

**Open report on behalf of Pete Moore, Executive Director of Finance and Public Protection**

Report to:	<b>Councillor M J Hill OBE, Leader of the Council and Executive Councillor for Resources and Communications</b>
Date:	<b>07 – 31 May 2019</b>
Subject:	<b>Energy Procurement</b>
Decision Reference:	<b>I017893</b>
Key decision?	<b>Yes</b>

**Summary:**

The report identifies that the Council's arrangements for purchasing electricity are up for renewal. The report provides an overview of the electricity market, sets out the Council's current arrangements and the alternatives, and proposes a way forward.

**Recommendation(s):**

That the Leader of the Council approves the Council procuring electricity through the recently established ESPO electricity framework October 2020 – September 2024.

**Alternatives Considered:**

**The Council delivers in-house**

**Pros**

The Council has full control and pays no administrative fee

**Cons**

No Specialist staffing resource, trading software, or track record, no aggregated spend and only minimal quantities purchased.

**Independent Energy Broker**

**Pros**

- Dedicated specialist resource
- Trading software solution already in place

**Cons**

- Profit making organisation
- Reliant on brokers' knowledge and expertise
- No rebate
- No transparency around past or anticipated future performance
- Uncertainty re scale of any aggregated spend and cost of service

**Reasons for Recommendation:****Alternative Public Buying Organisation****Pros**

- Aggregated spend – attractive to market
- Dedicated specialist resource
- Trading software solution already in place
- Not for Profit Organisation

**Cons**

- Unable to benchmark framework performance
- No influence in decision making at governance level
- Management fee

**ESPO****Pros**

- Aggregated spend - attractive to the market
- Framework has previously performed well
- Rebate received on spend throughput
- Dedicated specialist resource
- Trading software solution already in place
- Ability to influence decision making at governance level
- Strong customer service
- Dedicated professional resource
- Not for Profit Organisation
- No transition costs/activity

**Cons**

- Management Fee
- Unable to benchmark against other PBO's

**Background**

1. Since 2007, Lincolnshire County Council (LCC) has procured its electricity supply for street lighting and property through the ESPO Energy Access Agreement (Framework). This framework is accessed by over 100 Local Authorities, Housing Associations and Charities.

2. The Council has made the decision to purchase brown electricity as opposed to green. Brown energy is energy that comes from conventional fossil fuels, such as oil or coal. The combustion from these fuels releases harmful emissions into the environment. Renewable or “green” energy all comes from clean sources that are more sustainable and are perceived to be better for the environment e.g. solar, wind, geothermal, biogas, eligible biomass, and low-impact small hydroelectric sources. In fact 47% of the Total Gas and Power brown electricity already comes from renewable sources compared to the 29% average on UK standard electricity.
3. The ESPO framework has the flexibility to buy green or brown energy for individual large customers such as LCC. Previous discussions between Property, Highways and the Sustainability Team were that there were better ways of reducing the Council's carbon emissions for example by reducing consumption than absorbing a budgetary increase for green electricity. The additional cost of buying all green rather than brown energy will be £11,500 p.a. based on current consumption from 1 October 2019-30 September 2020. This is reviewed annually so ESPO will not know the costs from October 2020 until early next year. We can mix green and brown energy through the 4 years subject to a minimum commitment of 12 months for either.
4. It should be noted that the total delivered costs for electricity are currently forecasted to increase by around 8% from 1 October 2019 regardless of whether the Council decides to take green or brown energy.

### **Current Arrangements**

5. Under the current Framework (Oct 16- Sept 20) the Council signed over delegated authority to ESPO to conduct the commodity trading of brown electricity on the council's behalf. Trading on the commodity market through its internal trading software.
6. As part of the framework agreement, the supply (non-commodity) of electricity is currently contracted to Total Gas & Power whose responsibility is to correctly charge and invoice the Council for its consumption.
7. In 17/18, the Council's electricity consumption was around 23,000,000 kWh, equating to around £3,300,000 (excluding vat) to meet the Council's electricity supply demands. Had the level of demand remained the same as in 15/16 the cost on 17/18 prices would have been £5,205,000 (excluding vat) so the cost avoidance has been considerable.

Supply Type		15/16(Oct-Sept)	16/17(Oct-Sept)	17/18(Oct-Sept)
		Consumption (kWh)	Consumption (kWh)	Consumption kWh
<b>Street and Signals</b>	<b>Lighting Traffic</b>	24,400,000	13,800,000	11,315,000
<b>Property</b>		12,000,000	11,445,000	12,050,000
<b>Total</b>		<b>36,400,000</b>	<b>25,245,000</b>	<b>23,365,000</b>

8. The Council's consumption has been significantly reduced by the turning off of street lights and LED traffic signal and street lighting replacement initiatives.
9. ESPO has provided dedicated professional resource to meet the Council's needs including.
  - Contract Support Officer
  - Billing Manager
  - 2 Trade and Risk Managers
  - Customer Relationship Manager
10. The dedicated resource has provided the Council with energy market briefings and data reports to meet FOI's as well as managing Total Gas and Power on our behalf. In addition, Total Gas and Power have dedicated resource that only manages the ESPO Framework portfolio.

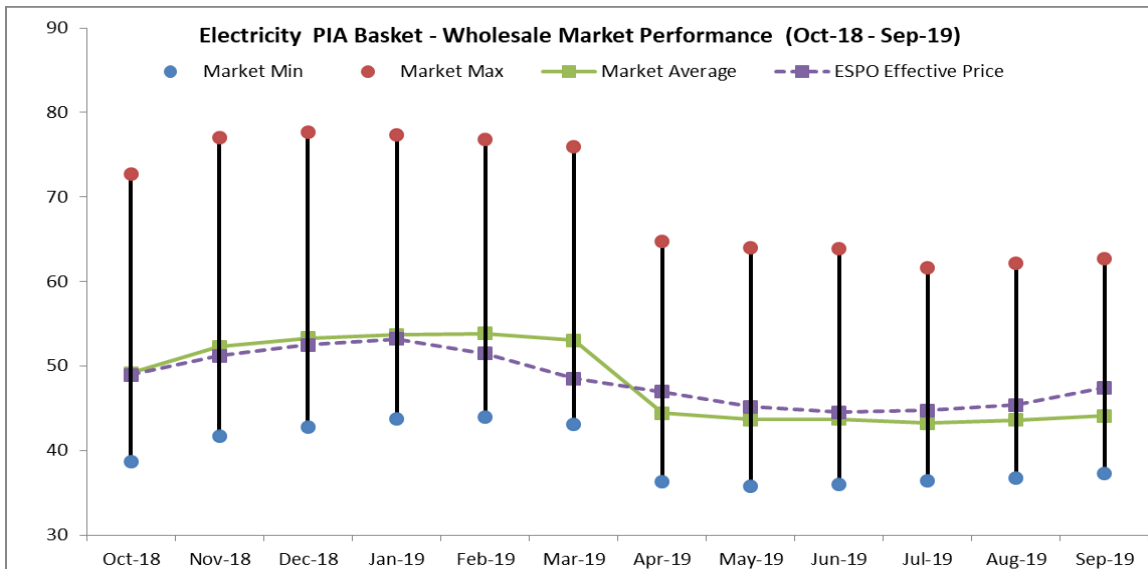
### How it Works

11. Electricity Commodity Costs – This is the cost for the purchase of the electricity and is often known as the trading price. This element currently equates to about 45% of the cost per unit that is supplied and is slowly reducing as decarbonisation and network and system costs continue to rise both of which are non-negotiable. They currently make up 52% of the unit price with the suppliers margin making up the remaining 3%.
12. The existing framework allows ESPO to operate in a flexible manner adopting a hedging strategy which allows for varying volumes to be purchased periodically dependent upon market trends, in accordance with the agreed cover plan levels of the total ESPO portfolio. This is currently under a Purchase in Advance (PiA) strategy.
13. PiA – is where all of the electricity is purchased before the start of the supply period (this can often be 18 months ahead). This strategy is reasonably conservative allowing the Council to know the fixed price it will pay for the next 12 months and guarantees that the prices achieved are not subject to future market price movements. This creates budgetary certainty.

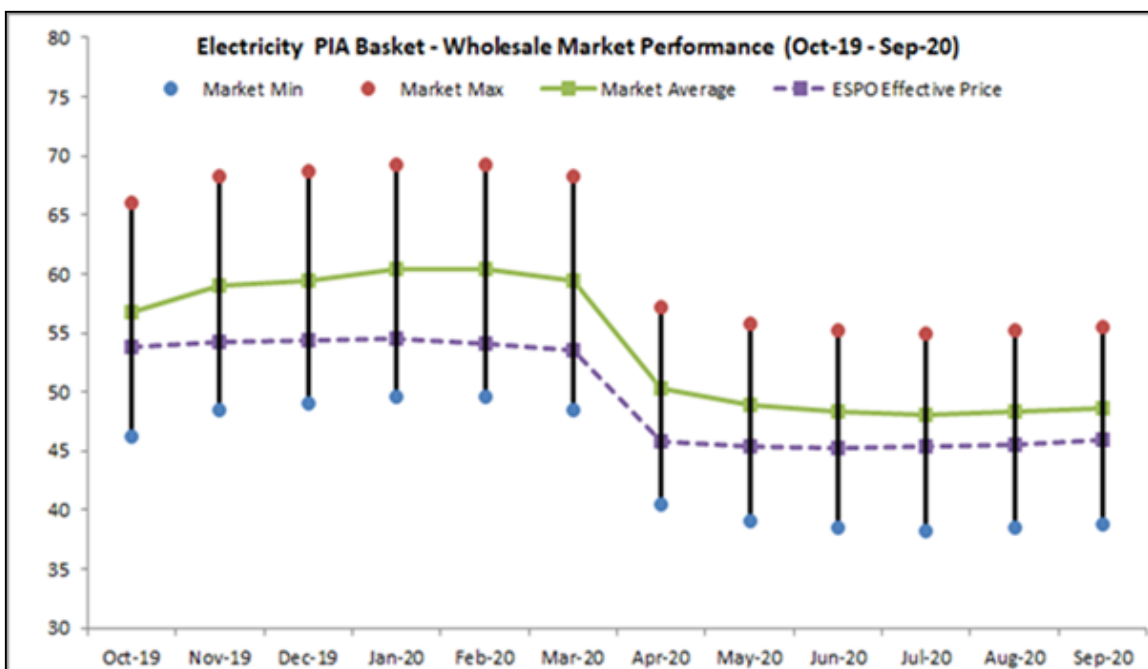
## Framework Performance

14. Under the existing framework from October 2016 ESPO have generated £275,000 of cost avoidance relative to the market up to 18/19 with an estimated further cost avoidance of £172,000 forecast for 19/20.

15. The table below shows ESPO's trading performance for 18/19 where it performed just below the market average, trying to achieve budget certainty ahead of time can make outperforming the market more difficult.



The table below shows a more positive ESPO trading forecast for 19/20 against the market average, although there are still up to 6 months of trading time which could impact upon this.



## **Governance**

16. As a member of ESPO, Lincolnshire County Council has representation on the Energy Governance Panel which oversees buying. The Panel is made up of other partner authorities (County Councils) along with the ESPO Energy Team. This gives the Council the opportunity to influence the strategy and coverplan.
17. ESPO's role is to track the market and react quickly to market behaviours acting in the best interest of their customers (LCC) on a not for profit basis. In addition, to this ESPO have a proven track record of responsive customer service on administration, account changes, invoice validation and tackling FOI's because they have direct access and priority status with their suppliers. The Council is aware that a number of organisations have returned to the ESPO framework having tried the Crown Commercial Service framework and experiencing poor performance.
18. The service provided by ESPO is funded by the management fee charged through the utility bills which is passed back to ESPO by TGP. The total cost for LCC's portfolio, based upon current meters and/or supply is currently £14,300 per annum (fixed).
19. The Council received a rebate from ESPO last year of £74,000 based upon its expenditure placed through ESPO's top ten frameworks, £25,300 of that was due to the utilisation of the electricity framework.

## **Benchmarking**

20. On previous occasions the Council have tried to benchmark the ESPO framework against similar framework agreements. This presented a number of issues, framework owners declined to share their frameworks performance figures for the following reasons;
  - i. Trading periods differ
  - ii. Buying strategies and risk profiling will differ
  - iii. Coverplans differ
21. This has been recognised by the Local Government Association and whilst discussions have taken place between them and purchasing organisations in relation to publishing performance figures, the Public Buying Organisation's (PBO's) have still not shared any information. In addition, the complexities of the market and the un-influence able factors that impact on commodity pricing means that whilst a framework's buying strategy may perform well one year, it may not perform as well the following year.
22. With any switching of utility contracts there is always the issue of data migration to a new provider and the setting up of a billing system, this can be resource intensive.

## Proposal

23. The proposal is to sign up to the recently established ESPO Electricity framework Oct 2020 – Sept 2024, thus allowing ESPO to continue with the commodity trading with Total Gas and Power again being the preferred supplier to manage the non-commodity provision.

24. The proposed approach is aligned with recommendations set out in the National Procurement Strategy in that Council's should look to utilise PBO's for their energy provision. In addition, the Council will receive a rebate based upon the throughput of this framework.

## Legal Issues

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- \* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- \* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in Section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

Equality issues have been considered and there are not considered to be any issues arising out of this decision.

Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The Joint Health & Well Being Strategy (JHWS) has been considered and there are not considered to be any direct impacts of this decision.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

Crime and disorder issues have been considered and there are not considered to be any issues arising out of this decision.

**Conclusion**

It is recommended that the Council sign up to the recently established ESPO Electricity framework October 2020 – September 2024 for the purchase of electricity.

**Legal Comments:**

The Council has the power to enter in to the framework proposed which is compliant with the Council's procurement obligations.

The decision is consistent with the Policy Framework and within the remit of the Leader of the Council.



**Resource Comments:**

The recommendation in this report should secure best value by providing competitive pricing, while reducing procurement, management and administrative costs. Electricity costs will continue to be funded from services' revenue budgets.

**Consultation****a) Has Local Member Been Consulted?**

N/A

**b) Has Executive Councillor Been Consulted?**

Yes

**c) Scrutiny Comments**

The decision will be considered by the Overview and Scrutiny Management Board at its meeting on 25 April 2019 and the comments of the Board will be reported to the Leader of the Council before the decision is taken.

**d) Have Risks and Impact Analysis been carried out?**

Yes

**e) Risks and Impact Analysis**

See the body of the report

**Background Papers**

No Background Papers within the meaning of section 100D of the Local Government Act 1972 have been used in the preparation of this Report.

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