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Contract

## **Provision of Planned and Responsive Maintenance and Minor Works — Ballymena M.E Lot 1**

Education Authority NI

F20: Modification notice

Notice identifier: 2021/S 000-021627

Procurement identifier (OCID): ocds-h6vhtk-02dbea

Published 1 September 2021, 2:55pm

### **Section I: Contracting authority/entity**

#### **I.1) Name and addresses**

Education Authority NI

Ballee Road West

BALLYMENA

BT42 2HQ

#### **Email**

[facilities.procure@eani.org.uk](mailto:facilities.procure@eani.org.uk)

#### **Country**

United Kingdom

#### **NUTS code**

UK - United Kingdom

## **Internet address(es)**

Main address

<https://etendersni.gov.uk/epps>

Buyer's address

<https://etendersni.gov.uk/epps>

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## **Section II: Object**

### **II.1) Scope of the procurement**

#### **II.1.1) Title**

Provision of Planned and Responsive Maintenance and Minor Works — Ballymena M.E Lot 1

Reference number

Ballymena M.E Lot 1

#### **II.1.2) Main CPV code**

- 45210000 - Building construction work

#### **II.1.3) Type of contract**

Works

### **II.2) Description**

#### **II.2.3) Place of performance**

NUTS codes

- UK - United Kingdom

#### **II.2.4) Description of the procurement at the time of conclusion of the contract:**

The award of a contract by Education Authority Northern Ireland (EANI) without prior publication of a call for competition in the Official Journal of the European Union, in respect

of the continued provision of Contract Lot 1: Term Service Contracts for Mechanical and Electrical Maintenance Works in the old North Eastern Education and Library Board area (Area 1), Contract Lot 1 as further described in OJEU Contract Notice

### **II.2.7) Duration of the contract, framework agreement, dynamic purchasing system or concession**

Start date

2 September 2021

End date

31 May 2022

### **II.2.13) Information about European Union Funds**

The procurement is related to a project and/or programme financed by European Union funds: No

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## **Section IV. Procedure**

### **IV.2) Administrative information**

#### **IV.2.1) Contract award notice concerning this contract**

Notice number: [2021/S 105-278055](#)

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## **Section V. Award of contract/concession**

### **Contract No**

Ballymena M.E Lot 1

### **V.2) Award of contract/concession**

#### **V.2.1) Date of conclusion of the contract/concession award decision:**

28 May 2021

## **V.2.2) Information about tenders**

The contract/concession has been awarded to a group of economic operators: No

## **V.2.3) Name and address of the contractor/concessionaire**

LM Services NI Ltd

BELFAST

Email

[info@lmservicesni.com](mailto:info@lmservicesni.com)

Country

United Kingdom

NUTS code

- UK - United Kingdom

Internet address

<http://lmservicesni.com/>

The contractor/concessionaire is an SME

Yes

## **V.2.4) Information on value of the contract/lot/concession (at the time of conclusion of the contract;excluding VAT)**

Total value of the procurement: £4,000,000

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## **Section VI. Complementary information**

### **VI.4) Procedures for review**

#### **VI.4.1) Review body**

The UK does not currently have any such bodies with responsibilities for appeal/mediation procedures

BALLYMENA

Country

United Kingdom

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## **Section VII: Modifications to the contract/concession**

### **VII.1) Description of the procurement after the modifications**

#### **VII.1.1) Main CPV code**

- 45210000 - Building construction work

#### **VII.1.3) Place of performance**

NUTS code

- UK - United Kingdom

#### **VII.1.4) Description of the procurement:**

The award of a contract by Education Authority Northern Ireland (EANI) without prior publication of a call for competition in the Official Journal of the European Union, in respect of the continued provision of Contract Lot 1: Term Service Contracts for Mechanical and Electrical Maintenance Works in the old North Eastern Education and Library Board area (Area 1), Contract Lot 1 as further described in OJEU Contract Notice

#### **VII.1.5) Duration of the contract, framework agreement, dynamic purchasing system or concession**

Start date

1 September 2021

End date

31 May 2022

### **VII.1.6) Information on value of the contract/lot/concession (excluding VAT)**

Total value of the contract/lot/concession:

£400,000

### **VII.1.7) Name and address of the contractor/concessionaire**

LM Services NI Ltd

BELAST

Email

[info@lmservicesni.com](mailto:info@lmservicesni.com)

Country

United Kingdom

NUTS code

- UK - United Kingdom

Internet address

<http://lmservicesni.com/>

The contractor/concessionaire is an SME

Yes

## **VII.2) Information about modifications**

### **VII.2.1) Description of the modifications**

Nature and extent of the modifications (with indication of possible earlier changes to the

contract):

An extension to 30-11-2021, with the further option for EANI, in its absolute discretion, to extend for up to two further periods of 4 months until 31-03-2022 and 2 months until 31-05-2022 at the latest. The total value of the extension is 4,000,000 GBP (being 1,800,000 GBP until 30-11-2021; 1,485,000 GBP until 31-03-2022; and 715,000 GBP until 31-05-2022).. Further information in VII.2.2 below.

## **VII.2.2) Reasons for modification**

Need for modification brought about by circumstances which a diligent contracting authority/entity could not foresee.

Description of the circumstances which rendered the modification necessary and explanation of the unforeseen nature of these circumstances:

The Contract was for 1 year with an option to extend up to a further 3 years. Due to delays in re-procuring, Covid-19 and litigation, the Contract was extended a number of times culminating in VEAT(2020/S 127-312048) until 30-06-2021. EANI have underspent under each VEAT.

Due to being unable to resolve the 9 sets of proceedings relating to the re-procurement, it became necessary to seek a further unavoidable extension. EANI anticipates awarding the new Contract by 30-11-2021. Optional extensions are to allow for unforeseen circumstances. Successive modifications were not to circumvent Part 2 of PCR 2015, rather they became necessary due to the relevant circumstances.

The 11 month modification value is circa £4,000,000, which does not exceed 50% of the upper range of the original contract value. 50% of the value accounts for contingency due to the unknown volume of emergency work that may be required. Such contingency also includes sums to permit work in other Lots as required. To secure continuity of service, as the contractor can no longer hold its price due to Covid-19 and/or Brexit, Task Orders issued on/after 01-07-2021 will be adjusted for inflation, calculated with the BCIS Measured Term Contract Updating Percentages. Inflation from mid-point of original contract to 31-03-2021 is: PSA SOR ELEC11 Rate A, Rate B/D/E, Rate C 12.6pct, 14.1pct and 13.9pct respectively, applies to Sections 1, 2, 3, 4 and 5 of Price List; Rate B/D/E applies to Section 3; PSA SOR MECH11 Rate A, Rate B/D/E, Rate C 20.7pct, 12.2pct and 13.9pct respectively, applies to Sections 1, 2 and 3; Rate B/D/E applies to Section 3; PSA SOR BCE09 14.3pct applies to Section 4 Item OT010.370 to 460. Inflation after 01.04.21 will be change in BCIS MTC Updating Percentages from 31.03.21 indices, based on TO issue date/latest published index.

The proposed extended term and inflationary price uplift are permitted by Regulation 72(1)(c) as the need for additional services from the original contractor is due to the ongoing litigation which could not have been foreseen and/or avoided by a diligent contracting authority and the modification does not alter the overall nature of the contract. In

the alternative, they are permitted by Regulation 72(1)(b) as a change of provider: (i) cannot be made for economic and technical reasons such as requirements of interchangeability or interoperability of services procured under the original procurement given the need to ensure continued access to EANI schools and facilities. Given new contract commencement will be 01-12-2021 or asap thereafter, commencement of a new contractor twice in a short time period, especially in the current climate, would create risk to stability and integrity of services, be unsettling for users and could result in partial/total closure of schools and associated facilities; and (ii) would cause significant inconvenience and duplication of costs for EANI. Any new contractor would have start-up costs in recreating the current service for an unknown period, which would represent poor VFM, compared to extending the Contract. The inflationary increases are necessary to secure the agreement of the original contract to continue provision of the services given that the contract prices have been fixed for a considerable period. In respect of carrying out work in other Lots, this is permitted under the terms of the Contract and so permissible under Regulation 72(1)(a).

### **VII.2.3) Increase in price**

Updated total contract value before the modifications (taking into account possible earlier contract modifications, price adaptations and average inflation)

Value excluding VAT: £14,750,000

Total contract value after the modifications

Value excluding VAT: £18,750,000