

Report of Deputy Head of Property Management

Report to Director of Resource & Housing

Date: January 2020

Subject: Authority to procure report in connection with Asbestos Removal

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- The current Asbestos removal contract is due to expire on the 31st March 2021
- The current contract started on the 1st April 2017 for a 3 year period finishing on 31st March 2020 with a possibility to extend for a further 12 months.
- It was agreed in September 2019 the 12 month extension would be taken up in order to give the Asbestos team, along with Procurement, time to review the current arrangements.
- This report seeks authority to procure a new contract for asbestos removal across the city from 1st April 2021
- It is proposed that the contract will be structured as previously in that it will be split into 2 lots.
 - Lot 1 – Leeds Building Services (LBS) will manage 2 contractors to carry out licenced and non-licenced works where LBS do not have the capacity to undertake this work themselves. The value of this work is estimated to be in the region of £2m per annum
 - i. LBS will provide asbestos removal services which do not require a licence where they are able to do so.
 - Lot 2 – Housing Property and Contracts will manage a single contractor to undertake all asbestos removal works arising from the housing capital

programme. The value of this work is estimated to be in the region of £300K per annum.

- The contract length will be for 3 years with an option to extend for a further 12 months.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- The works undertaken will contribute to the Best Council Plan in making sure that the homes of the right quality, type, tenure and affordability.

3. Resource Implications

- Leeds City Council has a legal obligation to remove asbestos from buildings which are owned by the council
- All licensed removals need to be undertaken by an asbestos licenced company.
- LBS can remove unlicensed asbestos but also need to outsource unlicensed work should they not have the capacity to do the full works in-house.

Recommendations

- In accordance with the Councils Contract Procedure Rule 3.1.6 the Director of Resources & Housing is recommended to approve the use of the Efficiency North Framework for the procurement and appointment of 3 contractors for the removal of Asbestos split over 2 lots as follows :
 - Lot 1: award 2 contractors commencing 1st April 2021 for a period of 3 years with the option to extend for a further 12 months. The value of this work will be in the region of £2m per annum.
 - Lot 2 – award 1 contractor commencing 1st April 2021 for a period of 3 years with the option to extend for a further 12 months. The value of this work will be in the region of £300K per annum.

1. Purpose of this report

- This report seeks approval from the Director of Resources & Housing to undertake a competitive procurement exercise in line with the provisions of CPR 3.1.6 for asbestos removal services for a period of 3 years with the option of a further 12 month extension.

2. Background information

- 2.1 Asbestos removals is undertaken on a survey recommendation. The Health & Safety Executive (HSE) closely monitor the whole process, having produced regulatory guidance; award licences to contractors and regularly check works on site. The HSE states in their regulations (Health and Safety Guidance documents 247,248, and Asbestos Approved Code of Practice, L143, along with the Control of Asbestos Regulations 2012) that it is good practice that the contractors are different to those which are responsible for air monitoring. This is to ensure that there is no conflict of interest.

2.2 The current contract is due to expire March 2021 and there is a need to re-tender new contracts.

3. Main issues

3.1 There are a number of options which Leeds City Council could undertake:

3.1.1 Option1 – Do Nothing

This is not a viable option as we would be neglecting our statutory duty to remove asbestos from Leeds City Council buildings and council homes.

3.1.2 Option 2 – Undertake an Open or Restricted Procurement

This route would provide an opportunity to test the market through a competitive exercise. This would include initially advertising to the open market via YorTender and carrying out a Pre-Qualification Questionnaire (PQQ) process with bidders being evaluated through a price /quality evaluation methodology. This route takes more time and even though there is the capacity and time to do this it was felt that this is not the best use of officers' time as there were existing OJEU frameworks which are available to use.

3.1.3 Option 3 – Use an Existing Framework

Fusion 21 and Efficiency North both have OJEU compliant agreements in place which the council are entitled to use. It is felt that as Leeds City Council have previously used Efficiency North in the past for the Asbestos Survey scheme and that they had more suppliers on their framework it would be the best option to use their Framework.

3.1.4 Option 4 – Use Internal Service Provider

Our Internal Service Provider are able to remove unlicensed asbestos themselves but do not have the licence in place, or capacity, to undertake the licensed work. They will manage 2 contractors to do the licensed asbestos removal for civic properties, and non-licensed works where they do not have the capacity to deliver works direct.

3.2 Preferred option: Option 3 – Efficiency North has been selected as the preferred framework due to the availability of suppliers, our ongoing membership to the framework and past experience of procuring Asbestos Surveys.

3.3 .Efficiency north - have supported the team in undertaking an expression of interest exercise amongst their Asbestos Removal suppliers and 10 of 18 have expressed an interest.

3.4 **Preferred approach:** It satisfies the Leeds City Councils value for money in that using the Efficiency North framework will save time and resources of the officers involved as this framework is OJEU compliant Leeds City Council do not need to run a full OJEU tender.

3.5 The proposed timetable will be

Task	Date
Tender Published	May 2020
Tender Period	June – July 2020

Tender Evaluation	July 2020
Leaseholder Consultation	August 2020
Standstill Period	November 2020
Approval to award sought	November 2020
Contract Awarded	December 2020
Contract Commencement	1st April 2021

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Appropriate consultation and engagement has taken place between Efficiency North in regard to the framework, the Asbestos Team and PACS to develop the procurement strategy for this new contract.
- 4.1.2 The legal team in PACS has reviewed the Efficiency North Framework agreement and are happy for this to be used.
- 4.1.3 LBS and PACS have been consulted in the development of this report.
- 4.1.4 Leaseholders will be consulted as part of the Councils duty to apply s20 of the Leasehold & Commonhold Reform Act 2002 (As Amended).

4.2 Equality and diversity / cohesion and integration

- 4.2.1 The EDCI has been completed

4.3 Council policies and the Best Council Plan

- 4.3.1 The works undertaken through this new contract will contribute towards the Best City Priority in that it will ensure that the Housing is of right quality, type, tenure and affordability.

Climate Emergency

- 4.3.2 It is not believed that the proposed new contract is likely to have an impact, either positive or negative on carbon emissions and the climate emergency.

4.4 Resources, procurement and value for money

- 4.4.1 The budget for asbestos removal comes from the Capital Programme as well as individual schools via the Children & Families directorate.
- 4.4.2 It was agreed that using the Efficiency North Framework would be the best option, rather than going through the full OJEU procurement programme, as the suppliers on the framework agreement have all been vetted and the framework agreement itself has been procured in accordance with the Public Contracts Regulations 2015. Using the framework agreement will save Leeds City Council staff time and resources.

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

- 4.5.1 The provision of an Asbestos service is required to comply with Health & Safety and Work Act (1974) and the Control of Asbestos Regulations (2012) legal requirement.
- 4.5.2 This is a key decision and is subject to call in. It was listed on Forthcoming Decisions in November 2019 which is due to expire on 5th December 2019.
- 4.5.3 The Efficiency North Framework has been reviewed by the legal team. The commercial team has also been consulted along with the Asbestos team.
- 4.5.4 The council needs to contact the current contractors for TUPE as part of the procurement process.

4.6 Risk management

- 4.6.1 It is proposed that the procurement will be delivered through the Efficiency North OJEU framework for Asbestos Removal and demolition lot 3
- 4.6.2 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 the current contract will fall under the TUPE regulations when the new contract comes into force.

5. Conclusions

- 5.1 The current contract is due to expire on the 31st March 2021 with no more extensions available.
- 5.2 Leeds City Council has legal obligation to re-procure a new contract starting in April 2021.
- 5.3 After review it was decided that the best course of action was to use an existing Efficiency North Framework as this was already OJEU compliant, it offered more suppliers to choose from than Fusion 21 and we had used this framework for the re-procurement of the Asbestos Survey.
- 5.4 LBS will manage Lot 1 - 2 contractors over a 3 year period with the option to extend for a further 12 months. The value will be in the region of £2million per annum.
- 5.5 Housing Leeds will manage Lot 2 - 1 contractor commencing 1st April 2021 for a period of 3 years with the option to extend for a further 12 months. The value of this works will be in the region of £300K per annum.

6. Recommendations

- In accordance with the Councils Contract Procedure Rule 3.1.6 the Director of Resources & Housing is recommended to approve the use of the Efficiency North Framework for the procurement and appointment of 3 contractors for the removal of Asbestos split over 2 lots as follows :
 - Lot 1: 2 contractors commencing 1st April 2021 for a period of 3 years with the option to extend for a further 12 months. The value of this work will be in the region of £2m per annum.
 - Lot 2: 1 contractor commencing 1st April 2021 for a period of 3 years with the option to extend for a further 12 months. The value of this work will be in the region of £300K per annum.

7. **Background documents¹**

None.

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.