

DMPC Decision – PCD 1531

Title: Retrospective Facial Recognition (RFR)

Executive Summary:

This paper seeks additional funding of £3.2M for the RFR Project across 2023/24. The additional funds are required to enable full delivery of RFR – a new Cloud hosted solution that will allow the MPS to more effectively use its image libraries to identify persons of interest and thereby enable the more effective prioritisation of work when dealing with image and video material.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

1. Approve project additional revenue funding of up to £3,242k to complete delivery of the RFR Project, funded from the MOPAC approved DDaT revenue budget. This amount is covered by DDaT funding allocated from an historic one-off innovation fund. Funding approved to date is £1,951k, with this additional request bringing the overall revenue funding to £5,193k.
2. Approve an extension to the Retrospective Facial Recognition contract with NEC to cover the additional works and extended involvement required of NEC to address the requirements for Reveal to work in the mandated MPS common technologies.
3. Approve an extension to the Retrospective Facial Recognition contract with NEC to cover additional works and costs for NEC resulting from the extended project timescales, which in turn are the results of unforeseen complexity and of the need to deliver an early MVP version for live use.

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

07/12/2023

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

1. Introduction and background

- 1.1. The MPS will benefit from a RFR search capability to enable the effective use of images and image frames from video data across all types of investigations. In parallel it will enable the MPS to effectively exploit those investigative opportunities that have occurred with the sharp growth in these image data sources. Rapid and ongoing advancements in this technology would, if seized, now allow the MPS opportunities that were not previously available to support the detection and matching of faces even when processing lower quality images and videos.
- 1.2. Completion of the project, to deliver the benefits set out in the initial business case, will require more funding than originally planned. Completion is now expected in Q4 of 2023/2024. The increase in overall costs and duration is due to previously unforeseen incompatibility between the RFR software as previously contracted for, and the MPS technical environment and requirements. To address this, the software provider and other third parties have had to undertake additional work.
- 1.3. The project is now required to provide an interim solution, as an MVP (Minimum Viable Product) so that policing benefits can begin to be realised earlier than the above completion date. The extra work required to achieve this increases technical complexity and requires a further increase in budget and in spend with the solution provider and other strategic suppliers.

2. Issues for consideration

- 2.1. The main purpose of RFR searching is to assist in identifying suspects from still images or specific images extracted from video. These images will need to be lawfully held by the MPS. These may be images that have been captured by cameras at burglaries, assaults, shootings and other crime scenes. They could also be images shared by or submitted by members of the public. As well as assisting in preventing and detecting crime, RFR searching could also be used to help in the identification of missing or deceased persons.
- 2.2. The RFR use case seeks to help officers identify persons from media of events that have already happened and does not involve members of the public walking past the system 'live time'. As such it would be a tool that helps aid the investigative process, by analysing still images or images that have been specifically extracted from a media source. The result of this analysis will present investigators with additional leads to consider.
- 2.3. There is a distinction between using FR where the results could impact on real-time operations and where the results would contribute to ongoing investigations and provide leads to verify and develop. RFR is focused on the latter and this has been made clear in policy. As the MPS has done with its use of FR more widely, it will seek to engage with stakeholders to develop appropriate policy, safeguards and controls – including with MOPAC and LPEP. This will ensure the MPS continues to use FR technology in a way that is lawful, ethical and effective.

- 2.4. Human-in-the-loop decision is a critical aspect of the RFR proposal and has been embedded into proposed RFR processes.
- 2.5. Contributes to the Mayor of London Building a Safer London Police and Crime Plan 2022-25.
- 2.6. This project support key priorities that have been set out in that plan including reducing and preventing violence, better supporting victims and protecting people from exploitation and harm. RFR reduces the time taken to identify offenders and therefore supports the delivery of improved criminal justice outcomes. It allows officers' time to be best used, targeting criminality to build trust and confidence with communities and ensure London is a safe city for all.

3. Financial Comments

- 3.1. The additional £3.2M requested will be funded from within the DDaT revenue budget, with a historic one-off innovation fund allocation being utilised.
- 3.2. More detail is provided in the restricted section of this report.

4. Legal Comments

- 4.1. 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.
- 4.2. 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.
- 4.3. MPS Legal assure that this report confirms the above are met and that the modifications are compliant.
- 4.4. The MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime has delegated authority to approve:
 - Business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8); and
 - 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).

- 4.5. The Directorate of Legal Services (DLS) has provided significant advice on the lawful use of RFR by the MPS including in relation to legal basis, human rights, data protection and equalities. RFR use will be supported by a legal mandate which will be published for the public to view. DLS has also provided input into RFR policy which outlines what circumstances may justify the use of RFR and how a RFR search(s) should be conducted.

5. Commercial Issues

- 5.1. As an extension to an existing service this work does not change any aspects relating to responsible procurement.
- 5.2. Two separate and distinct uplifts to the existing supplier contracts are proposed. The requirements for each uplift results from different causes, for reasons set out in part 2 of this paper. Each of the required uplifts shall be carried out in accordance with Regulation 72(1)(b) and Regulation 72(2) which provide for uplifts to contracts for:
- additional services that have become necessary, where there are economic or technical reasons (such as requirements of interchangeability or interoperability with existing equipment) and using a different supplier would cause significant inconvenience or substantial duplication of costs for the contracting authority. Provided that any increase in price does not exceed 50% of the value of the original contract, and
 - successive modifications up to 50% of the original value, may be made where successive modifications are not made with the purpose of avoiding the Regulations.
- 5.3. The proposed extensions are compliant with the Regulations, which (under regulation 72(2)) allow for two separate uplifts, provided they are not done in order to avoid conducting a new procurement. In this case MPS have good reasons (other than avoiding a new procurement) for proceeding with two separate uplifts because:
- the work contained in uplift 2 is dependent upon the work contained in uplift 1 being successfully completed (Reveal cannot be configured and tested (uplift 2) unless and until it inter-operates with the mandated MPS common technologies (uplift 1)). It would not be commercially prudent for MPS to be committed to agree to a single contract change for both uplifts unless the work in uplift 1 work has been successful completed.
 - the additional work required, inherently and physically can be separated into two, distinct, tranches of work. Merging the two tranches of work increases MPS's commercial risk and complicates an already complex technical implementation.
 - Combining the two uplifts would expose MOPAC/MPS to additional technical and commercial risk and is not recommended.
- 5.4. It is also worth noting that at this stage of the project there is no other supplier who would have the capability to directly takeover the work of the current supplier on RFR. Therefore the risk of a procurement challenge being made, is assessed as being very low.

- 5.5. The provision of architecture, infrastructure and application services is available via placing purchase works order through strategic suppliers under their existing contracts which is compliant with the Regulations.

6. GDPR and Data Privacy

- 6.1. 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.
- 6.2. 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.
- 6.3. The Digital, Data & Technology unit within MPS has been consulted at all stages to ensure the project meets its compliance requirements.
- 6.4. A DPIA has been completed and approved for this project. The project has ensured a privacy by design approach, which will allow the MPS to find and fix problems at the any stages of this project, ensuring compliance with data protection legislation. DPIAs support the accountability principle, as they will ensure the MPS complies with its legal duties.
- 6.5. The MPS recognises the privacy implication of the use of such technology and as such is engaging with a number of stakeholders in relation to governance controls required for its use.

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. This business case has undergone an initial Equality screening. Due regard has been taken to ensure compliance with the Equality Act in particular the Public Sector Equality Duty. Real consideration has been taken to assess Equality impact caused by the proposed business case. As a result, no negative impact has been identified to any individual and/or group safeguarded by a protected characteristic and to those who are not negating the requirement to document any mitigation.

7.3. The use of facial recognition technology engages the Public Sector Equality Duty (PSED). Amongst other points, the PSED means that there is a need to take reasonable steps to understand the performance of a facial recognition algorithm. The MPS RFR legal mandate outlines the legal requirements from the Equality Act 2010. In response to this and to mitigate risks, the MPS has completed a comprehensive EIA. The ability to pass a MPS PSED assessment was a key pass/fail criteria in the original procurement process and benefited from both technical and legal scrutiny. The NEC algorithm is a high performing algorithm which is best of breed based on the NIST 2019 tests (which report on race and gender) with a uniform demographic performance. The MPS is familiar with the underlying algorithm having undertaken considerable diligence to date. This includes the recently published National Physical Laboratory Equitability Study. This diligence helps the MPS ensure the effectiveness of the algorithm and to understand and mitigate any risk relating to disproportionality, including in relation to:

- the overall accuracy of the algorithm
- race,
- gender, and
- other protected characteristics.

7.4. The MPS has also considered equality considerations in relation to MPS users of the RFR system – these are addressed in the EIA. NEC have also adopted a number of accessibility points to ensure the system can be used as widely as possible.

7.5. As the intention of this document is to seek additional funding for an existing function, there is no real organisational change. Further reviews will be conducted and if any new Equality Impact is identified, a full Equality Impact Assessment will be initiated.

8. Background/supporting papers

8.1. Appendix 1 MPS Part 1 Paper – Retrospective Facial Recognition

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 **Retrospective Facial Recognition (RFR) Project** is exempt from publication for the following reasons:

- Exempt under Article 2(2)(a) of the Elected Local Policing Bodies (Specified Information) Order 2011 (Data Protection Section 43 – Commercial Interests).
- The relevant sections under the FOIA that would exempt this information from disclosure, include:
 - Law Enforcement, Section 31

- Data Protection Section 40
- Commercial Interest Section 43
- Legal Professional Privilege Section 42

The paper will cease to be exempt until it has been fully reviewed by the MPS at the conclusion of the contract.

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? YES/NO

If yes, for what reason:

Until what date:

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 Omo Okuonghae has drafted this report in accordance with MOPAC procedures.	✓
Director/Head of Service: The 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

Sanakuchford.

Date 07/12/2023