

Item No.	Classification: Open	Date: 24 August 2015	Meeting Name: Strategic Director of Finance & Corporate Services
Report title:		Gateway 3 – Extension Approval Asbestos Consultancy Services Contract A – surveying and bulk sampling and Asbestos Consultancy Services Contract B – air sampling and monitoring	
Ward(s) or groups affected:		All	
From:		Head of Maintenance and Compliance	

RECOMMENDATIONS

1. That the strategic director of finance and corporate services approves the contract extension of the Asbestos Consultancy Services Contracts - Contract A - surveying and bulk sampling to Pennington Choices Limited (Pennington) for a period of 12 months from 1 January 2016 to 31 December 2016 at an estimated cost of £1.2m.
2. That the strategic director of finance and corporate services approves the contract extension of the Asbestos Consultancy Services Contracts - Contract B - air sampling and monitoring to Armstrong York Asbestos Environmental Limited (Armstrong York) for a period of 12 months from 1 January 2016 to 31 December 2016 at an estimated cost of £129,550.
3. That the strategic director of finance and corporate services notes that there has been an increase to the estimated contract value set out in the original Gateway 2 report, as explained in the body of this report.

BACKGROUND INFORMATION

4. A Gateway 2 report was approved on 30 October 2012 to award two Asbestos Consultancy Services Contracts - Contract A to Pennington and Contract B to Armstrong York for a period of 3 years from 1 January 2013 to 31 December 2015 with the option to extend for two 12 month extensions at the council's discretion.
5. The current contracts provide the following services:
 - Contract A
 - Asbestos management, refurbishment, and demolition surveys
 - Bulk sampling of suspected asbestos containing materials (ACMs)
 - Asbestos risk assessments
 - Laboratory analysis of ACMs
 - Contract B
 - Air sampling and air monitoring of areas where ACMs are present or have been removed.
6. The two current contracts provide independent verification of ACMs and its removal in line with the council's asbestos management policies.

7. Contract A was for an initial period of 3 years from 1 January 2013. The annual cost of Contract A was estimated to be £249,177 per annum making a total estimated contract value of £747,531.
8. Contract B was for an initial period of 3 years from 1 January 2013. The annual cost of Contract B was estimated to be £129,550 per annum making a total estimated contract value of £388,650.
9. The budgets and actual expenditure for the periods since the contract began are as follows:

Contract A	Estimated Value	Actual Total
01 January 2013 to 31 December 2013	£249,177	£414,459
01 January 2014 to 31 December 2014	£249,177	£894,963
01 January 2015 to 31 May 2015	£103,823	£277,024
Total	£602,177	£1,586,446

Contract B	Estimated Value	Actual
01 January 2013 to 31 December 2013	£129,550	£88,705
01 January 2014 to 31 December 2014	£129,550	£87,920
01 January 2015 to 31 May 2015	£53,979	£21,905
Total	£313,079	£198,530

10. In June 2013, cabinet brought forward the Warm, Dry and Safe (WDS) 2014/15 and 2015/16 programmes to take advantage of the back log funding that the council received from the Greater London Authority (GLA) to assist with improving decency for housing properties.
11. In April 2014, the council introduced an enhanced voids standard to improve resident satisfaction when letting a property to a new tenant. This involved enhanced works to kitchens and bathrooms and redecorations.
12. In February 2015, cabinet brought forward the new 6 year kitchen and bathroom programme from 2016/17 to 2015/16.
13. These programmes have impacted considerably on the increase in spend of Contract A as in order for these schemes to commence onsite, it is a legal requirement to have an asbestos refurbishment and demolition survey completed and issued to the contractors who will be undertaking the works.

14. The council decided that Contract A needed to be utilised in order to maintain control of the Apex asbestos register and be compliant with the asbestos regulations.
15. Even though there has been an increased spend to that originally estimated, a number of efficiencies have resulted as detailed below:
- Quick turn around times for asbestos surveys with a consistent and approved reporting format.
 - Updating of the council's Apex asbestos register electronically providing information to council officers and contractors.
 - Reduced costs as detailed in paragraph 34.
16. The reason for a reduced spend to that originally estimated for Contract B is that following surveys for asbestos (completed under Contract A), no asbestos is found or where the asbestos can be contained, the use of Contract B is not required.
17. The current contracts allow for two separate 1 year extensions after the initial period has elapsed.

KEY ISSUES FOR CONSIDERATION

Key Aspects of Proposed Variation

Contract A

18. The nature of the proposed contract extension is to exercise the option in the contract with Pennington to be extended for a period of twelve months. The revised completion date will therefore be 31 December 2016.
19. The original estimated value of the initial 3 year Contract A was £747,531, however this has increased to £1.97m for reasons explained above. The proposed extension of £1.2m plus the value of the initial 3 years makes a total estimated value of the contract of £3.168m as detailed in the table below:

Contract A	Actual Expenditure From 1 January 2013 to 31 May 2015	Estimated Expenditure 1 June 2015 to 31 Dec 2015	Combined Actual & Estimated Expenditure	Estimated Expenditure 1 Jan 2016 to 31 Dec 2016 (12 Months)	Total
Maintenance & Compliance Surveys	£723,042	£174,527	£897,569	£299,190	£1,196,759
Major Works Surveys	£863,404	£208,408	£1,071,812	£900,00	£1,971,812
Totals	£1,586,446	£382,935	£1,969,381	£1,199,190	£3,168,571

20. The value of the extension to Contract A as a percentage is estimated to be 61% of the combined actual and estimated expenditure from 1 January 2013 to 31 December 2015.

Contract B

21. The nature of the proposed contract extension is to exercise the option in the contract with Armstrong York to be extended for a period of twelve months. The revised completion date will therefore be 31 December 2016.
22. The original estimated value of the initial 3 year Contract B is £388,650, plus this proposed extension of £129,550, makes a total estimated value of the contract of £518,200 as detailed in the table below.

Contract B	Actual expenditure From 1 January 2013 to 31 May 2015	Estimated Expenditure 1 June to 31 Dec 2015	Combined Actual & Estimated Expenditure	Estimated Expenditure 1 Jan 2016 to 31 Dec 2016 (12 Months)	Totals
M&C Laboratory Analysis	£198,530	£75,571	£274,101	£129,550	£403,651
Underspend to Date					£114,549
Total Estimated Spend					£518,200

23. The value of the extension to Contract B as a percentage is estimated to be 47%.

Reasons for Variation

24. The services delivered through these two contracts enable the council to meet its obligations as a landlord and employer to comply with the Control of Asbestos Regulations and internal policies.
25. Pennington and Armstrong York's performance has exceeded the key performance indicators (KPI) as detailed in the tables below:

Contract A - KPI	Minimum Council Target	Cumulative 2014/15	Latest
Voids – Site Attendance On Time	96%	99%	99%
Tenanted – Site Attendance On Time	96%	99%	96%
% of Surveys Completed at the End of Each Month	98%	98%	99%
Percentage of Surveys completed within 5 Days	98%	97%	98%

Contract B – KPI	Minimum Council Target	Cumulative 2014/15	Latest
% of jobs completed on time	96%	98%	99%
% attendance on site per request	98%	99%	99%

26. Contract A has delivered unit cost reductions as detailed in paragraph 34.

27. Contract B has delivered significant cost reductions compared with previous service providers as illustrated in paragraph 12 by the current reduced spend.
28. The current contracts were procured in 2012 and provide competitive prices for the services being delivered. The schedule of rate prices remains very competitive in the current asbestos market and both contracts contain fixed price rates over the four year period. The council's maintenance and compliance team will, subject to an extension approval, request reduced rates to Contract A to reflect the economies of scale.
29. The contract prices were set with no building maintenance indices rise and therefore the council is receiving services at the original competitive price. On this basis Housing and Community Services officers are confident that the council is securing best value.
30. At the time of advertising the contracts in 2012, it was not envisaged that back log funding would be received from the GLA. There was no plan to enhance the void standards in 2012 and these additional pressures have had a significant impact on spend for Contract A.
31. Due to the increase volume and scope of works now being undertaken, it is imperative that the quality of asbestos data is maintained throughout to ensure compliance with Control of Asbestos Regulations 2012 and to manage risks. The use of a single consultant ensures that compliance is maintained.

Future Proposals for this Service

32. The council's maintenance and compliance team have produced an outline procurement plan for new contracts that will need to be procured for commencement on 1 January 2017.
33. An outline procurement plan is provided below based on the assumption that 2 four year contracts, with a further two year extension facility, is procured.

Activity	Complete by:
Forward Plan for Gateway 1	July 2015
DCRB Review Gateway 1 CCRB Review Gateway 1	24 Aug 2015 3 Sept 2015
CMH Review Gateway 1 (if applicable)	14 Sept 2015
Deadline Agenda Planning	28 Sept 2015
Approval of Gateway 1: Procurement strategy report - cabinet	20 Oct 2015
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	27 Oct 2015
Issue Notice of Intention	N/A
Completion of tender documentation	30 Oct 2015
Publication of OJEU Notice	3 Nov 2015
Publication of Opportunity on Contracts Finder	5 Nov 2015
Closing date for receipt of expressions of interest	11 Jan 2016

Activity	Complete by:
Completion of short-listing of applicants	5 Feb 2016
Invitation to tender	8 Feb 2016
Closing date for return of tenders	10 Mar 2016
Completion of evaluation of tenders	22 April 2016
Issue Notice of Proposal	N/A
Forward Plan for Gateway 2	May 2016
DCRB Review Gateway 2: CCRB Review Gateway 2:	27 June 2016 7 July 2016
CMH Review Gateway 2 (if applicable)	July 2016
Notification of forthcoming decision – despatch of Cabinet agenda papers	Aug 2016
Approval of Gateway 2: Contract Award Report	Sept 2016
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	Sept 2016
Debrief Notice and Standstill Period (if applicable)	Oct 2016
Contract award	Oct 2016
Add to Contract Register	Oct 2016
TUPE Consultation period (if applicable)	19 Dec 2016
Place award notice in Official Journal of European (OJEU)	Oct 2016
Place award notice on Contracts Finder	Oct 2016
Contract start	1 Jan 2017
Initial contract completion date	31 Dec 2021
Contract completion date – (if extension(s) exercised)	31 Dec 2023

Alternative Options Considered

34. The following alternative options were considered by the council's maintenance and compliance team.

- Utilise the two 12 month extensions option - it was not considered appropriate to recommend the utilisation of the full extension periods in light of the increased spend to that originally estimated through Contract A.
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- Procure new asbestos bulk sampling and surveying contract – this was not considered appropriate because the procurement timeframe would be approximately 18 months and in the interim, the council's major works team would have to rely on the partnering contract rates that are significantly more expensive.

- Bring the service back in-house – unfortunately the necessary skills and knowledge are not available in-house as an economically viable package.

35. As none of the above options are suitable, it is recommended that the two current contracts are extended for twelve months whilst a new EU procurement is commenced as set out in paragraph 32 above. A Gateway 1 report for the new procurement is due to go to cabinet on 20 October 2015.

Identified risks for the extension

36. The table below identifies the risks associated with this procurement, the likelihood of occurrence and the control in place to mitigate the risks:

R/N	Risk Identification	Likelihood	Risk Control
R1	Consultants cease trading, goes into administration or liquidation	Low	On going contract management and access to Approved contractor list as back up.
R2	Potential challenges from organisations that unsuccessfully tendered / did not tender for the services.	Low	The new procurement is due to be advertised in November 2015.
R3	Penningtons unable to resource Contract A	Low	Penningtons have undertaken a recruitment programme and have appointed adequate resources to serve this.

Policy implications

37. The two current Asbestos Consultancy contracts provide an essential service to the council. They support the council's statutory obligations as a landlord and employer with the following legislation and regulation:

- The Housing Act 2004
- The Control of Asbestos Regulations 2012

Contract management and monitoring

38. Programme monitoring meetings are held with Pennington and Armstrong York and council officers to discuss and evaluate performance against, amongst other things, the KPIs within the contracts.

39. The council's asbestos team monitor performance monthly via a combination of performance data and work in progress/post inspections. The team quality checks the services to ensure the council is receiving best value. Any issues are raised quickly through daily interaction with Pennington and Armstrong York and the council's technical officers.

40. The council's commercial team will review all applications for payment, monitor and administer defaults and carry out recovery costs for poor performance to ensure that the council is not being overcharged.

41. A new web based system introduced by Pennington has proved to be successful and allows immediate access to and to the download of detailed asbestos reports by both the council and other external contractors reducing delays and providing real time information.
42. The 12 month extension will also include a new void KPI to reduce delays to and contribute to void turn around times to maximise rental income to the council.

Community Impact Statement

43. These two contracts contribute directly to creating and maintaining a safe environment across the council's housing properties and complying with legislation. All residents are affected by these contracts.

Sustainability considerations

44. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.

Economic considerations

45. The full cost to the council and life span of the contracts is set out in paragraph 19 and 22 above.
46. The expenditure for Contract A has increased from the original estimate due to the reasons detailed in paragraphs 9 to 12 above.

Social considerations

47. Pennington and Armstrong York's employees are paid in excess of the London Living Wage and have equalities policies that conform to the council's standards. The application of these is reviewed for compliance as part of the contracts' annual review.

Environmental considerations

48. The use of low emission vehicles and planning of journeys is encouraged within the contracts.
49. Waste consignment notes are requested from removal contractors by Pennington and Armstrong York to ensure materials containing asbestos are not fly tipped but disposed at a controlled site.
50. All asbestos samples are taken, transported and disposed of in line with the Control of Asbestos regulations.

Financial Implications (FIN0856 - JP)

51. The current annual asbestos HRA budget is £452,590 per annum which is broken into £321,166 per annum for Surveying and Bulk Sampling (Contract A) and £131,424 per annum, which is sufficient to cover the estimated costs of £378,727 (Contract A £249,177 and Contract B £129,550 respectively) based on an indicative basket of goods for the tender.
52. Each Warm, Dry and Safe scheme has an allocated budget for asbestos surveys approved within each gateway and these costs are charged to the relevant scheme budget within the Housing Investment Programme when they occur.
53. The variation in spend indicated in paragraph 8 for Contract A includes Warm, Dry and Safe scheme expenditure. Excluding this element, the current Maintenance and Compliance budget of £321,166 is better aligned to the actual expenditure, due to this being a demand driven contract and the enhanced void standard.

Contract A - Surveying and Core Sampling	Budget	Maintenance & Compliance Actual
01 January 2013 to 31 March 2013	£80,292	£103,297
01 April 2013 to 31 March 2014	£321,166	£351,817
01 April 2014 to 31 March 2015	£321,166	£299,550
01 April 2015 to 31 May 2015	£53,528	£44,874
Total	£776,152	£799,538

54. The current expenditure on Contract B (shown in paragraph 8) has been below budget, however, flexibility is still needed as it is dependent on the levels of asbestos removal and the types of asbestos found.
55. Any increased spend to that originally estimated on these contracts will need to be contained within the maintenance and compliance department.

Investment Implications (Housing Contracts only)

56. None.

Legal Implications

57. Please see the comments from the director of legal services.

Consultation

58. Consultation meetings are held on a regular basis with residents where specific works are to be programmed and asbestos is present.

Other implications or issues

59. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

60. This report is seeking approval to extend two asbestos consultancy contracts (contract A, surveying and bulk sampling and contract B, air sampling and monitoring) for a period of 12 months from 1 January 2016.
61. The existing contract allows for two 12 month extensions, however, the contract is demand led and for reasons set out in the report there has been an increase in spend to that originally estimated for this contract.
62. The report explains that the contracts are required to enable the council to meet its obligations as a landlord and employer to comply with the control of asbestos regulations and internal policies. Due to the increased spend it has been decided that only one of the 12 month extensions shall be exercised to mitigate procurement risks and ensure value for money is being achieved.
63. During this extension period a new contract shall be procured. The project plan set out in the report for the procurement process of the new contract gives some assurance that this extension allows sufficient time for a competitive tender process to be carried out.
64. The Housing and Community Services department reports that performance to date has been good and the council has benefited from unit cost reductions providing continued value for money for this contract. There are management and monitoring arrangements in place which should help to ensure that this level of contract performance is maintained throughout the extension period.

Director of Legal Services

65. This report seeks the approval of the strategic director of finance and corporate services for a 12 month extension from 1 January 2016 to two separate Asbestos Consultancy Contracts – Contract A which is being performed by Pennington and Contract B which is being performed by Armstrong York . This report sets out the extent of the extension and the reasons why the extension is necessary.
66. The report notes at paragraph 3 that that there has been an increase in spend to that originally estimated in the Gateway 2 report approved on 30 October 2012.
67. The report confirms at paragraphs 24 to 31 why an extension of 1 year was sought as opposed to the 2 year extension available for each contract. The report also confirms that approval will be sought in good time to allow a new procurement to commence for two new contracts.
68. The nature of this variation is such that it is subject to the new Public Contracts Regulations 2015 (PCR 2015). Regulation 72(1)(a) of the PCR 2015 allows the council to extend the current contract as this option was provided for in the initial procurement documents and does not alter the overall nature of the contract.
69. As the decision to approve this extension falls with contract standing order (CSO 4.6.2a), the decision may be taken by the strategic director of finance and corporate services, after consideration by the corporate contracts review board (CCRB).

70. CSO 2.3 requires that a variation decision may only be made if the expenditure involved has been approved. Paragraphs 51 to 55 of this report confirm the financial implications of this variation.

Strategic Director of Finance and Corporate Services (HCS/15/009)

71. The strategic director of finance and corporate services notes the recommendations in this report for the extension of two Asbestos Consultancy Services Contracts. The costs of the contracts fall to the Housing Revenue Account. Cost from January to March 2016 must be contained within the budget for 2015/16 agreed by cabinet in January 2015. The costs of the contracts from April to December 2016 should be reflected in budget modelling for 2016/17 to go to cabinet in January 2016.

Head of Specialist Housing Services

72. This contract was subject to consultation under the Commonhold and Leasehold Reform act 2002 and Notice of Proposal was served under schedule 2 of the regulations on 3.7.12. The Notice identified the contract term to include an extension of the period by two years and so there is no requirement for further consultation where such an extension is proposed

FOR DELEGATED APPROVAL

Under the powers delegated to me in accordance with the council’s Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature Date.....

Designation

BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 1 ‘open’ report - Asbestos consultancy service contracts for surveying, bulk sampling, air sampling and monitoring for the operational estate.	Engineering & Compliance Housing and Community Services Department 106 Tooley Street	Gavin Duncumb Ext 50685
G:\Maintenance & Compliance\Engineering Procurement\Asbestos Surveying & Air Monitoring\Asbestos Surveying & Sampling\CFM Gateway 1 report\GW1 Asbestos consultancy service (open) signed.pdf		
Gateway 2 ‘open’ report - Asbestos Consultancy Services Contracts (Contract A – surveying and bulk sampling, and Contract B – air sampling and monitoring)	Engineering & Compliance Housing and Community Services Department 106 Tooley Street	Gavin Duncumb Ext 50685
G:\Maintenance & Compliance\Engineering Procurement\Asbestos Surveying & Air Monitoring\GW2\Asbestos Sampling & testing Signed GW2.pdf		
Gateway report ‘Open’ Major Works Status Report	Engineering & Compliance Housing and Community	Gavin Duncumb Ext 50685

incorporating Warm, Dry and Safe	Services Department 106 Tooley Street	
Cabinet report WDS Resource Reportv2 6.doc		

APPENDICES

No	Title
Appendix	None

AUDIT TRAIL

Lead Officer	David Lewis, Head of Maintenance and Compliance	
Report Author	Gavin Duncumb, Commercial Manager	
Version	V10 – Open	
Dated	25 August 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
Cabinet Member	No	No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional/Community Councils/Scrutiny Team		