

REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD77

Title: Asbestos Consultancy Services Contract

Executive Summary:

This report recommends the Deputy Mayor for Fire and Resilience approves expenditure of up to £940,000 over five years by the London Fire Commissioner (LFC) to procure and award a new contract for asbestos consultancy services. The existing contract expires in October 2020 and the services are required to ensure compliance with the Control of Asbestos Regulations 2012 (“Regulations”) and the London Fire Brigade’s Asbestos Management Plan (Policy 694). The scope of the contract covers all asbestos services and complies with LFB’s Asbestos Management Plan ensuring protection against potential asbestos risks for the LFB estate. All asbestos-related works are delivered via the appointed consultant to ensure achievement of the required standards and defined processes. The proposed term for the new contract is three years with two optional extension years.

Collaboration options have been considered, but no opportunities were identified. Transport for London awarded a contract for this service in January 2020 that is not available to use and the Mayor’s Office for Policing and Crime does not have a framework available for the services required. Alternative frameworks provide for consultancy services alone without the procurement and management of third-party asbestos removal contractors and often do not include the delivery of training. Further collaboration opportunities will be explored again before any extensions are instructed. LFB will share details of this procurement with other GLA bodies and continue discussions regarding future collaboration opportunities.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire Commissioner to seek the prior approval of the Deputy Mayor before “[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...”.

Decision:

That the Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to incur expenditure of up to £940,000 for the procurement of an asbestos consultancy services contract.

Deputy Mayor for Fire and Resilience

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

Signature:



Date:

3 August 2020

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE DEPUTY MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0365y to the London Fire Commissioner ('LFC') sets out the background for this request to approve expenditure. Policy 694 sets out the asbestos management plan for control of asbestos across the estate and ensures asbestos is correctly managed so that no person is exposed to asbestos material in a form that can cause harm. The Control of Asbestos Regulations ('Regulations') create a duty on all premises owners and premises managers to manage the risks from asbestos to those using the premises or those working within the premises and to appoint a duty holder. The LFB Property Department is the duty holder on behalf of LFC in relation to premises which form the London Fire Brigade ('LFB') estate and where there is an obligation in respect of asbestos containing materials.
- 1.2 The Asbestos Consultancy Services are required to ensure compliance with both the Regulations and obligations set out in Policy 694. The current contract, held by Gradient Ltd, is due to expire in October 2020 and has no further extensions so a new procurement is required.

2. Objectives and expected outcomes

- 2.1 A new contract will be awarded to an asbestos management consultancy with the relevant skills and experience to ensure asbestos containing materials are managed across the estate. This is separate to the proposed audit and compliance contract being procured for the LFB Property Department due to the specialist nature of asbestos services. This role is not considered appropriate for an inhouse resource due to the technical and specialist nature of the services to be delivered – outsourcing these services ensures best practice and that risks are managed appropriately. The broad scope of services for the asbestos consultant are:
 - a) First point of contact for all matters relating to the management of asbestos, providing advice and guidance on all matters relating to asbestos and compliance with the regulations.
 - b) Maintaining accurate and up to date asbestos information including accurate records of asbestos surveys and removals and distributing this information to the premises.
 - c) Management of the programme of asbestos surveys and removal works including the cyclical re-inspection surveys and any required air tests.
 - d) Sourcing of third-party asbestos specialists to complete asbestos works such as surveys, removals, encapsulation and air tests as required. The asbestos consultant will not deliver these works directly but will source and manage the third parties and ensure they are competent and deliver in compliance with the requirements.
 - e) Provision of training as required to ensure LFB Property staff and others are fully aware of the Asbestos Regulations and the obligations this puts on them.
- 2.2 The scope of the new contract follows the same arrangements that have been in for these services for a number of years and have been successful in ensuring asbestos across the estate is managed and controlled. Market engagement was completed to test the proposals for these services which confirmed the proposed arrangement can be supported by the market and is in line with general practices. As part of the contract, there is an ambition to move to an electronic asbestos register as this may be a more effective and efficient way to manage the asbestos records and share the information with LFB staff and the supply chain. This has been allowed for in the specification and will be explored with the successful bidder.

- 2.3 The proposed term for the new contract is three years with two optional extension years. It is the intention to utilise these two extensions providing service delivery is being achieved and market rates at the time of the extension show value for money is being achieved from the contract. A review of collaboration opportunities will also be completed during the final year of the initial term before any decision is made about the extension years.
- 2.4 Key performance indicators will be included within the contract to ensure performance is managed and good performance is incentivised. The key performance indicators will cover the delivery of the planned and reactive services to the defined timescales and quality standards as well as maintenance of the asbestos records and register and compliance with the overall contract procedures.
- 2.5 There is an allocated revenue budget for asbestos services as well as a capital budget for asbestos works required as part of capital projects. The capital budget varies according to projects being delivered and approval for this spend will be secured in accordance with capital spend procedures. The anticipated costs for this service assume the costs will uplift by 15% due to the time that has lapsed since these services were last tendered and allow for inflation by 5% compound interest over the contract term. The five-year cost is therefore budgeted as £940,000 as set out below. It is anticipated that following the procurement process than the costs will be lower than the total costs outlined in this report, and much closer to the currently approved budget.

Year 1	Year 2	Year 3	Year 4	Year 5	Total
£170,000	£179,000	£187,000	£197,000	£207,000	£940,000

- 2.6 Collaboration opportunities were explored for this procurement, but no immediate opportunities were identified that match the required scope and timeframe for this procurement. The current situation for the relevant bodies is detailed below:
- Mayor's Office for Policing and Crime ('MOPAC'): does not have a framework available for the required scope of services. For MOPAC asbestos removal works are completed by a separate supply chain and the framework allows for auditing of these works. LFB does not have a supply chain to deliver asbestos removal services and includes that in the scope of asbestos consultancy so the framework would not deliver the full scope required; and
 - Transport for London: awarded a contract for this service in January 2020 which did not include LFB in either the Official Journal of the European Union (OJEU) notice or the Contract Award Notice. It is therefore not possible for LFB to utilise this service without being in breach of the public contract regulations.
- 2.7 Existing frameworks provide for consultancy services alone without the procurement and management of third-party asbestos removal contractors and also often do not include the delivery of training. This combined scope of services provides LFB with best value and ensures protection against potential asbestos risks. All asbestos related works are delivered via the appointed consultant to ensure achievement of the required standards and defined processes.
- 2.8 Consideration was also given to letting this contract to allow other GLA bodies to join at a later date however under the Public Contract Regulations there is a requirement to be open and transparent and include sufficient information about the scope and size of a project being advertised. This requires details of those other bodies who could access the framework as there is no guarantee of call off contracts being awarded under the framework. In addition, LFB would be required to provide the anticipated spend not only for LFB but also for those bodies who might use the framework. The reason is this allows potential bidders to understand the range and complexity and whether they are appropriately placed to bid for the opportunity. This information is not readily available within the timeframes so cannot be progressed for this procurement.

- 2.9 Due to the anticipated value of the contract it will be advertised on the OJEU and the procurement will be run via the Bluelight portal. An open tender procedure is being progressed as the asbestos consultancy market is limited and it is anticipated that better market interest will be generated through this approach.
- 2.10 As part of the evaluation process there will be mandatory pass / fail questions to ensure the consultants have the required skills and expertise to deliver the service. The evaluation criteria and weightings have been determined and there will be both a technical evaluation to assess competencies and approach to the delivery of the services and a pricing evaluation for costs. The evaluation criteria will be weighted 65% commercial which covers the cost for the services and 35% technical which covers the delivery of the services.
- 2.11 In order to meet the timetable for award of the contract before the existing provision expires the tender was launched to market at the end of May 2020. Tenders will be submitted in July and evaluated in accordance with the published criteria to allow the contract to be awarded in August 2020. The services will go live in October 2020.
- 2.12 Not procuring this service in accordance with the proposed timeline may leave LFB breaching the Asbestos Regulations requirement for regular inspections and leave LFB with no controls for asbestos services which will result in risks to our workforce. Competitive procurement is recommended so value for money is assured for the services.

3. Equality comments

- 3.1 The London Fire Commissioner and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), Race (ethnic or national origins, colour or nationality), Religion or belief (including lack of belief), Sex, and Sexual orientation.
- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation and other prohibited conduct.
 - (b) Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
 - (c) Foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;

- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) tackle prejudice, and
 - (b) promote understanding.
- 3.8 An Equality Impact Assessment (EIA) has been undertaken and determined this proposal has a neutral impact on equalities.

4. Other considerations

Workforce comments

- 4.1 There are no direct implications associated with this report requiring consultation.

Sustainability implications

- 4.2 This contract will ensure asbestos, which is classed as hazardous waste, is being managed appropriately and is disposed of in the correct manner in compliance with the Regulations. In addition, the contract will be procured in line with our Responsible Procurement policy including the application of employment and skills requirements.

5. Financial comments

- 5.1 The report requests approval of expenditure of up to £940,000 for the procurement of the asbestos consultancy services by the successful bidder. The proposed contract is for three years plus two optional 12-month extensions; the expected cost is based on five years, and approval is sought for the full five years.
- 5.2 The cost in the first year is based on a 15% increase on the existing cost of these services and costs in subsequent years are based on compound interest of 5% over the potential five-year life of the contract. The current annual revenue budget is £147,000, which is £23,000 below the expected contract cost in year one and £60,000 below the expected contract cost by year five. It is anticipated that following the procurement process the costs will be lower than the total costs included in this report, and much closer to the currently approved budget. The part-year impact in 2020/21 of any increased costs will be considered as part of the regular financial position reports, and any additional financial pressure for future years considered as part of the overall Property budget.
- 5.3 There are no additional financial implications for the GLA.

6. Legal comments

- 6.1 Report LFC-0365y seeks approval of expenditure in order to procure and award a contract for an asbestos consultancy services contract.
- 6.2 The report confirms procurement experts are fully engaged in this matter. This will ensure the conduct of the procurement exercise and the subsequent contract award is compliant with the Public Contracts Regulations 2015. Further, the new contract will ensure continuity of meeting the Brigade's obligations under the Control of Asbestos Regulations 2012.
- 6.3 The procurement of the contract is in keeping with the Commissioner's powers under section 5A of the Fire and Rescue Services Act 2004 to procure services they consider appropriate for purposes incidental to their functional purposes. Also, section 7(2)(a) of the aforementioned legislation, where the Commissioner has the power to secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements for firefighting.
- 6.4 In accordance with the LFC's Scheme of Governance (1 May 2020) ("Scheme"), the approval of expenditure in excess of £500,000 for a non-routine contract must be approved by the Commissioner. However, it is of note, a commitment of expenditure of £150,000 and above still requires the prior approval of the Deputy Mayor under the London Fire Commissioner Governance Direction ("Mayoral Direction, 2018").
- 6.5 The decision to delegate the contract award following the tender exercise to the Assistant Director of Technical Services falls within the Commissioner's powers to make specific or general delegations under section 1.2 of the LFC's Scheme of Governance (1 May 2020).

Appendices and supporting papers:

Report LFC-0365y – Asbestos Consultancy Services Contract

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:**Is the publication of Part 1 of this approval to be deferred? Yes**

If YES, for what reason:

The commercial interests of the London Fire Commissioner require deferral of the decision until after the cooling off period for the contract award has expired.

Until what date: 1 October 2020

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Richard Berry has drafted this report with input from the LFC and in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service

Niran Mothada has reviewed the documentation and is satisfied for it to be referred to the Deputy Mayor for Fire and Resilience for approval.

✓

Advice

The Finance and Legal teams have commented on this proposal.

✓

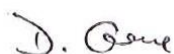
Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 3 August 2020.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature



Date

3 August 2020