

PART TWO

Confidential facts and advice

Operational Contingency Arrangements (OCA): Future Contract 2023 to 2029

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult the Governance Team for advice.

This information is not for publication because:

Publication of the information included in this report is deferred as its disclosure would be likely to prejudice the commercial interests of the London Fire Commissioner (LFC).

The date at which Part 2 will cease to be confidential or when confidentiality should be reviewed: – after successful procurement and tender award.

Legal recommendation on the grounds of keeping the information confidential:

In the event the information contained in this Part Two and/or its appendix is the subject of a request for information under section 1 of the Freedom of Information Act 2000 (the “Act”), it is considered that access can be denied on the basis that such information constitutes exempt information under:

Section 43(2) of the Act on the basis that the information in this report includes information which is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Public Interest Assessment

At present, on balance, it is considered that the public interest is best served if the information is not disclosed at this point. Disclosure by the LFC would be likely to have a detrimental effect on the LFC’s position and related commercial interest regarding the expenditure incurred for the provision of Operational Contingency Arrangements.

The eligibility of these exemptions should be reassessed in the event of a request under the Act for this information as the level of sensitivity will change over time and different circumstances may alter the arguments in favour of non-disclosure.

The recommended period for non-publication of Part 2 is 6 months or following the successful procurement and tender award.

Legal Adviser

I make the above recommendations that this information should be considered confidential at this time.

Name: Natasha Singh	Date: 17 th August 2022
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Confidential decision and/or advice

Introduction and background

1. The part 1 report for this decision sets out the background for the request to the Deputy Mayor for Fire and Resilience to authorise the London Fire Commissioner (LFC) to commit revenue expenditure of up to £5,195,935 per annum for the purposes of providing operational contingency arrangements in the event of workforce disruption. This includes entering into and, on the expiration of the initial term, extending the contractual arrangements set out in part 1 of this report with the successful supplier.
2. The total amount is made up of the following:
 - Revenue expenditure to enter into contractual arrangements for Operational Contingency Crews (OCC) from 2023/24 until 2029/30 which amounts to an annual management fee of £4,723,577 (which will increase annually based on the indexation mechanism outlined in the contract). This compares to the current management fee for EFCC which is budgeted to be £4,817,000 in 2022/23. These annual management fees represent the steady state costs associated with the contract and do not include periods which the arrangements are operational.
 - An additional contingency fund of £472,358 which is equivalent to 10% of the annual management cost so that operational contingency arrangements for other core functions and national resilience obligations can be considered and implemented where necessary. These include Control, Turntable Ladders (TLs), Fire Rescue Units (FRUs), Chemical Biological, Radiological and Nuclear (CBRN), High Volume Pump (HVP) and Urban Search and Rescue (USAR). This is necessary so that LFC's contingency arrangements are agile enough to respond to changing risks such as the built environment, terrorism and climate change.
 - For the avoidance of doubt the additional contingency fund of £472,358 is not required as a result of the tender process which is focused on replacing the current contractual arrangements for core business. It is to enable planning for additional contingencies which have been identified to cater for the changing nature of risk within London.
3. As detailed in part one of the report these arrangements will be for a period of six years with an option to extend for a further three years.
4. The contract arrangements for the OCC will also include costs associated with the operational state for periods for which it is deployed. This will be up to £573,443 per day of deployment for 27 fire engines riding with six crew. This compares to the current arrangements which would incur a cost of £399,666 per day for a similar size deployment.

Financial comments

5. The part 1 report for this decision recommends that annual revenue expenditure is agreed for the implementation of new arrangements for Operational Contingency Crews (OCC).
6. The report describes changes from the existing contract with enhancements introduced to the service with an annual management fee of £4,723,577 (plus annual indexation) plus a contingency fund to broaden the OCC arrangements to also meet other core functions and national resilience obligations of £472,358, totaling £5,195,935 per annum. This will be incurred over a period of six years starting in the 2023/24 financial year.

7. The current budget for this service is £4,817,000 per annum, therefore this recommendation will mean an additional £379,000 increase to the revenue budget allocation annually (plus indexation). If approved this additional funding requirement will be addressed as part of the 2023/24 LFC budget submission.
8. With regard to non-pay inflation: all LFC contractual inflationary increases are reviewed on an annual basis. The LFC budgets for non-pay inflation on an item-by-item basis, and the LFC will review those assumptions as part of its budget process for 2023/24. If inflation rates are above current assumptions a resulting budget increase will need to be submitted as part of LFC's annual submission to the Mayor's GLA Group budget process and/or the contract will need to be reviewed to assess whether it is possible to reduce the annual cost via a reduction in service. If inflationary increases result in in-year financial pressures, this will be reported on as part of regular financial reporting and met through the use of the Budget Flexibility Reserve. The Budget Flexibility Reserve has a forecast balance of £27.273m as at the end of the 2022/23 financial year.
9. LFC standard terms and conditions include clauses on indexation and termination that can be utilised in the event that inflationary pressures affect the performance of the contract. If a contract is no longer viable then LFC will seek to terminate it on this basis or work with suppliers to pause delivery and/or renegotiate what is being delivered. This is preferable to inserting a break clause for inflation as such pressures apply across the market so it is unlikely that benefits will be gained from terminating a contract in order to go back out for competition.

Legal comments

10. Legal comments have been included in Part 1 of this report.

Confidential appendices and supporting papers

None.