

Report seeking the Authority to Procure a Contract for the Provision of Asbestos Surveys to Council Housing stock

Date: 5th October 2022

Report of: Head of Property Management

Report to: Director of Communities, Housing & Environments

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Asbestos Surveys are essential requirements for all potential works activities within domestic properties citywide. This is critical in terms of delivering a safe and welcoming city for people of all ages and from all communities in which residents feel more secure.

The Council's existing contract with two contractors has been extended to its maximum point to 31st March 2023 with no further options to extend, although this is with two contractors one of these is delivering the great proportion of the works.

This report is to seek approval of the proposed procurement strategy in line with CPR 3.1.7 to put in place a new arrangement to be effective from 1st April 2023 for a period of 3 years with the option to extend for a further 12 months. The proposed contract value is circa £1.5m over this total period.

It is proposed that two contractors are appointed to deliver the contract using the Efficiency North Asbestos and Demolition Framework Lot 1 Asbestos Surveying.

The Contract will aim to contribute to the city's and council's ambition in terms of delivering quality outcomes local communities, social values and positive environmental outcomes.

Recommendations

- a) The Director of Communities, Housing & Environments is requested to approve the Authority to Procure a procurement strategy as required by CPR 3.1.7 to source two external contractors to deliver asbestos surveys utilising the Efficiency North Asbestos and Demolition Framework Lot 1 Asbestos Surveying, via a mini-competition call-off route, for a period of 3 years with the option to extend for up to 12 months.

What is this report about?

- 1 The purpose of this report is to obtain the authority to procure in line with CPR 3.1.7, to the approval of a procurement strategy for the provision of Asbestos Surveys citywide to Council housing stock.
- 2 The Head of Leeds Building Services (LBS) as the internal service provider (ISP) has confirmed that the procurement of 2 external, UKAS accredited providers to undertake surveys in tenanted properties and surplus voids is required. LBS will continue to undertake surveys within void properties within their capacity.
- 3 The Construction & Housing Procurement Team and the Property Management team in Housing have undertaken a Procurement Options Appraisal, and as a result have proposed that the most efficient route to market is to undertake a competitive procurement using the Efficiency North Asbestos and Demolition framework Lot 1 Asbestos Surveying. This will allow the targeting of asbestos surveying contractors who have the experience and knowledge and accreditation to deliver the works. An Expression of interest that was concluded in September 2022, has shown that 10 contractors from Lot 1 Asbestos Surveys are interested in bidding in competition for these works.

What impact will this proposal have?

- 4 Asbestos surveys are required for all potential repairs/refurbishment works activities within domestic and potentially non-domestic properties citywide such as CAMs, shops and other Council buildings. Therefore, it is not anticipated that this provision will have a significant impact on any one ward.
- 5 Social Value will be addressed and be engaged before, throughout and following the procurement process. Bidders will be required as part of their tender to submit a social value response and commitments against the selected national Themes, Outcomes & Measures (TOMs) which will be evaluated by Leeds city council with support from SVE. These will be monitored throughout the contract to ensure social value outcomes are achieved throughout the life of the contract.
- 6 An Equality, Diversity, Cohesion and Integration (EDCI) impact assessment has been undertaken for this scheme and is attached as Appendix 1. There are not expected to be any negative impacts in relation to the service provision.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 7 This proposal supports all the Council's three key pillars. In terms of inclusive growth this provision will provide services to the whole city and ensure that the most deprived areas of Leeds benefit from regeneration and improvement work to their properties.
- 8 This proposal will help with the health and well beings of the tenants and residents in Leeds by mitigating, managing, and eliminating risks of harmful material in properties.
- 9 All stakeholders are aware of the critical need to reduce our impact on the planet as per the declaration of the Climate Emergency, therefore the commitment from all suppliers in respect of this will be evaluated and embedded in the tendering process

What consultation and engagement has taken place?

Wards affected: All Leeds City Council wards

Have ward members been consulted? Yes No

- 10 Consultation and engagement with Construction and Housing Procurement team, Housing Leeds Asbestos Team, and (LBS) have taken place when developing the procurement strategy as well as assessing the availability of tendering options.
- 11 Procurement and Commercial Services (PACS) legal team have been engaged regarding the suitability of the external framework proposed for use and have confirmed that Efficiency North Lot 1 Asbestos Surveys is considered to be an 'approved framework' and therefore this proposal is compliant.
- 12 The external incumbent contractors are aware of the existing contract expiry date and the planned procurement activity. Engagement with all internal stakeholders will continue at every stage of the process including the formation of tender documentations, evaluation of bids and contract drafting, including consideration of any TUPE implications at the appropriate time.

What are the resource implications?

- 13 Housing Leeds Asbestos Team will allocate a budget for the duration of the contract from both the revenue and capital budgets, shared between the two external contractors who will undertake surveys in tenanted properties and surplus voids and the ISP (Leeds Building Services) who will continue to undertake surveys within void properties within their capacity.
- 14 It is proposed that the evaluation of tenders will be done using the price / quality separated approach in line with CPR 15.2. Quality will be evaluated first on a 100% basis, with a 60% threshold to achieve. Bids achieving or exceeding the 60% threshold will then be evaluated based on 100% price. The contract will be awarded to the lowest feasible price. Tender evaluation criteria will be approved in line with CPR 15.1. Efficiency North confirmed there are no constraints in call offs from this particular Framework with the proposed approach.
- 15 It is proposed that two external contractors are appointed resulting from the call-off contract mechanism under the framework with work allocated on geographical work split on revenue schemes and split by scheme on capital scheme as the batches are released throughout the year.
- 16 The proposed geographic split referred to above will seek to appoint one contractor to the West and the other to the North and East areas. This will work out at approximately 50/50 split. The contract manager will manage and monitor scheme splits as works are required and share them between appointed contractors, particularly given note of limited advance notice of the size and volume of capital schemes.
- 17 The capital schemes splits will be monitored and managed by the Housing Leeds Asbestos Team (HLAT) as they come in. The volume of work will be monitored regularly once received to ensure Capital scheme works are distributed fairly and equally between contractors.
- 18 The contract will be managed by the Housing Leeds Asbestos Team and a contract management plan will be developed in line with Contract Procedure Rule 3.1.17.

What are the key risks and how are they being managed?

- 19 At present the council only has one predominantly active external contracted supplier and the contract expires on 31st March 2023. If the Authority to Procure is not given, then the Council will not have a formal compliant mechanism in place to utilise for the delivery of these important works. A further consequence would be a major increase in non / off contract spend. If there is just one external contractor, it may leave the council vulnerable should there be a tangible increase in the workload. Therefore, the proposed strategy is to seek Authority to Procure and appoint two contractors to provide the council with the opportunity to effectively ensure there is leverage in respect of capacity management.
- 20 Market challenges and contractor interest – The construction market is currently experiencing a highly busy period, this means contractors are experiencing limited resourcing capacity to tender for works, leading to low contractor interest on schemes. The risk this poses is few or no tender submissions are received. This is being managed through undertaking an Expression of interest / market sounding through the Efficiency North framework Lot 1 Asbestos Surveys to gauge market interest. Further during the tender process, supplier engagement in the form of clarifications, Bidder's days as required and continuous communication throughout the tender process will be undertaken in order to maximise engagement, interest and the number of bids submitted where possible.
- 21 Procurement challenges – This is being managed through ensuring the procurement process is being conducted in line internal and wider governmental rules and regulations. A fair, transparent, and robust competitive tender process in line with the Efficiency North framework will be followed to ensure the risk of procurement challenge is mitigated.
- 22 The project team will incorporate previous lessons learnt from the previous procurement exercise and contract, including putting in place a clear communications strategy to support access to properties and to keep residents and wider stakeholders updated on progress.
- 23 Contract and supplier management - Implement a clearly defined contract & supplier relationship management plan to ensure the contract delivers VfM and service improvement in line with LCC Best City Ambition Plan.
- 24 Additionally, a risk register for the project is in place and will continue to be managed by the project team to monitor, mitigate, and identify any new risks as they arise. Once contractors are in place the council will work with them to review risks regularly

What are the legal implications?

- 25 The provision of an Asbestos service (surveys) is required to comply with Health and Safety at Work etc Act 1974 and the Control of Asbestos Regulations 2012 legal requirements.
- 26 There are no specific legal implications arising from this report. All activities relating to the proposed contract will be conducted strictly in accordance with the Council's Contract Procedure Rules and Public Contracts Regulations 2015.
- 27 This report is to seek authority to procure a new contract as a Key Decision as the value is over £500k and is eligible for a call-in. A request to add to the list of forthcoming decisions was published on 3rd August 2022 with an expiry date of 12th September 2022. There are no grounds for keeping the contents of this report confidential under the Access to Information rules.

- 28 The tender process will be conducted in an open, transparent, and competitive manner in line with regulatory requirements and allow for the use of specialist asbestos surveying contractors who have the accreditation, experience, and knowledge to deliver the services to a high standard.
- 29 The tender evaluation process and recommendation for contract award will be the subject of a further separate report prior to award of any contract and will be a Significant Operational Decision as a consequence of this Key Decision.
- 30 The Asbestos and Demolition Efficiency North Framework in relation to Lot 1 Asbestos Surveying is a compliant Find a Tender (FTS) framework. Contractors appointed to the framework have already been assessed through a FTS compliant competitive tendering exercise and have been deemed best value. They have also already had their technical capacity and ability evaluated. In making their final decision, the decision maker should note the above comments and be satisfied that the course of action chosen represents best value for the Council.

Options, timescales and measuring success

What other options were considered?

- 31 There are no further options available to extend the existing contract beyond 31st March 2023.
- 32 Other procurement options have been considered, and these are set out below:

Option 1 - Do nothing - The Council does not have the option to do nothing as asbestos surveying is legally required.

Option 2 – ISP - Delivery by the Council's Internal Service Provider, LBS. This option was discounted due to the requirement of the client to hold UKAS accreditation to undertake this specialist provision in tenanted properties. LBS have been consulted and the Head of Service advised that they do not have capacity to undertake the surveys in tenanted properties and was not deemed to be viable due to the unpredictable nature of the frequency of works.

Option 3 – Find a Tender Service (FTS). This option was not considered as the contract value is well below the works threshold of £5.3m (including VAT).

How will success be measured?

- 33 A Contract Management Plan will be used throughout the duration of the contract to provide structure and opportunity for feedback. SMART based KPI tools to be used to monitor the performance of the contract and ensure service is being delivered in line with Council expectations in respect of VfM, sustainability and service delivery improvement.
- 34 The Social Value Engine will be used by the Council and the contractor to measure and monitor the impact of the additional social value measures implemented on this contract.

What is the timetable and who will be responsible for implementation?

- 35 It is critical that the contract is in place to ensure continuation of the service provision therefore early formation of this contract is essential so that it can be implemented before the end of the current contract at the end of March 2023. The detailed programme is covered below but aims

to award the contract by end January 2023, enabling mobilisation through February / March 2023 so that the new contract can commence from 1st April 2023.

36 Indicative timescales for this project are shown within the table below

Tender Published	End-October 2022
Tender In	Early December 2022
Tender Evaluation Period	Early December 2022
Award governance approval process	December to early January 2023
Contract Award	End January 2023
Contract mobilisation	Mid-February to end March 2023
Contract Commencement	1 st April 2023
Contract Completion	31 st March 2026

Appendices

- Appendix 1 - Equality, Diversity, Cohesion and Integration (EDCI) impact assessment

Background papers

- LOFKD: <https://democracy.leeds.gov.uk/mglIssueHistoryHome.aspx?IId=123261&Opt=0>