

Homes and Neighbourhoods
222 Upper Street, N1

Report of: Acting Corporate Director of Homes and Neighbourhoods

Date: 8 March 2023

Ward(s): all

Contract award - Asbestos Air Tests and Surveys

1. Synopsis

- 1.1. This report seeks approval for the contract award for Asbestos Air Tests and Surveys.
- 1.2. This contract is to deliver air testing and asbestos surveying in accordance with the Control of Asbestos Regulations 2012.
- 1.3. The Housing Repairs and Maintenance Service and the Corporate Landlord Service will predominantly use this contract. However, this is a corporate council contract, and other parts of the council may access it to deliver similar works if needed.

2. Recommendation

- 2.1. To award the contract to **Pennington Choices** for an initial period of twenty-four (24) months with the option of two (2) extensions of up to twenty-four (24) months each. This means the full contract will be for up to seventy-two (72) months in length should the council wish to exercise all extensions. Any extension will be subject to satisfactory performance.

3. Date the decision is to be taken

- 3.1. 8 March 2023.

4. Background

4.1. Nature of the service

- 4.1.1. This contract provides air testing and asbestos surveying following the Control of Asbestos Regulations 2012.
- 4.1.2. The service covered by this contract includes the asbestos surveys and air testing required following asbestos removal and before repair, maintenance, and construction works.
- 4.1.3. Asbestos air testing must be carried out by an independent, UCAS-accredited contractor, independent of the contractor who did the asbestos removal.
- 4.1.4. Although this contract is primarily procured for the use of the Housing Repairs and Maintenance Service and the Corporate Landlord Service, this is a corporate contract, so other parts of the council can access this contract to deliver similar works.
- 4.1.5. The contract with the current supplier expires on 3 April 2023.

4.2. Estimated value

- 4.2.1. The estimated total value of this contract is £960,000 (£160,000 per year) based on a maximum contract term of seventy-two (72) months.
- 4.2.2. The estimated Housing Repairs and Maintenance Service Housing value per year is £125,000 and the Corporate Landlord Service estimated value is £35,000 per year.
- 4.2.3. The council has consulted with leaseholders in accordance with the Landlord and Tenant Act 1985, Section 20 and the leaseholders receiving the service will contribute toward the cost of any repairs carried out under the contract through their annual service charges. The leaseholder consultation concluded on 23 February 2023. The council has not received any observations objecting to the award of this contract.

4.3. Timetable

- 4.3.1. Once this decision is taken and the contract is awarded, we anticipate a one (1) month mobilisation period will commence.
- 4.3.2. The new supplier is expected to start delivering the service in April 2023.

4.4. Options appraisal

- 4.4.1. A competitive tender, a 'mini competition' using an external framework agreement, collaboration and insourcing were considered as indicated in the strategy paper

approved on 13 January 2022.

- 4.4.2. As providing this service in-house would require significant upskilling of the existing in-house repairs team, and the purchase of specialist equipment, it was not considered efficient and effective for the council to in-source this specialist contract.
- 4.4.3. Based on the market knowledge and a limited number of companies offering the required service, a mini competition using an external framework agreement via the South East Consortium (SEC) was chosen as the procurement route that would generate the best result.
- 4.4.4. Housing Repairs Maintenance Service and the Corporate Landlord Service collaborated in procuring this service and will jointly use this contract.
- 4.4.5. This is a corporate contract, so other service areas within the Council may access it if required.

4.5. **Key Considerations**

- 4.5.1. Social Value (SV) was allocated a weighting of 20% of the award criteria, and the economic, social and environmental aspects of the (SV) were considered.
- 4.5.2. Pennington Choices has committed to supporting the local supply chain and contributing to Islington residents. The initiatives offered include taking on a specified number of trainee asbestos surveyors/analysts and a defined number of experienced asbestos surveyors/analysts from within LBI. Pennington Choices Has also committed to providing work experience for local students, volunteering hours for local organisations in Islington and donations to a local environmental charity.
- 4.5.3. A detailed implementation program, including timings and milestones for the suitable initiatives, will be agreed upon between the Council and the successful supplier during the mobilisation phase of this contract. Social value delivery will be monitored throughout this contract as an integral part of contract management and performance evaluation.
- 4.5.4. London Living Wage is included as a condition of the contract.
- 4.5.5. There are no TUPE implications resulting from this contract.

4.6. **Evaluation**

- 4.6.1. The Council's award decision was based on the most economically advantageous tender (MAT). MAT was identified using 40% cost and 60% quality, of which 20% was Social Value.

4.6.2. The quality criteria were assessed by evaluating the following:

- 20% - Proposed approach to Social Value and promoting opportunities for local residents, including reducing carbon footprint.
- 20% - Proposed approach to customer liaison and working with third parties.
- 20% - Proposed approach to Asbestos Health and Safety and managing surveys and air tests in differing environments.

4.6.3. South East Consortium issued an expression of interest to the nine (9) contractors appointed to the framework, and all nine expressed their interest in tendering and were sent the tender documents.

4.6.4. Six (6) tenders were submitted by the deadline, and the evaluation details are included in exempt Appendix 2.

4.6.5. The winning supplier met all the required criteria and achieved an overall score of 80.38%.

4.7. **Business risks:**

4.7.1. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to complete an anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

5. Implications

5.1. Financial Implications

Housing Repairs and Maintenance Service Financial Implication

5.1.1. Following a mini competition via South East Consortium (SEC), it is recommended that the contract for Asbestos air tests and surveys is awarded to Pennington Choices Ltd.

5.1.2. A credit search provided by Dun & Bradstreet was conducted for Pennington Choices Ltd. The credit report indicates a "Low" overall business risk.

- 5.1.3. Housing Asbestos air tests and surveys are delivered through the repairs and maintenance service and is funded via the repairs subcontractor budget and voids subcontractor budget, which for in 2022-23 stands at £3.697m and £4.696m respectively. In addition, as part of the re-integration of PFI 2 street properties to council management, a further £6.439m was provided to the repairs and maintenance service to meet the additional demand for servicing street properties. It is expected that Housing Asbestos air tests and survey costs will be met from these budgets and thus should not create a pressure to the HRA.
- 5.1.4. The annual value of the contract for Housing repairs and maintenance service is estimated at £0.125m per year. As the contract is not an annually fixed priced contract, the actual costs incurred each year may vary and is dependent on demand and the need for the service.
- 5.1.5. The contract would be awarded for an initial period of twenty-four (24) months with the option of two (2) extensions of up to twenty-four (24) months each. This means the full contract will be for up to seventy-two (72) months in length should the council wish to exercise all extensions. Any extension will be subject to satisfactory performance.
- 5.1.6. To note, the contract may be subject to an annual inflationary uplift equal to the published CPI figure for the month prior to the contract anniversary date. Inflation rates are currently high and there is a risk that they could remain high for an extended period. Should it transpire, this is likely to cause a budgetary pressure to the service. It is expected that any future pressures will be managed from existing budget allocations for repairs and maintenance. This will need to be monitored closely to ensure appropriate management can be taken to manage risk arising.

Corporate Landlord Service Financial Implication

- 5.1.7. Corporate Landlord division has sufficient existing budget to cover the annual contract value of £35,000

5.2. Legal Implications

- 5.2.1. This decision paper seeks approval to award Pennington Choices Ltd a twenty-four (24) month contract with the option of two (2) extensions of up to twenty-four (24) months at the value of £960,000.
- 5.2.2. The Council is responsible for undertaking the repair, maintenance and improvement of its housing properties and installations in accordance with Part 2 of the Housing Act 1985 and section 11 of the Landlord and Tenant Act 1985. Failure to identify and air test asbestos would prevent essential repairs from going

ahead and would result in the council not complying with its legal obligations. In addition, the council has a duty to manage asbestos under the Control of Asbestos Regulations 2012.

- 5.2.3. The council has the power to procure and enter into such contracts under section 1 of the Local Government (Contracts) Act 1997 and s111 of the Local Government Act 1972.
- 5.2.4. The Local Government Act 1999, requires the council to make arrangements to achieve Best Value in the exercise of its functions when considering a service provision, which includes services detailed in the body of the report.
- 5.2.5. The estimated total value of the contract with option to extend is £960,000. Service contracts over the financial threshold of £213,477 (including VAT) need to comply with the Public Contracts Regulations 2015 (PCR). Compliance with the PCR is met under regulation 33 by utilising an existing framework which is accessible to the council. Compliance with the PCR is also met by the council selecting a supplier from a framework established under Section 33 of the PCR provided the services required is within the scope of the framework and the framework has not expired. In selecting a supplier the council must comply with award processes set out in regulation 33 PCR, whereby awards can be made by direct award, mini competition or both, the terms of the framework will set out which procedure is applicable. It is stated in the body of the report that the South East Consortium SEC framework, the procurement route stated in the body of the report is compliant with the PCR.
- 5.2.6. The procurement must also comply with the councils Procurement Rules. The use of a frameworks to procure goods, services and supplies is permitted under Rule 1.7 of the Procurement Rules. It is stated in the body of the report that following the completion of a mini competition Pennington Choices Ltd was the winning Supplier.
- 5.2.7. Procurement Rule 24.2 states that all contracts over £24,999 will need formal conditions prepared or agreed by the Legal Services Team. Legal Services will provide advice and support on the form of contract.
- 5.2.8. Under Procurement Rule 18, Corporate Directors have the power to procure and award the contracts using revenue spend of up to £2,000,000.
- 5.2.9. The decision maker can approve the recommendations provided they are satisfied with the contents of the report and the recommendations represents best value for the council.

5.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

- 5.3.1. The contract stipulates that the supplier will mitigate the impact on the environment, adhere to all appropriate legislation and follows the requirement of the Council's Housing Health Safety and Environmental Code of Conduct for Contractors.
- 5.3.2. The specification for the service sets out expectations regarding the use of materials, minimising and correct disposal of waste and encouraging the use of electric vehicles and use of green energy.
- 5.3.3. The supplier is legally required to protect any roosting bats and nesting birds they encounter.
- 5.3.4. The supplier will also be encouraged to use low or zero-emission vehicles and install energy-saving replacement parts where possible and compatible.

5.4. **Equalities Impact Assessment**

- 5.4.1. The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 5.4.2. A Resident Impact Assessment was completed on 15 July 2021 and identified no adverse impact on groups with protected characteristics.
- 5.4.3. The full Resident Impact Assessment is appended.

6. **Conclusion and reasons for the decision**

- 6.1. Entering into a contract with **Pennington Choices** will ensure that all asbestos air testing and asbestos surveying are delivered following the Control of Asbestos Regulations 2012.

7. Record of the decision

7.1. I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

Authorised by:

Acting **Corporate Director of Homes and Neighbourhood**

Date:

Appendices:

Appendix 1: RIA - Resident Impact Assessment

Appendix 2: (EXEMPT FROM PUBLICATION) Summary of bids received

Report Author: Sylvia Krzak (Procurement and Project Officer)
Email: sylvia.krzak@islington.gov.uk

Financial Implications Author: Katherine Hau (Assistant Finance Manager, HRA)
Email: katherine.hau@islington.gov.uk

Financial Implications Author: Natasha Dunlop (Finance Manager, Community Wealth Building and Commercial)
Email: Natasha.Dunlop@islington.gov.uk

Legal Implications Author: Lorraine Clarke (Contracts and Procurement Solicitor)
Email: Lorraine.Clarke@islington.gov.uk