

SURREY COUNTY COUNCIL
CABINET MEMBER FOR BUSINESS SERVICES

DATE: 13 NOVEMBER 2014



LEAD OFFICER: JULIE FISHER, STRATEGIC DIRECTOR FOR BUSINESS SERVICES

SUBJECT: APPOINT A NUMBER OF CONTRACTORS TO THE SURREY COUNTY COUNCIL ASBESTOS REMOVAL SERVICES FRAMEWORK

SUMMARY OF ISSUE:

Asbestos was used as a building material extensively during the last century and many buildings for which Surrey County Council is responsible contain asbestos in some form or another. This asbestos does not pose a risk as long as it remains undisturbed.

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 may require the use of Health and Safety Executive (HSE) licensed contractors to carry out remedial works such as removal and repairs on known or suspected ACMs.

Following a comprehensive procurement activity, it is proposed that five recommended contractors are appointed, to undertake these works, as follows:

- Ductclean (UK) Ltd
- Erith Contractors Ltd.
- European Asbestos Services Ltd
- OCS Environmental Services Limited
- Rhodar Ltd

Due to the commercial sensitivity involved in the Framework award process, financial details of the proposed contractors have been circulated as a Part 2 Annex.

RECOMMENDATIONS:

It is recommended that:

- the background information set out in this report be noted: and

- following consideration of the results of the procurement process in Part 2 of the meeting (agenda item 5), the award of the framework agreement to the contractors, detailed in Part 2, be agreed.

REASON FOR RECOMMENDATIONS:

The overarching aim of the proposed framework agreement is to discharge the Council's duty to protect its workers, employees, pupils and all visitors to its buildings from the effects of asbestos and this is only possible through a risk management approach. The proposed framework agreement is instrumental in supporting this.

The project scope is to carry out asbestos remedial works under the control of the Council's asbestos consultant. Works will be both planned and responsive in nature.

Duties include:

- Encapsulation of ACMs
- Removal of ACMs
- Assistance to Council's asbestos consultant, in order to carry out asbestos refurbishment and demolition surveys, such as providing access, forming and repairing holes.

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 Framework will also deliver an improved service with strengthened performance measures and robust contract management.

The new framework will also be available to all Surrey Districts and Boroughs, all Surrey maintained schools, Surrey Police Authority, East Sussex County Council and Hampshire County Council. Any of these organisations are identified as a Contracting Authority. Individual projects will be let competitively using mini competitions. Where the work is urgent and sufficiently close to a framework specification, a Contracting Authority may call off a contractor for works without further competition, if deemed the most appropriate procurement route in the circumstances.

DETAILS:

Business Case

1. The detailed results of the procurement process are included in the Part 2 annex. Of the 52 contractors who expressed an interest, 28 responded and 12 were short listed to tender.
2. Bidders were evaluated under the following criteria to ensure the most commercially advantageous response.
 - 50% Quality; a detailed Technical Specification was developed by Property Services and its asbestos consultant drawing from the knowledge and experience of the team.
 - 50% Price; based on a Price list.

3. The results of the procurement exercise are that five contractors are recommended to be appointed onto a four year Asbestos Removal Services Framework.
4. This report recommends that a framework agreement for the provision of Asbestos Removal Services to commence in January / February 2015 is awarded to the contractors named in the Part 2 Annex. Together with the Part 2 Annex, the report demonstrates why the recommended award delivers best value for money for the Council.

Background and Options Considered

5. A four year framework agreement was considered so that the asbestos contractors can manage their workload over a reasonable timeframe, assist the Council with its control of asbestos and better manage the data relating to asbestos in its premises. The rates tendered are very competitive due largely to the length of the contract term and the continuity of work it offers. It is the intention to use this contract for asbestos related responsive repairs, survey assistance to the Council's asbestos consultant and planned asbestos removal programmes. The Council, however, does not guarantee the value or volume of instructions it may place with the proposed contractors.

Procurement Strategy

6. Several options were considered when completing the Strategic Sourcing Plan (SSP) prior to commencing the procurement activity. These were: Surrey County Council Framework, spot tendering and a term contract.
7. After a full and detailed options analysis, it was decided to invite tenders through the EU Procurement procedure for a four year framework as this demonstrated best value for money from the options appraisal completed. A framework contract allows the Council to ensure value for money (VFM) by undertaking mini competitions for most works using properly qualified, experienced and resourced specialist asbestos contractors. It also gives the County Council the option of going to just one contractor for emergency works, ensuring a quick reaction time. A robust set of Key Performance Indicators (KPIs) will be developed with the contractors and our asbestos consultant in order to achieve continuous improvement. It was felt that a term contract with only one provider would be too much of a risk financially as the contract would have had to be either cost plus or against a long overly complex schedule of rates, with both methods open to abuse. There is also a risk with one contractor that, should the Health and Safety Executive (HSE) not renew their licence, the County Council would be unable to use them. Spot tendering was the other option considered. Whilst this would ensure VFM there is no opportunity for SCC to develop continuous improvement from the contractors. There would also be less interest in this work from the larger better organised contractors who made it onto the framework and we would continue to be reliant on smaller contractors who themselves are prone to losing their licence or providing inadequate performance when key personnel leave.

Use of e-Tendering and Market Management Activities

8. 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 In Tend sourcing module.

Key Implications

9. 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 Council premises needs careful and robust management. Without an appropriately licensed and experienced contractor the County Council 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, council staff and any persons making use of the premises. During the tender exercise each bidder was asked to submit copies of all relevant certification, staff CVs and experience in providing services similar to those required. Those that best met the Council's robust standards were awarded the most points in terms of the qualitative analysis ensuring contracts with the contractors most able to deliver the services required.

Competitive Tendering Process

10. The procurement activity included selecting firms who had successfully completed a pre-qualification stage, where contractors 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.
11. Twelve short listed bidders successfully completed satisfactory checks at the pre-qualification stage and were thus selected to submit tenders.
12. The contracts include a termination clause that protects the contracting authority in case of any breach of the framework agreement.

CONSULTATION:

13. Officers from Property Services and Procurement as well as the Council's asbestos consultant have been involved in the procurement, providing expert knowledge around the design of the specification and evaluating tenders and agreeing recommended contract award.

RISK MANAGEMENT AND IMPLICATIONS:

14. 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 Health and Safety at Work Act (HSAWA) SCC could face high environmental cleanup costs dealing with uncontrolled release of asbestos fibres.	The Asbestos Contractor Framework provides SCC with an immediate response to any asbestos related incident by a HSE licensed asbestos contractor ensuring emergency events are dealt with in the appropriate manner.
Reputational Risks	Adverse publicity for non compliance for what is a very emotive subject.	Consultant monitors Framework contractors and ensures all works on asbestos are carried out properly.
Commercial Risks	Building closure or part closure if procedures not followed correctly.	Proactive knowledgeable Framework contractor is present during all asbestos works and provides a 24/7 emergency service.
Service Risks	Building closure or part closure if procedures not followed correctly.	Proactive knowledgeable Framework contractor is present during all asbestos works and provides a 24/7 emergency service.

Financial and Value for Money Implications

- 15. Full details of the contract values and financial implications are set out in the Part 2 annex (agenda item 5).
- 16. The estimated cost over four years under the current contract would be £1.14m and the estimated cost of the recommended framework for a similar volume of work is £0.825m, generating a procurement saving of £0.315m (27.6%) over the four year framework term, assuming current levels.
- 17. High standards have been set in the framework which will provide an improvement in service performance and a strong focus on KPIs will mean improved output.

Section 151 Officer Commentary

- 18. The cost of approving the recommended supplier to carry out the likely levels of asbestos works is provided for in the current MTFP, assuming there are no significant changes in the number and type of works.

Legal Implications – Monitoring Officer

- 19. As an employer, the Council is required to comply with its health and safety obligations in accordance with the Health and Safety at Work Act 1974.
- 20. 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 framework contractors to discharge this duty on the Council's behalf. The contract offers the Council various measures of protection, including a requirement that the Contractors subscribe for public liability insurance cover of £10,000,000.

21. The framework contractors are licensed with HSE for asbestos related works and therefore, qualified to carry out any works required of them.

Equalities and Diversity

22. 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.
23. The procurement process for the Framework 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 In Tend e-sourcing Portal. The tender was also advertised on the Council's website so as to attract local businesses and Small and Medium-sized Enterprises (SMEs).
24. The framework which the contractors will sign stipulates that the contractor will comply with all relevant equality and diversity legislation (including the Equality Act 2010) whilst performing the services. The framework also requires the contractor to adopt the Council's equal opportunities policy when recruiting and dealing with safeguarding responsibilities for vulnerable children and adults implications.

Other Implications:

25. The potential implications for the following Council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	Most Council premises contain ACM in some form or another including Children's Homes and schools. By managing the risks associated with asbestos the Council minimises the risks to those who use these premises.
Safeguarding responsibilities for vulnerable children and adults	See section below
Public Health	Most SCC premises contain ACM in some form or another. By managing the risks associated with asbestos the Council minimises the risks to those who use these premises, whether this is those working in the premises or visitors.

Climate change	See section below for additional information.
Carbon emissions	See section below for additional information

Safeguarding responsibilities for vulnerable children and adults implications

26. With regard to the contractors’ personnel who could potentially participate in providing these services at school premises or which may otherwise involve contact with children or vulnerable adults, the Council reserves the right to require the contractors 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. The County Council may require persons employed or otherwise engaged by the contractors to undertake other security checks in accordance with our security procedures.

Climate change/carbon emissions implications

27. The Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change.
28. The contractors will 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:

29. The timetable for implementation is as follows:

Action	Date
Cabinet Member decision to award (including ‘call in’ period)	21 November 2014
10 Calendar day statutory Standstill Period	5 December 2014
Contract Signature	Week commencing 5 January 2015
Contract Commencement Date	February 2015

30. The Council has an obligation to allow unsuccessful contractors the opportunity to challenge the proposed contract award. This period is referred to as the standstill period.

Contact Officer:

Zoran Kahvo - Category Specialist Tel: 020 8541 9785,

Nick Layton - Compliance Manager (Property Business Services) Tel: 020 8541 9899

Consulted:

No Member or external consultation was necessary in this procurement.

The 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 attached as agenda item 5

Sources/background papers:

- Tender Evaluation Summary
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