

REQUEST FOR DIRECTOR DECISION – DD2632

Title: Road User Charging Appeals Service Contract Relet – Contract Award

Executive Summary:

Since the creation of the Central London Congestion Charging Scheme in February 2003, and through powers provided through the Greater London Authority Act 1999 (the GLA Act), the Greater London Authority (GLA) is required to provide a road user charging appeals service. It is a legal requirement of the Road User Charging Schemes now in place for the Congestion Charge, Low Emission and Ultra Low Emission Zone schemes that an independent arbitration and appeals service is provided, so that motorists can appeal against Penalty Charge Notices that have been issued to them.

In November 2022, the Mayor approved (under cover of MD3059) the procurement of the required services at an estimated value of £14m for seven years and delegation to the Executive Director of Good Growth to execute the contract relet and any subsequent extension decisions.

The contract for the independent appeals service is let by the GLA. The current Road User Charging Appeals Service contract expires in December 2023 and a tendering exercise for a new contract has taken place. This Director Decision form seeks approval of a contract award in order that the current Road User Charging Schemes, and any future schemes, can continue in accordance with legislative requirements. This contract will apply to any and all future charging schemes, such as planned charging for the Silvertown Tunnel, as the same appeal legislation will apply.

Decision:

That the Executive Director of Good Growth approves the award of the Road User Charging Appeal Service contract to London Councils Ltd and associated expenditure of up to £9,200,425 for an initial five years with the option to extend for a further two years.

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: Phillip Graham

Position: Executive Director, Good Growth

Signature:



Date:

19/07/2023

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 The Congestion Charge became operational in February 2003. Drivers entering the Congestion Charge zone pay a daily charge to do so. Some drivers pay less if they are eligible for an exemption or discount or are a resident within the zone.
- 1.2 The Low Emission Zone became operational in February 2008. This requires the payment of a daily charge if driving within the zone, in a vehicle that: does not meet the required emission standards; and is not exempt from the scheme or registered for a 100 per cent discount.
- 1.3 The Ultra Low Emission Zone became operational in April 2019. This requires the payment of a daily charge if driving within the zone, in a vehicle that: does not meet the required emission standards; and is not exempt from the scheme or registered for a 100 per cent discount.
- 1.4 Transport for London (TfL) operates all three schemes. TfL may issue a Penalty Charge Notice (PCN) for any of the schemes if it believes based on available evidence that the relevant vehicle: has not paid the relevant charge; is not exempt; or is not registered for a discount. The registered keeper of that vehicle will be issued with a PCN. On receipt of a PCN, the recipient can make a representation to TfL. If that representation is rejected, they then have the right to make an appeal to an independent adjudicator. The GLA is responsible for the adjudication service being in place through powers in the GLA Act 1999.
- 1.5 The provision of appeals services is in three parts:
 - the provision of adjudication services: this is provided by independent adjudicators, appointed by the Lord Chancellor, who are reimbursed according to the time they spend undertaking this work
 - the provision of the necessary computer systems to enable adjudicators to process the appeals: this may be provided by a third-party contractor or in-house
 - the provision of suitable premises and administrative support to adjudicators: this ensures they can carry out their role efficiently and effectively; and that the outcomes of their decisions are correctly processed. Notwithstanding a general shift towards virtual hearings, this will include the provision of office accommodation for the adjudicators and the administrative staff (as required); information technology (IT) equipment; and paper records that need to be kept.
- 1.6 The current GLA Appeals Service contract provides for the systems and services detailed in the second and third bullets, above; and for the relevant payroll services required in the first bullet. The contract was awarded to London Councils in December 2016, after a competitive tendering process, for five years. It was subsequently extended for two years, to December 2023.
- 1.7 The contract for the independent appeals service is let by the GLA. In November 2022, the Mayor (under cover of MD3059) approved the procurement of a new contract at an estimated value of £14m for seven years and delegation to the Executive Director of Good Growth to execute the contract relet and any subsequent extension decisions. As the current Road User Charging Appeals Service contract expires in December 2023, a tendering exercise for a new contract has taken place, using an Open Procedure adhering to Public Contracts Regulations (PCR) 2015 and using the most economically advantageous tender method of assessment.
- 1.8 Following this tendering exercise, approval is sought to award a new contract for the same services to the incumbent supplier London Councils Ltd. This will ensure continuity of the Appeals Service beyond December 2023.

2. Objectives and expected outcomes

- 2.1. It is a legal requirement of the Road User Charging Schemes that an independent appeals service be provided. The existing contract for the provision of appeals services expires on 9 December 2023. Therefore, a new contract will provide a continuity so that the schemes can continue in accordance with legislative requirements. The existence of this service is an important part of public confidence in London's Road User Charging Schemes.
- 2.2. Changes to any of the existing schemes, and any new schemes – such as the proposed Silvertown Tunnel charge or next generation Charging Schemes, if any such schemes were to be implemented – can be included within this contract. The contract is designed to ensure the service can be scaled to manage changes in the volumes of PCN appeals resulting from changes to the current or new scheme orders.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010, the Mayor and GLA are subject to the public sector equality duty and must have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation
 - advance equality of opportunity between people who share a relevant protected characteristic and those who do not
 - foster good relations between people who share a relevant protected characteristic and those who do not.
- 3.2. The “protected characteristics” are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and marriage/ civil partnership status. The duty involves having appropriate regard to these matters as they apply in the circumstances, including having regard to the need to: remove or minimise any disadvantage suffered by those who share or is connected to a protected; take steps to meet the different needs of such people; encourage them to participate in public life or in any other activity where their participation is disproportionately low. This can involve treating people with a protected characteristic more favourably than those without one.
- 3.3. The contract includes all the relevant provisions on Equality and Diversity and a procurement process was conducted in accordance with responsible procurement practices. The service procurement ensured that members of the public have continued access to an independent tribunal, should they receive a PCN. It is therefore not anticipated that the recommendation in this paper will have any adverse impact on any equality groups within the definition of the Equality Act 2010.
- 3.4. The contract makes provision to ensure the services/contractor are in compliance with all Equality Act provisions; and ensures the tribunal services are accessible to everyone driving within London who may be subject to a PCN.

4. Other considerations

Key risks and issues

- 4.1 The GLA instructed TfL to conduct a tender process. Having submitted the most economically advantageous tender the incumbent supplier is recommended for the contract award thus there is no requirement for a mobilisation period, eliminating the risk of the existing contract lapsing and that an independent appeals service would not be able to operate. The initial procurement timeline allowed for a mobilisation period, should a new supplier be recommended.

Links to Mayoral strategies and priorities

- 4.2 The Mayor's Transport Strategy (MTS) recognises that Road User Charging Schemes have a role to play in traffic demand management. The MTS commits TfL to investigate proposals for the next generation of road user charging systems; the next contract is responsive to any changes to existing schemes or future schemes.
- 4.3 The provision to operate Road User Charging Schemes is set out in the GLA Act 1999 and confirmed within the MTS. It is a legal requirement for the operation of those Road User Charging Schemes that an appeals service be provided.

Impact assessments and consultation

- 4.4 There are no direct impact assessment or consultation requirements as a result of this procurement and contract award.

Conflicts of interest

- 4.5 Those involved in drafting and clearing this decision are subject to the Road User Charging Schemes that operate in London; and have the same recourse to the independent arbitration and appeals service as other drivers.

5. Financial comments

- 5.1. Approval is requested to award the Road User Charging Appeal Service contract to London Councils Ltd and associated expenditure of up to £12,880,590 should extension options be exercised. The Mayor approved the procurement exercise under cover of MD3059 and this Director Decision confirms the award of the contract to London Councils. The contract will start in December 2023 for an initial five year period with further two year extension options included.
- 5.2. The contract costs for the appeals service provision are met directly by the GLA. The GLA obtains reimbursement for the cost of this contract from TfL in accordance with the regulatory framework for the costs of the service. TfL meets these costs through the income received from the operation of the relevant schemes; that is, charges and penalties. There is therefore no overall financial impact on the GLA as a result of this contract being awarded.
- 5.3. The estimated costs of the contract are up to £12,880,590 with an initial £9,200,425 for the first five years, and a further £3,680,165 for further two years if extension options are exercised. This expenditure is budgeted for within the Transport, Infrastructure and Connectivity Unit in Good Growth and is offset by income received from TfL as set out in 5.2 above.
- 5.4. The contract value is formed of two elements – fixed charges and variable charges – as explained in Table 1 below.

£6,254,705	Fixed charges over five years (IT systems, administrative, management, accommodation, exit costs)
£2,945,720	Variable charges over five years estimated (costs for processing appeals received; this is based on number of appeals estimated by the Road User Charging Team and include both current Road User Charging Schemes and planned charging for the Silvertown Tunnel and Blackwall Tunnel and next generation Charging Schemes, if any such schemes were to be implemented)

Table 1. Fixed charges and variable charges

6. Legal comments

- 6.1. Under section 30 of the GLA Act 1999 (the Act), the Mayor (and their delegates pursuant to section 38 of the Act), acting on behalf of the GLA, is entitled to do anything considered to further the promotion, within Greater London, of economic development and wealth creation, and social development; or the promotion of the improvement of the environment.
- 6.2. In formulating the proposals in respect of which a decision is sought officers have complied with the GLA's related statutory duties to:
- pay due regard to the principle that there should be equality of opportunity for all people (further details on equalities are set out in section 3, above), and to the duty, under section 149 of the Equality Act 2010, to have due regard to the need to eliminate unlawful discrimination, harassment, and victimisation; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not
 - consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom
 - consult with appropriate bodies.
- 6.3. Officers have indicated that the services required were procured by TfL Procurement fully in accordance with the Public Contracts Regulations 2015 who determined the detail of the procurement strategy to be adopted in accordance with the GLA's Contracts and Funding Code.
- 6.4. If the Director makes the decision sought officers must ensure that appropriate contract documentation is put in place and executed by London Councils Ltd and the GLA before the commencement of the services.
- 6.5. Further approval will be required to exercise the extension option or any part thereof.

7. Planned delivery approach and next steps

Activity	Timeline
Contract signature	31 July 2023
Contract to commence	10 December 2023
Confirmation of decision to extend contract	November 2028

Appendices and supporting papers:

None

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? YES

If YES, for what reason: Until completion of contract

Until what date: 31 July 2023 (or date of contract signature)

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Catherine Seaborn has drafted this report in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service:

Claire Hamilton has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

Corporate Investment Board

A summary of this decision was reviewed by the Corporate Investment Board on 17 July 2023.

✓

INTERIM CHIEF FINANCE OFFICER:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:



Date:

17/07/2023