



NORWICH City Council

Committee name: Cabinet

Committee date: 08/03/2023

Report title: The award of four contracts for Asbestos Surveys, Asbestos Removals and Fire Risk Assessments (Compliance Improvement Programme)

Portfolio: Councillor Harris, Deputy leader and cabinet member for social housing

Report from: Executive director of community services

Wards: All wards

OPEN PUBLIC ITEM

KEY DECISION

Purpose

To consider the award of four contracts for Asbestos Survey and analytical works, Asbestos Removal and Fire Risk Assessments as part of the council's Compliance Improvement Plan.

To consider that, where any future contract variations be required which would constitute a Key Decision, these be delegated to the Executive Director of community services, in consultation with the Portfolio Holder for Social Housing.

Recommendation:

It is recommended that the award of four contracts as part of the Compliance Improvement Plan is made at a contact value of **£ 6,791,090** as follows:

1. **Asbestos Surveying and analytical works** as two contracts to separate suppliers at a contract value of **£2,108,590** to be split as
 - **70%** to Pennington Choices Limited at a contract value of **£1,478,400**
and
 - **30%** to Environtec Limited at a contract value of **£632,577** initially for a four-year term, subject to annual budget setting and satisfactory performance being met.
2. **Asbestos Removals** to a single supplier, DuctClean UK Limited at a contract value of **£1,418,500** initially for a four-year term subject to annual budget setting and satisfactory performance being met.
3. **Fire Risk Assessments** to a single supplier, Tersus Consultancy Limited at a contract value of **£3,264,000** initially for a four-year term, subject to

annual budget setting and satisfactory performance being met.

Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the “Norwich has the infrastructure and housing it needs to be a successful city” corporate priorities in the Corporate Plan.

This report helps to meet the Compliance Improvement Plan adopted policy of the Council.

This report helps to meet the “Housing regeneration and development” objective of the COVID-19 Recovery Plan

Report details

Background

1. The council is responsible for ensuring that all of its workplaces and the homes that it manages are safe.
2. The council's Compliance Improvement Plan, first approved in November 2021, sets out how it will ensure that all statutory requirements for health, safety, and compliance are met. This includes making sure that regular checks, inspections and risk assessments take place within required timescales and that any remedial works or other actions arising as a result of those inspections and risk assessments, are completed in a timescale consistent with the level of risk.
3. We are required to undertake asbestos surveying, asbestos removals and fire risk assessments (FRAs) in domestic and non-domestic properties owned, managed, or occupied by the council.
4. In Spring 2022, interim contracts were entered into to ensure that statutory inspections and surveys could be undertaken during the transfer of services back into the council from NPSN.
5. The contracts were procured via a direct award process to the top placed suppliers against three Lots under the Compliance Framework with Eastern Procurement Limited (EPL). None of these contracts constituted a Key Decision.
6. The contracts were procured via a direct award process to the top placed suppliers against three Lots under the Compliance Framework with Eastern Procurement Limited (EPL). None of these contracts constituted a Key Decision.
7. Asbestos surveys and remediation are now within a structured programme with greatly improving asbestos compliance figures, the initial Communal area survey programme being ahead of its targeted completion date.

Purpose and requirements

8. The purpose of the Compliance Improvement Plan is to set-out the key activities that the council will undertake to ensure it consistently delivers high levels of compliance with statutory legislation relating to building safety.
9. The existing interim contracts now require longer-term contract arrangements. All three contracts consist of guaranteed (planned) and anticipated (ad hoc) workstreams.

Contract	Current end date	Requirement
Asbestos surveys	31 March 2023 (rolling extension)	Two suppliers required (split work 70/30 so two contracts).
Asbestos removals	31 March 2023 (rolling extension)	Single supplier required (must be different than survey suppliers)
Fire Risk Assessments (FRAs)	31 March 2023	Single supplier required.

10. The scope of the contracts is as follows:

Asbestos surveys	<ul style="list-style-type: none">• Planned annual re-inspection programme in both housing and non-housing properties.• Planned refurbishment and demolition surveys in void properties, council-owned garages and prior to any major works.• Air-monitoring and reassurance testing during and following asbestos removals and associated work.• Reactive surveying and bulk sample analysis.
Asbestos removals	<ul style="list-style-type: none">• Business as usual removal and remediation work resulting from housing and commercial property surveys.• Removals for specific projects at Normandie Tower, City Hall and The Halls (projects listed above planned for year 1).• Progressing the planned removal of all Asbestos Insulating Board (AIB) and all damaged or unencapsulated asbestos.• Remedial works (e.g., encapsulation, environmental cleaning and emergency decontamination).• Making any asbestos issues and areas safe.
Fire Risk Assessments	<ul style="list-style-type: none">• Planned FRA programme for housing and non-housing properties.• Targeted Type 4 FRAs and other specialist intrusive surveys as required.• Fire door assessments, inspections and laboratory testing.• Development, completion, and support to create Building Safety Cases as required by relevant legislation.• Surveying, sampling, analysis and assessments of construction materials (e.g., external wall systems), including associated access equipment and builders works.• Specialist fire engineering advice following FRAs (e.g., means of exit, capacity, active fire protection, Building Control)

Consultation

11. The council's approach to contracting these works (both with the initial and long-term arrangements) is set out in the Compliance Improvement Plan and associated delivery programmes which have been subject to consultation with Corporate Health and Safety Compliance Board, The Compliance Delivery Group and The Regulator for Social Housing.

Procurement

12. As overall performance has so far been satisfactory, approval is sought to award the contracts utilising the Lots under the Compliance Framework with Eastern Procurement Limited (EPL). The framework commenced in December

2021 with successful suppliers being evaluated on 50% price and 50% quality.

13. The framework provides options to direct award to the most suitable supplier/s for the contract requirements and appointing a supplier/s directly using the scores already attained on the framework is a viable way to determine suitability to a particular contract.

Lot 4a - Asbestos surveys

14. Following the completion of the initial surveys completed under the current interim arrangements, the new contract will focus mainly on re-inspection surveys and intrusive surveys where works are planned, e.g., kitchen and bathroom replacements, whole home improvements, re-wires and voids.
15. A benchmarking exercise was undertaken by EPL against the Schedule of Rates for the six suppliers in Lot 4a to ensure the two incumbent suppliers continued to offer the best value for money for future work with the following outcome:
- Environtec Limited (incumbent) is ranked the highest scoring supplier at 33.41 (out of 50) for price and 33.75 (out of 50) for quality.
 - Pennington Choices Limited (other incumbent) is ranked the second placed supplier at 32.41 (out of 50) for price and 33.75 (out of 50) for quality.
16. The two incumbents remain as the suppliers presenting the most economically advantageous tenders and it is proposed the contract is split 70/30 between the two suppliers as follows:
- 30% to Environtec Limited at an estimated maximum total contract value of £633,600 excluding VAT over the four years from 01 April 2023 to 28 February 2027.
 - 70% to Pennington Choices Limited at an estimated maximum total contract value of £1,478,400 excluding VAT over the four years from 01 April 2023 to 28 February 2027.
17. Pennington Choices Limited have been allocated the higher percentage due to higher performance levels and their ability to provide greater resources when addressing backlog work. Environtec Limited encountered resourcing issues at the start of the initial contract so with the agreement of all parties, Pennington Choices Limited were allocated the additional work. Since then, Environtec Limited have been responsible for carrying out the smaller programme works.

Lot 4b - Asbestos removals

18. Ductclean (UK) Limited, the incumbent supplier, is the highest scoring supplier of the five suppliers in the Lot, at 47.12 (out of 50) for price and 33.75 (out of 50) for quality, remaining as the supplier presenting the most economically advantageous tender.
19. It is proposed to award the long-term Asbestos removals solely to Ductclean (UK) Ltd at an estimated maximum total contract value of £1,418,500 over the

four years from 01 April 2023 to 28 February 2027.

Lot 6 - Fire Risk Assessments (FRAs)

20. Tersus Consultancy Limited, the incumbent supplier, is the highest scoring supplier of the two suppliers in Lot 6, at 50 (out of 50) for price and 33.75 (out of 50) for quality, remaining as the supplier presenting the most economically advantageous tender.
21. It is proposed to award the long-term FRA contract solely to Tersus Consultancy Limited at an estimated maximum total contract value of £3,264,000 over the four years from 01 April 2023 to 31 March 2027.

Procurement summary

22. Due diligence has been carried out on all contracts by way of the benchmarking exercise for the asbestos surveys contracts and by close contract management with the four suppliers during the current interim contracts.
23. A financial check was carried out by EPL upon the framework award in December 2021. Additional checks were also carried out in January 2023 via the council's financial assessment tool which rates them as in a stable condition with the overall business risk is showing as follows:
 - Environtec Limited – Low
 - Pennington Choices Limited – Low
 - DuctClean (UK) Limited – Low to Moderate
 - Tersus Consultancy Limited – Low
24. All suppliers have confirmed they have capacity to continue the work programme for the longer-term requirements after the current interim contract ends.
25. The procurement exercises have been undertaken in accordance with the council's contract procedures. They have been conducted fairly, transparently, in an open and regularised way that conforms to relevant legal requirements.
26. On the basis of the tenders received, we anticipate, subject to cabinet approval, for EPL to issue the official award to the successful suppliers after the Scrutiny call-in period.
27. All suppliers will be advised that the contracts are pending annual budget approval and satisfactory supplier performance.

Implications

Financial and resources

28. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2019-22 and budget.
29. This forms part of the compliance work for the Authority as part of the HRA Capital Programme.

30. The estimated total value of the contracts for the full contract period of 01 April 2023 to 28 February 2027 for asbestos surveys and removals, and of 01 April 2023 to 31 March 2027 for fire risk assessments (FRAs) is £3,264,000 excluding VAT.

31. An annual breakdown of the guaranteed (planned) and anticipated (ad hoc) workstreams is below. These figures also include a contingency amount to cover any other unforeseen requirements. Any underspend will be rolled over to the following year.

	Year 1 (2023-24)	Year 2 (2024-25)	Year 3 (2025-26)	Year 4 (2026-27)	OVERALL
Asbestos surveys					
Guaranteed workstreams	£292,530	£292,530	£292,530	£292,530	£1,170,120
Anticipated workstreams	£310,570	£212,600	£207,650	£207,650	£938,470
TOTALS	£603,100	£505,130	£500,180	£500,180	£2,108,590
Asbestos removals					
Anticipated workstreams	£568,000	£273,000	£284,000	£294,000	£1,418,500
TOTALS					
FRAs					
Guaranteed workstreams	£322,000	£143,000	£154,000	£245,000	£864,000
Anticipated workstreams	£660,000	£580,000	£580,000	£580,000	£2,440,000
TOTALS	£982,000	£723,000	£734,000	£825,000	£3,264,000

32. It should be noted the Year 1 budget for asbestos removals is higher than subsequent years as it includes the removal of asbestos from the boiler room in City Hall and floor tiles from Normandie Tower.

Legal

33. The Council's legal obligations for undertaking these works are established in primary legislation, specifically the Health and Safety at Work etc Act 1974, the Homes (fitness for habitation) Act 2018 and the Housing Act 2004, the

Regulatory Reform (fire safety order) 2005, the Fire Safety Act 2021 and the Building Safety Act 2022. The council's specific duty to manage asbestos is set out in the Control of Asbestos Regulations 2012 which are enabled under the Health and Safety at Work etc Act 1974

34. The contracts are subject to the JCT Measured Term Contract 2016 as issued by EPL for the main Compliance Framework which commenced 20 December 2021 and will be signed under deed.
35. The contract issued to each supplier on the framework allows for a 13-week "no fault" break clause. Clause 16 of the JCT states that the ***"period of notice for the Employer is 13 weeks"*** and the ***"period of notice for the Contractor is 26 weeks"***.
36. The council's Information Sharing Protocol will apply to all contracts.
37. As per Public Contract Regulations, the award is over the threshold for Services for all contracts so will be published in Contracts Finder and Find a Tender.

Statutory considerations

Consideration	Details of any implications and proposed measures to address:
Equality and diversity	The planned programme of surveys and remedial works is not perceived to affect people because of their protected characteristics. The contract management and resident engagement processes will be used as a mechanism to learn and respond to any arising equality or diversity implications.
Health, social and economic impact	Preventing significant harm and long-term ill health associated with fire or exposure to asbestos fibres are critical to safeguarding council staff, residents, contractors, and visitors to our buildings.
Crime and disorder	The council has a statutory duty to undertake these survey and remedial works. The works are also critical in the planning of measures to prevent ASB (including the installation of door entry systems and other security measures) and the prevention of arson.
Children and adults safeguarding	All of the works will be undertaken by competent contractors. The contractors will take all reasonable steps to safeguard children and vulnerable adults and share relevant information and concerns with the council.

Consideration	Details of any implications and proposed measures to address:
Environmental impact	There are no environmental implications arising from this report

Risk management

Risk	Consequence	Controls required
Non-compliance with statutory legislation.	Enforcement action resulting significant financial penalties and reputational harm.	Safe systems have been introduced to ensure that the required surveys are undertaken both on a periodic basis and in advance of planned works.
Failure to undertake required surveys before undertaking planned works.	Disturbance of asbestos containing materials and exposure to asbestos fibres. Delays to works programme and associated costs.	Remedial works are completed by competent people, recorded and risks reassessed where appropriate.
Long-term harm resulting from exposure to asbestos fibres.	Poor health, inability to work, increased care demands and significant financial compensation.	Staff, contractors, and elected members have undergone relevant training to ensure that these processes are understood, and that appropriate oversight exists.
Harm resulting from a preventable fire.	Death, significant injuries, long-term impact on mental health and wellbeing, significant financial penalties and risk of imprisonment.	Contractors undertaking these works have had their competence assessed and are subject to regular ongoing evaluation through the contract management process. Staff and contractor performance data is presented monthly to the council's corporate health and safety compliance board, with quarterly oversight by the council's cabinet. Progress is also monitored on a monthly basis by the council's external compliance delivery group and the Regulator for Social Housing.

Other options considered

38. Do nothing: Without undertaking these surveys and subsequent remedial works, the council would be in breach of its statutory duties under both Health and Safety, Fire Safety and Housing legislation. We would place our staff, residents, contractors, and visitors at risk of significant harm and long-term ill health. Subsequent enforcement action would expose the council and its senior officers to significant financial risk and long-term reputational harm.

39. **In house provision:** The council does not have any existing in-house resources to undertake these contracts.
40. **Joint venture/ Norwich City Services (NCSL) delivery:** At present there are no opportunities for NCSL to deliver these contracts for the council.
41. **Identify a single supplier to award to without competition:** This route would be contrary to Contract Procedures as the value is approximately £6.8m for all contracts and all individual contracts are over the Public Contract Regulations threshold for Services.
42. **Run and establish a competitively tendered contract with one supplier:** As the requirements for the contracts can be viewed as 'off the shelf' and with the existing EPL framework active and available, it would be a duplication of efforts to pursue a contract via open tender.

Reasons for the decisions/recommendations

43. To ensure the timely award of the contracts enabling the continuation of the asbestos surveying and removal programme, and the fire risk assessment programme, both of which are critical to providing and maintaining safe homes and ensuring that the council's statutory duties are fulfilled.

44. **Background papers:** None.

45. **Appendices:** None.

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