

Item No. 16.	Classification: Open	Date: 20 September 2016	Meeting Name: Cabinet
Report title:		Gateway 2 – Contract Award Approval Asbestos Consultancy Services Contract A – Surveying and Bulk Sampling and Contract B – Air Sampling and Monitoring	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	

FOREWORD – COUNCILLOR STEPHANIE CRYAN, DEPUTY LEADER AND CABINET FOR HOUSING

Asbestos management, sampling and removal need to be carried out as part of our commitment to the health and safety of our residents and sits within our legal obligations. Our current contracts expire on 31 December 2016 and there is a requirement to ensure that arrangements are in place for these services on an on-going basis.

This report recommends the awarding of two contracts. Contract A will provide the surveying and bulk sampling of the council’s residential and other premises for any suspected asbestos. Contract B is the contract for air sampling and monitoring after asbestos removal to ensure that properties and areas are asbestos free before occupation.

Both contracts are subject to the planned procurement strategy that was agreed by cabinet in October 2015 and I recommend both contracts for approval.

RECOMMENDATIONS

That the cabinet:

1. Approves the award of Contract A - surveying and bulk sampling to Pennington Choices Ltd for the estimated sum of £1.2m per annum for a period of 4 years from 1 January 2017 with the option to extend by a further 2 year period, making a total estimated value of £7.2m.
2. Approves the award of Contract B - air sampling and monitoring to Armstrong York Asbestos Environmental Limited for the estimated sum of £274,000 per annum for a period of 4 years from 1 January 2017 with the option to extend by a further 2 year period, making a total estimated value of £1.64m.

BACKGROUND INFORMATION

3. A Gateway 3 report seeking a 1 year extension was approved by the strategic director of finance and governance on 7 October 2015.

4. The existing two Asbestos Consultancy contracts are due to expire on 31 December 2016 and there is a requirement to ensure that arrangements are in place for these services.
5. The planned procurement strategy was the subject of a Gateway 1 report approved by cabinet on 20 October 2015. The approved EU restrictive procedure procurement strategy was followed.
6. The contracts are designed to provide the following services:
 - Contract A: surveying and bulk sampling of the councils residential and other premises for suspected asbestos containing materials
 - Contract B: air sampling and monitoring after asbestos removal to ensure airborne asbestos fibres are absent before the area is occupied.
7. These contracts will serve voids, day-to-day repairs and kitchen and bathroom replacements for the Asset Management team.
8. Both contracts contain a Consumer Price Index (CPI) adjustment that is due each January after the first year.

Procurement project plan (Key Decision)

Activity	Complete by:
Forward Plan for Gateway 1	July 2015
DCRB Review Gateway 1	24 Aug 2015
CCRB Review Gateway 1	27 Aug 2015
CMH Review Gateway 1	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
Completion of tender documentation	07 Mar 2016
Publication of OJEU Notice	15 Feb 2016
Publication of Opportunity on Contracts Finder	17 Feb 2016
Closing date for receipt of expressions of interest	17 Mar 2016
Completion of short-listing of applicants	16 Apr 2016
Invitation to tender	18 Apr 2016
Closing date for return of tenders	31 May 2016
Completion of evaluation of tenders	29 Jul 2016
Forward Plan for Gateway 2	8 Feb 2016
DCRB Review Gateway 2:	11 Aug 2016
CMH Review Gateway 2	15 Aug 2016

Activity	Complete by:
CCRB Review Gateway 2	18 Aug 2016
Notification of forthcoming decision – despatch of Cabinet agenda papers	30 Aug 2016
Approval of Gateway 2: Contract Award Report	20 Sept 2016
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	30 Sept 2016
Debrief Notice and Standstill Period	13 Oct 2016
Contract award	14 Oct 2016
Add to Contract Register	15 Oct 2016
Place award notice in Official Journal of European (OJEU)	14 Nov 2016
Place award notice on Contracts Finder	15 Nov 2016
Contract start	1 Jan 2017
Initial contract completion date	31 Dec 2020
Contract completion date – (if extension(s) exercised)	31 Dec 2022

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

9. These services will ensure that the council has arrangements in place to independently verify the presence of asbestos, assess its condition and confirm its safe removal/encapsulation allowing other works to be undertaken and ensuring safe occupancy for residents.

Policy implications

10. The services provided by these two contracts will ensure that the council fulfils it's obligations as a landlord and employer under the Health and Safety at Work Act 1974, the Control of Asbestos Regulations 2012 and meets the requirements of the council's Management of Asbestos Policy.

Tender process

11. Following the placement of the OJEU advertisement on 15 February 2016, 24 expressions of interest were received by email. The full set of Pre-Qualification Questionnaire (PQQ) documents and the Invitation to Tender (ITT) were uploaded to the Contracts Finder website for tenderers to view and download.
12. The PQQ contained the following sections to be completed:
 - Section 1 – Applicant Information (Info Only)
 - Section 2 – Grounds for mandatory exclusion (Pass or Fail)
 - Section 3 – Grounds for discretionary exclusion part 1 (Pass or Fail)
 - Section 4 – Grounds for discretionary exclusion part 2 (Pass or Fail)
 - Section 5 – Economic and financial standing (Pass or Fail)

- Section 6 – Technical and Professional Ability. Tenderers were asked to give three references and examples showing previous relevant contract experience. (Info Only)
 - Section 7 – Additional PQQ modules contained 14 questions, 9 of which were technical questions and an additional 5 quality questions designed to ensure applicants met the council's requirements and was fully evaluated.
13. A total of 21 companies returned completed PQQ submissions for Contract A and 13 companies for Contract B by the required deadline of 1pm on 17 March 2016.
 14. The PQQ submissions were evaluated by members of the council's commercial team comprising of the procurement manager, procurement officer and an assistant quantity surveyor alongside the council's asbestos co-ordinator.
 15. The PQQ set out that the top 5 highest ranked applicants for both contracts would be invited to tender. The council reserved the right to invite the sixth highest applicant should they score within 2% of the fifth highest applicants score. A sixth applicant was invited to tender for both contracts as they scored within 2% of the fifth ranked score.
 16. The companies shortlisted for the ITT stage for Contracts A and B were as follows:
 - Pennington Choices Limited (Penningtons)
 - Armstrong York Asbestos Environmental Limited (AY)
 - Environtec Limited (Environtec)
 - Tersus Consultancy Limited (Tersus)
 - Lucion Environmental Limited (Lucion)
 - Exova Group PLC (Exova).
 17. The evaluation of the PQQ questionnaires resulted in the same shortlist of tenderers for both contracts.
 18. The shortlisted companies were invited to tender on 18 April 2016 with the instruction to return a completed tender by 31 May 2016.
 19. Four tenders for each contract were returned to 160 Tooley Street on or by 1pm on 31 May 2016 and were opened on 1 June 2016. These were then checked for compliance. Details of the 2 firms who did not return a tender are noted in the closed report.

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%)	Procurement Manager, Procurement Officer, Asbestos Co-ordinator, Assistant Quantity Surveyor

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 tenders were initially checked for completeness and compliance with the ITT documents as set out in the Tender Evaluation Methodology attached (Appendix 1) before the price evaluation was carried out.
23. A price schedule model was used that 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 reduce the risk of uncontrolled expenditure.
24. Each annexe contained a pre-priced schedule of rates and indicative quantities for each schedule based on historical data and the tenderers were required to put either a +/-% against each annexe, including their hourly rate.
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. All priced documents submitted were checked for arithmetical errors and qualifications.
27. The quality assessment was based on the information received from tenderers in response to method statements covering mobilisation, service delivery, quality control and compliance and the London Living Wage.
28. Each member of the TEP independently assessed each method statement response in accordance with the scoring guidelines detailed in the Tender Evaluation Methodology attached (Appendix 1). The TEP then checked the scoring for consistency and agreed a consensus score. Final scores were calculated to ascertain the tenderer's overall score.
29. The Tender Evaluation Methodology detailed that the submissions for Contract A would be evaluated first. The winning submission for Contract A, achieving the highest combined scores for quality and price would then be excluded from final consideration for Contract B. All the quality submissions for Contract B were then evaluated.
30. Due to the nature of the services, minimum quality score thresholds were set for 3 of the method statements (2 – service delivery, 3 – quality and compliance and 4 – LLW) as set out in the Tender Evaluation Methodology attached (Appendix 1). Tenderers needed to achieve a score of 5 (satisfactory) for each of these method statements otherwise their submission could be rejected.
31. The purpose of setting minimum quality thresholds for these 3 methods was to ensure that tenderers could provide the minimum acceptable standard to these specific areas that would impact on programme timescales and safety risks for voids, repairs and major works. 2 of the tenderers failed to meet the minimum quality thresholds and were excluded at that stage, details of which are noted in the closed report.

32. This table below combines the remaining tenderer's combined price and quality scores and identifies the tenderer with the highest combined score for Contract A:

SUMMARY OF TENDER SCORES FOR CONTRACT A - SURVEYING AND BULK SAMPLING				
Tenderer	Quality Score	Price Score	Total Score	Ranking
	30 Points	70 Points	100 Points	
Penningtons	19.5	70.00	89.50	1
AY	15.6	69.31	84.91	2

33. Penningtons provided the most economically advantageous tender for Contract A. As noted in paragraph 31 above, Penningtons are now excluded from final consideration for Contract B.
34. All priced documents submitted were checked for arithmetical errors and qualifications and none were noted.
35. As noted in paragraph 31 above, due to the nature of the services, minimum quality score thresholds were set for 3 of the method statements (2 – service delivery, 3 – quality and compliance and 4 – LLW) as set out in the Tender Evaluation Methodology attached (Appendix 1). Tenderers needed to achieve a score of 5 (satisfactory) for each of these method statements otherwise their submission could be rejected.
36. As noted in paragraph 32 above, the purpose of setting minimum quality thresholds for these 3 methods was to ensure that tenderers could provide the minimum acceptable standard to these specific areas that would impact on programme timescales, resident safe occupation and safety risks for voids, repairs and major works.
37. This table below combines the remaining tenderer's combined price and quality scores and identifies the only tenderer with the highest combined score for Contract B:

SUMMARY OF TENDER SCORES FOR CONTRACT B - AIR SAMPLING AND MONITORING				
Tenderer	Quality Score	Price Score	Total Score	Ranking
	30 Points	70 Points	100 Points	
AY	17.00	70.00	87.00	1

38. Both Penningtons and AY's submissions achieve best value for the council with the most efficient and economical mix of overall price and service quality.
39. It is therefore recommended that Contract A – surveying and bulk sampling is awarded to Penningtons, and Contract B – air sampling and monitoring is awarded to AY.

Plans for the transition from the old to the new contract

40. The council's asbestos compliance team and the compliance operations manager have developed an overall plan to manage and monitor this critical

phase ensuring transition from the current service delivery to the two new contracts are successful.

41. As soon as the two contracts are awarded:

- Weekly mobilisation meetings will be held with Penningtons and AY at 160 Tooley Street in which we will carry out reviews of programme and identify opportunities for service improvement
- Planned projects will be programmed and communicated with residents
- Existing processes will be updated and communicated prior to the contract start date
- The council's asbestos contracts manager and compliance operations manager will be responsible for arranging meetings with key departments (contact-centre, the major works team, housing & sheltered housing teams and the council's IT) to ensure there is a seamless transition.

Plans for monitoring and management of the contract

42. The service has a team of dedicated asbestos inspectors who will carry out daily joint inspection to ensure quality and compliance with the contracts and specifications and to ensure quality and compliance.

43. The table below shows the Key Performance Indicators (KPIs) for the Contracts:

Contracts A&B : KPIs		Minimum Target %	Authority's Aspiration 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 where a report, in accordance with the contract documents, has been received within the specified time periods	95%	100%
4	Number of Orders that have not been completed within the stipulated time periods.	20No	10No
5	Response to queries or complaints from Residents and Authority officers to meet the Authority's Complaints Policy (as contained in Appendix "A") i.e. within 5 days.	98%	100%

44. The council's commercial team will review all applications for payment, monitor and administer defaults, and carry out recovery of costs for poor performance.

45. Monthly progress meetings will be arranged between Penningtons, AY and council officers. These meetings will be recorded to review performance and compliance.

46. The corporate facilities management (CFM) team's requirements for these contracts are limited to a backup provision only. Should CFM engage the

services of these contracts as a back up then CFM will attend the appropriate meeting.

Identified risks for the new contract

47. 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	Likelihood	Risk Control
R1	Possible risk of challenge on award of these contracts.	Low	The procurement has been undertaken in accordance with the stated evaluation methodology.
R2	Penningtons or AY cease trading, go into liquidation/administration.	Low	Further checks have been undertaken as provided in paragraph 72 (below) which shows that Penningtons and AY are of a 'Very low risk'. The financial stability of the organisations will be continuously monitored throughout the contract through the contract management process. Retention will be held on all interim payments in order to mitigate against the risks involved of company failure by either contractor.
R3	Ineffective mobilisation	Low	In total 11 week mobilisation period has been programmed for and is expected to be completed by 31 December 2016. As both resources and infrastructure are already in place for both contractors the risk of major mobilisation issues is minimised. A full review of systems and processes that aims to enhance future service levels will be the focus of regular pre-contract meetings.
R4	One or both contractors are unable to fulfil the requirements of the contract e.g. poor performance, leading to the need to terminate the contract.	Low	In the event of both contractors failing, the council's approved list of contractors will be used to distribute works while the contract(s) are re-procured.

Community impact statement

48. Both contracts will be of low impact to residents as the majority of surveys are carried out to properties prior to refurbishments. Any surveys undertaken will be under controlled conditions, which will mean restricted access in areas where samples are being obtained and/or air sampling and monitoring is being carried out.

Social value considerations

49. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be

secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

50. The full cost to the council and the life span of each contract is set out in paragraphs 1 and 2 of this report.
51. Pennington have proposed to provide an apprentice opportunity for a trainee surveyor. Both contractors have confirmed work placement opportunities for local young persons who are not in education, employment or training.
52. Both Contracts contain a clause prohibiting any discriminatory employment practice which could be construed as blacklisting as detailed in The Employment Relations Act 1999 (Blacklists) Regulations 2010. The Commercial team will carry out an annual check to ensure compliance with the Regulations as part of the annual performance review.

Social considerations

53. The council is an officially accredited LLW employer and is committed to ensuring that, where appropriate, our contractors and sub-contractors pay staff at a minimum rate equivalent to the LLW rate. The Gateway 1 report approved on 20 October 2015 confirms, for the reasons stated in that report, payment of LLW was an appropriate and best value requirement for this contract offering enhanced quality of work from a motivated workforce and a lower staff turnover. Penningtons and AY have both confirmed that they exceed the LLW requirements. Following award, quality improvements and costs implications linked to the payment of LLW will be monitored as part of the contracts review processes.
54. Penningtons and AY have demonstrated that they operate an Equal Opportunity Policy and that they are fully aware of and compliant with the council's own Equal Opportunity Policy in particular.

Environmental considerations

55. Both contracts will encourage the use of low emission vehicles and the minimisation of journeys needed.
56. Both contractors will provide waste consignment to ensure materials containing asbestos are disposed of at controlled sites and not fly-tipped.

Market considerations

57. Penningtons is a small and medium-sized enterprise (SME) that employs approximately 50 staff including senior management, laboratory staff, call-centre staff, an asbestos surveying team and an analyst and report writing team.
58. AY is an SME that employs 40 staff including senior management, laboratory staff, call-centre staff, asbestos surveying team and a dedicated analysis and report writing team.

Staffing implications

59. There will be no impact on council staff caused as a consequence of implementing these contracts. The contracts will be managed by the council's repairs contract managers.

Financial implications (FIN915-JP)

60. These asbestos contracts are due to commence in January 2017 and will serve day to day repairs, voids as well as kitchen and bathroom replacements. The estimated cost per annum of £1.47m is broken into £424k for day to day repairs and voids and £1.032m funded through the investment programme.
61. The current HRA asbestos revenue budget for both Contract A and B is £442k for repairs and voids, which would be sufficient to cover the estimated annual costs. Each scheme within the Housing Investment Programme has an allocated budget for asbestos surveys approved within each gateway, so the level of expenditure will remain dependent on each individual scheme approval.
62. These budgets may be subject to savings in future years and will also need to contain any adjustments in Consumer Price Index.

Investment implications

63. Investment implications are detailed in paragraph 68 of this report.

Second stage appraisal

64. Second stage financial appraisals were obtained from Experian for all tenderers on 5 July 2016. The PQQ stated that an Experian score of 50 or above was required in order to meet the minimum financial requirement. The table below details their Delphi score and risk banding. The two top scoring contractors meet this minimum requirement.

Tenderer	Delphi Score	Delphi Risk Banding
Penningtons	99	Very Low
AY	100	Very Low

Legal implications

65. Please see concurrent from the Director of Law and Democracy.

Consultation

66. Consultation with residents will be held at the monthly Tenant and Resident Association meetings.
67. Tenant Management Organisations will also be consulted throughout the mobilisation period.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (FC16/014)

68. The strategic director of finance and governance notes the recommendations in this report for the award of the asbestos consultancy services contracts.
69. The financial implications identify the budgets for these contracts, and emphasise the need for costs to be contained within the budget.

Head of Procurement

70. This report is seeking approval for the award of two asbestos consultancy contracts. Contract A delivers consultancy services for surveying and bulk sampling and contract B consultancy services for air sampling and monitoring.
71. The previously approved procurement strategy has been followed with a full EU restricted procedure being undertaken.
72. 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 tender process allowed tenderers to bid for one or both of the contracts but it was made clear that they could only win one of the contracts to ensure independent verification for identifying asbestos, in line with the requirements of the council's Management of Asbestos Policy and the Control of Asbestos Regulations 2012. As described within the evaluation methodology issued with the tender documentation, Contract A was evaluated first and the tenderer with the highest score was excluded from the evaluation of contract B.
73. The report sets out that the tenderer obtaining the highest overall combined score of quality and price are being recommended for award of contract A. The evaluation of contract B resulted in only one tenderer being viable for award but the report has confirmed that the recommended bid provides value for money in relation to both quality and price.
74. The monitoring and managing arrangements for the contract are described which should provide a framework to help ensure that the required standards are delivered throughout the life of the contract.

Director of Law and Democracy

75. This report seeks the approval of cabinet to the award of two separate Asbestos Consultancy contracts – Contract A for surveying and bulk sampling to Pennington Choices Ltd and Contract B for air sampling and monitoring to Armstrong York Asbestos Environmental Ltd as further detailed in paragraphs 1 and 2.
76. It was confirmed in the gateway 1 report that the council procured 2 contracts for the different elements of the services as it required independent verification for identifying asbestos to ensure compliance with the council's management of asbestos policy and the Control of Asbestos Regulations 2012. Due to the nature

of the services, minimum quality threshold limits were set for 3 method statements as noted in paragraph 30 of this report.

77. The nature and value of these services are such that they are subject to the application of the Public Contract Regulations 2015 (EU regs). This report confirms that, as required by law, tenders were sought from companies following an EU procurement exercise and that the most economically advantageous tender for each contract is recommended for acceptance. A contract award notice will be posted in OJEU within 30 days of the award of both contracts.
78. This report confirms that two contractors were excluded at evaluation stage as they failed to meet the required minimum quality thresholds set. However, as noted in paragraph 31, the council included these thresholds for legitimate justified reasons based on the nature of the service. Officers are satisfied that the procurement was conducted in accordance with the stated evaluation methodology which required bidders to obtain a minimum score of 5 in certain questions.
79. As these contracts are subject to the EU regulations, there is a requirement to allow a standstill period of a minimum of 10 calendar days between notification of the successful companies that they have won the contracts and the award of the contracts to those companies, so as to allow unsuccessful companies the opportunity to challenge (if they decide to) the award of these contracts.
80. As these contract awards fall within the circumstances noted in contract standing orders (CSO) 4.5.2(a), the decision to approve these awards is reserved to the cabinet, after consideration of this report by the corporate contract review board.
81. CSO 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 60-62 confirm the financial implications of these awards.

Director of Exchequer (for housing contracts only)

82. The asbestos consultancy services are a service chargeable cost under the terms of the lease. Communal elements of the work will be service chargeable within the terms of the lease and will be included as part of revenue service charges where undertaken. Statutory consultation is required on agreements that are Qualifying Agreements (in excess of 12 months) under the terms of the Commonhold and Leasehold Reform Act 2002. However, I note that the costs associated with this agreement are below those that require statutory consultation and it is therefore not necessary for these contracts.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Gateway 1 report. Cabinet 20 October 2015 (Item 19)	160 Tooley Street, London SE1 2 QH	Gavin Duncumb 020 7525 0685
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5140&Ver=4		

APPENDICES

No	Title
Appendix 1	Evaluation Methodology document (circulated separately)

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Deputy Leader and Cabinet Member for Housing	
Lead Officer	Gavin Duncumb, Commercial Manager	
Report Author	Reuben Humphries, Procurement Officer	
Version	Final	
Dated	8 September 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		8 September 2016