

**Report of Adam Crampton, Head of Mechanical & Electrical**

**Report to Director of Resource & Housing**

**Date: 19<sup>th</sup> February 2020**

**Subject: Authority to Procure Contractors for Asbestos Air Monitoring**

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 Air monitoring contract is due to expire on the 31<sup>st</sup> March 2021
- The current contract started on the 1<sup>st</sup> April 2017 for a 3 year period finishing on 31<sup>st</sup> March 2020 with a possibility to extend for a further 12 months
- It was agreed that the 12 month extension was taken to give the Asbestos team along with PACS to review the current arrangements.
- This report is authority to procure a new contract for Asbestos Air monitoring across the city from the 1<sup>st</sup> April 2021.
- As this is over the OJEU threshold of £181K we will need to advertise in OJEU. There are no current frameworks which are suitable for this work.
- The length of the contract will be for 3 years with an option to extend for a further 1 x 12 months.

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

- The works undertaken through this new contract will contribute to the Best City Priorities in that it will help ensure that the Housing will be of the right quality, type, tenure and affordable

### **3. Resource Implications**

- Currently West Yorkshire Joint Services, as an internal service provider deliver approximately £50,000 of analytical assessments per annum, they are not in a position to take on the full provision, and therefore externally sourced contractors are required to support the provision and ensure the analytical air testing can be undertaken efficiently.
- The procurement is scheduled to commence the 1<sup>st</sup> April 2021 to establish a framework contract, for a period of 3 years with the option to extend for a further 12 months, with an estimated value of £150,000 per annum. The framework will seek to appoint 2 suppliers, who will be approached for work on a ranked basis where our internal service provider (West Yorkshire Joint Services) is unable to take on the opportunity.
- It is envisaged that the contractors appointed to the framework in a ranked position in accordance with their evaluation scores. Rank 1 supplier would be approached in the first instance where the internal service provider is unable to meet the requirements.

### **Recommendations**

- The Director of Resource and Housing is asked to recommend the approval to procure via OJEU restricted process 3 Contractors for Asbestos Air monitoring across Leeds for a 3 year term with an option for 1 x 12 months extension. This will cost approximately £150K per annum.

#### **1. Purpose of this report**

- 1.1 This report seeks the approval from the Director of Resource & Housing to undertake the authority to procure Asbestos Air monitoring for a period of 3 years with the option of a 1 x 12 month extension.

#### **2. Background information**

- 2.1 Asbestos Air monitoring is covered by the Health & Safety Executive (HSE) closely monitor the whole process, having produced regulatory guidance; award licences to contractors and are regularly audited for the work. The HSE state in their regulations (Health & 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 from those which are removing the Asbestos. This is to ensure that there is no conflict of interest.
- 2.2 The current contract is due to expire March 2021 with no new extensions available.]

#### **3. Main issues**

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

##### **3.1.1 Option 1 – Do Nothing**

Leeds City Council could let the contract expire but this would leave the council with no contractor to assist with monitoring air for asbestos. This would lead the council

to being vulnerable for off contract spend as council employees would use unauthorised companies or asbestos air monitoring would not be done

### **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 has initially involved sending out a market sounding exercise (MSE) via YorTender to test the market.

We have received 9 suppliers demonstrating adequate market including nil number of providers located within Yorkshire but have depots within the Yorkshire and North West area. We will send the PAS91 documents in an openly advertised restricted procedure tender opportunity.

### **3.1.3 Option 3 – Use an Existing Framework**

Efficiency North & Northern Housing Consortium have OJEU compliant frameworks in place which the council is entitled to use. It is felt that although these are useful they do not give Leeds City Council enough scope for competition within the local market with the number of specialist suppliers available.

### **3.1.4 Option 4 – Use Internal Service Provider**

Our Internal Supplier Leeds Building Services are unable to do this kind of work as they do not have the specialism or resource.

West Yorkshire Joint Services (WYJS) Are also an internal service provider currently deliver approximately £50,000 per annum where their capacity and availability allows.

- 3.2 The procurement is scheduled to commence the 1<sup>st</sup> April 2021 to establish a framework contract, for a period of 3 years with the option to extend for a further 1 x 12 months, with an estimated value of £150,000 per annum. The framework will seek to appoint 2 suppliers, who will be approached for work on a ranked basis where our internal service provider (West Yorkshire Joint Services) is unable to take on the opportunity.

- 3.3 The proposed timetable will be

<b>Task</b>	<b>Date</b>
PAS 91 Publish	April 2020
Tender Published	July 2020
Tender Period	July 2020 – August 2020
Standstill Period	November 2020
Contract Award	November 2020
Contract mobilisation	December 2020 – 31 <sup>st</sup> March 2021

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 A Market Sounding Exercise was done and 9 organisations have responded to it, demonstrating a viable market to be approached for competition.

- 4.1.2 Appropriate consultation and engagement has taken place between the Asbestos Team and PACS to develop the procurement strategy for this new contract.

## **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 The ECDI has been completed and accompanies this report.

## **4.3 Council policies and the Best Council Plan**

- 4.3.1 The works undertaken through the new contract will contribute to the Best City Priorities in that we are able to make sure 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 Currently West Yorkshire Joint Services, as an internal service provider deliver approximately £50,000 of analytical assessments per annum, they are not in a position to take on the full provision, and therefore externally sourced contractors are required to support the provision and ensure the analytical air testing can be undertaken efficiently.
- 4.4.2 The procurement is scheduled to commence the 1<sup>st</sup> April 2021 to establish a framework contract, for a period of 3 years with the option to extend for a further 12 months, with an estimated value of £150,000 per annum. The framework will seek to appoint 2 suppliers, who will be approached for work on a ranked basis where our internal service provider (West Yorkshire Joint Services) is unable to take on the opportunity.
- 4.4.3 It is envisaged that the contractors appointed to the framework in a ranked position in accordance with their evaluation scores. Rank 1 supplier would be approached in the first instance where the internal service provider is unable to meet the requirements. If neither the Internal Service Provider or the Ranked 1 organisation is unable to do the work we will ask the second ranked.

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

- 4.5.1 The provision of an Asbestos Air monitoring service is required to comply with Health & Safety at Work Act 1974 and Asbestos: The Analysts' guide for sampling and clearance procedure (HSG 248).
- 4.5.2 This is a key decision and is subject to call in. It was listed on Forthcoming Decisions in November 2019.
- 4.5.3 The value of the framework exceeds the service threshold of £181302 and is therefore subject to OJEU regulations, advertisement and associated timescales.

## **4.6 Risk management**

- 4.6.1 It is proposed that the procurement will be delivered by an OJEU procurement process as this will enable us to.

- 4.6.2 After a market sounding exercise which 9 expressed an interest in tendering for this work, following advertisement additional tenderers may be interested, therefore it is recommended a restricted OJEU procedure is undertaken, including use of PAS91 and accompanying selection criteria in order to shortlisted organisations to be invited to tender,

## **5. Conclusions**

- 5.1 The current contract is due to expire on the 31<sup>st</sup> March 2021 with no further extension provision available
- 5.2 To ensure works undertaken remain compliant with legislation, Leeds City Council need to re-procure a new contract to start on the 1<sup>st</sup> April 2021.
- 5.3 The preferred procurement option is to undertake an OJEU advertised, restricted procedure procurement, in order to maximise the competition sought amongst accredited providers, including those within the Yorkshire boundary.

## **6. Recommendations**

- 6.1.1 The Director of Resource and Housing is asked to recommend the approval to procure via OJEU restricted process 3 Contractors for Asbestos Air monitoring across Leeds for a 3 year term with an option for 1 x 12 months extension. This will cost approximately £150K per annum.

## **7. Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> 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.