



## Executive Director for Children and Young People

### **Report title: Contract Award Report – for the School Minor Works Programme 2022, Roofing and Mechanical & Electrical (M&E) contracts**

**Date:** 19 July 2022

**Key Decision:** Yes

**Class:** Part 1

**Ward(s) affected:** Various

**Contributors:** Acting Group Finance Manager, Director of Law, Procurement and Contracts Manager and SGM Capital Programme Delivery

### **Outline and recommendations**

The purpose of this report is to obtain approval from the Executive Director for Children & Young People to award two School Minor Works Programme 2022 (SMWP 2022) contracts following restricted tender exercises.

This report recommends that:

- Amber Construction Services Ltd is awarded the SMWP 2022 roofing contract for a sum of £1,353,019
- Thermoserv Ltd is awarded the SMWP 2022 mechanical and electrical (M&E) contract for a sum of £679,006.

The reports also notes that the Executive Director for Children & Young People received delegated authority from the Mayor & Cabinet on 09 March 2022 to award the School Minor Works Programme 2022 works contracts.

## **Timeline of engagement and decision-making**

Approval to Procure Report – March 2022

Tenders Issued – May 2022

Tenders Returned – June 2022

Tender Evaluation – June 2022

Contract Award Report Issued – July 2022

Contract Award Decision – July 2022

### **1. Summary**

- 1.1. The purpose of this report is to obtain approval from the Executive Director for Children & Young People to award two School Minor Works Programme 2022 contracts (roofing and M&E) following restricted tender exercises.

### **2. Recommendations**

- 2.1. It is recommended that the Executive Director for Children and Young People authorise officers to award the following contracts, to enable the delivery of the School Minor Works Programme 2022:
  - 2.1.1. Amber Construction Services Ltd: the SMWP 2022 roofing contract for an initial sum of £1,353,019.
  - 2.1.2. Thermoserv Ltd: the SMWP 2022 mechanical and electrical (M&E) contract for an initial sum of £679,006.
  - 2.1.3. Note that the Executive Director for Children & Young People received delegated authority from the Mayor & Cabinet on 09 March 2022 to award the School Minor Works Programme 2022 works contracts.

### **3. Policy Context**

- 3.1. The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory age and, within financial constraints, accommodation that is both suitable and in good condition.
- 3.2. The proposal within this report is consistent with the Corporate Strategy 2018-2022, in particular the Corporate Priority of *'Giving children and young people the best start in life: Every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential'*.
- 3.3. As owner of the school buildings and the employer, the Council has a statutory duty under the Health & Safety at Work Act 1974 and associated approved codes of practice, to ensure that schools are fit for purpose and used by pupils and staff. Whilst schools are responsible for day to day maintenance of their buildings, any significant expenditure on capital schemes has to be funded by the Council.

## **4. Background**

- 4.1. This programme is funded by the Education and Skills Funding Agency (ESFA) through the School Conditions Allocation (SCA). The SCA supports essential capital works in community schools to prevent disruption to their day-to-day running, and to ensure they are safe for the pupils, staff and visitors. Larger Multi-Academy Trusts (MATs) and Voluntary Aided (VA) school bodies receive direct funding to invest in priorities across the schools for which they are responsible. Smaller or stand-alone academy trusts, sixth form colleges and VA school bodies are able to bid to the Condition Improvement Fund (CIF).
- 4.2. The Council makes decisions on where to invest its SCA based on building condition surveys of the community school estate. The last set of surveys were undertaken by McBains in summer/autumn 2021. The surveys covered 40 community schools which were selected on the advice of officers in the Estates Management team. Their selection was based on the age, and their knowledge, of buildings, and mechanical and electrical systems in the school estate.
- 4.3. The Mayor & Cabinet report for the School Minor Works Programme 2022 (SMWP 22) dated 09 March 2022 (Appendix A) provides further details on how this year's programme of works was developed. The report also received approval to delegate authority to the Executive Director for Children & Young People to award the contracts under the School Minor Works Programme 2022.
- 4.4. This report relates to building fabric works at 4 schools (John Ball Primary School, New Woodlands Primary School, Rushey Green Primary School and Launcelot Primary School) and mechanical and electrical (M&E) at 3 schools (Athelney Primary School, Elfrida Primary School and Perrymount Primary School).

## **5. Procurement Process**

- 5.1. A restricted list tender process was used to procure contractors for the SMWP 2022 Roofing and M&E contracts. This route was chosen after discussions with the Council's consultant for the SMWP, McBains (who will be managing the contracts), and the Council's Procurement Team. It was recommended by McBains for a number of reasons. Firstly, there is currently high demand in the construction industry, which is allowing contractors to be selective about the contracts for which they bid. By restricting the number of bidders, the contracts would look more attractive to prospective tenderers, reducing the risk of receiving an uncompetitively low number of tenders. Secondly, the tenders were published quite late in the year for summer works, which means that contractors would likely already have a numbers jobs booked in for the summer, reducing their capacity to take on further work. By inviting a restricted list of tenderers to bid for the contracts, the Council would be able to approach contractors to find out whether they have the capacity to submit a bid and undertake the works within the required timeframe. Furthermore, by choosing which contractors were invited to bid, the Council could approach contractors with a proven track record of delivering good quality works, which in turn would increase the chances of a competitive tender exercise between reputable contractors.
- 5.2. The selection of contractors was based on the Council's past experience and recommendations from McBains' approved list. Officers aimed to invite 7 contractors to reduce risk of not receiving enough tenders to enable a competitive exercise (the minimum number of bidders that must be invited in a restricted tender exercise is 5, according to the Council's procurement procedures). Once 7 contractors were identified for each contract, they were approached to find out whether they were interested in the opportunity and had the capacity to undertake the works within the required timescales. The table below lists the contractors that were able and willing to meet the requirements of the contracts, and whether the Council had previously worked them.

- 5.3. For further details on the credit safe check, please see the corresponding part 2 report, section 5.3.
- 5.4. A credit safe check was undertaken on each of the above contractors. Any contractor that scored 50 or below, which represents a moderate or low risk, had to be assessed further by the Council's Chief Accountant. This took the form of reviewing the contractor's past 2 years' company accounts. The contractors that scored 50 or lower are highlighted in yellow. Of the three contractors highlighted above, only Thermoserv passed the more detailed examination. This meant 6 contractors were invited to bid for each contract.

## 6. Tender Evaluation

6.1. The tables below set out details on the procurement timetables and contractors that were invited to submit a bid for each contract.

### 6.1.1. Roofing contract

Activity	Date/Quantity	
Tender Published	18/05/2022	
Tender Return Deadline	15/06/2022	
Evaluation/Consensus Meeting	22/06/2022	
Number of contractors invited (tenders received)	6 (4)	
Tenders	<b>Received:</b> 1. Amber Construction Service Ltd 2. Contractor A 3. Contractor D 4. Contractor E	<b>Not received:</b> 1. Contractor F 2. Contractor C

### 6.1.2. Mechanical and Electrical (M&E) Contract

Activity	Date/Quantity	
Tender Published	25/05/2022	
Tender Return Deadline	15/06/2022	
Evaluation/Consensus Meeting	29/06/2022	
Number of contractors invited (tenders received)	6 (4)	
Tenders Received or Not received	<b>Received:</b> 1. Contractor I 2. Contractor H 3. Contractor G 4. Thermoserv Ltd	<b>Not received:</b> 1. Contractor L 2. Contractor K

6.2. Valid tenders were evaluated on a 50/50 basis for price and quality.

6.3. The price of each tender was evaluated using the Lowest Price Option, see the formula below:

$$\text{Price score} = \text{price weighting (50)} \times (\text{lowest price/tendered price})$$

6.4. The quality of the tenders was assessed based on the following method statements and weightings

Main Criteria (& Weighting)	Sub-criteria	Evidence	Method Statement
<b>Project Management (15%)</b>	<p>Please describe how you will manage the project during each phase (from pre-start to post-completion), including how you will ensure:</p> <ul style="list-style-type: none"> <li>- It is delivered on time (please provide Gantt chart or similar to support response),</li> <li>- Costs are controlled,</li> <li>- The quality of works undertaken are delivered to the highest standard possible.</li> </ul>	✓	MS 1*
<b>Technical Ability (15%)</b>	<p>Please provide a statement on each staff member who will be working on this project, highlighting their relevant experience, qualifications and competencies.</p> <p>Please also include:</p> <ul style="list-style-type: none"> <li>- A structure chart (highlighting the main point of contact for the Council)</li> <li>- Details of your complaint escalation procedure.</li> </ul>	✓	MS 2 *
<b>Health &amp; Safety (10%)</b>	<p>Please describe your Health &amp; Safety procedures and how you would ensure that all staff and customers would remain safe during both the design and construction phases.</p> <p><i>Please ensure that your response considers your responsibilities under the Construction (Design and Management) Regulations (CDM).</i></p>	✓	MS 3

<p><b>Social Value (10%)</b></p>	<p>Social Value is the additional economic, social and environmental benefits that can be created when the Council procures an external service or contractor to deliver works.</p> <p>The Social Value Monitoring Tool (see the <i>'Appendix 1 Social Value Monitoring'</i> document) sets out the Council's key performance indicators for measuring how well a contract performs against its 4 social value objectives, see below:</p> <ol style="list-style-type: none"> <li>1. Employment, Skills &amp; Economy</li> <li>2. Creating a greener Lewisham</li> <li>3. Training Lewisham's future</li> <li>4. Making Lewisham healthier</li> </ol> <p>Using the KPIs in the Social Value Monitoring Tool, please state which KPIs (and how many of each) you will deliver as part of your social value contribution, and how this will be achieved.</p>	<p>✓</p>	<p>MS 4</p>
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6.4.1. Criteria marked with an asterisk (\*) in the table above, required a minimum quality score of 6 (see 6.5 for description of standards) to be considered valid. Criteria not marked with an asterisk (\*) were required to achieve a minimum quality score of 5. Any Tender which failed to attain these minimum scores would be deemed invalid.

6.5. The scoring was awarded on a scale of 0 –10. 0 being Non-existent and 10 being perfect. The table below provides a description of each score:

Score	Level	Standard
0	Non-existent	Proposal absent
1	Inadequate	Proposal contains significant shortcomings and/or is inconsistent or in conflict with other proposals
2	Very poor	Proposal contains many shortcomings and/or is inconsistent or in conflict with other proposals
3	Poor	Proposal falls well short of achieving expected standard in a number of identifiable respects
	Weak	Proposal falls just short of achieving expected standard in

4		a number of identifiable respects
5	Barely adequate	Proposal just meets the required standards in nearly all major aspects, but is lacking or inconsistent in others
6	Adequate	Proposal meets the required standards in nearly all major aspects, but is lacking or inconsistent in others
7	Good	Proposal meets the required standard in all major material respects
8	Very good	Proposal meets the required standard in all major material respects and in a few of the minor requirements
9	Excellent	Proposal meets the required standards in all major material respects and nearly all of the minor requirements
10	Perfect	Proposal meets the required standards in all major material respects and all of the minor requirements

6.6. The tables that follow summarise the final quality, price and overall scores for the roofing and M&E contracts.

**6.7. Roofing Contract**

6.7.1. For further details of the tender evaluation regarding quality criteria please see the corresponding part 2 report, section 6.7.1.

6.7.2. Form of Tender (Price)

<b>Tenderer</b>	<b>Price</b>	<b>Score</b>	<b>Rank</b>
Amber Construction Services Ltd	£1,353,0198	50	1

6.7.3. Overall Scores

<b>Tenderer</b>	<b>Price Score</b>	<b>Quality Score</b>	<b>Total Score</b>	<b>Overall Rank</b>
Amber Construction Services Ltd	50	40	90	1
Contractor D	45.11	32	77.11	2
Contractor E	37.01	37.50	74.51	3
Contractor A	26.27.80	38	65.80	4

6.8. Overall the quality of bids received was good and several companies scored highly on some individual questions. The minimum criteria for the first two method statement questions was set at 'adequate', Proposal meets the required standards in all major aspects but is lacking or inconsistent in other areas. All four tenderers met this threshold scoring a minimum of 6 or above for these method statements

**6.9. Mechanical and Electrical (M&E) Contract**

6.9.1. For further details of the tender evaluation regarding quality criteria please see the corresponding part 2 report, section 6.9.1.

6.9.2. Form of Tender Evaluation (Price)

<b>Tenderer</b>	<b>Price</b>	<b>Score</b>	<b>Rank</b>
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Thermoserv Ltd	£679,006	50.00	1
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### 6.9.3. Overall Scores

Tenderer	Price Score	Quality Score	Total Score	Overall Rank
Thermoserve Ltd	50.00	35.00	85.00	1
Contractor G	46.09	35.00	81.09	2
Contractor H	37.80	38.50	76.30	3
Contractor I	41.23	31.50	72.73	4

6.9.4. Overall the quality of bids received was good and several companies scored highly on some individual questions. For both tenders the minimum criteria for the first two method statement questions was set at 'adequate', Proposal meets the required standards in all major aspects but is lacking or inconsistent in other areas. All four tenderers met this threshold scoring a minimum of 6 or above for these method statements.

6.10. The tenders were evaluated by the following Council officers and external consultants from McBains. Each signed a Declaration of Interest form declaring no interest in submissions.

- Lemuel Dickie-Johnson - Project Manager, Capital Programme Delivery
- Akweley Badger – Project Officer, Capital Programme Delivery
- Barry Bugden – Social Value Officer, Economy, Jobs and Partnerships (Social Value only)
- Elliot Goodridge – McBains (Roofing Contract only)
- Chris Stevens – McBains (M&E Contract only)

6.11. The evaluation panel agreed the winning tender for each contract with an acceptable price and good quality score is as follows:

- Roofing Contract – Amber Construction Services Ltd
- M&E Contract – Thermoserv Ltd

6.12. The above contractors passed a credit check conducted by the Council's Procurement team (see Appendix C) and have recommended contract limits above the tender values submitted.

## 7. Financial implications

7.1. The Council was awarded £4.1m of School Condition Allocation & £560k of Devolved Formula Capital for 2022/23. SCA will be paid in 9 equal instalments May to January. DFC will be paid in June.

7.2. SCA should be spent on capital works, keeping schools building safe and in good working order. DFC should be spent to maintain buildings and fund small capital projects.

7.3. The cost of the contracts for roofing and M&E is a total of £2.0m so within the budget available.

7.4. Consideration should be given to ensure the works are capital in nature, meet the conditions of the grant and any ongoing revenue implications.

7.5. For further details on the financial implications, please see section 7 of the corresponding part 2 report.

## **8. Legal implications**

- 8.1. The Council has a statutory duty to provide primary and secondary education as well as a duty to ensure that all educational premises are in a good and safe state of repair.
- 8.2. 8.2 The Council owes obligations under the Health and Safety Act 1974 and the Occupiers Liability Act as employer and landlord to ensure that premises are fit for purpose and safe for the use of staff, pupils and the public.
- 8.3. The processes involved in selecting the most economically advantageous tenders for the value of the contracts (Category B contracts) have complied with The Council's Contract Procedural Rules (CPRs). The value of the contracts are below the FTE threshold for works. Some of the requirements in the CPRs are based on the Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc) (EU Exit) Regulations ("the Regulations") with which the Council must comply for below threshold contracts. This contract has been externally and openly advertised as required. The report explains the evaluation approach and process applied to the bid and the reasons for recommending the successful bid for approval.
- 8.4. On 9 March 2022 Mayor and Cabinet (Contracts) gave approval for a School Minor Works Programme 2019 to 2020. The report recommends that the Executive Director for Children and Young People awards the contract to the successful tenderers listed. If approval is given, each successful contractor will be given an appropriate JCT Intermediate contract to sign.
- 8.5. This decision is a Key Decision under Article 16.2 (b) and Article 16.2 (c) (xxiii) of the Constitution as it will have an impact on more than one ward and it has a value of more than £200,000. It is therefore required to be contained in the current Key Decision Plan.
- 8.6. In taking this decision, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.
- 8.7. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for Mayor and Cabinet, bearing in mind the issues of relevance and proportionality. Mayor and Cabinet must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.8.
- 8.9. The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical

guidance can be found on the EHRC website.

## **9. Equalities implications**

- 9.1. The planned maintenance works as proposed will benefit all pupils, staff attending and working in the schools. No individual will be disadvantaged by the works.

## **10. Climate change and environmental implications**

- 10.1. Capital Programme Delivery officers have been working with colleagues in the Council's Climate Resilience Team to identify additional funding to deliver decarbonisation improvements as part of the School Minor Works Programme. This usually involves replacing gas boilers with air source heat pumps (ASHPs), which use electricity instead of gas. Further funding is sought for these types of works because they are usually significantly more expensive than installing newer gas boilers and also require other building fabric improvements to enable the use of ASHPs. If such works were funded wholly by the SCA, this would reduce the Council's ability to deliver other urgent works across the school estate – putting those schools at risk of closure or health and safety issues.
- 10.2. Unlike last year, there was no additional decarbonisation funding available that aligned with the timescales for the School Minor Works Programme 2022, and so the boiler replacement works in this year's M&E Contract will replace the older gas boilers with newer models. The newer models will be more energy efficient than the older versions, but the energy source will be gas instead of electricity, which can be generated through renewable sources.
- 10.3. Officers did look at the possibility of postponing the boiler replacement works to next year, when the Council may be able to secure additional funding for decarbonisation works, but there were a number of problems with this approach, explained below.
  - 10.3.1. While it may be possible to keep the existing boilers, which are in urgent need of replacement, running for another year, with temporary repairs, if one of the heating systems were to irreparably breakdown over the winter, we may have to decant that school to a new location. This would be a substantial cost to the Council and cause the school severe disruptions.
  - 10.3.2. If the Council was to remove all the boiler replacement works from this year's SMWP, this would drastically reduce the scope and spend of the programme. This would potentially affect the SCA the Council receives in future years, as it is likely that we will significantly underspend against this year's programme.
  - 10.3.3. The designs and specifications for the boiler replacement works have been fully developed by our consultant, based on gas boilers. If the Council was to change these to electric boilers, or undertake other works instead, there will be abortive costs related to the works already completed, and it is unlikely the alternative works will be delivered this financial year.
- 10.4. In order to support efforts in decarbonising Council owned buildings, one of the boiler replacement projects, at Donderry Primary School, has been postponed until next year. The decision was made to delay the works at this school because the Council started the process of decarbonising the school as part of the School Minor Works Programme 2021. In addition to this, the boilers that are due for replacement at Donderry do not serve the whole school – therefore, the risk of school closure due to boiler breakdown is lower.
- 10.5. While the boilers that are installed at the other schools (Athelney Primary School, Elfrida Primary School and Perrymount Primary School) will be gas powered, they will be more energy efficient than the models they replace.

## 11. Crime and disorder implications

11.1. There are no such implications arising from this report.

## 12. Health and wellbeing implications

12.1. The School Minor Works Programme will help to improve the health and wellbeing of staff and children by creating a safer environment and better functioning facilities within school buildings.

## 13. Social Value implications

13.1. The School Minor Capital Works Programme will deliver social value to the London Borough of Lewisham by working with colleagues in the Local Labour Business Scheme Resilience and Procurement teams to set targets in line with the Council's strategic aims and objectives for each of the contracts tendered.

13.2. The contractors' commitments to social value were assessed as part of the tender evaluation and were given an overall weighting of 10%, in line with the Council Social Value Policy. Both contractors recommended for appointment achieved a score of 7 (good) for the method statement on social value.

13.3. The Local Labour Business Scheme (LLBS) team to monitor and assist the delivery of the Social Value targets.

## 14. Background papers

14.1. The following background documents were referenced in this document.

- Appendix A: Schools Minor Works Programme 2022: approval to procure
- Appendix B: Tender Evaluation Matrix for the Roofing and M&E Contracts
- Appendix C: Credit Score Reports

## 15. Glossary

15.1. Description of terms below.

Term	Definition
SCA	School Condition Allocation – a grant funded by Education and Skills Funding Agency (ESFA)
SMWP	School Minor Works Programme

## 16. Report author and contact

16.1. Lemuel Dickie-Johnson, [Lemuel.Dickie-Johnson@Lewisham.gov.uk](mailto:Lemuel.Dickie-Johnson@Lewisham.gov.uk) , 07990 796219

## 17. Comments for and on behalf of the Executive Director of Children and Young People

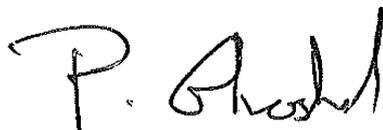
17.1. Pinaki Ghoshal, [pinaki.ghoshal@lewisham.gov.uk](mailto:pinaki.ghoshal@lewisham.gov.uk)

**18. Comments for and on behalf of the Director of Law, Governance and HR**

18.1. Sohagi Patel, [Sohagi.Patel@lewisham.gov.uk](mailto:Sohagi.Patel@lewisham.gov.uk)

**19. Approval**

19.1. I Approve / ~~Do not approve~~ the recommendation in this report

A handwritten signature in black ink, appearing to read 'P. Ghoshal'. The signature is written in a cursive style with a large initial 'P'.

Signed:

Date: 13<sup>th</sup> July 2022

Executive Director for Children and Young People