

# Contracts & Commissioning Board (CCB)

## Contract Award Report

Date of meeting	19 <sup>th</sup> August 2021/Virtual Approval
By	Brian O'Mara (Head of Repairs and Maintenance)
Title	Procurement of Asbestos Surveying Service Provider
Executive Director:	Alison Knight (Executive Director of Housing)
Project Sponsor	Sarah Hayward (Executive Director of Place)
Lead Member	Cllr Patricia Hay-Justice (Cabinet Member for Homes)
Key Decision	N/A

### 1. Recommendations

The Leader of the Council has delegated to the Cabinet Member for Homes in consultation with Resources & Financial Governance the power to make the decisions set out in the recommendations below:

- 1.1 The Cabinet Member for Homes in consultation with the Cabinet Member for Resources & Financial Governance, is recommended by the Contracts and Commissioning Board to approve the award of a contract for the provision of Asbestos Surveying Services in accordance with the Asbestos Inspection Framework to Riverside Environment Services Ltd for a period of 5 years with break clause at year 3 and 4 for a maximum value of up to £775,000.
- 1.2 To note the reasons for a Direct Award set out in paragraph 2.4.

### 2. Background & strategic context

2.1 On 3rd April 2020 (Ref: CCB1563/19-20), the Contract Commissioning board endorsed procurement strategy for the Asbestos Surveying service. The procurement team undertook the procurement process to support the Council's property portfolios for Housing, Facilities Management, and the maintained Education estate. The procurement activity did not commence on schedule. The South Eastern (Framework provider) advised the Council to pause temporarily. They had concerns about whether the selected suppliers had the capacity and resources to tender for the contract due to the Covid19 pandemic. The Council issued the ITT to SEC for review, informing SEC of the tender timelines. There were delays during the procurement process, and on 3rd February 2021 ref: CCB1643/20-21, the Contract Commissioning board agreed to the recommendation to award the asbestos surveying contract to two lead providers Riverside Environmental Ltd and Environmental Ltd. The award report was approved at Cabinet on 10th March 2021 Decision No.: 1321RFG. The Council notified the award of contract to the providers on 23rd March 2021.

2.2 While the contract was being prepared by Browne Jacobson's legal team, it was brought to the Council's attention by SEC that the framework had expired in July 2020. The South Eastern framework provider also advised of a new asbestos contract that had gone live in August 2020. Because the framework date had expired in July 2020, it was not possible to award the contract. Therefore, Contract is non-compliant. The Council informed Riverside Environmental and Environmental Ltd that the procurement to award the contract had to be abandoned.

#### New Procurement Strategy

2.3 A deviation from the previously proposed strategy was agreed with the service areas to use the South Eastern Asbestos Inspections framework via direct award. Riverside Ltd is one of the providers previously awarded the asbestos surveying contract. The Inspections Asbestos Framework Ref: 2020/S 098236154 demonstrates value for money and offers the ability for the Council to apply a direct award approach. Riverside Environmental Ltd is ranked the highest supplier on the Inspections Asbestos framework. However, the lower-ranked providers can be awarded if there is a justification and if the higher-ranked providers agree. The SEC framework is compliant with the PCR 2015 regulations and was evaluated in accordance with (MEAT) Most Economic Advantageous Tender, with the apportionment set as 40% cost, 60% quality. The framework fixed rates demonstrate value for money and can manage the service requirements and contract value.

2.4 The direct award will enable the Council to implement long-term service provision arrangements of Asbestos Surveying Services. This contract will be supporting the Facilities Management, Housing, and the School's property portfolio to deliver day-to-day operational business.

The scope of services includes the following: -

- Asbestos surveys (Management, Refurbishment & Demolition, Re-inspections)
- Air monitoring to support asbestos removals (Background, Leak, Personal, Reassurance, Certificate of Reoccupation)
- Bulk sampling of materials suspected to contain asbestos
- Asbestos awareness training
- Emergency works such as sampling and air monitoring services for potentially contaminated spaces (attendance within 4 hours)

2.5 Asbestos management and monitoring are statutory requirements. Under the Control of Asbestos Regulations 2012, the Council has a legal duty to manage asbestos within its premises and assess any asbestos-containing materials presence and condition. Expenditure under this contract ensures the Council can function and carry out its duties safely to protect employees, service users, residents, schools, and so on from asbestos exposure.

### **Service Outcomes**

The planned outcomes are to ensure a trusted Asbestos Surveying service provider that can deliver a quality, impartial and efficient service, which supports the varied needs of the property portfolios for housing, corporate, and school buildings. Therefore, this will enable the Council to comply with the Control of Asbestos Regulations 2012 and the Health & Safety at Work Act 1974.

The planned outcomes are listed as follows:

- That the Council continues to ensure that its premises and places of work meet the legal duties as an employer.
- To ensure our premises are safe to meet the expectations of residents and service users.
- To ensure that all premises are compliant with current legislative requirements.
- The Council have specialist asbestos surveying arrangements that are both flexible and meets the future needs of the Council and take a comprehensive approach to asbestos surveying.
- The Council is provided with the most cost effective and efficient means of monitoring and analysing asbestos performance data to identify opportunities to reduce costs through greater economies of scale, technology and innovation; and
- Delivery of social value that will benefit the borough of Croydon

Council's health & safety policy which states:

The goal of the Council is to improve its health and safety performance so that accidents and ill-health are reduced to the minimum achievable and work forms part of a satisfying life to the benefit of both the individual and the organisation.

The asbestos surveying contract addresses the Council's objectives for 2018-2022 Corporate plan which states the following:

- Ensuring there are high quality school places for Croydon's increasing numbers of children and young people
- Return at least 100 vacant properties back into use
- Promote 'Croydon is Open' to realise more investment into the borough and support existing businesses for Sustainable economic growth

### **Other options considered:**

The other alternative to Direct Award was to re-tender via the open procedure or mini competition. This process will take a minimum of 3 to 8 months or more before a supplier is appointed, being unviable or more expensive.

## **3. Financial implications**

### **Essential Spend Criteria:**

3.1 Following the Council issuing Local Government Act Section 114, the asbestos surveying services under the following essential spend criteria:

• **Prevents the Council’s financial situation from worsening because:**

- (i) expenditure required to deliver the Council’s provision of essential statutory services at a minimum level – as explained above, there is no minimum level of work under the contracts and, as such, the contract will be managed on a call off basis to control spend in accordance with minimum levels of service required and prioritise cases where harm might be caused to residents/service users.
- (ii) urgent expenditure required to safeguard the vulnerable citizens – at times, urgent surveys may be required to address asbestos discovered. This might occur in any of our buildings, some of which service vulnerable citizens.

Subject to a stock condition survey, the costs of asbestos remedial works will be met by the HRA budget for Council’s dwellings. The Facilities Management budget will meet costs of works on Council buildings. There is a capital budget for schools for the type of works. Depending upon the kind of works, i.e., capital works to enhance the condition of the building and will be funded by HRA capital.

Details	Internal		Period of funding	External		Period of funding
	Capital	Revenue		Capital	Revenue	
Facilities Management	£20,000 a year over 5 years therefore total £100,000		5 years	N/A	N/A	N/A
Schools	£35,000 a year over 5 years therefore total £175,000		5 years	N/A	N/A	N/A
Housing	£100,000 a year over 5 years therefore total £500,000		5 years	N/A	N/A	N/A

The housing element of this contract is an agreed programme of work, whereas the FM and school is managed as a call off programme.

The estimated contract value may reduce if the council sell off their assets, the asbestos surveying will not be required to be carried out.

**Service Demand**

The value of the contract is driven by how many asbestos properties the council requires to be surveyed and this could depend on the volume of work during the contract term.

**Future savings/efficiencies**

The savings overtime is based on the data produced as it is more likely to be a true reflection of site conditions and therefore reducing the need to revisit to cleanse the supplied data. The Provider will support the delivery of services and contract management arrangements.

The original strategy had two providers with different rate of pay by going with one provider the Council will receive slightly cheaper rates and make savings.

**1. Supporting information**

**Procurement process:**

In line with the CCB approved strategy report ref: (CCB1592/20-21), it was agreed by CCB to use a Direct Award approach via the SEC Inspections Asbestos Framework Agreement Ref: OJEU REF: 2020/S 098 236154. Legal reviewed the framework

agreement and advised on the access arrangements, call-off guidelines, and terms. The SEC framework was tendered and evaluated in accordance with (MEAT) Most Economically Advantageous Tender, with the apportionment set as 40% cost, 60% quality. The framework demonstrates value for money and can manage all the service requirements for corporate FM, Housing, and Schools.

The Council submitted an invitation to tender as a direct award via the Council's E-Tender portal. Based on the Inspections Asbestos Surveying evaluation criteria. The direct award was based on 100% price. The evaluation panel stakeholders reviewed the pricing submission as follows:

- Head of Repairs and Maintenance
- Compliance Manager
- Property Maintenance Manager
- Asbestos Surveyor
- Senior Building Compliance Manager

Riverside Limited submitted an overall robust pricing submission, demonstrating realistic costings covering all the work elements.

The table below is a clear breakdown of the pricing schedule costs as outlined in their tender submission:

Service Provision	Bid
Domestic (Total)	£5,504.00
Corporate Buildings (Total)	£10,840.00
Emergency Works (Total)	£1,000.00
Ad-hoc, Air Monitoring & Training (Total)	£4,395.00

The quality assessment for this procurement was carried out by reviewing the intended specification of works and associated rates. Also, by comparing similar pricing delivered by other contractors therefore, meeting agreed objectives as outlined in the RP2 strategy report.

Riverside Enviomental Ltd provided a quality submission on the previous procurement and received a high score and so the direct award for price only was suitable for this procurement.

#### **Contract Terms and conditions**

The proposed contract term will be for 5 years, with break clauses at year 3 and 4 commencing from September 2021. The contract terms are the JCT 2016 edition of the Measured Term Contract compiled by Browne Jacobson.

#### **Equalities Impact Assessment:**

An Equality Analysis was considered as part of the requirements defined within the Terms and Conditions of Contract, including the need to submit their policy on disability, age & pregnancy, or maternity for review to support the Council with delivering its public sector equality duties and reporting. The Bidders is expected to pay the London Living Wage as a minimum and demonstrated commitment to deliver social value outcomes.

The Equality Policy 2016 - 20 sets out the Council's commitment to equality and its ambition to create a stronger, fairer borough where no community is held back. The policy reflects the council's statutory duties under the Equality Act 2010 and is supported by the equality objectives set out in the Opportunity and Fairness Plan 2016-2020.

An Equality Impact Assessment has been undertaken to ascertain the potential impact on protected groups. This concluded that the recommendations in the report will have no negative impact on groups that share protected characteristics and there are no equality issues arising from this report. As such no further action was deemed necessary.

Riverside Environment Services Ltd has included their social value commitments as part of their offer, please see further details below:

**Social Value Commitments:**

Riverside Environment Services Ltd has committed to supporting LBC’s social value policy and confirmed that they are compliant with endorsing London Living Wage to all their employees.

Riverside Environment Services has included their social value commitments as part of their offer, please see further details below:

- Local Employment
- Trainee Jobs
- Work experience roles
- Free asbestos awareness training session (up to 15 delegates) per year
- Volunteering (i.e. community initiatives)

**Contract Management:**

In accordance with the Council’s contract management framework, an initial contract implementation meeting will take place to establish the agreed KPIs, which will include the delivery of their social value commitments. The contract will be managed by the housing team, who will also ensure regular contract management meetings will be arranged on a bi-weekly basis to monitor the contractor’s performance which will include FM and Schools departments.

**Environmental Impact:**

In accordance with the JCT terms and conditions, Riverside Environmental Ltd will be required to comply with environmental legislation and regulations. There will also be a requirement to support the Council’s vision and aims which will contribute to reducing Croydon’s CO2 emissions.

**Risk Management:**

The risk management table below.

Risk	Detail	Mitigation	RAG
New contractor may not be able to meet the requirements of the Council	This will prevent the Council from delivering business as usual services or support FM, Housing and Schools initiatives.	A robust contract management process ensures that the contract is managed effectively.  Regular monthly meetings will be held to continue to engage the contractor until the agreed termination date.	

**Information Management**

No sharing of personal/special category data in this project, there are no GDPR or IMT concerns

## 2. Conclusion and reasons for recommendations

- 2.1 The reason for the recommendation is to provide the required Asbestos Surveying services for Housing, Facilities Management and Schools.
- 2.2 A direct award contract to Riverside Environmental Services Ltd for the asbestos surveying services under the terms set within the Asbestos Inspection framework agreement to be awarded under the JCT 2016 edition of the Measured Term terms and conditions for a maximum contract value of up to £775,000.

## 1. Outcome and approvals

Outcome	Date agreed	
	Alison Knight (Executive Director of Housing)	<i>14<sup>th</sup> August 2021</i>
	Councillor Callton Young (Cabinet Member for Resources & Financial Governance)	<i>9<sup>th</sup> September 2021</i>
	Sonia Likhari (Legal Services)	<i>18<sup>th</sup> August 2021</i>
	Matthew Davis (S151 Officer)	<i>16<sup>th</sup> August 2021</i>
	Scott Funnell (C&P Head of Service)	<i>19<sup>th</sup> August 2021</i>
	Cllr Patricia Hay-Justice (Cabinet Member for Homes)	<i>Sighted 13<sup>th</sup> August 2021</i>
	CCB	<i>CCB1692/21-24</i>

## 2. Legal Comments

There are no additional legal considerations directly arising from the report

Approved by Sonia Likhari on behalf of the Director of Law and Governance

## 3. Chief Finance Officer comments on the financial implications

Approved by Matthew Davis on behalf of the Chief Finance Officer