

PROCUREMENT BUSINESS CASE	CATEGORY:	Places - Environment
	INITIATIVE NUMBER & TITLE:	21-166 Electricity Supply Contract 2023-27 and Ancillary Services
	Tender REF:	TBC – Contract Register Entry Only
	CATEGORY MANAGER:	Karen Middlebrook
	SERVICE LEAD:	Steven Cope

1. PURPOSE

The purpose of this procurement business case is to seek approval from Simon Moss, (Assistant Director, Planning Regeneration and Transport) for Rotherham MBC to enter into a direct award with nPower Business Solutions for the supply of electricity and ancillary services via the YPO Supply of Electricity and Ancillary Services Framework (Ref: 1100).

2. BACKGROUND INFORMATION

2.1 Project Background

The Council's main Electricity Supply contract expires in March 2023 and therefore up for renewal. The focus of this business case is therefore the future Contract from April 2023 onwards which is recommended to procure via the Yorkshire Purchasing Organisation (YPO) Electricity and Ancillary Services framework as a direct award to nPower.

It is important to note that whilst the energy supply is provided via nPower, the ultimate arrangement is a triangulated arrangement between the Council, YPO and nPower with YPO taking on the trading of energy at the most cost-effective time for the Council. YPO have responsibility for the development of the trading strategies and as such there is a need for a strong level of trust required in YPO acting as the Council's agent. The procurement of electricity supply has been managed in this way for a significant period of time and over the years performance has been good but recognising that market conditions over the years have been relatively stable compared to the current period from Winter 2021. At present wholesale electricity prices are at the highest ever as a result of global issues limiting the availability of gas on the wholesale market, most notably due to the ongoing and escalating conflict between Russia and Ukraine.

The Council has experienced financial/performance issues over the last few months due to the membership agreed purchasing strategies that is no longer effective with the current wholesale market conditions, and poor communication from YPO to the members around the forthcoming pricing on the contract period.

Due to the significantly increasing high contract value and level of financial risk to the Council, alongside performance issues experienced this requires a high-level strategic decision over signing the new Electricity Supply contract and the future procurement of energy.

2.2 Contractual Background

Rotherham Council are contracted with nPower for the supply of electricity 01/04/2021 to 31/03/2023, via the previous YPO Framework (ref: 791) and the purpose of this business case is to determine the new arrangement.

2.3 Financial Background

Previous Budget Source	Revenue	<input checked="" type="checkbox"/>	Capital	<input type="checkbox"/>	HRA	<input type="checkbox"/>			
	Grant*	<input type="checkbox"/>	Other*	<input type="checkbox"/>	N/A**	<input type="checkbox"/>			
Previous Costs	On Contract	£23.5M		Off Contract	£	N/A	<input type="checkbox"/>		

3 PROPOSED NEW CONTRACT

3.1 Strategic Context

This contract will contribute to the following [Council Plan \(2022 – 2025\)](#) themes

Every child able to fulfil their potential	<input type="checkbox"/>	People are safe, healthy, and live well	<input type="checkbox"/>	A cleaner, greener local environment	<input checked="" type="checkbox"/>	Expanding economic opportunity	<input type="checkbox"/>	Every Neighbourhood Thriving	<input type="checkbox"/>
One Council									<input type="checkbox"/>

3.2 Scope

The scope of the contract that the Council will enter is for electricity supply to all sites listed at Appendix D. A copy of the contract service terms and conditions is at Appendix E.

3.3 Contract Term

Initial contract period (months)	48
Break Clause Options	The call-off arrangement will include a break clause that the Council can enact to leave the Contract at the end of year 2 (and

	each year thereafter), subject to giving 15 months notice,
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3.4 Contract Value

The total expected cost of the contract is very much dependant on the Wholesale Cost of electricity and the non-commodity charges that are levied by the Government and third parties for the transport, distribution, balancing and taxation.

The Management Fee for the contract period is set at 0.038p/kWh, this is ~£12k/year at the current consumption rates.

The current potential contract value for **1 year is £15.7M** based on recent consumption and wholesale/non-commodity rates. (*This is inclusive of Schools/Academies*). If we were to assume this same level of spend over the full 4 year term, this would give a contract value of £62.8M, however it is important to note as stated above, that this could scale up or down dependent on the wholesale cost and non-commodity charges.

4. KEY CONSIDERATIONS

4.1 Stakeholder Consultation and Communications Strategy

Consultation and communication have been continuous between YPO and Asset Management whilst YPO undertook the tender procedure. Asset Management has acted as a stakeholder to this process but wasn't included for this framework in the development of the specification and assisting with evaluation of tender bids.

The Energy Initiative Steering Group is used to consult and communicate with all the other LA's/Public Service Users of the YPO framework, where discussions include items such as (but not limited to) wholesale procurement risk strategies, volumes and basket purchases, changes to non-commodity charges and Government taxation.

For the purposes of this procurement the stakeholder plan will only involve the key officers responsible for Rotherham's own call off contract. A copy of the stakeholder and communications plan can be found at Appendix A.

4.2 Risk Management

The risks associated with the procurement of energy at this present time is the most significant it has been. Poor purchasing strategies could result in significant financial implications for the Council. The project background at 2.1 has set some of this context.

A risk register has been prepared for this procurement, and is located at Appendix B. At present there are no red status risks, but the assigned contract manager will need to monitor and regularly update the risk register to ensure this position is maintained. Any significant issues that have the potential to create high risk levels must be escalated ASAP given the significant challenging financial position.

4.3 Roles and Responsibilities

Detailed below are some high level responsibilities required, although a full roles and responsibilities matrix can be found at Appendix C.

- Framework T&Cs assessed and approved for use - Legal
- Contract Sign off – Paul Woodcock/Simon Moss
- Contract Management - Asset Management

4.4 Governance

As the value of this proposed contract is >£250,000 the approval / decision to enter into contract will require an Officer Delegated Decision Record, and it is essential that the Service has planned this for inclusion on the Forward Plan. Budgets have been allocated to pay for the electricity. The decision will be taken based on the approval of this procurement business case.

4.5 Conflicts of Interest

It is confirmed that there are no known conflicts of interest (personal or financial) with any of the individuals involved in the development of this tender and any potential tenderers in this field who may submit a bid.

5. ANALYSIS AND RESEARCH

5.1 Financial Analysis

Electricity will be purchased through a flexible procurement arrangement with YPO having direct access to the wholesale market through trading activity that avoids suppliers adding any risk premium to the commodity element.

Budget Tool Reports are produced through nPower, which will assist in setting budgets

The management fee for the full contract period is 0.38p/kWh.

The Meter Operating (MOP), Data Collector (DC), Data Analysis (DA) and Automated Meter (AMR) charges have all been held at the previous contract rates.

5.2 Transaction Analysis / eProcurement

The electricity contract is invoiced electronically for all centrally paid sites, therefore reducing paper invoicing to the Council. Non-centrally paid sites (Schools) are encouraged to set up e-invoicing through the portal, but some sites still prefer paper copies.

Access to the Npower Dashboard Online Portal will:

- show portfolio, billing, and consumption information.
- Allow meter readings and queries to be submitted.
- Provide a range of reports that can be downloaded.
- Permission levels allowing users to view a selected portfolio of sites, specific to a user are available and you can also download Half-Hourly (HH) data and view Non-Half Hourly (NHH) consumption to manage your usage.

Query Management through a range of formats, telephone calls, emails, online portal and live chat available and query reports are produced and e-mailed out.

5.3 Supply Market Analysis

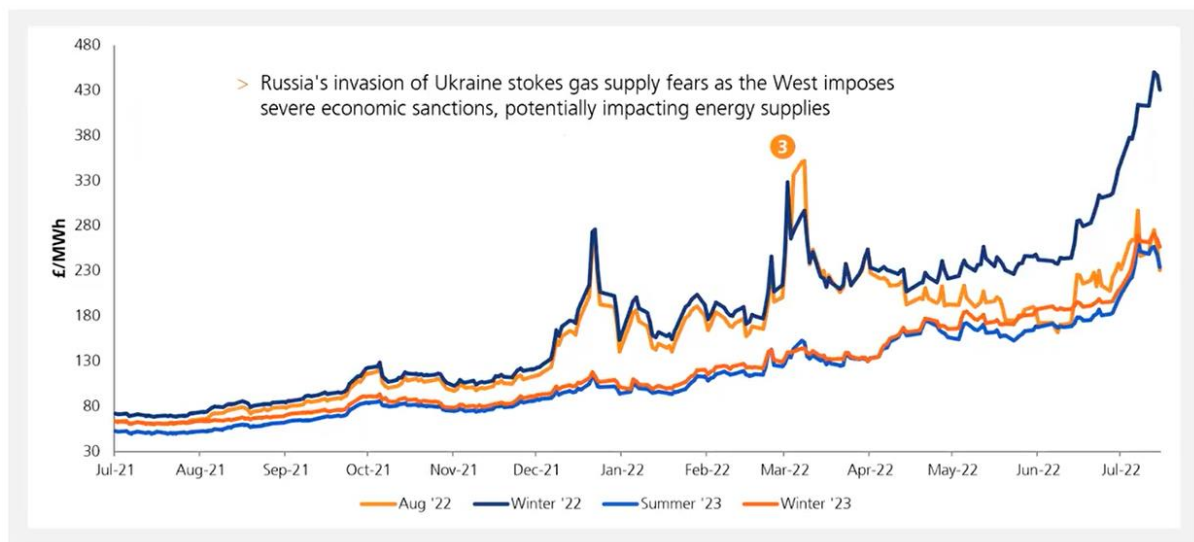
The supply contract ensures:

1. Access to Trading and Market information from YPO and nPower.
2. A range of trading strategies from a low-risk purchase in advance option, to more riskier strategies where some of the volume is left to be purchased within the supply period. YPO will discuss these options separately with the Council and its preferred position and this will be part of an ongoing conversation.
3. The wholesale energy is procured through the energy optimisation desk via YPO and is purchased flexibly throughout the year when the market offers best value, this is continually monitored by YPO to obtain the best prices for its members.
4. The non-commodity charges are determined through Government taxation and Transport Regulators.
5. Management Fee of the supplier is fixed for the duration of the contract as detailed in 5.5.
6. Robust processes in place to ensure that an accurate bill is produced in a reasonable time.
7. Aggregated benefits - This is the combining of energy volumes across organisations to form one large portfolio, making it very attractive to suppliers

Wholesale electricity prices are currently at the highest ever and we are facing unprecedented times, so there is a need to keep under review the associated procurement strategies.

A review into the electricity market arrangements is being undertaken by Government to identify reforms need to transition to a cost effective and secure electricity system to enable the delivery of decarbonisation.

UK Power – Wholesale Prices:



5.4 Collaboration and Commercial Opportunities

The recommendation is to procure via the YPO framework which is deemed a collaborative approach. There will be continued engagement and involvement with members through the EISG forum.

YPO have a dedicated energy team that monitors the energy commodities market constantly and volumes are bought throughout the preceding 12-18 months at optimum trading times when prices are lowest to deliver a fixed 12-month price from 1 April each year to provide the Council with some financial stability. This allows the advantage of maximising dips in the market, reduce supplier premiums and this benefit is passed through to the supply contract. We then receive a fixed price each April for the following 12 months based on the pricing that has been secured. As identified through the risk register, there are some capacity issues within YPO at present that need to be carefully monitored to ensure poor decisions are not taken that financially affects the Council's position.

5.5 Cost / Pricing Considerations

As the large proportion of the energy cost, cannot really be influenced, the main focus is on the Supplier management fee which represents 0.12% of the current total invoice costs.

The non-influential costs are made up of the wholesale element (determined by the Trading strategy) and non-wholesale costs (Network Charges and government Levies).

The only fixed element that is currently known is for the nPower management fee which is set for the duration of the contract at 0.38/kWh:

Management Fee	Average kWh	Cost per Year
0.038p/kWh	32,278,836	£12,969

5.6 Ethical Procurement

Social Value

The contract does include a Social Value Plan, which will deliver social value initiatives that Npower will deliver to YPO and its members, although it must be noted that this does not fully meet the requirements of council's policy, as there is no specifics of how this will be delivered within Rotherham, nor are any of the commitments aligned to the Council's TOMs, or reporting through the Social Value Portal, albeit there are linkages to policy direction.

The nPower Social Value priority themes are as follows:

- **Theme 1: Good jobs with skills development and training opportunities** - Making sure all personnel within your business has the opportunity to develop.
- **Theme 2: Children and young people have access to good quality education and training opportunities to develop skills for future success in work** - To work with the younger generation around how to be more sustainable with their energy use.

- **Theme 3: Growing strong and sustainable economies and supply chains** - Supporting customers to reach their net zero targets, to allow for a strong local economy that is sustainable for future generations.
- **Theme 4: Increased equality, diversity, health and well-being** - Ensuring a fair workplace for all and looking after the health of all your staff.
- **Theme 5: Environmental improvement and protection** - As an electricity Supplier, Npower should be at the forefront in the shift to renewables.

Over the term of the contract, the Contract Manager must engage with nPower to encourage direct delivery of commitments within the borough of Rotherham.

Modern Slavery

nPower Commercial/E-on energy are compliant with the requirements and annual reporting under Section 54 of the Act2015.

<https://www.eonenergy.com/about-us/maintaining-standards/modern-slavery-statement.html> and this will have been verified as part of the procurement process undertaken by YPO.

Safeguarding

Due to the nature of this contract, there is very limited exposure to safeguarding requirements. However, through the management of the contract, the Contract Manager will ensure that nPower are aware that they and their agents will be expected to comply with reasonable safeguarding requirements whilst attending customer premises, and that there will be a duty for them to comply with the Council's safeguarding policy/statement.

Environmental Sustainability / Carbon Net Zero

Options to procure green electricity through the Business Renewable offering enables customers to be supplied by Renewable Energy Guarantees of Origin (REGO) backed power for all or a proportion of their sites.

- **Standard**, where REGOs are sourced from a mix of UK-only based renewable technologies.
- **Business Renewable: Pure**, where REGOs are sourced from wind and/or solar and/or hydro REGOs only.

This framework provides a contractual arrangement with nPower to help drive the councils net-zero programmes, as one of the biggest contributing factors to carbon emissions is energy consumption. Therefore, to enable this the framework has the flexibility to deliver Power Purchase Agreements (PPAs) contracting between two parties, one that generates electricity and one which is looking to purchase electricity.

The PPA can be called off an agreed as a when required between the Council and nPower dependant on the individual requirements of the scheme, generating asset and the Authority.

Living Wage

This contract does not fall within the scope of the Living Wage foundation criteria and therefore the Real Living Wage has not been assessed.

The arrangement constitutes a supply contract therefore staff are not working specifically on Council property or property the Council has a duty to maintain.

Equalities

[Standing up for what is right | E.ON \(eonenergy.com\)](https://www.eonenergy.com)

Steel

N/A

Other Ethical Considerations

N/A

5.7

5.7 Data and Information Management

The proposed call-off contract the Council will enter into has appropriate conditions relating to data and information management.

Please see: **Appendix E** Section:

1. DATA PROTECTION
2. FREEDOM OF INFORMATION ACT ("FOIA") & ENVIRONMENTAL INFORMATION REGULATIONS ("EIR")
3. CONFIDENTIAL INFORMATION
19. DATA

5.8 Health and Safety

There is limited direct exposure to the Authority from H&S issues in relation to the contract delivery.

Full H&S Ricks Assessments and procedures are delivered through a third-party operator for any requirements for the exchange of gas meter or upgrades to AMR in-line with the Health and Safety at Work Act and Industry Standards.

5.9 Disaster Recovery and Business Continuity

Internal consideration has been taken in the event of a loss of supply in the business continuity plan.

5.10 TUPE

N/A

5.11 Certification and Accreditation

The supplier is a licensed supplier regulated by the Energy Supply Ombudsman Ofgem.

5.12 Innovation and Future Proofing

- Access to Trading and Market information from YPO and Npower.
- Freedom to add or remove sites from the contract with no penalty should the portfolio change.
- A Budget Tool Report, which will assist customers in setting their budgets.
- Fully configurable billing groups to ensure that bills are issued and managed exactly as required; consolidated or site level billing.
- Range of billing formats to meet the requirements.
- Robust processes in place to ensure that an accurate bill is produced in a reasonable time.
- Installation of automated Smart Meter, with performance reports.
- Energy management qualification.
- Support with achieving net-zero targets.
- Power Purchase Agreements (new to this Framework)

6 PROCUREMENT OPTIONS

6.1 Procurement Strategy

A detailed procurement options appraisal has not been prepared on this occasion and detailed resources are required to better understand each of the potential options available, particularly the multiple frameworks that are available.

A call off under the new YPO Framework has been selected as the preferred route to market due to the limited timeframe available in procuring an alternative solution, the current wholesale energy market restraints and the commercial relationship that Rotherham MBC have with YPO.

Other routes to market that have been identified but not recommended at this stage are:

- There are other frameworks such as CCS, ESPO, NEPO – these all offer a similar offering to YPO but more detailed work is required to better understand what differentiates them from each other and to benchmark and determine whether there are financial benefits.
- Energy brokers – it is believed that due to the scale of the procurement that is undertaken by the Authorities this option would not be suitable and has been discounted.
- Carry out our own procurement – this is a possibility but would require additional staffing/expertise and wouldn't offer the same level of flexibility in procurement options that deliver additional savings to the Authority.

YPO have acknowledged their performance in recent months and have plans to bring this back on track. On the back of the current energy market which has fundamentally changed over the last 9-months, they are also updating their trading strategy to reflect the new market with short, medium, and long-term strategies.

The call off contract will have a break-clause included to allow the Council to exit the arrangement early from the 31st March 2025 or annually thereafter if they so wish by giving 15 months notice.

The assigned contract managers will need to keep abreast of developments within YPO and during the next 12 month period look to benchmark the other framework options, so should the Council experience poor performance from YPO, it can react swiftly to alternative provision.

6.2 Timeline

Sign off is required ASAP as the contract is time sensitive to enable the electricity wholesale trading to take place. Npower would like all customers to be included in the arrangement from April 2023 to have signed contracts by 01 December 2022.

7 CONTRACT MANAGEMENT

7.1 Contract Ownership

The contract will be managed by Asset Management.

7.2 Contract Management Process

- The Council have a dedicated named Key Account Manager and Customer Relationship Manager (CRM) at nPower to take ownership of issues and provide help and guidance.
- Dedicated customer support team and Credit Controller, with clear escalation points, all the way up to CEO if the service is not meeting our requirements.
- Query Management through a range of formats: Call, emails, online portal and live chat.
- Monthly query and debt reports are provided.
- Monthly pricing update meetings through Team with YPO/nPower.
- Quarterly EISG meetings with YPO and all suppliers.
- Constant contact and updates with the dedicated CRM on a daily/weekly basis dependant on requirements, monthly and quarterly meeting available on request with the Key Account Manger if there any issues with the supply contract delivery.

7.3 Performance Measures, Key Performance Indicators

- The Council utilises Systems-link (energy data management software) to validate the billing, this will identify errors such as over/underestimates, incorrect pricing, gaps in billing periods, by comparing the previous billing history, direct meter readings and the contract rates.

- Any identified issues are raised directly with the dedicated customer support team and customer relationship manager.
- Monthly query and debt reports are analysed, and measures put in place to resolve.
- There are set timescale responses for query resolution set out in KPI's within the contract delivery.
- YPO also have monthly Supplier Relationship Management with Npower to go through performance, billing and credit issues, complaints and queries, SLAs and KPIs to ensure that any issues are identified and resolved, and the contract runs smoothly.

7.4 Management Information

- The contract will be managed by the Commercial Energy Manager within Asset Management.
- Access to the Npower Dashboard online Portal will be provided. This will show portfolio, billing, and consumption information. Meter readings and queries can be submitted. A range of reports can be downloaded. Permission levels allowing users to view a selected portfolio of sites, specific to a user are available and you can also download Half-Hourly (HH) data and view Non-Half Hourly (NHH) consumption to manage your usage.

7.5 Exit Strategy

The call-off arrangement is for 4-year contract duration covering the period April 2023 to March 2027.

For YPO members only there is a break clause that will allow the Council to exit the supply contract from 31st March 2025 or annually thereafter giving a 15-month notice period i.e. the Council must inform nPower Business Solutions by 31st December 2023 or annually thereafter.

The reason for the length of time required is to allow sufficient time for the remodelling of the remaining customer profiles and to remove members risk of purchasing volume which is no longer required. It would be prudent for the Contract Manager to assess the number of counterparts seeking to continue/exit the call off arrangement prior to needing to give notice to help better inform the Council's decision.

Contract termination agreements are included in the call-off T&Cs

8 IMPLICATIONS

8.1 Financial

Council, Schools, Academies are all included in the contract and have been consulted on the process toward contract renewal. Each public sector participant in the contractors has its own approved budget. YPO and the contractors performance is expected to be more fully engaged at time when supply costs have increased at

multiplies fully outside any expected range. The new contract is expected to bring close support on price and forecasting. An appraisal of alternative supply (eg ESPO, NEPO) will be undertaken in 6 months so that the Council should be in a position to move to a new framework if better value can be obtained

Finance Implications signed off by:

Name: Richard Young

Date: 24/11/2022

8.2 Legal

The preferred route to market is compliant with the Public Contract Regulations 2015 (as amended).

The Terms and Conditions are nPowers standard Terms and Conditions and there is minimal if any opportunity for them to be amended. That said, the standard Terms and Conditions are acceptable for the supply of electricity as stated in the Business Case.

Legal Implications signed off by:

Name: S. Fletcher

Date: 28/11/2022

8.3 ICT / Customer Services

There are no IT implications associated with this procurement

ICT / Customer Services Implications signed off by:

Name: Steve Langrick

Date: 18/11/2022

8.4 Communications

No communication implications

Communication Implications signed off by:

Name: Rachael Ellis

Date: 23/11/2022

8.5 HR

There are no HR implications

HR Implications signed off by:

Name: John Crutchley

Date: 22/11/2022

9 RECOMMENDATIONS AND APPROVALS

9.1 Recommendation

The recommendation is to approve and sign the electricity supply agreement at Appendix E.

9.2 Report Author(s)

Name: *Steve Cope*

Date: 08/11/2022

9.3 Approval (to be provided by email return)

Name of Approving Manager: Click here to enter text.

Date approval received: Click here to enter a date.

Name of Approving Manager: Click here to enter text.

Date approval received: Click here to enter a date.