



Mayor & Cabinet

Report title: Approval for Contract Award - Consultant Services Contract for the SMWP 2022 to 2025.

Date: 12th January 2022

Key decision: Yes

Class: Part 1

Ward(s) affected: Various

Contributors: Peter Allery, Group Finance Manager and Kplom Lotsu, SGM Capital Programmes

Outline and recommendations

The purpose of this report is to seek approval from Mayor & Cabinet to award the Consultant Services Contract for the School Minor Works Programme 2022 to 2025, in line with the approvals obtained at Mayor & Cabinet in January 2021 (report attached as Appendix A). The contract is for an initial period of 4 years, with the option to extend for a 5th year and a break clause every 12 months from the date of the initial agreement.

This report recommends that McBains Limited are awarded the contract for an annual percentage fee of 6.45% of the total SMWP works cost. This would equate to an estimated annual fee of £166,410 (based on an estimated SMWP cost of £2.58m), with an estimated potential total value of £665,640 over a four year period.

Timeline of engagement and decision-making

Approval to Procure Report – January 2021

1. Summary

- 1.1. The purpose of this report is to seek approval from Mayor & Cabinet to award a contract for Consultant Services for the School Minor Works Programme 2022 to 2025, in line with the approvals obtained at Mayor & Cabinet in January 2021 (report attached as Appendix A). Following completion of an open procurement process, officers recommend that McBains Limited are awarded a contract for an initial period of 4 years for this service, with the option to extend by a further year, and inclusive of a break clause option every 12 months from the date of the initial agreement.

2. Recommendations

It is recommended that Mayor & Cabinet:

- 2.1. Approve the award of contract, for an initial period of 4 years, to McBains Limited for the provision of a Surveyor-led Multi-Disciplinary Consultancy Service to design and project manage the School Minor Works Programme 2022 to 2025.
- 2.2. Note that the value of this contract is based on an annual percentage rate of 6.45% of the annual total SMWP works cost. Assuming a SMWP budget of £2.58m, this would equate to an estimated annual fee of £166,410, with an estimated potential total value of £665,640 over the four year period.
- 2.3. Note that this contract will include a break clause every 12 months, for a period of up to 4 years, from 2022 to 2025. The contract also includes an option to extend the contract for a further year. The Council therefore has the opportunity to terminate the contract at the end of each year at its own discretion.

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 to 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 the owner of the community school buildings and employer of school staff, Lewisham Council has a statutory duty to ensure that schools are fit for purpose while in use by pupils and staff. While schools are responsible for the day-to-day maintenance of their buildings, any significant capital expenditure has to be funded through the Council's School Minor Works Programme.

4. Background

- 4.1. The School Minor Works programme is funded by the Education and Skills Funding Agency (ESFA) through the School Conditions Allocation (SCA). The SCA supports essential capital works in communities schools to prevent disruption to the day-to-day running of schools, and ensure they are safe for the pupils, staff and visitors.
- 4.2. Larger Multi-Academy Trusts (MATs) and larger Voluntary Aided (VA) school bodies receive direct SCA to invest in priorities across the schools for which they are responsible. Smaller or stand-alone academy trusts, sixth form colleges and smaller or stand-alone VA school bodies are able to bid to the Condition Improvement Fund (CIF).
- 4.3. The Council is in the process of undertaking condition surveys of community school buildings (currently 49 in total). The information collected will be used to develop a

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Capital Programme Report which will provide an indicative annual programme of works to inform the School Minor Works Programme (SMWP) over the next 4 years (2022 to 2025). The programmes will prioritise issues that are beyond the means of a school to address on its own and that pose (or soon will) a serious risk to the health and safety of children and staff, and/or could result in the closure of a school due to non-compliance with statutory requirements.

- 4.4. The appointed Consultant will provide the Consultant role and multi-disciplinary services (including Project Management, Principal Designer, Building Surveyor and Contract Administration).
- 4.5. The contract will potentially cover a 5-year period, but will include a 12 month break clause, which means the contract can either be terminated or extended by an additional year on or around each anniversary of the date of the Agreement, both at the sole discretion of the Council.

5. Procurement process

- 5.1. A single stage open tender exercise was run for the Consultant Services Contract for the School Minor Works Programme 2022 to 2025. The opportunities were advertised on Contracts Finder and published on the London Tenders Portal, in line with the Council's Procurement guidance.
- 5.2. Tenderers had to achieve a minimum score of 8 (described as '*Very Good - Proposal meets the required standard in all aspects*) for Method Statements MS1a, b, c and MS2.
- 5.3. Moderation sessions were led by the Procurement Officer. The evaluation panel consisted of three Council officers (2 Project Managers and Project Officer).
- 5.4. After the tender period closed, the submissions were shared with the evaluation panel members who were instructed to separately evaluate all complete tenders. Each member's scores were shared with the Council's Procurement team ahead of a virtual meeting (known as a consensus meeting) which was held to discuss and agree consensus scores for each tender. The consensus meetings were moderated by a member of the Council's Procurement team.
- 5.5. The full tender submissions were evaluated based on the following criteria
 - Financial detail including price 50%
 - Project Management 22.5%
 - Technical Ability 12.5%
 - Health and Safety 10%
 - Social Value 5%

The evaluation was made up of 50% price and 50% quality, incorporating 5% for social value.

6. Tender Evaluation

- 6.1. The table below set out details on the key dates and number of tenders received for this contract.
- 6.2.

Activity	Date/Quantity
Tender Published	05/10/2021
Tender Return Deadline	09/11/2021
Evaluation/Consensus Meeting	29/11/2021 and 01/12/2021
Expression of Interest	75
Tenders Received	23 in total

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

Price score = price weighting (50) x (lowest price/tendered price)

- 6.4. The quality of the tenders was assessed based on the method statements and weightings included in Appendix B. A summary is provided in the table below:

QUALITY		
Criteria		Weighting
MS 1a*	Project Management	7.5%
MS1b*	Project Management – Quality Control	7.5%
MS1c*	Project Management – Cost Control	7.5%
MS 2*	Technical Ability	12.5%
MS 3	Health & Safety	10%
MS4a	Social Value - Employment, Skills and Economy	1.5%
MS4b	Social Value - Greener Lewisham	1%
MS4c	Social Value - Healthier Lewisham	1.5%
MS4d	Social Value - Training Lewisham's Future	1%
MS5	Equality, Diversity & Inclusion (for information only)	N/A
MS6	Climate Change (for information only)	N/A
MS7	GDPR and Data Handling (for information only)	N/A
Total Quality Weighting		50%

- 6.5. Criteria marked with an asterisk (*) in the table above, required a minimum quality score of 8 (see 6.4 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.
- 6.6. 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

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3	Poor	Proposal falls well short of achieving expected standard in a number of identifiable respects
4	Weak	Proposal falls just short of achieving expected standard in 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

6.7. The tables that follow summarise the final quality, price scores and overall scores for each tender.

6.8. Method Statement Evaluation (Quality)

Tenderer	Quality Score	Rank	Valid/ Invalid
McBains Limited	40.75	1	Valid
Company A	38.75	2	Invalid
Company B	37.75	3	Invalid
Company C	37.75	3	Invalid
Company D	37.5	5	Invalid
Company E	37.25	6	Invalid
Company F	36.75	7	Invalid
Company G	36.75	7	Invalid
Company H	36.25	9	Invalid
Company I	36.25	9	Invalid
Company J	35.25	11	Invalid
Company K	35.25	11	Invalid
Company L	35.25	11	Invalid
Company M	35	14	Invalid
Company N	34.75	15	Invalid
Company O	34.75	15	Invalid
Company P	34.0	17	Invalid
Company Q	33.25	18	Invalid
Company R	32.5	19	Invalid

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Company S	32.0	20	Invalid
Company T	32.0	20	Invalid
Company U	23.5	22	Invalid
Company V	N/A	N/A	Invalid

- 6.9. Overall, the quality of the bids was reasonable and several companies scored highly on individual questions. However, as this programme involves working on high risk projects within live school environments and under pressurised timescales, the minimum quality threshold for four of the six method statement questions was set at a particularly high level of 8 (out of 10), see table 6.6 for further details. Once all tender responses had been evaluated, only 1 tenderer, McBains, had achieved the required standard for all method statement responses.
- 6.10. Form of Tender Evaluation (Price)
- 6.11. The price submitted by tenderers was based on a percentage of the value of an indicative School Minor Works programme budget provided within the tender pack, which provided details of the work packages and their indicative costs.
- 6.12. Tenderers were asked to provide a percentage and equivalent amount they would charge based on the example School Minor Works programme budget of £2,580,000. The actual programme of works for 2022 and subsequent years will be agreed with the successful bidder once appointed .
- 6.13. As McBains Ltd submitted the only valid tender, it was only their price that was evaluated (based on Procurement advice). This is shown in the table below:

Tenderer	Price	% fee	Score	Rank
McBains Limited	£166,410.00	6.45	50	1

- 6.14. It should be noted that despite the fact that no other tender prices were formally evaluated, officers are confident that McBains Ltd's price is on market. The mean average of the 23 tender prices received was £152k (5.9% of an indicative works cost of £2.58m). This means the winning tenderer's price of £166k (at a percentage rate of 6.45%) is within 10% of the average. This, together with the fact that McBains achieved the highest quality score of the 23 bids submitted, demonstrates that their tender represents value for money.
- 6.15. Overall scores

Tenderer	Quality Score	Price Score	Total Score	Overall Quality Rank	Valid/Invalid
McBains Limited	40.75	50	90.750	1	Valid

- 6.16. Overall, the tenders were of a reasonable standard, however the quality requirements were set very highand therefore only one of the bidders achieved the scores required for the submission to be valid.
- 6.17. Officers therefore recommend McBains Ltd for the Consultancy Service contract, as they were the overall winning bidder with an acceptable price and quality score.
- 6.18. A credit check was run on McBains Ltd by the Council's Procurement team in November 2021, which demonstrated the company was considered low risk.

7. Financial implications

- 7.1. This report recommends that Mayor & Cabinet approves the award of the Consultant

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Services Contract to McBains Ltd for an estimated annual cost of £166,410, potentially rising to an estimated value of £665,640 over a four year period

- 7.2. This contract will be funded from the approved capital budget for the 2022 to 2025 Schools Minor Works programme. The annual break clause will allow the Council to terminate the contract should future years' funding not be available.

8. Legal implications

- 8.1. The Council's Constitution contains requirements about how to procure and manage contracts. These are in the Contract Procedure Rules (Constitution Part IV). Some of the requirements in those Rules are based on the procurement regulations (the Public Contracts Regulations 2015 ('the PCR') continue to apply for the time being, as amended by Brexit provisions including the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 SI 2020 No.1319) with which the Council must comply.
- 8.2. Procedures for tendering are to be determined by contracting authorities in accordance with PCR 2015 (regulation 76). These require procedures to be transparent and ensure equal treatment of suppliers. Time limits must also be reasonable and proportionate. This contract has been externally and openly advertised by an open tender process as required by PCR 2015 and the Council's Constitution. May and Cabinet gave approval to provide the contract in January 2021.
- 8.3. The report recommends the award of a Consultancy Services contract for the provision of a Surveyor-led Multi-Disciplinary Consultancy Service to design and project manage the School Minor Works Programme 2022-2025. The value of the contract means that this is a Category A contract for the purposes of the Council's Contract Procedure Rules and one which is to be awarded by Mayor and Cabinet.
- 8.4. If the proposal to award contracts is approved, award notices must be published on OJEU and Contracts Finder in the prescribed form.
- 8.5. The report explains the evaluation approach and process applied to the bid and the reasons for recommending the successful bid for approval. The Invitation to Tender set out that tenderers had to reach specified scores (see Appendix 1). The process followed, including exclusion of the tenderer who did not reach the minimum score, was in compliance with the advertised and required procedures.
- 8.6. This decision is a Key Decision under Article 16.2 (b) and Article 16.2 (c) (xxiii) of the Constitution as it has a value of more than £200,000. It is therefore required to be contained in the current Key Decision Plan.
- 8.7. 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.
- 8.8. 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

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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.

- 8.9. 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
- 8.10. The Public Services (Social Value) Act 2012 requires that when the Council is procuring services above the EU threshold – as is the case here - it must consider, before commencing a procurement process, how the procurement might be conducted so as to improve the social, economic and environmental wellbeing of the area. The matters to be considered must only be those relevant to the services to be procured and it must be proportionate in all the circumstances to take those matters into account. The Council has adopted a Social Value policy which must also be applied; and the Council's Sustainable Procurement Code of Practice will need to be applied to the contract. The report sets out the social value issues which arise, and any future decision by the decision maker will also need to take those matters into consideration.

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. The School Minor Works Programme will improve the energy efficiency of school buildings by upgrading boiler systems to more eco-friendly models, improving insulation and installing LED lighting. This is consistent with the Council's Energy Policy, which was agreed at Mayor & Cabinet July 2014, and more recently the Council's commitment to the borough being carbon neutral by 2030 and development of a Climate Change Action Plan.
- 10.2. Each contractor's approach to reducing the impact of the works on the environment was provided as part of their submission.

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 our Social Value Officer 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 5%, in line with the Council Social Value Policy. The recommended contractor for appointment achieved a score of 6 for the

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- method statement on social value.
- 13.3. The social value outcomes offered by the contractor include volunteer days working on Lewisham initiatives; student placements during term holidays; school careers talks on engineering, construction and sustainability, and a number of other measures to improve environmental performance and contribute towards the borough's carbon reduction targets.
- 13.4. The School Minor Capital Works Programme, Social Value Officer and Contractor will work together to monitor and facilitate delivery of social value outcomes.

14. Background papers

- 14.1. The following background documents were referenced in this document.
- Appendix A: Mayor & Cabinet Report for School Minor Capital Works Programme 2021 – Approval to Tender Works

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(s) and contact

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

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19. Appendices

- 19.1. Appendix A: Mayor & Cabinet Report for School Minor Capital Works Programme 2021 – Approval to Tender Works
- 19.2. Appendix B: Tender Evaluation Matrix

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