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Contract

## **Provision of Planned and Responsive Maintenance and Minor Works - Dundonald Building Lot 1**

Education Authority NI

F20: Modification notice

Notice identifier: 2021/S 000-021636

Procurement identifier (OCID): ocds-h6vhtk-02dbf3

Published 1 September 2021, 2:55pm

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

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

Education Authority NI

40 Academy Street

Belfast

BT1 2NQ

#### **Email**

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

#### **Country**

United Kingdom

#### **NUTS code**

UKN - Northern Ireland

#### **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 - Dundonald Building 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 3: Term Service Contracts for Building Maintenance and Minor Works in the old South Eastern Education and Library Board area, 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 105-278040](#)

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

### **Contract No**

Dundonald Building 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**

D Martin Building

Moneyreagh

Email

[dmartinbuilding@gmail.com](mailto:dmartinbuilding@gmail.com)

Country

United Kingdom

NUTS code

- UKN - Northern Ireland

Internet address

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

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: £3,050,000

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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

- UKN - Northern Ireland

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

Provision of Planned and Responsive Maintenance Works for EANI across its property portfolio in the old South Eastern Education and Library Board area, Contract Lot 1 which includes but is not limited to controlled and uncontrolled schools.

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

Start date

1 July 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:

£3,050,000

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

D Martin Building

Moneyreagh

Email

[dmartinbuilding@gmail.com](mailto:dmartinbuilding@gmail.com)

Country

United Kingdom

NUTS code

- UKN - Northern Ireland

Internet address

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

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 November 2021, with the further option for EANI, in its absolute discretion, to extend for up to two further periods of 4 months until 31 March 2022 and 2 months until 31 May 2022 at the latest.. . Value: GBP 3 050 000 (being GBP 1 400 000 until 30 November 2021; GBP 1 075 000 until 31 March 2022; and GBP 575 000 until 31 May 2022). Further details noted in VII.2.1.

### **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 on a number of occasions culminating in VEAT (2020/S 127-312040) until 30 June 2021. EANI have underspent under each VEAT.

Due to being unable to resolve the 9 sets of proceedings in respect of the re-procurement it has become necessary to seek a further unavoidable extension. EANI anticipates awarding the new contract by 30 November 2021. Optional extensions are to allow for unforeseen circumstances. Successive modifications were not to circumvent Part 2 of PCR2015, rather they have become necessary due to the relevant circumstances.

The 11-month modification value is circa GBP 3 050 000, 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. Within 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 1 July 2021 will be adjusted for inflation, calculated with the BCIS Measured Term Contract Updating Percentages. Inflation from mid-point of original contract to 31 March 2021 is: PSA SOR BCE09 12.6 pct applies to Sections 1, 2, 4, 5 and 6 of Price List; PSA SOR DEC12 11.9 pct applies to Section 7 Item OT070. Inflation after 1 April 2021 will be change in BCIS MTC Updating Percentages from 31 March 2021 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 1 December 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 time period, which would represent poor VFM, compared to extending the contract. The inflationary increases are necessary to secure the agreement of the original contractor 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: £18,000,000

Total contract value after the modifications

Value excluding VAT: £21,050,000