

DMPC Decision – PCD 1129

Title: Procurement of Portable Accommodation and Portable Toilets

Executive Summary:

This paper seeks approval for the arrangements for the supply of portable accommodation and toilets to meet operational requirements. An uplift in the value of the current contract of £281,949 is sought to enable continued service provision for a further 12 months, and approval for the early termination of the current contract in March 2023 is requested. The paper also seeks approval to initiate re-procurement of the service to be effective from April 2023, for a initial term of 3 years with two 1 year optional extensions at an estimated value of £1,487,540 over the 5 years. The costs of the uplift value and the on-going demand of the proposed re-procurement can be met from within existing budgets. The re-procurement exercise will include a contingency value to allow for unforeseen activities which would need to be funded as they occur.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

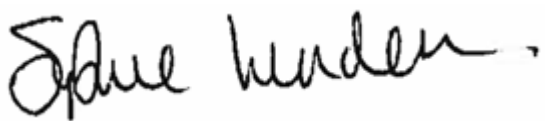
1. Approve the uplift of the current contract value by 50% (£281,949) to provide coverage for planned and projected works;
2. Approve the termination of the current contract early in order to be compliant under the PCR/OJEU regulations, and
3. Approve the Re-procurement of the Service line through either a competitive procedure under the Public Contract Regulations (PCR 2015) or through a mini call off tender via an available identified Framework Agreement with a proposed new total contract value of £1,487,540. This is based on a proposed contract length of 3+1+1 years
4. Approve to award the contract to the successful bidder following the compliant competitive procedure within a 10% tolerance of the values outlined in this paper –to be signed off by the MPS Commercial Director.

Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature



Date 4/4/2022

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1. The contract for the supply of portable accommodation and toilets was awarded with effect from April 2019 for an initial 5 year period with two optional 1 year extensions. The level of spend has exceeded the anticipated level in part due to an under-estimate of volumes during the contract process and in part due to growth in events requiring this service.

2. Issues for consideration

- 2.1. In order to remain compliant with Public Contract Regulations an uplift in the value of current contract to enable continued service provision for a period of twelve months is sought during which a re-procurement of the service will be carried out.
- 2.2. The early termination of the contract is required in order to remain compliant with Public Contract Regulations.
- 2.3. The re-procurement during the next twelve months will provide for the continued supply of this service.

3. Financial Comments

- 3.1. The proposed uplift value of £281,949 to enable the continued provision of the service until March 2023 can be met from within existing Metropolitan Police Service budget.
- 3.2. The estimate of the contract value for the service to be re-procured is £1,487,540 over a maximum term of 5 years. Spend of £987,540 is based on current demand levels which is funded from within existing budgets. A contingency of £500,000 is included in the proposed contract value to allow for access to the service for events which at this stage are uncertain. Funding for contingent events would need to be identified as they occur.

4. Legal Comments

- 4.1. The Mayor's Office for Policing Crime is a contracting authority as defined in the Public Contracts Regulations 2015 ("the Regulations"). All awards of public contracts for goods and/or services valued at £213,477 or above will be procured in accordance with the Regulations.
- 4.2. The Metropolitan Police Service Directorate of Legal Services assure that each of the proposed recommendations is permitted under the regulations, and that the contract terms permit the early termination of the contract. The ground for terminating the contract early is that the uplift in the contract is to the maximum allowed under Public Contract Regulations. Termination is necessary in order to remain compliant with the Public Contracts Regulations.

- 4.3. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime (DMPC) has delegated authority to approve all requests to go out to tender for contracts of £500,000 or above.
- 4.4. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime (DMPC) has delegated authority to approve all unforeseen variations and extensions to contracts with an original value of £500,000 or above, when the variation or extension is greater than 10% of the original value and/or is for a period of more than 12 months.
- 4.5. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime (DMPC) has delegated authority to approve the early termination of all contracts of £500,000, or where, irrespective of the value, the request is felt to be of an exceptional nature because of particular difficulties, sensitivities or potential public interest.

5. Commercial Issues

- 5.1. The service for which these procurement actions are requested relate to the supply of portable accommodation and portable toilets. The supplier is required to provide a resilient, flexible, and reliable service aligned to business need and have the ability to react rapidly and respond to all call outs and emergency/incident responses on a 24/7/365 basis.
- 5.2. The uplift in the contract value of £281,949 is required to enable the on-going provision of the service for the minimum time to allow for a re-procurement. As the uplift in value is 50% of the original contract value there is the need for the re-procurement of the service and the early (March 2023) termination of the existing contract.
- 5.3. The Met report that the re-procurement will take account of responsible procurement and social value including elements of the Anchor Institution charter objectives as part of the evaluation process.

6. GDPR and Data Privacy

- 6.1. MOPAC will adhere to the Data Protection Act (DPA) 2018 and ensure that any organisations who are commissioned to do work with or on behalf of MOPAC are fully compliant with the policy and understand their GDPR responsibilities.
- 6.2. The MPS assure that the proposal does not use currently personally identifiable data of members of the public, so there are no current GDPR issues to be considered.

7. Equality Comments

- 7.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations

by reference to people with protected characteristics. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 7.2. These contract changes are expected to result in minimal equality impacts as due diligence of any provider is always undertaken to maintain the highest levels of equality, and noting the MOPAC commitment across all contracts to guarantee payment of the Mayor's London Living Wage.

8. Background/supporting papers

- Appendix 1 MPS Report - The Provision of the Supply and Hire of Portable Accommodation and Portable Toilets

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 MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If yes, for what reason:

Until what date: n/a

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a **Part 2** form – YES

ORIGINATING OFFICER DECLARATION	<i>Tick to confirm statement (✓)</i>
Financial Advice: The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Legal Advice: The MPS legal team has been consulted on the proposal.	✓
Equalities Advice: Equality and diversity issues are covered in the body of the report.	✓
Commercial Issues Commercial issues are covered in the body of the report.	✓
GDPR/Data Privacy GDPR compliance issues are covered in the body of the report.	✓
Drafting Officer Alex Anderson has drafted this report in accordance with MOPAC procedures.	✓
Director/Head of Service: The interim MOPAC Chief Finance Officer and Director of Corporate Services has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature

Sanakucherd.

Date 28/02/2022



MOPAC

MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

The Provision of the Supply and Hire of Portable Accommodation and Portable Toilets

MOPAC Investment Advisory & Monitoring meeting 3rd February 2022

Report by KBR / MPS on behalf of the Chief of Corporate Services

Part 1 – This section of the report will be published by MOPAC. It is classified as OFFICIAL – PUBLIC

EXECUTIVE SUMMARY

The contract for the Provision of Portable Accommodation and Toilets was awarded to Newship Limited T/A Qdos Event Hire Limited on 10th April 2019 on a 7 year contract term (5 year base term + two 1 year extensions).

The spend for this service line has exceeded its projected values advertised and awarded as part of the Procurement exercise. The Service was awarded at £563,899 value, based on a projected spend of £6,713 per month.

The actual spend has averaged out at £16,459 per month which has equated to a total value spend of £510,228 to date (as of 25/11/21), meaning that the awarded value is depleted ahead of schedule and will be fully exhausted circa 10th March 2022.

To alleviate this issue we are recommending that the contract value is increased by 50% from £563,899 to £835,848 (£281,949 uplift). The additional 50% uplift (£281,949) will be sufficient to meet the operational requirement plus provide some contingency until 31/03/2023. The contract requires early termination in order to remain compliant under the PCR/OJEU regulations.

In conjunction with this The Integrator recommends that by initiating a procurement procedure, and opening the opportunity to the market, either via a restricted procedure or through a mini competition through an established Framework Agreement the Authority will remain compliant in the long term by deployment of a new contract with accurate value forecasts built into the requests.

Recommendations

The Deputy Mayor for Policing and Crime, via the Investment Advisory and Monitoring meeting (IAM), is asked to:

- 1. Approve the uplift of the current contract value by 50% (£281,949) to provide coverage for planned and projected works and;**
- 2. Approve the termination of the current contract early in order to be compliant under the PCR/OJEU regulations**
- 3. Approve the Re-procure the Service line through either a competitive procedure under the Public Contract Regulations (PCR 2015) or through a mini call off tender via an available identified Framework**

Agreement with a proposed new total contract value of £1,487,540. This is based on a proposed contract length of 3+1+1 years

- 4. Approve to award the contract to the successful bidder following the compliant competitive procedure within a 10% tolerance of the values outlined in this paper –to be signed off by the MPS Commercial Director.**

Time sensitivity

A decision is required from the Deputy Mayor by 04/03/2022. This is to allow for the contract value extension to be applied to the ongoing PO and start the re-procurement.

Non-confidential facts and advice to the Deputy Mayor for Policing and Crime

Introduction and background

1. The contract for the Provision of Portable Accommodation and Toilets was awarded to Newship Limited T/A Qdos Event Hire Limited on 10th April 2019 on a 7 year contract term (5 year base term + two 1 year extensions).
2. This service line requires the Provision of the Supply and Hire of Portable Accommodation and Portable Toilets, to support police operations. The supplier is required to provide a resilient, flexible, and reliable service aligned to business need and have the ability to react rapidly and respond to all call outs and emergency/incident responses on a 24/7/365 basis within the Operational Support Group (OSG) Operational Area, Home Counties and occasionally nationally. This contract is classed as an OSG critical contract, with an ongoing requirement for this service to be provided.
3. The spend for this service line has exceeded the projected values advertised and awarded as part of the Procurement exercise. The Service was awarded at £563,899 value, based on a projected spend of £6,713 per month.
4. The actual spend has averaged out at £16,459 per month which has equated to a total value spend of £510,228 to date (as of 25/11/21), meaning that the awarded value is depleted ahead of schedule and will be fully exhausted circa 10th March 2022.

Issues for consideration

5. The reasons behind the service overspend have been investigated by KBR and the findings show that this issue is due to not having the correct up to date data and forecast demand planning available. When tendering the original package, it has now come to light that the numbers were incorrect due to a clerical error. Together with this, the growth in demand during this period has risen, most notably around mobile armouries (NATO summit, G7 Cornwall, COP26 Scotland, Op Forth Bridge, POTUS, party conference, Media conference) and growth in mobile welfare facilities around protests (Covid, XR etc).

6. The overspend was not spotted early enough in tables produced by KBR. This error was compounded by the figure of £1.9m being used in the monthly PMG (Performance Management Group) reports (which was the indicative contract value used in the tender) rather than the awarded figure of £563,899. This in turn meant that the percentage figure was artificially low and didn't flag a warning at first. The use of the £1.9m figure rests with KBR but remained unchallenged by the PMG (Performance Management Group) process in general until March 2021 when KBR Supply Chain audits flagged the issues leading to this suggested course of action.
7. To mitigate this happening on a new contract, an improved approach to planning and demand has been adopted with detailed forecasting based on historic spend and an analysis of planned future events. This will ensure the correct contract value is in line with the current average spend per month to reduce this risk. In addition we are implementing improved due diligence on contract trackers and governance applied to this function, this includes a review of the client governance process and spend will be monitored by both the integrator and the client team on a monthly basis for early identification of overspend trajectories.
8. The contract entitles the Authority to terminate the agreement early. Clause 11.1.2 " The Authority, by giving not less six months' notice to the Supplier, may terminate the whole or any part of this Contract for convenience, as of the date specified in that notice (as the same may be amended in accordance with clause 11.1.3) in which case the provisions of the Termination Compensation Schedule and the provisions of the Exit Schedule shall apply as appropriate."

Contributes to the MOPAC Police & Crime Plan 2017-2021¹

9. This is an Operational Support contract specifically to provide temporary accommodation and toilets (welfare facilities, crime reporting cabins, prisoner reception points, mobile armouries etc) in support of critical frontline policing activities. These include unplanned events (crime scenes and major incidents), planned events (Notting Hill Carnival, Govt summits) and Ceremonial Events (Trooping the Colour, Remembrance, State Visits). All these are MPS priority activities in which this contract supports on a 24/7/365 basis.

Financial, Commercial and Procurement Comments

10. As part of this request there is a proposed uplift to the current contract. As an uplift to an existing service this work does not change any aspects relating to responsible procurement. Further information is contained in the restricted section of the report.
11. As part of this request there is a proposed extension to the current contract. As an extension to an existing service this work does not change any aspects relating to responsible procurement. Further information is contained in the restricted section of the report.
12. Table A is a summary of the Service line with the current monthly spend to date. It

¹ [Police and crime plan: a safer city for all Londoners | London City Hall](#)

also shows the 50% contract uplift value and the date this uplift will enable the MPS to utilise the contract till.

Table A:

Contract	Contract Start Date	Contract Expiry Date (Base Term 5 Yrs.)	MPS Total Contract Value (£)	MPS Total Spend YTD (£)	MPS Average Monthly Spend to Date	50% Contract Value Extension	New date of Contract ceiling value full erosion (with 50% Uplift)
The Supply and Hire of Portable Accommodation and Portable Toilets	10th April 2019	8th April 2024	£563,899	£510,228	£16,459	£281,949	31/03/2023

OSG Estimated Final Projected Spend Ongoing and TBC any date up to 31st March 2023 is £312,346.

- The funding will be in place for the expected re-procured contract value and is built into existing operational support budgets. There is sufficient funding within the existing operational support budget to cover this uplift in contract value. The Contingency value is likely to be funded by corporate finance for events such as Operation Bridges. If not funded centrally the funding for contingency requests will be funded from Property Services bottom line annual budgets.

Table B is a summary of the new agreement following procurement exercise.

Table B:

Proposed New Total Contract Value including contingency (5 years)	Contract Start Date	Proposed Contract Length
£1,487,540	01/04/2023	3+1+1

- The CSR and Social Value elements (including the anchor institution charter) will be worked through together with MOPAC colleagues to be built into the scope of service.

Legal Comments

- The Mayor's Office for Policing and Crime (MOPAC) is a contracting authority as defined in the Public Contracts Regulations 2015 (the Regulations). The Regulations require (amongst other things) that contracts above the value of £213,477 for goods/service generally needs to be subject to an open, advertised procurement.

16. The Regulations permit modifications to contracts in limited circumstances. Where none apply regulation 72(9) requires that a new procurement procedure shall be required. This report confirms it is not possible to modify compliantly the existing contract and so regulation 72(9) requires MOPAC to undertake a new procurement procedure.
17. DLS is instructed it would not be possible to procure a new contract prior to March 2023 due to the time it would take and the absence of more expedient alternative options. Accordingly, the proposed uplift is required in order to provide coverage for planned and projected works from now until that period. DLS considers the risk of successful challenge to be low on the basis the MOPAC is to terminate the contract in order to be compliant with the Regulations and the proposed uplift is proportionate in order to achieve continuation of supplies in the intervening time.
18. This report confirms the contract terms permit the Authority to terminate the agreement for convenience upon giving not less than six months' notice.
19. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides that the DMPC has delegated authority to approve
 - all unforeseen variations and extensions to contracts with an original value of £500,000 or above;
 - The early termination of all contracts of £500,000, or where, irrespective of the value, the request is felt to be of an exceptional nature because of particular difficulties, sensitivities or potential public interest;
 - all requests to go out to tender for contracts of £500,000 or above, or where there is a particular public interest.

Equality Comments

20. Minimal impacts - Due diligence of any provider is always undertaken to maintain the highest levels of equality and noting the MOPAC commitment across all contracts to guarantee payment of the Mayors London Living Wage.
21. The CSR and Social Value elements (including the anchor institution charter) are being worked through together with MOPAC colleagues to be built into the scope of service
22. The following five key objectives agreed by the London Recovery Board:
 - To reverse the pattern of rising unemployment and lost economic growth caused by the economic scarring of Covid-19
 - Narrow social, economic and health inequalities
 - Help young people to flourish with access to support and opportunities
 - Support our communities, including those most impacted by the virus
 - Accelerate delivery of a cleaner, greener LondonWill be achieved through ensuring that the bidders compete for this contract based on obligations to:
 - deliver local employment and their innovation in doing so;
 - have inclusion and diversity values that are reflected within their workforce;
 - work towards achieving 80% recycling;
 - have apprenticeship schemes in place; and
 - bring innovations into reducing their carbon footprint whilst working

towards carbon net-zero

The bidders responses will be evaluated on above criteria which will form an integral part of MOPAC's intended contract obligations on the supplier.

We will also research more London based businesses and engage with them for further market engagement and seek expressions of interest to bid.

Privacy Comments

23. There are no privacy concerns identified within the scope of the recommendation of this contract.

The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the European Convention of Human Rights and the Data Protection Act (DPA) 2018. Both legislative requirements place an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the rights and freedoms of individuals.

Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) become mandatory for organisations with technologies and processes that are likely to result in a high risk to the rights of the data subjects.

The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the programme meets its compliance requirements.

The programme does not use currently personally identifiable data of members of the public, so there are no current GDPR issues to be considered. If the programme uses personally identifiable data of members of the public at a later date DPIAs will be completed as needed.

Real Estate Implications

24. None other than to ensure a compliant suite of contracts.

Environmental Implications

25. The MPS Environment and Sustainability policy and the MPS Environment & Sustainability Strategy 2019-2021 have been taken into consideration. The specification of requirements for the Portable Accommodation and Portable Toilets agreement will capture the MPS commitment to the Greater London Authority Responsible Procurement Policy. This will be in addition to the provisions available via any other relevant framework agreements such as legislative compliance, specifically in relation to waste legislation.
26. The vehicles used for the transport of any portable accommodation or toilets should be ULEZ compliant and any operator should have the necessary licence(s) to undertake the requirements of this contract.
27. The use of portable accommodation and portable toilets will only be utilised when, more sustainable options such as in-house facilities, are not available.

Background/supporting papers

28. There are no supporting papers included in part 1

Part 2 – This section refers to the details of the Part 2 business case which is NOT SUITABLE for MOPAC Publication.

The Government Security Classification marking for Part 2 is:
OFFICIAL-SENSITIVE [COMMERCIAL]

Part 2 of The Provision of the Supply and Hire of Portable Accommodation and Portable Toilets is exempt from publication for the following reasons:

- The relevant sections under the FOIA that would exempt this information from disclosure, for example:
 - Commercial Interest Section 43

The paper will cease to be exempt for a minimum of 6 years according to the MPS Records Management Policy.