to their business (7 – Affordable and non polluting energy, and 13 – Action for the climate). The renewable energy they could provide (via REGOs) would be 100% from UK generated "top tier" sourced such as Wind, Solar and Hydro. Any renewable certificates issued would also be independently verified as zero carbon.

2.19. The offer also included potential provision of educational activities (e.g. visits to windfarm education centres) and assisting the Council's work in tackling fuel poverty through strategies such as home insulation and support accessing domestic home improvement grants. They also indicated a willingness to share their knowledge, experience and expertise in support of the Council's Net Zero Carbon targets.

2.20. It is therefore the recommendation of the panel that the contract for the supply of power be awarded to Bidder A.

2.21. A debrief with the interested suppliers who ultimately chose not to bid was undertaken by Inspired after moderation of the offer received. Of the nine interested suppliers who did not submit an offer, four have not yet responded to requests for feedback. However, two indicated that they could not meet the full requirements of the contract and so did not bid, and one stating they were only currently responding to larger flexible procurement opportunities, and one stating they were undergoing internal reorganisation and as such meeting the deadline for responses was not practical.

2.22. Work to analyse the reasons for the low response rate is ongoing, and will help inform the route to market for the forthcoming Gas Supply procurement in 2022.

### **3 ALTERNATIVE OPTIONS**

3.1. Do not award a contract: This approach would not be compliant with the regulations or CSOs, and as "out of contract" rates quoted by suppliers are significantly higher than those they offer within a contract there would also be a significant financial cost to the council. While quantifying this cost is difficult, Bidder A's current published "Out of Contract" rates are 19p/kWh for larger commercial supplies, this compares to an expected rate of ~15p/kWh based on prevailing market rates.

3.2. Do not award and re-run the tender exercise: There is no guarantee that a second tender exercise would generate additional interest, especially with the energy crisis still ongoing. Conducting a further exercise would also mean there would only be a very

short time between the start of any contract and 1<sup>st</sup> April 2022, limiting the ability of Inspired to secure wholesale energy at the best price for the Council.

3.3. Do not award and seek to award via a framework: There are a number of suitable frameworks available to the council which could be used to appoint a supplier. However similarly to 3.2 following this route would leave little time for Inspired to purchase wholesale power for the council at a good price. It is also unlikely the Council could secure a contract with all of the key functionality that was required within its bespoke exercise.

#### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. Prior to tender the project team considered there was a good opportunity to secure added value through this contract by detailing routes through which potential suppliers could contribute to the Council’s Social Value goals. To this end officers from Public Health and Future Merton were consulted.

4.2. Subsequent to the exercise Inspired Energy will contact the suppliers who registered an interest but then declined to bid in order to ascertain their reasoning. It is thought that the outcome of this consultation will help inform the procurement for the Supply of Gas scheduled for 2023.

#### **5 TIMETABLE**

<b>DATE</b>	<b>STAGE</b>
<b>16<sup>th</sup> November 2021</b>	<b>Procurement Board</b>
<b>6<sup>th</sup> December 2021</b>	<b>Cabinet</b>
<b>8<sup>th</sup> December 2021</b>	<b>Notification of Intention to Award (issue accept and regret letters)</b>
<b>8<sup>th</sup> December 2021</b>	<b>Mandatory Standstill period commences</b>
<b>20<sup>th</sup> December 2021</b>	<b>Expiry of standstill period required under Regulation 87 of the Public Contracts Regulations 2015</b>
<b>20<sup>th</sup> December 2021</b>	<b>Terms and Conditions agreed between Inspired Energy Solutions and the preferred Supplier(s)</b>
<b>21<sup>st</sup> December 2021</b>	<b>Contract Award</b>
<b>22<sup>nd</sup> December 2021</b>	<b>Interim Contract Start Date – Electricity Trading Commences</b>
<b>1<sup>st</sup> April 2022</b>	<b>Full Contract Start Date - Supply Commences</b>

#### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. This report has been reviewed by the Service Financial Advisor.

6.2. The estimated value of the contract is £10,000,000, though given the wholesale cost of energy will make up a large portion of this expenditure market volatility does add some uncertainty to this forecast.

6.3. The price that Bidder A submitted as part of their bid (shown in exempt Appendix A) covers the fees, charged through energy bills, that cover the service provided by the supplier and make up only a small portion of the total contract value. The remaining contract value is made up of levies, taxes, passed through charges from network operators, and the wholesale costs of the purchased power.

6.4. While the bid received could not be compared with any others, Inspired compared the quoted prices to those on the Council's current contract (see exempt Appendix A). They also indicated that these prices are market reflective based on other similar procurements they have been involved in over the last 6 months.

6.5. While the wholesale cost of power is separate from any contractual arrangement that the Council enters into, it should be noted that the current energy crisis, which has led to extremely high wholesale power prices, will have a significant impact on the Council's energy prices moving forward and will put pressure on existing revenue budgets.

6.6. Costs will be contained within the current revenue provisions.

6.7. A credit check was carried out and the recommended contract value is £240,000,000. The report placed no limit on the total value of contracts for this supplier.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

7.1. This report was reviewed by Jonathan Miller from SLLP.

7.2. The Procurement as described in the report was undertaken following Find a Tender Service advertisement and process following the Public Contracts Regulations 2015 (PCR).

7.3. The Council is empowered to enter into contracts with third party providers under section 111 of the Local Government Act 1972, section 1 of the Local Government (Contracts) Act 1997 and section S 1 Localism Act. Additionally the Council is empowered under sections 9E – 9EB Local Government Act 2000 to delegate the discharge of its functions including the actions contained in recommendation B and C to the officers specified.

7.4. Once awarded, the Council must enter the contract on the contract register and ensure that it publishes the necessary information on Contracts Finder in accordance with regulation 108 of the PCR.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1. None identified

## **9 CRIME AND DISORDER IMPLICATIONS**

9.1. None identified

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None Identified

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A – Pricing (Exempt)

- Appendix B – Quality Scoring (Exempt)

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**BACKGROUND PAPERS**

None