

**SURREY COUNTY COUNCIL****CABINET****DATE: 4 FEBRUARY 2014****REPORT OF: MS DENISE LE GAL, CABINET MEMBER FOR BUSINESS SERVICES****LEAD OFFICER: JULIE FISHER, STRATEGIC DIRECTOR FOR BUSINESS SERVICES****SUBJECT: CONTRACT AWARD FOR SURREY COUNTY COUNCIL ASBESTOS CONSULTANCY SERVICES****SUMMARY OF ISSUE:**

It is estimated that asbestos related diseases are responsible for over 4000 deaths a year in the UK. Surrey County Council must discharge its duties under the Control of Asbestos Regulations 2012 by managing the way it deals with asbestos containing materials (ACMs) in the workplace.

The risks posed by asbestos are managed in a number of ways and require the use of a UKAS accredited consultant to carry out inspections on known or suspected ACMs, manage any remedial works where damage has occurred and manage its removal when required.

Following a comprehensive procurement activity, it is proposed to award the contract to the recommended supplier described in the Part 2 Annex 1. Due to the commercial sensitivity involved in the Contract award process, the names and financial details of the suppliers have been circulated as a Part 2 Annex.

**RECOMMENDATIONS:**

It is recommended that:

1. the background information set out in this report be noted: and
2. following consideration of the results of the procurement process in Part 2 of the meeting (agenda item 21), the award of the contract to the supplier detailed in Part 2 be agreed.

**REASON FOR RECOMMENDATIONS:**

The overarching aim of the proposed Term contract is the SCC duty to protect its workers, visitors to its buildings, pupils etc., from the effects of asbestos and this is only possible through a risk management approach. The proposed contract is instrumental in supporting this.

The project scope is to carry out asbestos surveys and manage the works undertaken by independent specialist asbestos removal contractors. Works will be of a both planned and responsive nature. Duties include:

- Asbestos Management Surveys

- 
- Asbestos re-inspection surveys (annual)
  - Asbestos Refurbishment and Demolition Surveys
  - Management of asbestos remedial works undertaken by asbestos contractors
  - Technical advice regarding asbestos containing materials

A full tender process, in compliance with the EU Procurement Legislation and Procurement Standing Orders has been completed, and the recommendations provide best value for money for the Council.

In addition to delivering savings compared to existing rates the contract will also deliver an improved service with strengthened performance measures and robust contract management.

#### **DETAILS:**

##### **Business Case**

1. The expiry of existing contracts on 31 March 2014 means that a new contract needs to be in place from 1 April 2014. This contract has been tendered via a competitive tender exercise, compliant with EU procurement legislation.
2. The detailed results of the procurement process are included in Part 2, Annex 1. Of the 46 suppliers who expressed an interest, 11 responded and 10 were short listed to tender.
3. Bidders were evaluated under the following criteria to ensure the most commercial advantageous response.
  - 70% Quality; a detailed Technical Specification was developed by SCC Property Services drawing from the knowledge and experience of the team.
  - 30% Price; based on a comprehensive Price list.
4. The results of the procurement exercise are that a single supplier is recommended to be awarded a 5 year Term Contract.
5. This report recommends that a fixed price contract for the provision of Asbestos Consultancy to commence on 1 April 2014 is awarded to the supplier named in the Part 2 Annex. Together with the Part 2 Annex, the report demonstrates why the recommended contract award delivers best value for money for Surrey County Council.

##### **Background and Options Considered**

6. A 5 year term contract was considered so that the asbestos consultant can manage its workload over a reasonable timeframe, assist SCC with its longer term asbestos policy and better manage the data SCC has about asbestos in its premises. The rates tendered are very competitive and one factor for this is thought to be the term of the contract which brings a certain amount of continuity of work to the consultant. It is the intention to use this contract for the management of the majority of SCC's asbestos related works, however the Council does not guarantee the value or volume of instructions it may place with the proposed supplier.

##### **Procurement Strategy**

- 7. Several options were considered when completing the Strategic Procurement Plan (SPP) prior to commencing the procurement activity. These were: Surrey CC Consultancy Framework, Central Government Frameworks, Spot tendering and EU competitive tender.
- 8. After a full and detailed options analysis it was decided to invite tenders through the EU Procurement procedure as this demonstrated best value for money from the options appraisal completed.

**Use of e-Tendering and Market Management Activities**

- 9. In order to open the tender process to a wider range of suppliers than have previously been involved, an electronic tendering platform was used through the Bravo e sourcing module.
- 10. Use of the electronic platform represents a major change from previous paper based processes and introduced a competitive process that was open and transparent to all involved.

**Key Implications**

- 11. Non compliance in the appropriate procedures relating to the control of asbestos carries a high risk of prosecution from the Health and Safety Executive and bad publicity for the Council. The asbestos contained within SCCs premises needs careful and robust management. Without an appropriately qualified and experienced consultant SCC would be unable to carry out any works within premises where asbestos was likely to be disturbed without there being a disproportionate risk to operatives, SCC staff and any persons making use of the premises. During the tender exercise each tenderer was asked to submit references, copies of all relevant certification, staff CVs and experience in providing services similar to those required by SCC. Those that best met the Council’s robust standards were awarded the most points in terms of the qualitative analysis ensuring SCC contracts with the consultant most able to deliver the services required.

**Competitive Tendering Process**

- 12. 10 short listed tenderers successfully completed satisfactory financial checks at the Pre-qualification stage and were thus selected to submit tenders. One further firm was invited to tender but subsequently failed financial checks and was rejected.
- 13. The contracts include a Termination Clause that protects the Contracting authority in case of any breach of the Term Contract
- 14. The procurement activity included selecting firms who had completed a Pre-Qualification stage, where suppliers expressing an interest in the advertised tender opportunity were evaluated to ensure that they had the legal, financial and technical capacity (including their health & safety and equal opportunities policies) to undertake the contract for the Council.

**CONSULTATION:**

- 15. Officers from both Property Services and Procurement have been involved in the procurement, providing expert knowledge around the design of the

specification and evaluating tenders and agreeing recommended contract award.

16. 'Buy back' arrangements are in place that provides schools with the option to purchase the Asbestos consultancy services or make their own contractual arrangements with a supplier directly.

**RISK MANAGEMENT AND IMPLICATIONS:**

17. The following key risks associated with the management of asbestos within premises have been identified, along with mitigation activities:

Describe the risks associated with this project	Risk Description	Mitigation Action
Legal Risks	Prosecution by HSE for non compliance with Control of Asbestos Regulations.	UKAS registered consultant monitors contractors for compliance with the regulations
Financial Risks	Apart from potential prosecution for breach of HSAWA SCC could face high environmental cleanup costs dealing with uncontrolled release of asbestos fibres.	Asbestos Consultancy services provider monitors contractor where asbestos is present to ensure it is dealt with in the appropriate manner
Reputational Risks	Adverse publicity for non compliance for what is a very emotive subject.	Consultant monitors contractor and ensures all works on asbestos are carried properly.
Commercial Risks	Building closure or part closure if procedures not followed correctly	Proactive knowledgeable consultant is present during all asbestos works and provides a 24/7 emergency service is required
Service Risks	Building closure or part closure if procedures not followed correctly	Proactive knowledgeable consultant is present during all asbestos works and provides a 24/7 emergency call out service

**Financial and Value for Money Implications**

18. Full details of the contract values and financial implications are set out in the Part 2 Annex 1 (agenda item 21).
19. The estimated cost over 5 years under the current contract would be £1.8m and the estimated cost of the recommended provider for the same volume is £1.6m, generating a procurement saving of £0.2m (12%) over the 5 year contract term.
20. Higher standards have been set in the new contract which will provide an improvement in service performance and a change in the Key Performance Indicators (KPI) will mean improved output.

### **Section 151 Officer Commentary**

21. The Section 151 Officer supports the recommendation to let the contract to the recommended supplier on the basis it is the best value for money. The new price is likely to generate savings of 12% over 5 years. The recommendation is supported by PRG.

### **Legal Implications – Monitoring Officer**

22. As an employer the Council is required to comply with its health and safety obligations in accordance with the Health and Safety at Work etc Act 1974.
23. Under section 4 of the Control of Asbestos Regulations 2012 the Council has a duty to manage asbestos in non-domestic premises. To ensure compliance with this duty, the Council has undertaken a competitive procurement exercise in accordance with the EU procurement regulations, to engage the services of a Consultant which will discharge this duty on the Council's behalf. The contract offers the Council various measures of protection, including a requirement that the Consultant subscribes for professional indemnity insurance cover at £5,000,000 and public liability insurance cover at £10,000,000.
24. The Consultant is accredited in accordance with United Kingdom Accreditation Services (UKAS) and therefore, qualified to advise accordingly.

### **Equalities and Diversity**

25. The Council has been mindful of its equalities duties under the Equality Act 2010 in carrying out the tender process and letting the contract with due regard to the need to eliminate discrimination in age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
26. The procurement process for the Term Contract was undertaken through an EU Procurement procedure, which was advertised to allow suppliers across the EU to express their interest. An electronic tendering platform was used through the Bravo E-sourcing Portal. The tender was also advertised on the SCC website so as to attract local businesses and SMEs.
27. The contract which the supplier will sign stipulates that the supplier will comply with all relevant equality and diversity legislation (including the Equality Act 2010) whilst performing the services. The contract also requires the supplier to adopt SCC's equal opportunities policy when recruiting and dealing with Safeguarding responsibilities for vulnerable children and adults implications.

### **Safeguarding responsibilities for vulnerable children and adults implications**

28. With regard to the suppliers' personnel who potentially may participate in providing these services to school premises or which may otherwise involve contact with children or vulnerable adults, SCC reserves the right to require the suppliers to ensure that all employees engaged in the performance of the Service have been checked with the Disclosure and Barring Service (DBS) and received a clear Enhanced Disclosure Certificate. SCC may require

persons employed or otherwise engaged by the suppliers to undertake other security checks in accordance with SCC's security procedures.

#### **Climate change/carbon emissions implications**

29. The County Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change.
30. The supplier shall institute and maintain, in relation to its performance of the Services, a system of quality assurance. This will cover improvement planning and operation and an environmental management system designed to ensure that the Services are carried out in accordance with the Specification.

#### **WHAT HAPPENS NEXT:**

31. The timetable for implementation is as follows:

Action	Date
Cabinet decision to award (including 'call in' period)	12 February 2014
10 Calendar day statutory Standstill Period	<b>24 February 2014</b>
Contract Signature	<b>Week commencing 1 March 2014</b>
Contract Commencement Date	<b>1 April 2014</b>

32. The Council has an obligation to allow unsuccessful suppliers the opportunity to challenge the proposed contract award. This period is referred to as the Standstill period.

---

#### **Contact Officer:**

Zoran Kahvo - Category Specialist 020 8541 9785,  
Nick Layton - Compliance Manager (Property Business Services) 020 8541 9899

#### **Consulted:**

No Member or external consultation was necessary in this procurement. The SCC officer asbestos steering group, consisting of officers from Property Services, Children's Schools and Families and Business Services Health and Safety experts were consulted prior to and during tendering.

#### **Annexes:**

Part 2 Annex 1 attached as agenda item 21

#### **Sources/background papers:**

- Tender Evaluation Summary
-