

Report of Head of Housing Contracts

Report to Director of Environment and Housing

Date: 18 January 2017

Subject: Asbestos Removal's and Asbestos Air Monitoring: Award of Contracts

Are specific electoral wards affected?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
This report contains information which is exempt under Access to Information Rule 10.4 (3) for appendix number 1a and 1b to this report has been marked as exempt under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council. The information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In this case the report author considers that it is in the public interest to maintain the exemption.	

Summary of main issues

1. The current contracts to deliver Asbestos Removals works citywide will expire on 31 March 2017 with no option to extend further.
2. Lot 1 – Asbestos Removals will be primarily for use by Leeds Building Services to support the requirements citywide.
3. Lot 2 – Asbestos Removals – will be primarily for use by Housing Leeds to support asbestos removals works in line with the planned works programme.
4. Currently the provision of air monitoring and analytical testing is delivered by the removals contractors subcontracting the requirement. This procurement has allowed for a lot (Lot 3) to directly contract with 2 analytical air monitoring contractors direct to allow closer monitoring of the provision.
5. Lot 3 – Air Monitoring will consist of 2 contractors to provide analytical services in conjunction with the internal service provider West Yorkshire Joint Services.
6. The procurement of Asbestos Removals and Air Monitoring has been advertised in line with EU regulations and Leeds City Council Contract Procedure Rules.

7. The framework has a duration of 3 years with the option to extend for a further 12 months.

Recommendations

1. It is recommended that the Director of Housing and Environment approves the proposal to award the framework to the following contractors:

1.1 Lot 1

- 1.1.1 Thomson Ltd and Mchale Contracts & Plant Environmental LLP with an estimated value of £2m per annum, for an initial period of 3 years with the option to extend for a further 12 months.

1.2 Lot 2

- 1.2.1 Gentoo Construction Limited with an estimated value of £500,000 per annum, for an initial period of 3 years with the option to extend for a further 12 months.

1.3 Lot 3

- 1.3.1 Environmental Essentials and Askams Compliance Services Ltd with an estimated value for the Lot of £50,000 per annum, for an initial period of 3 years with the option to extend for a further 12 months.

1. Purpose of this report

- 1.1 The purpose of this report is to seek the approval from the Director of Environment and Housing to award the contracts to the successful contractors for Lot 1,2 and 3.

2. Background information

- 2.1 Asbestos Removal is undertaken based upon a survey recommending that there is a risk for asbestos and it should be removed. Air monitoring is undertaken when required as part of the assurance process and when required in accordance with the appropriate regulations. The Health and Safety Executive (HSE) closely monitor the whole process, having produced regulatory guidance; award Licences to contractors and regularly check works on site. The HSE state in their Regulations (Health and Safety Guidance 247, 248, and L143, along with the Control of Asbestos Regulations 2012) that it is good practice to ensure that there are different suppliers for removals and for air monitoring process, so as to ensure a conflict of interest does not exist.
- 2.2 Approval to procure the removals and monitoring provisions was obtained via a Key decision on 30th March 2017. Subsequently and EU notice and associated PQQs were published.
- 2.3 Following the PQQ advert for Asbestos Removals 13 suppliers were shortlisted and issued with final tender documentation. Compliant tender submissions were received from 12 organisations and evaluated by the evaluation panel. For air monitoring 10 suppliers were shortlisted and issued with the final tender documentation. Compliant tender submissions were received from 8 suppliers and evaluated by the evaluation team. A full breakdown of the assessments can be found within appendix 1a for Asbestos Removal's (Lot 1 &2) and Appendix 1b for air Monitoring (Lot 3).
- 2.4 The Chief Officer, Property and Contracts approved the evaluation methodology and criteria prior to procurement in line with the Councils' Contracts Procedure Rules.

3. Main issues

- 3.1 Complete tender documentation for the contracts was issued to shortlisted tenderers who subsequently submitted completed tenders for final evaluation by the panel. These were scored using a 40% price, 60% quality split. The procurement process was overseen by a Programmes, Project and Procurement (PPPU) Senior Procurement Officer. All information relating to this process and the weightings applied to the scoring were detailed in full within the published tender documentation.
- 3.2 A number of tenderers failed to attain the minimum thresholds outlined in the tender documentation relevant to the Quality criteria.
 - 3.2.1 Lot 1 & Lot 2 – 6 out of 12 tender submissions did not meet the required minimum thresholds.
 - 3.2.2 Lot 3 – 4/8 tender submissions did not meet the required minimum thresholds.
- 3.3 Following completion of the tender evaluation the Most Economically Advantages Tenderers were identified as follows:

3.3.1 Lot 1 & Lot 2 (Asbestos Removal's)

3.3.1.1 Ranked 1 – Thomson Ltd

3.3.1.2 Ranked 2 – Gentoo Construction (applied for Lot 2 only)

3.3.1.3 Ranked 3 -McHale Contract & Plant Environmental LLP

3.3.2 Lot 3 (Air Monitoring)

3.3.2.1 Environmental Essentials

3.3.2.2 Askams Compliance Services Ltd

3.4 The overall evaluation/due diligence process has not identified any significant risks in terms of awarding the contract to the successful bidder. They have both the capacity, resource and experience within this operational field of work deemed necessary to deliver the service requirement.

3.5 Prior to award, the preferred organisation will be assessed to ensure adequate policies are in place to support the delivery of this provision, including Insurance, Health & Safety & Safeguarding. A financial check will also be carried out to ensure they are not a risk to the authority. Results of this process will be kept on file. Should any issues be identified that would restrict the team from awarding these contracts to either of the providers, the award would be abandoned and the next ranked provider approached. A revised award report would be submitted at this stage.

3.6 A Contract Management Plan has been drafted for this contract. This will be maintained and used to manage the contract throughout the contract term.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 Housing Leeds Senior Management Team and Housing Contracts Board have been consulted throughout the procurement process.

4.1.2 PPPU are represented on the project team and have provided advice throughout the procurement process.

4.1.3 The incumbent providers have been consulted throughout the procurement process and both Thomson Ltd and Rhodar Ltd submitted compliant tenders for assessment.

4.1.4 Leaseholder consultation has been carried out in line with legislation and no concerns have been raised.

4.1.5 Soft market testing was carried out during the pre-procurement scoping phase. The market broadly supported the proposed strategy and the exercise confirmed significant interest in the opportunity.

4.1.6 Lot 1 of this framework is likely to involve some element of contractor to contractor TUPE transfer of staff. The responsibility for informing and consulting with staff lies with the current and in-coming contractors but the Council will seek to ensure that the contractors comply with their obligations through the contract term.

4.2 Equality and diversity / cohesion and integration

4.2.1 The Equality, Diversity, Cohesion and Integration Screening (ECDI) document has been completed and there are no specific implications with respect to the award of the proposed framework. A copy of this is available at appendix 2.

4.3 Council policies and best council plan

4.3.1 It is paramount that procurement within Leeds City Council is undertaken with a view to ensure openness, transparency and fairness and procured in line with Leeds City Council's Contract Procedure Rules.

4.3.2 The works undertaken by the contract will contribute to the key City Priorities of 'Improving Housing Conditions' and help maintain properties in good repair condition'.

4.3.3 And the city Outcomes of:

- "Enjoy happy, healthy, active lives
- Live in decent, affordable homes within clean and well cared for places"

4.4 Resources and value for money

4.4.1 The budget for Asbestos removals and air monitoring comes from Capital budgets; either from the HRA capital budget or commissioned by Corporate Property Management team through the Council Capital Programme. The Capital Programme is approved by Full Council annually in February. In addition, individual schools will commission asbestos removals through Children Services.

4.4.2 The prices received for all 3 Lots were as a result of market testing. For Asbestos Removals an assessment could not be undertaken to assess if any savings are made as the schedule of rates differed in both contracts. For air monitoring, as this was a new contract, a comparison could also not be made

4.5 Legal implications, access to information, and call-in

4.5.1 This report is a subsequent decision of a previous Key decision and is therefore a Significant Operational Decision and not subject to call in.

4.5.2 A 10 day standstill period will be carried out in accordance with EU regulations to allow unsuccessful providers to view the outcome of the procurement exercise in an open and transparent manner.

4.5.3 Appendix 1a and 1b to this report has been marked as confidential under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.

4.5.4 The services required against this contract (Lot 1) are currently provided by staff who may have the right to transfer to the new Contractor under the Transfer or Undertakings (Protection of Employment) Regulations 2006 (as amended, re-enacted or extended from time to time) ("TUPE Regulations 2006"). If TUPE applies, it will be contractor to contractor and as such bidders must seek their own

legal advice whether the staff involved in providing this contract will fall under the TUPE regulations at the end of this contract, and if so state a requirement for the contractor to be responsible for provision of all relevant information under the TUPE legislation for any replacement or incoming contractor on termination of the contract.

4.6 Risk management

4.6.1 At the commencement of the project in October 2015 a risk register was begun. This risk register has been regularly reviewed and will continue to be reviewed throughout the project. The key risks are:

4.6.1.1 Supporting Leeds Building Services ensure that as a result of a restructure in 2016 there are sufficient staff resources in terms of FTEs and with the right skills and capacity in terms of operational resources and management. The mitigation is that Housing Leeds colleagues will support Leeds Building Services.

5. Conclusions

5.1 The procurement process undertaken has been in accordance with Contracts Procedure Rules and EU Regulations, with full guidance and support from the Projects, Programmes and Procurement Unit.

5.2 Following the tender evaluation clear preferred providers have been identified for each lot, taking into consideration both price and quality, therefore the most economically advantageous tenders for this contract.

6. Recommendations

6.1.1 It is recommended that the Director of Environment and Housing approves the proposal to award the framework to the following contractors:

6.2 Lot 1

6.2.1 Thomson Ltd and Mchale Contracts & Plant Environmental LLP with an estimated value of £2m per annum, for an initial period of 3 years with the option to extend for a further 12 months.

6.3 Lot 2

6.3.1 Gentoo Construction Limited with an estimated value of £500,000 per annum, for an initial period of 3 years with the option to extend for a further 12 months.

6.4 Lot 3

6.4.1 Environmental Essentials and Askams Compliance Services Ltd with an estimated value of £50,000 per annum, for an initial period of 3 years with the option to extend for a further 12 months.

7. Background documents¹

7.1 Appendix 1a – Tender analysis: Asbestos Removals Confidential Appendix

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

- 7.2 Appendix 1b – Tender analysis: Asbestos Air Monitoring Confidential Appendix
- 7.3 Appendix 2 Equality, Diversity and Integration screen document
- 7.4 Delegated Decision Panel Report: Asbestos Removal and Air Monitoring contractors: Authority to Procure 30 March 2017.