

Item No.	Classification: Open	Date: 8 October 2014	Decision Taker: Cabinet Member for Housing
Report title:		Gateway 2 Asbestos Removal Contract	
Ward(s) or groups affected:		All Wards	
From:		Strategic Director of Housing and Community Services	

RECOMMENDATIONS

1. That the Cabinet Member for Housing approves the award of Contract A (north of the borough) Asbestos Removal Contract to Franklyn Shaw Associates Ltd for the estimated sum of £1m per annum for a period of four years from 15 December 2014 with the option to extend by a further two years (in 1+1 yearly increments) making a total estimated contract value of £6.03m.
2. That the Cabinet Member for Housing approves the award of Contract B (south of the borough) Asbestos Removal Contract to Ductclean (UK) Ltd for the estimated sum of £845k per annum for a period of four years from 15 December 2014 with the option to extend by a further two years (in 1+1 yearly increments) making a total estimated contract value of £5.07m.
3. That the Cabinet Member for Housing notes that through the procurement process provision has been made for the two contractors to act as back up to each other based on their own tendered rates if required.

BACKGROUND INFORMATION

4. Existing asbestos removal works are undertaken by ad hoc companies based on quotations. These works are identified by council officers and the council's contractors via reference to the council's asbestos register and during pre-work site surveys. The identified areas are then surveyed, analysed and substantiated by Pennington Choices Ltd (contractor for asbestos surveying and bulk sampling) and officers in the engineering and compliance department.
5. The planned procurement strategy was the subject of a Gateway 1 report approved by the Deputy Leader and Cabinet Member for Housing Management on 19 November 2013. The approved EU restrictive procedure procurement strategy was followed.
6. The scope of these new contracts (Contracts A and B) will encompass the following work streams:
 - Removal of asbestos.
 - Encapsulation of asbestos materials and making safe.
 - Some reinstatement works on an ad hoc basis.
 - Emergency Response that covers a 24/7, 52 weeks a year asbestos removal service.
7. The separation of Contracts A and B across a geographical split of the borough (north and south) facilitates better logistical service coverage, and given the

presence of asbestos in properties across the borough, the appointment of a single contractor for the works would not be appropriate. As such, tenderers were made aware that no single contractor would be awarded both Contracts and that two separate contractors would be appointed.

Procurement project plan (Key Decision)

8. See table below:

Activity	Completed by/Complete by:
Forward Plan for Gateway 2 decision	2 June 2014
Approval of Gateway 1: Procurement Strategy Report	19 Nov 2013
Issue Notice of Intention (Applies to Housing Section 20 Leaseholder Consultation)	21 Nov 2013
Invitation to tender	24 March 2014
Closing date for return of tenders	8 May 2014
Completion of evaluation of tenders	4 June 2014
Issue Notice of Proposal (Applies to Housing Section 20 Leaseholder Consultation)	6 June 2014
Completion of NOP	4 Aug 2014
DCRB Review Gateway 2: CCRB Review Gateway 2:	11 Aug 2014 14 Aug 2014
CMH Approval of Gateway 2: Contract Award Report	15 Oct 2014
Notification of forthcoming decision – Five clear working days	23 Oct 2014
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	31 Oct 2014
Alcatel Standstill Period (if applicable)	11 Nov 2014
Contract award	12 Nov 2014
Add to Contract Register	17 Nov 2014
TUPE Consultation period (if applicable)	N/A
Contract start	15 Dec 2014
Publication of award notice in Official Journal of European (OJEU) – Part A/B Services	15 Dec 2014
Contract completion date	14 Dec 2018
Contract completion date – if extension(s) exercised	14 Dec 2020

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

9. These services will maintain housing's existing assets and deliver asbestos removal works to comply with current legislation. The provision of these services

is essential for the void and repairs service to all housing-owned properties, sheltered housing units, resident halls and communal areas.

10. The two contracts will also be used by the corporate facilities management (CFM) team to undertake these services for those council buildings/sites that fall outside of the council's housing estate but for which responsibility for this service is held, including offices, shops, industrial units, park buildings and schools within the Southwark area. This will support a uniform approach to the management of asbestos across the council's operational buildings, thus reducing exposure to risk.
11. Each contract will contain a break clause to terminate the contract with no consideration of any loss or expense at any time.

Key/Non Key decisions

12. This report deals with a key decision.

Policy implications

13. The provision of the asbestos removal services is required in order that the council fulfils its duties and obligations as a landlord and employer and ensuring that premises are fit for habitation.

Tender process

14. Following the placement of the OJEU advertisement on 18 December 2013, 40 Expressions of Interest were received. Pre-Qualification Questionnaires (PQQ) were immediately dispatched to each of the applicants. A total of 18 applicants returned PQQ submissions by the required deadline of 5 February 2014.
15. The PQQ contained the following sections to be completed:
 - a. Section A – General Information (Info Only)
 - b. Section B – Financial (Pass or Fail)
 - c. Section C – Equal Opportunities (Pass or Fail)
 - d. Section D – Health and Safety (Pass or Fail)
 - e. Section E – References (Info Only) – it was required that references should relate to the case studies provided in Section H
 - f. Section F – Environmental (Pass or Fail)
 - g. Section G – Quality (Pass or Fail)
 - h. Section H – Technical contained seven questions, one of which was Pass/Fail, four were scored, and the other two being information only.

16. The PQQ submissions were evaluated by the following members of the project team:

Section Evaluated	By whom (post)
General Information	Commercial Manager and Assistant Quantity Surveyor
Financial	Management Accountant
Equal Opportunities	Commercial Manager and Assistant Quantity Surveyor

Health & Safety	External Consultant – Potter Raper Partnership
References	Assistant Quantity Surveyor
Environmental	External Consultant – Potter Raper Partnership
Quality Assurance	External Consultant – Potter Raper Partnership
Technical	Contracts Manager, Asbestos Co-ordinator and Asbestos Technical Officer

17. The Invitation to Tender (ITT) was sent out to the shortlisted applicants on 24 March 2014.
18. The top seven applicants were invited to tender.
19. Seven tenders were returned to 160 Tooley Street on or by 13.00pm on 8 May 2014 and were opened on 8 May 2014 and checked for compliance.

Tender evaluation

20. The Tender Evaluation Panel (TEP) consisted of the following individuals, with areas of evaluation being conducted separately from each other.

AREA EVALUATED	BY WHO (POST)
Price (70%)	Commercial Manager
Quality (30%)	Asbestos Co-ordinator, Asbestos Technical Officer and Programme Manager

21. Tenders were evaluated on the basis of M.E.A.T (most economically advantageous tender) using a weighted model of 70:30 price and quality.
22. All returned tenders were checked for arithmetical accuracy and consistency with the ITT submissions as detailed in Appendix 1 - Tender Evaluation Report.
23. A Price Schedule Model was used, which contained various annexes covering the different work streams and hourly rates. This tendering approach was intended to preclude tactical tendering of any work streams and reduces the risk of uncontrolled expenditure.
24. Each annexe contained a pre-priced schedule of rates and indicative quantities for each schedule based on previous historical data and the tenderers were required to put a + / - % against each annexe, including their hourly rate and cost of performance bond.
25. Price evaluation was marked out of 70 points. The lowest overall Tender price would be awarded 70 points. The following formula was used to evaluate the scores - $(A/B) \times C$ – where:
 - A = Lowest Lump Sum Price
 - B = Next Lowest Lump Sum Price
 - C = Overall Weighting for Price
26. The quality assessment was based on information received from tenderers in response to method statements covering Mobilisation, Service Delivery and management. Full detail of these criteria is contained in Appendix 2.

27. Each member of the TEP independently assessed each method statement response using the scoring table found in Appendix 2– Evaluation Methodology Schedule. The TEP then checked the scoring for consistency and agreed a consensus score. Final scores were calculated to ascertain the tenderer’s overall score.
28. The table below sets out the combined price and quality scores of the remaining tenderers:

Tenderer	Price	Quality	Total Score	Position
			100 Points	
Ductclean	69.69	21.00	90.69	1
Franklyn Shaw	70.00	19.10	89.10	2

29. The award of contracts is based on M.E.A.T. The Evaluation Methodology set out that the two top scoring tenderers would each be awarded a contract. The Evaluation Methodology set out how each contract would be awarded, it is therefore recommended that Contract A be awarded to Franklyn Shaw and Contract B be awarded to Ductclean.

Plans for the transition from the old to the new contract

30. The compliance operations manager and the commercial manager have developed an overall plan to manage and monitor this critical phase and ensure the transition from the current service delivery to the two new contracts is successful.
31. As soon as the contracts are awarded:
- a. Weekly mobilisation meetings will be held with Ductclean and Franklyn Shaw at 160 Tooley Street and site visits will be organised with both contractors.
 - b. Existing processes will be updated and communicated prior to the contracts’ start date.
32. The compliance operations manager will be responsible for arranging meetings with key departments (the call centre, the major works team and housing and sheltered housing teams) to ensure there is a seamless transition.

Plans for monitoring and management of the contract

33. The service has a team of dedicated competent asbestos compliance officers who carry out daily joint inspections to ensure quality and compliance with the contract specifications.
34. The compliance operations manager and asbestos coordinator will manage the contract and will be responsible for authorising works, inspecting quality and monitoring the performance of the contractors. One of the engineering and compliance quantity surveyors will manage commercial aspects of the two contracts. The engineering and compliance quantity surveyor will review the

monthly valuations and select jobs that require post inspections to ensure quality and financial accuracy. Monthly meetings will be undertaken and recorded.

35. Works orders will be raised and managed through iWorld, where all information relating to orders will be contained. Ductclean and Franklyn Shaw will be required to provide 10% post-inspections that will be rigorously audited by one of the asbestos inspectors.

36. The table below shows the Key Performance Indicator (KPI) for the contracts.

No.	Key Performance Indicator (KPI)	Minimum Target Percentage %	Council's Aspirational Target Objective %
1.	Percentage of Urgent Orders commenced during that month and completed within the stipulated time periods in each Order.	95%	100%
2.	Percentage of Priority Code 2, 3 and 4 Orders completed within the stipulated time periods.	95%	98%
3.	Percentage of Orders for which a Recall Notice (Default Notice) has not been issued within the calendar month.	98%	100%
4.	Completion of response repairs at the time of the first visit.	90%	95%
5.	Percentage of Planned Works completed on time.	98%	100%
6.	Response to queries or complaints from Residents, Stakeholders and Council Officers to meet the Council's Corporate Complaints Policy i.e. within 5 days.	100%	100%

37. These KPIs will be monitored and appropriate action will be taken as necessary under the contracts. Target percentages will be reviewed during the contract periods.

Identified risks for the new contract

38. The table below identifies the specific risks associated with these contracts, the likelihood of occurrence and the controls in place to mitigate the risks.

R/N	Risk Identification	Likelihood	Risk Control
R1	Following contract award, Ductclean and/or Franklyn Shaw go into liquidation, administration or cease trading.	Low	The two separate contracts provide back-up facilities to each other.

R2	Following contract award either Ductclean or Franklyn Shaw have their Asbestos License revoked.	Low	A requirement in the PQQ for a current three year license and the two separate contracts provide back-up facilities to each other.
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Design Specification Compliance

39. All Asbestos Removal works orders will be carried out in accordance with the technical specification contained in the contract documents.

Leasehold Implications

40. The work to be undertaken within these contracts are service chargeable within the terms of the lease, and the element appertaining to Asbestos Removal Works will result in charges over an annual period that are above the limit for statutory consultation which means these will be charged to leaseholders.
41. Costs will be service charged through the annual charge. Any changes to the way in which work is ordered and paid for should be discussed with the Service Charge Accountant to ensure that all costs can be attributed on a block by block basis.

Community impact statement

42. Ductclean and Franklyn Shaw provide employment and apprenticeship opportunities to the local community. The award of these contracts will secure one administration apprentice for each of the contracts.
43. Workplace experience will also be offered to local schools. This will be organised by the engineering and compliance team.

Economic considerations

44. The full cost to the council and the life span of the contracts are set out in paragraphs 1 and 2 of this report.
45. Both contractors have agreed to recruit one apprentice for each year of the initial four year term of the contract. The apprenticeships will be arranged jointly with the Southwark apprenticeship scheme and monitored by the compliance operations manager. These apprenticeships will lead to the three year NVQ3 qualification relevant to the role.

Social considerations

46. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, its contractors and sub-contractors pay staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report approved on 26 June 2013 confirms, for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for these contracts offering enhanced quality of work from a motivated workforce and a lower staff turnover. Both Ductclean and Franklyn Shaw confirmed that they met the LLW requirements. Following award, quality improvements and costs

implications linked to the payment of LLW will be monitored as part of each of the contract review processes.

47. Ductclean and Franklyn Shaw have demonstrated that they operate an Equal Opportunity Policy and that they are fully aware and compliant with the council's own Equal Opportunity Policy.

Environmental considerations

48. A waste consignment note will be requested from the contractors to ensure materials containing asbestos are disposed of in controlled conditions to an approved site. Regular on the spot audits will be undertaken by the asbestos coordinator.
49. The use of sustainable materials to the appropriate British Standards will be required to ensure fire integrity for re-instatement works.
50. The use of low emission vehicles and planning of journeys will be encouraged within the contracts.

Staffing implications

51. There will be no impact on council staff caused as a consequence of implementing these contracts. Officers are already fulfilling the works ordering and monitoring roles of the current arrangements and these functions will continue under the new contracts.
52. These contracts will be managed by the compliance operations manager and commercial manager from the engineering and compliance team.

Financial implications

53. Asbestos removal costs have historically been contained within the Maintenance and Compliance budget for Repairs & Maintenance (R&M) contracts, with a notional £0.6m in the R&M budget for such costs. An extra £1m was added to the 2014/15 R&M base budget for increased asbestos removal works following legislative changes.
54. The estimated contract value for asbestos removal is £1.85m per year, including £0.25m for non-housing, totalling £7.40m for the full four-year term, and £11.10m if extended by two years, as detailed in the following table:

	£m Per year	£m 4-year term	£m 6-year extended
Contract A (North)	1.005	4.020	6.030
Contract B (South)	0.845	3.380	5.070
Overall totals	1.850	7.400	11.100
Non-Housing	0.250	1.000	1.500
Housing	1.600	6.400	9.600

55. The estimated cost to Housing of £1.6m per year will be contained within the Maintenance and Compliance R&M budget. The non housing estimate is based on a planned programme of compliance and preventative maintenance work, a

budget for which has been established in the council's capital programme. This budget is also supported by earmarked reserves for the same purpose which stood at £7m as at 31 March 2014.

Investment implications

56. None.

Legal implications

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

Consultation

58. Consultation will be held through out the mobilisation period and TRA meetings.

Other implications or issues

59. None.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

60. This report is seeking approval for the award of two separate asbestos removal contracts. One contract shall cover north of the borough and the other, south of the borough. It is intended that if required, the contractors will act as back up to each other using their own tendered rates.
61. The report confirms that the procurement strategy set out in the previously approved Gateway 1 report has been followed with a full restricted EU competitive process being undertaken.
62. This is an important procurement as it has moved the arrangements from various adhoc contracts to two streamlined contracts securing better value for money and providing a consistent approach to the management of asbestos works.
63. The report describes the evaluation process that was carried out and confirms that tenders were evaluated using a weighted model to determine the most economically advantageous tender (MEAT). The report also confirms that the two top scoring tenders will each be awarded a contract and how the decision to allocate areas was undertaken.
64. The report sets out plans for the transition of the service and describes how the contract will be managed and monitored throughout the life of the contract.

Director of Legal Services

65. The director of legal services notes the contents of the report which seeks the approval of the Cabinet Member for Housing to the award of two contracts:
 - Contract A (north of the borough) Asbestos Removal Contract to Franklyn Shaw Associates Ltd for the estimated sum of £1m per annum for a period of four years from 15 December 2014 with the option to

extend by a further two years (in 1+1 yearly increments) making a total estimated contract value of £6.03m as outlined in this report; and

- Contract B (south of the borough) Asbestos Removal Contract to Ductclean (UK) Ltd for the estimated sum of £845k per annum for a period of four years from 15 December 2014 with the option to extend by a further two years (in 1+1 yearly increments) making a total estimated contract value of £5.07m as outlined in this report.

66. The director of legal services also notes the contents of the report which seeks the approval of the Cabinet Member for Housing for Franklyn Shaw Associates Ltd and Ductclean (UK) Ltd to act as back up contractor to each other on their own tendered rates if required.
67. It is confirmed at paragraph 7 that the services for each contract must be provided by different contractors. It is also confirmed at paragraph 11 that should the need arise; there is provision in each contract to terminate the contracts.
68. Based on the information contained in this report, it is confirmed that this procurement was carried out in accordance with contract standing orders and the relevant legal requirements
69. This report confirms that, as required by law, tenders were sought from contractors following an EU procurement exercise and that the most economically advantageous tender is recommended for acceptance. A contract award notice will need to be posted in the OJEU within 48 days of the award of these contracts.
70. As part of the contract award process, there will need to be a standstill period of a minimum of 10 calendar days between notification of the successful contractors that they have won the contracts and the award of the contracts to those contractors, so as to allow unsuccessful contractors the opportunity to challenge (if they decide to) the award of the contracts.
71. CSO 4.5.2 b) reserves the decision to the relevant individual decision maker to authorise the award of these contracts, after consideration by the corporate contracts review board (CCRB) of this report.
72. CSO 2.3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. Paragraphs 56 to 58 of this report confirm how the proposed contracts will be funded.

Strategic Director of Finance and Corporate Services (CAP14/044)

73. This report seeks approval to the award of two contracts for asbestos removal for a maximum period of six years at an estimated total contracts value of £11.1m. This is following a tender evaluation process as detailed in the report.
74. The financial implications are detailed in the body of the report. It is noted that this report is funded from both the housing revenue account (repairs and maintenance budget) and from the general fund capital programme.
75. Staffing and any other costs connected with this managing this contract will be contained within existing departmental revenue budgets.

Head of Specialist Housing Services (For Housing contracts only)

76. This contract is a qualifying long term agreement under the terms of the Commonhold and Leasehold Reform Act 2002, and consultation has been carried out with all council leaseholders in the borough under schedule 2 of the regulations appertaining to that Act. Notice of Intention was served 19 September 2013. Notice of Proposal was served on 3 July and expired on 6 August. 47 observations were received and have been responded to. Most observations enquired about the asbestos removal that was to take place to their block, and those leaseholders were advised that this was a responsive repairs contract with no predetermined programme of work.

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Housing and community services department asbestos management plan - July 2012	Engineering and Compliance, 160 Tooley Street, SE1 2QH	Gavin Duncumb Tel: 0207 525 0685
Appendix "C" Management of Asbestos - Part 1 – Policy for the Management of Asbestos in the Workplace	Engineering and Compliance, 160 Tooley Street, SE1 2QH	Gavin Duncumb Tel: 0207 525 0685
Appendix "C" Management of Asbestos - Part 2 – Housing Services Department Asbestos Management Plan	Engineering and Compliance, 160 Tooley Street, SE1 2QH	Gavin Duncumb Tel: 0207 525 0685
Gateway 1 report (open) – 17 Oct 2013	Engineering and Compliance, 160 Tooley Street, SE1 2QH	Gavin Duncumb Tel: 0207 525 0685

APPENDICES

No	Title
Appendix 1	Evaluation methodology
Appendix 2	Tender Evaluation report

AUDIT TRAIL

Lead Officer	David Lewis, Head of Maintenance & Compliance	
Report Author	Gavin Duncumb, Commercial Manager	
Version	Final	
Dated	8 October 2014	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Head of Procurement	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	8 October 2014	

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Contract A - Asbestos Removal Works
Contract Description	Asbestos encapsulation and removal
Contract Type	JCT MTC 2011
Lead Contract Officer (name)	Gavin Duncumb
Lead Contract Officer (phone number)	x50685
Department	Housing & Community Services
Division	Maintenance & Compliance
Procurement Route	EU Restricted Tender
EU CPV Code (if appropriate)	45262660, 90650000, 50700000
Departmental/Corporate	Departmental
Fixed Price or Call Off	Call Off
Supplier(s) Name(s)	Franklyn Shaw Associates Ltd
Contract Total Value	£4,020,000 – 4 Yr Term £6,030,000 – 4 Year Term + 2 Yr Ext
Contract Annual Value	£1,005,000
Contract Start Date	15 December 2014
Initial Term End Date	14 December 2018
No. of Remaining Contract Extensions	2
Contract Review Date	15 December 2016
Revised End Date	14 December 2020
Comments	

Contract Name	Contract B - Asbestos Removal Works
Contract Description	Asbestos encapsulation and removal.
Contract Type	JCT MTC 2011
Lead Contract Officer (name)	Gavin Duncumb
Lead Contract Officer (phone number)	x50685
Department	Housing & Community Services
Division	Maintenance & Compliance
Procurement Route	EU Restricted Tender
EU CPV Code (if appropriate)	45262660, 90650000, 50700000
Departmental/Corporate	Departmental
Fixed Price or Call Off	Call Off
Supplier(s) Name(s)	Ductclean (UK) Ltd
Contract Total Value	£3,380,000 – 4 Yr Term £5,070,000 – 4 Year Term + 2 Yr Ext
Contract Annual Value	£845,000
Contract Start Date	15 December 2014
Initial Term End Date	14 December 2018
No. of Remaining Contract Extensions	2
Contract Review Date	15 December 2016
Revised End Date	14 December 2020
Comments	

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.

On approval of your report by the decision maker, please forward a copy of this document to the corporate procurement team. The contract details will be recorded on the corporate contracts register and a summarised version published online.