

MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME**Single Tender Action for Specialist Vertical Real Estate Consultants****MOPAC Investment Advisory & Monitoring meeting November 2023****Report by Vince Fihosy on behalf of the Chief People and Resources Officer****Part 1 – This section of the report will be published by MOPAC. It is classified as OFFICIAL – SENSITIVE (Operational)***Executive Summary*

This Business Justification paper seeks approval for a Single Tender Action (STA) request with Hub Telecoms Consultancy Ltd (Hub) for the provision of specialist vertical real estate (rooftop masts and electronic apparatus) advice continuing the protection of, and defence of the MOPAC Estate. This follows changes to the Electronic Communications Code (ECC) and the Product Security Telecommunications Infrastructure (PSTI) Act in 2022.

The current contract in place for Hub ends on 31 December 2023. The duration of the new requested STA is for 2 years with an option to extend for a further year.

The anticipated annual maximum expenditure will be up to £150,000. This may be partially offset should any court proceedings rule in favour of the MOPAC.

Recommendations

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

1. Approve a Single Tender Action (STA) request with 'Hub Telecoms Consultancy Ltd (Hub) for the provision of specialist vertical real estate advice. The duration of the requested STA is for 2 years with the option to extend for a further year at a estimated annual value of £150,000.

Time sensitivity

A decision is required from the Deputy Mayor by 30/11/2023. The continuation of these services is critical in order for the MPS to maintain a robust defence in preventing operators gaining unfettered access to the MOPAC estate, in turn, ensuring the continuity of operational policing.

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

Introduction and background

In 2017, the Digital Economy Act 2017 introduced a new Electronics Communications Code into Schedule 3A of the Communications Code Act 2003 which was intended to help facilitate the rollout of 5G. This gave Telecoms Operators wide ranging statutory rights (Code rights) to help achieve this purpose. The next update was presented in the Product Security and Telecommunications Infrastructure Bill that became an Act in December 2022 and

- 1 allows Mobile Network Operators (MNO's) unfettered access by non-security cleared persons to any non-domestic property, for the purpose of installing Mast and Network equipment and apparatus.
- 2 The changes to legislation means that MNO's can demand access to any Authority property and this effectively provides them with more rights of access to the MPS estate than police officers. It should also be noted that,
- 3 if equipment is installed to the property, the owner of that property is not permitted to redevelop or sell without giving prior notice to the MNO. This raises concerns about delays to redevelopment projects.
- 4 These installations significantly impact the Authorities ability to safely and compliantly maintain a compliant estate. Also that installations have a potential to obstruct the continued operation of MPS equipment and the use of this space.

There is an immediate threat that MNO's could take advantage of these rights, causing potential security risks and sensitivity issues.

Under the new legislation, MNO's can now both subcontract and assign contracts at will, without fear of challenge or permission from the authority, to any third party giving even wider scope of risk. There are currently (at last count) approximately 249 MNO/Code operators operating within the UK, many of which are foreign owned. The MPS together with Hub (providing the technical expertise) and Eversheds (providing legal expertise in this field) have worked together to obtain a partial exemption for law enforcement and defense. Further detail is provided in Part 2.

Issues for Consideration

The DMPC is advised that Hub are uniquely placed to support the MOPAC given the infancy of this legislation and the limited availability of client/landlord advisors. HUB have:

- Excellent knowledge of the Electronic Communications Code and understanding its impact upon the MPS
- Intrinsic knowledge of MPS telecoms systems (covert, overt, Digital Policing, CCTV, UAV) members of technology teams and security partners
- Detailed knowledge of MPS own existing sites including 3rd party buildings and land
- Exceptional knowledge of Airwave systems (current ESN provider) installed upon and inside MPS assets
- Dealing with other blue light clients and public authorities

This is expanded further in Part 2.

Risks and Mitigations

The table below shows risks that have arisen as a result of changes to legislation from the PSTI Act which will be mitigated as a result of this appointment;

Ref	Category	Risk Description	Date Raised	Post Mitigation Risk Rating		Risk Level	Mitigating Action / Proposal to Manage
				Probability	Impact		
1	Security Risk	Unfettered Access: <i>Potential information/data breach and premises accessed by non-vetted/security cleared persons Interfere with MPS own power supply affecting operational use of the building</i>	February 2021	High	High		1. Continue to seek further exemptions through Hub with the support of Legal advice, the MPS internal working group and other security partners
2	Security Risk	Subletting: <i>Following statutory changes in law, no control over operators subletting or assigning their lease to any other of the 249 code operators (many foreign owned)</i>	February 2021	High	High		2. Continue to seek further exemptions through Hub with the support of Legal advice, the MPS internal working group and other security partners
3	Operational	Communication interference with MPS systems	February 2021	High	High		3. Continue to seek further exemptions through Hub with the support of Legal advice, the MPS internal working group and other security partners
4	Operational	Impact of MPS operational use of roof due to exclusion zones (observation posts, future drones, cctv,	February 2021	High	High		4. Continue to seek further exemptions through Hub with the support of Legal advice, the MPS internal working group and other security partners

Contributes to the MOPAC Police & Crime Plan 2022-25¹

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

This request directly supports the MOPAC plan along with ensuring the continuity of operational policing and use of MOPAC properties. It directly supports the goals of the Commissioner's Turnaround Plan, to deliver More Trust, Less Crime and High Standards:

More Trust

Maintaining the security of the estate and allow the MPS to continue to achieve the best outcomes in the pursuit of justice and ensure victims of crime are supported and receive a service they can have faith in.

Less Crime

As our society becomes ever more digitally enabled, the threat from criminals is now expanding as rapidly as the technological advances themselves. Access to roof spaces on all MPS buildings may expose the MPS to potential criminal activities. There are few crimes without some form of digital evidence 'footprint', due to the reality that criminals themselves are using digital products in their daily lives, often to facilitate criminal behavior.

High Standards

The estate will be protected from security threats to enable the efficient operation of the police and national security functions.

Commercial and Procurement Comments

The PSTI Act is in its infancy and evolving daily, the available resources within this market to support the needs of MOPAC and the MPS is limited. MPS has researched this market engaging with key players within this limited field and unfortunately the other providers that represent landlords did not have the necessary skills, experience and depth that Hub have. Hub have a track record of representing landlords including (but not limited to) Local Authorities and the Fire Authority thus becoming an expert within this field. Securing Hub to support this evolving piece of work will place MOPAC and MPS in the best place possible to defend our position.

There would be a critical and significant impact to operations and national security were the MOPAC to lose control of the building roof spaces.

The MPS will continue to engage with the market as the case law and legislation evolve to ensure suitable long term options are evaluated for future commissions.

Value for Money

The Authority seeks this route as it has been identified as the strategy for providing the best value for money and to ensure the continued high operational performance to the MPS. The commercial rates that have been negotiated against this commission are commensurate with other specialist advisors employed by the MPS on behalf of the

MOPAC. Any court proceedings that are awarded in favour of the MOPAC as a direct result of the support from HUB will allow recovery of fees.

Financial

The MPS is seeking approval for an STA for the award of a two year initial contract period with the option of a further single one year extension. The maximum contract duration will be 3 years with a total contract value of up to £450,000.

Further detail is provided in Part 2.

Legal Comments

1. 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. This report confirms the value of the recommendations exceed this threshold.
2. This report confirms it is believed no other specialist vertical real estate specialist providers would could provide the expertise and continuity of service to protect the MPS estate and security. Commercial Services will satisfy itself this position remains and that there are no other providers willing and capable of providing the services to fulfil the MPS requirement prior to award. In the event of identifying other providers Commercial Services will explore other most economic advantageous tender if proved to be the case.
3. The MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime ("DMPC") has delegated authority to approve:
4. All contract exemptions for £100,000 or above (paragraph 4.13); and
5. Paragraph 7.23 of the Scheme provides that the Director of Commercial Services has consent for the approval of the award of all contracts, with the exception of those called in through the agreed call in procedure. Paragraph 4.14 of the Scheme provides the DMPC reserves the right to call in any MPS proposal to award a contract for £500,000 or above.
6. In the circumstances, the award of contract through an STA is permitted within the Public Contract Regulations (PCR) 2015, Regulation 32(2)b(ii) which allows for the award of a contract by a negotiated procedure without prior publication;
 - a. where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—
 - i. (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,
 - ii. competition is absent for technical reasons,
 - iii. the protection of exclusive rights, including intellectual property rights.This report confirms that no other specialist vertical real estate specialist providers could provide the expertise and continuity of service to protect the MPS estate and security. On this basis, Regulation

32(2)(b)(ii) would apply and the recommendation can be lawfully approved.

7. We believe the risk of an objection by a third party supplier to this STA is low, given the nature of the work, the number suppliers with expertise in this field a number of which are likely to be commissioned by Mobile Network Operators (MNO's) reducing the limited number of suppliers with the skills, knowledge, experience and expertise required.
8. The proposed 2 year contract with the option to extend for a further year is based on the recognition that the market is currently significantly constrained for these requirements and there is no way to address this in the short term.

Equality Comments

1. There are no significant equality or diversity implications arising from this process negating the requirement to present any mitigation. Our contracts will include provisions on equality and diversity.
2. Hub are a SME supplier and are aligned with the London Anchor Institute Charter objectives whereby small businesses can benefit from the opportunity to work with the MPS. Through this contract we will support Hub to expand its social value contribution. As part of their appointment the delivery partners have committed to take specific actions to address the above issues. Hub have committed to employing 2 additional employees who will be London based and looking to further/start their careers in the telecoms sector. Hub are also supporting the employees who have made the decision to return to office based working to counter the effects of mental health issues arising from home working. Hub's client base encompasses a number of London authorities where they are working to support mobile connectivity across the borough, furthering the socio-economic benefits that connectivity can bring. Hub also sub-contract specialist services to a number of London based SME's such as radio experts, structural engineers and planning experts. The linkage between individual appointments and actions taken and the effectiveness of those actions in delivering the above commitments will be reviewed and assessed. The contracts will encourage, where appropriate, the use of London supply chain specific initiatives including: apprenticeship levies; adherence to modern slavery and London Living Wage obligations; social value impact opportunities.

London's Anchor Institutions' Charter -

The MPS is committed to:

- Addressing the Negative Economic Impact of Covid 19
- Narrowing Social, Economic and Health Inequalities
- Supporting Young People and Providing Opportunities
- Supporting Communities Heavily Impacted by the Pandemic
- Advancing the Delivery of the Net Zero Carbon initiative

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.
5. The MPS have reviewed their current security provisions relating to premises and data following the recent suspected MPS supplier data breach. These provisions will be reviewed and included within terms and conditions relating to the commissioning of the service provider.

Real Estate Implications

1. The implications of not defending the MOPAC position would allow MNO's unfettered and uncontrolled access to the MOPAC estate. In addition the operators have the ability to sublet space without controls or reference to the MPS or the MOPAC. The MNO's can demand access to any Authority property and in effect would have more rights of access to the MOPAC estate than those employed by the MPS. There is an immediate threat that MNO's could take advantage of this giving rise to serious security threats, in turn, adversely affecting or impacting the continued operation of the MPS and restricting its ability to provide wider national services.

Environmental Implications

1. There are no environmental implications as a result of this work. Approved suppliers are made aware of the MPS environmental policy.

Background/supporting papers

1. There are no supporting papers.

Report author: Tara Dalton, Head of Estates and Asset Management

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 '**Specialist Vertical Real Estate Consultants – STA (BJP)**', is exempt from publication for the following reasons:

Commercial Interest Section 43
Law Enforcement Section 31

A number of the matters have been discussed and impact wider government and security partners. It has the potential to compromise current defence position if our strategy and approach is shared with the wider public.

The paper needs to remain exempt from publication to protect law enforcement and national security. This paper is likely to cease to be exempt until 1st November 2026 or a later date after 2026 following amendments to legislation thus protecting MOPAC's position. 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 for example, information no longer commercially sensitive.