Mechanical & Electrical, General Building Works & Locksmiths (MEGBW) North and South Lots – Increase in contract value to enable use of the final available year

MOPAC Investment Advisory & Monitoring meeting 1st August 2023

Report by Vince Fihosy on behalf of the Chief of Corporate Services

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

EXECUTIVE SUMMARY

This Business Justification paper asks for contract value uplift for the Mechanical & Electrical, General Building Works and Locksmiths (MEGBW) Services Contracts (2 lots, North and South), to allow second option year of the contract term to be exercised.

Both contacts have a second option year available but contract value will be exceeded if this option is utilised. Because the value exceeds the threshold for delegated authority but comply with Public Contracts Regulations 2015 (PCR 2015) under provisions of Regulation 72, approval is sought from DMPC for an uplift in contract value.

There is no impact on budget because this uplift is based on current spend. It would simply mean that the existing budget, during this extension year, is spent with the current supplier rather than with a new supplier following re-procurement. Re-procurement would bring risk to budget as current market conditions could see a cost increase.

Recommendations

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

1. **Approve** an uplift in the value of the Mechanical & Electrical, General Building Works and Locksmiths (MEGBW) South Lot contract with Equans (formerly Engie) by £19,714,853, which is 27% of the original Contract value approved by MOPAC for the seven-year term.
   a. This enables a realignment of the contract's annual spend to the current rate of annual spend and includes adjustments for both indexation in years 4,5,6 and 7 and the transfer of gates and barrier maintenance, following exiting of the gates and barrier contractor.
   b. The new value of the Contract for the 5+1+1 year term will be £97,030,887 against the originally approved value £72,827,823 for the 5+2 term. The uplift is against the approved contract value and no additional funding will be required by MOPAC as spend is managed within MPS existing budgets.

2. **Approve** an uplift in the value of the Mechanical & Electrical, General Building Works and Locksmiths (MEGBW) North Lot contract with Atalian Servest by £27,062,294, which is 26.3% of the original Contract value approved by MOPAC for the seven-year term.
    a. This enables realignment of the contract’s annual spend to the current rate of annual spend.
    b. The new value of the Contract for the 5+1+1 year term will be £129,884,837 against the originally approved value £102,822,543 for the 5+2 term. The uplift is against the approved contract value and no additional funding will be required by MOPAC as spend is managed within MPS existing budgets.

<u>Noting that:</u>

Contracts for the provision of MEGBW South and North Services were awarded to Equans and Servest respectively in 2018 for a five-year term with options to extend each Contract by two, 1-year extensions (5+1+1). The Contracts initial 5 years terms would have expired on 29th April 2023.

a) DMPC decision PCD303, dated 05 February 2018, for the award of these contracts included approval for 2 one-year optional extensions of the term; one year of which on both contracts has been exercised.

b) DMPC decision PCD1261, dated 05 September 2022 approved the re-procurement of these services and work to this end is underway. The extension simply delays contract commencement by 1 year to give time to make changes to the contract specification and avoid the risk associated with current market conditions, predominantly associated with inflation.

c) Due to the actual annual spending exceeding that originally forecasted, this paper seeks approval for the increase in the value of the contracts.

d) The request for an uplift is against the approved contract value and no additional funding will be required by MOPAC. The increase is to allow for inflation and the additional expenditure from other MPS Business groups, whose budgets would have been established through their own separate business cases as appropriate. The contract is also currently being used for gates and barriers as the MPS has ceased its relationship with the previous supplier at the end of the base period due to poor performance.

e) In exercising the one-year extension periods for both contractors previously the value of the Equans contract was increased by 5.5% within delegated authority in Apr 2022. Increased pressure through high inflation and the intention to utilize the second option year means the increase for both contracts would exceed a 10% threshold and this paper therefore requests approval for this change.

f) The requested uplift in values are in full compliance with the Public Contracts Regulations 2015 (PCR 2015) under provisions of Regulation 72. (Key Contract Value: Table 1 – Procurement / PCR2015 Figures is detailed in the part 2 full business justification paper.

g) Whilst the current estate strategy remains under review to accommodate the Commissioners turn around and the New Met for London plan, it is imperative to maintain and continue these services across the MOPAC Estate.

Irrespective of the outcome of the strategy review and any subsequent decisions, the requirement to continue these services on those properties retained or acquired remains

Time sensitivity

A decision is required from the Deputy Mayor by 08/09/2023. to enable contract extension notice to be issued and purchase order value to be uplifted in accordance with contract timelines and to enable procurement planning for the next contract to be established. Continuation of these services is critical to the compliance of the estate and the support of operational policing.

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

Introduction and background

1. Servest Group Limited and Equans Services Limited were awarded Contracts effective from 30th April 2018 for the provision of Mechanical & Electrical, General Building Works & Locksmith (MEGBW) for North and South Lots respectively. Both Contracts were awarded for a term of 5 years with options to extend for 2 one-year periods.
2. These contracts deliver planned maintenance works, reactive response and minor projects. By design they include a degree of headroom within the contract values to allow for a variable nature of reactive work but also provide a flexibility to deliver small projects that can respond to changes in operational need in an efficient and effective way, including instances where budgets outside Property Services are used to fund these small projects.
3. Both contracts have been extended by a single year with the intention of re-procuring at the end of that period. During the market research period it has become apparent that re-procuring during a period of high inflation is likely to see an increase in costs, and that because economic predictions suggest a sharp drop in the rate of inflation during 2023 there is benefit in exercising the second year option. Additionally during engagement with framework providers, it is apparent that our model of contract, in terms of the technical specification and pricing model is significantly different to most frameworks. Utilising an additional year will enable a full review of our technical specifications and planned maintenance schedules and allow better access to frameworks and to incorporate best practice from other organisations in the scope for 'hard FM' services. This work has already begun and changed planned maintenance priorities will be applied to these existing contracts during their remaining term.
4. The South Lot contract with Equans (formerly Engie) was uplifted by £4,488,211, 5.5% of the Original Contract Value approved by MOPAC for the seven year term in 2022.

Issues for consideration

1. The proposed arrangements and the benefits envisaged:

- Continuation of service by existing Suppliers for a further 12-months period providing continuity in service during potential change in size and complexity of the estate.

- Costs certainty with existing supplier through continuation of current pricing and contract rates (subject to AWE inflation)
- Avoids duplication of re-procurement costs through adopting a single lot.
- Potential to reduce re-procurement cost and time, through using an existing hard services framework.
- MPS Legal note supports this as compliant route (no breach of Regulation 72)
- Delays and mitigates anticipated increased cost of service, through retention of competitive rates secured in 2018
- Allows sufficient time to re-procure new and aligned contracts to achieve greater efficiencies
- Avoids possible duplication of TUPE application on contractor staff if having potentially two service provision changes within 12 months
- Enables addition of gates and barriers into the hard services model to be fully tested prior to re-procurement. The budget for this service is transferred as well as the service. Gates and Barriers will be included in the next generation of hard services contract in 2025 so when that separate service contract ended it has been moved into this service rather than re-procure separately on a very short term.
- Benefits identified in re-procurement as a single lot approved in PDC1261 will still be realized but delayed procurement will reduce current market risk pricing for inflation.

Risks and Mitigations

Below risks and mitigations were identified and assessed

Ref	Category	Risk Description	Date Raised	Post Mitigation Risk Rating		Risk Level	Mitigating Action / Proposal to Manage
				Probability	Impact		
1	**Commercial**	**Inflation:** There is a risk inflation rises above the current ONS projections AWE level leading to an additional cost	24-March-23	**Medium**	**Medium**	**5**	1. *Authority to build in enough contingency into the uplift to factor in inflation over the 2 years.* 2. *FM Integrator to monitor AWE inflation via ONS and provide update to the Authority.*
2	**Commercial**	**PCR 2015 Challenge:** There is a risk that the market may challenge any uplift in contact value if >50%	24-March-23	**Low**	**Low**	**1**	1. *MPS to ensure robust legal advice is taken to mitigate this.* 2. *Uplift shall be considered in the context of regulation 72.* 3. *The increase in the value less than 50% at 33.23% for MEGBW (South) and 24.3% for MEGBW (North)*
3	**Commercial**	**Monthly Spend Rate** There is a risk that spending increases further due to unknown change control, e.g., change in Estate strategy, Met turnaround plan (new Met for London) or a reduction in capital investment causing greater reliance on maintenance.	24-March-23	**Medium**	**Medium**	**5**	1. *Appropriate commercial risk percentage to be added to the uplift value* 2. *FM Integrator to monitor run rates and provide updates to the Authority.* 3. *Allocate increased proportion of project work through Framework suppliers available under separate contracts (SW Bruce and Vinci)* 4. *Large change will be the subject of separate papers and Governance.*

4	**Operational**	**Supplier Performance Issues** There is a risk that during a final year supplier's performance declines leading a non-compliant estate.	24-March-23	**Medium**	**Medium**	**5**	1. *FM integrator to continue to performance manage both suppliers during the extension period* 2. *Seek options to "Step in" where failures occur with one supplier using the other where possible.* 3. *Call on supply chain resilience (SW Bruce and Vinci) as required to mitigate non-compliance.*

The economic case of the one-year extensions of the Contracts and the Value for Money principles remain per the initial business Justification Paper. Including the added benefits detailed in the Strategic case above.

Options to Satisfy Business Requirement	Pros	Cons	Risk Indicator
1. Extend Contracts for both Equans (South Lot) and Servest (North Lot) for 1 Year each (and uplift values to realign with actual spending)	• Continuation of service by existing Suppliers for a further 12-months period • Costs fixed (subject to AWE inflation) • Mitigates risk of new entrant to estate and poor performance • Avoids duplication of re-procurement costs. • MPS Legal note supports this as compliant route (no breach of Regulation 72) • Not exposed to potential market increases • Capitalises on the benefit of the competitive rates secured in 2018) • Provides additional time to review and align technical specification with industry best practice.	• Loss of opportunity to assess the market with the new Estate Strategy	**Recommend**
2. Re-procure both contracts as a single lot as originally intended	• Opportunity to assess the current market. • Incorporation of minor changes to current contract to make improvements in scope.	• Likely significant increase in cost from current contracts due to inflation. • Inadequate time to make wholesale changes to contracts in line with industry best practice and to align with available frameworks • Not achieving a leaner supplier	**Not Recommend**

		structure due to re-procuring the same service delivery model	
3. Do Nothing for Equans (South Lot) and Servest (North Lot) – allow natural expiry	• None noted	• There is no viable do nothing option available because the contract will end leaving the estate non-compliant. • Based on predicted spend profile the PO values against the full contract term will be fully consumed for MEGBW (South) by February 2024 and for MEGBW (North) by January 2024	Not Recommend

Contributes to the MOPAC Police & Crime Plan 2022-25[1]
This requested enables currently embedded services that are essential to the compliance of the estate, and maintain facilities needed to enable operational policing to function. The provision of stability of service during what may be a period of change in the estate and stability in terms spend also support the operational functions of the Met.

Commercial and Procurement Comments
Following a PCR2015 compliant Competitive Procurement process and DMPC approval decision "PCD303, dated 05 February 2018, Equans Services Limited and Atalian Servest Group Limited were awarded contracts for the provision of a full maintenance (reactive and planned) services for Mechanical & Electrical, General Building Works and Locksmiths Maintenance (MEGBW) Services for the South and North Lots respectively.

Both Contracts were awarded for effective 30th April 2018 for a 5-year period with options to extend for two 1-year periods. The base term end date for both Contracts is 29th April 2023. An uplift in contract value is required to enable the available 2 extension years to be utilised taking the end date to 29th April 2025.

Extending the Contracts by one further year to utilise the full term available, and to uplift the values to enable this, will mitigate significant duplication of costs in having to run a re-procurement process whilst extension options are available to the Authority. It also allows sufficient planning to realign the scope of the services to the Estate Strategy. Extension by a further one year will also mean that the MPS will benefit from the competitive rates secured in 2018.

Support to Anchor institutes was identified in the paper that lead to approval under PDC1261. As this paper relates to contact uplift only within an existing contract, there are no changes able to be made in this regard resulting from this uplift in value.

Annual overspending:

Due to average annual spending profile exceeding that originally forecasted, the contract values need to be uplifted to realign the contract value to the actual spending

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

and the revised forecast.
The annual spending on both contracts exceeded that originally forecasted and approved due to factors beyond the Authority's control. Examples of these key factors are:

- Additional reactive works due to historical underspend on lifecycle replacements.
- Delays in the disposal programme and retention of additional sites from that anticipated at tender
- COVID-19 (from March 2020) causing additional spend associated with project works to support reactive services.
- Inflation figures used in the original contract values, effective from year 4 using average weekly earnings (AWE) were 3.9% in both lots. Servest actuals have been 7.13% Year4, 4.74% Year 5 and circa 10% anticipated for Year 6. Equans actuals have been 6.71% Year 4, 4.74% Year 5 and circa 10% anticipated for Year 6
- Use of these contracts to deliver additional works which has provided a choice for PSD to respond to operational need in a flexible way and provide projects including where funded from other budgets in PSD or within the wider MPS. Examples include REFIT energy efficiency works and the roll out of the Body Worn Video infrastructure.
- Inclusion of additional services (Gates and Barriers) into the scope of Equans following the end of a discrete service contract that was under delivering, together with additional maintenance to specialist security pods.
- Use of construction framework contracts will be increased during extension years to minimise impact of continued overspend where appropriate.

Recommended Value Uplifts:

Figures Taken from Key Financial Data at Section 1 (Decision Required) in the restricted section of this report (Part 2):

- MEGBW South – Equans: £19,714,853 – 27%of the Original Contract Value
- MEGBW North – Servest: £27,062,294 – 26.3% of the Original Contract Value

As an extension to an existing service this work does not change any aspects relating to responsible procurement.

Financial,
The request for an uplift is against the approved contract value and no additional funding will be required. Contract Expenditure is managed within MPS existing Planned and Reactive Maintenance budget of £53m and this contract value uplift means the 24/25 FY budget allocated to this service line will be spent with the incumbent supplier rather than a new supplier. The contract Value is over current budget as it includes inflation, which is managed and reviewed annually within the Medium Term Financial Plan (MTFP) and potential growth for example the Met Turnaround plan (new Met for London), would be part of a separate Business Case where necessary.

Due to price volatility, inflation is excluded from budget and planned expenditure is currently within the allocated budget for MEGBW therefore the PSD is not asking for additional budget. Inflation is managed centrally and a corporate uplift is applied to budgets based on an annual basis so is excluded from the budget figures in this paper.

Budget and expenditure table is included in the restricted section of this document (Part2)

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"). All awards of, and modifications to, public contracts for goods and/or services valued at £213,477 or above shall be procured in accordance with the Regulations.

Regulation 72 permits MOPAC to modify a contract in limited circumstances. Specifically, regulation 72(1)(b) provides MOPAC may modify a contract where:

- It is not possible to change contractor due to technical or economic reasons; and
- To change contractor would cause MOPAC to suffer significant inconvenience or substantial costs duplication

Provided the value of the modification does not exceed 50% of the value of the original contract.

This report confirms the above are met. On that basis, the modifications shall be compliant with procurement law.

The MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime has delegated authority to approve:

1. Business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8); and

2. 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 (paragraph 4.8).

Equality Comments

1. As this relates purely to a value uplift for an existing contract there are considered no negative equality or diversity implications arising from this process negating the requirement to present any mitigation.

Privacy Comments

1. 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.

2. 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.

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

4. The contract does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered. This is not a new project or programme and purely relates to the contract value of an existing contract.

Real Estate Implications

1. This change support the Estate Strategy by ensuring compliance and function of the estate. Stability created by continuation of existing arrangements also supports a period of change.

Environmental Implications

1. The MPS Environment Policy and the Environment and sustainability strategy will be taken into consideration with any change in contract arrangements and the projects it delivers.

Background/supporting papers

1. There are no supporting papers.

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

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

Part 2 of **‘**Mechanical & Electrical, General Building Works & Locksmiths (MEGBW) North and South Lots – Increase in contract value to enable use of the final available year’, is exempt from publication for the following reasons:

- Commercial Interest Section 43

The paper will cease to be exempt until 19th April 2025. Any request for information under FoIA would need to be assessed on a case by case basis, no matter what or when the original decision was made, as the circumstances may have changed eg information no longer commercially sensitive.