

REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD79

Title: Emergency Fire Crew Capability Services

Executive Summary:

This report recommends that the Deputy Mayor for Fire and Resilience approves expenditure by the London Fire Commissioner (LFC) on Emergency Fire Crew Capability (EFCC) services. The LFC requires the provision of an EFCC sufficient to maintain the operational availability of up to twenty-seven fire appliances within 35 days of notification, as set out in report LFC-0363.

The LFC is seeking approval to incur expenditure to the current EFCC contract with Securitas Security Services (UK) Ltd for a period of not more than 36 months at a total value of not more than £13,885,000. The contract extension will be implemented following the initial contract expiry date of 12 November 2020

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire Commissioner to seek the prior approval of the Deputy Mayor before “[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...”.

Decision:

That the Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to incur expenditure of not more than £13,885,000 over three years to extend the current contract with Securitas Security Services (UK) Limited for the provision of Emergency Fire Crew Capability services.

Deputy Mayor for Fire and Resilience

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

Signature:



Date:

4 September 2020

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE DEPUTY MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0363 to the London Fire Commissioner sets out the background for the request to approve expenditure to extend the current Emergency Fire Crew Capability Service (EFCC) contract with Securitas Security Services (UK) Ltd for a period of not more than 36 months
- 1.2 The former London Fire and Emergency Planning Authority made the decision on 2 October 2014 (report FEP 2321, Appendix 1) to award the contract to Securitas Security Services (UK) Ltd. The contract is for an initial term of six years and commenced on the 13 November 2014. The contract also includes an optional further extension to the term of three years if notice is given three months prior to expiry. Therefore, the initial expiry date is 12 November 2020, prior to enacting any further period of extension and with the last date to notify the supplier of the intention to extend being 11 August 2020. Extending the contract would see it terminate on 12 November 2023. The annual spend under this contract is approximately £4,400,000 (2019/20).

2. Objectives and expected outcomes

Scope of the contract

- 2.1 The LFC requires the provision of an EFCC sufficient to maintain the operational availability of up to twenty-seven fire appliances within 35 days of notification.
- 2.2 The EFCC provision must be capable of being deployed for continuous or discontinuous use, either consecutively or simultaneously whenever required by the LFC. The EFCC must be available for deployment on a 24-hours a day, seven days-a-week basis. The contractor shall respond to an order from the Commissioner to mobilise the EFCC at any time of the day or night and on any day of the year.
- 2.3 The contract is split into two circumstances:
 - the 'Steady State' which is the period when the contract is available for use, but where the Commissioner has not requested mobilisation of the EFCC; and
 - the 'Operational State' which is the period when the contract is available for use and where the Commissioner has requested deployment of the EFCC inclusive of periods when the EFCC are or are not on attendance.
- 2.4 There are three stages of activity within the Operational State:
 - Stage one is mobilising which requires the Contractor to carry out all functions to ensure successful deployment and attendance.
 - Stage two, post-receipt of the Attendance Request Form (ARF), is mustering, which includes the delivery of the required number of EFCC to the muster location, familiarisation and the movement of EFCC from the muster location to the attendance location by the time required and their availability to attend incidents. During the mustering phase the contractor must work without the Commissioner's assistance to mobilise, familiarise, kit and prepare and deliver the service personnel to the attendance location.

- Stage three is attendance which includes the availability and delivery of EFCC from designated locations and stations to the scene of an incident.
- 2.5 Any Personal Protective Equipment (PPE) required for the use of the service personnel in order to deliver the EFCC effectively shall be provided by the contractor.
 - 2.6 The EFCC will be deployed either as part of the contingency arrangements which may either fill gaps in the Commissioner's normal staffing structures or substitute for normal staffing structures where staff are completely absent. The service personnel will be required to provide both offensive and defensive firefighting capabilities.
 - 2.7 To date, there has been one contract variation which provides a Deed of Guarantee made on 30 July 2015 with Securitas AB. Securitas Security Services (UK) Limited is a subsidiary of Securitas AB who is acting as the guarantor. The Guarantor will indemnify the Commissioner against all losses, damages, claims or costs and expenses if the Contractor fails to perform its obligations, with a liability limit being set at £150 million under the agreement.

Contract Procurement Process

- 2.8 The original procurement in 2014 used the open procedure and was undertaken in compliance with the Public Contracts Regulations 2006 (which were current at the time). This means the requirement was advertised to suppliers across Europe, however only one bid was received.

Business Justification To Extend

- 2.9 Given the importance, size and complexity of this particular requirement a more complex procurement process is required to deliver best value for money. The original timeline for re-procurement also coincided with Phase 1 of the Grenfell Tower Inquiry and subsequently Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services' (HMICFRS) review of the Brigade, and as such it was decided that both of these activities should take precedence over the procurement exercise and that any contract extension available should therefore be considered.
- 2.10 The future procurement process will take 24 months to complete (ending November 2022). This includes exploring collaboration options by seeking input from cross functional internal and external stakeholders, negotiation and development of the contract and the governance reporting for the authority to award the contract. Implementation will take 12 months to complete (ending November 2023).
- 2.11 It should be acknowledged that the market for this type of service has matured recently with several suppliers now building the capacity and skillsets to allow for competition through a tender process. This competition has not been available in the past which has led to a single supplier situation and subsequent contract award. Officers have held discussions with three additional suppliers, all of whom have suggested that they would participate in a future procurement. The utilisation of the full 36-month extension period would help these suppliers mature their offerings further.
- 2.12 Due to the possibility that a new contractor could win the contract, up to 12 months may be required as an implementation phase to resolve issues relating to the Transfer of Undertakings (Protection of Employment) Regulations (TUPE), train the new supplier's personnel, and proof of testing of the service to ensure it meets the required high standards before the commencement of a new contract.
- 2.13 The full extension of 36 months will provide officers with as much time as is available to fully understand any changes in the requirements. For instance, the current specification suggests this arrangement could be used in a pandemic situation. This has not been deemed a necessary solution during the current COVID-19 experience as the absence rate has been low and emergency crew capability has not been required. Officers will also have time to undertake the market research, discuss

with other fire and rescue services and set out a procurement and implementation timetable that will offer us the correct long-term sustainable solution to this requirement.

2.14 If the re-procurement and or implementation was delivered sooner than anticipated there are provisions to terminate the agreement for any reason whatsoever. A written notice is required to be provided to the contractor six months before the termination date. On termination of the agreement (however caused), the Commissioner will not be liable to the contractor for any loss of profit, loss of contract or any other losses and/or expenses of whatsoever nature arising out of or in connection with such termination.

2.15 If the extension is not approved, then there will be the following potential consequences:

- there is insufficient time to effectively run a procurement, comply with governance requirements and implement a new contract prior to 12 November 2020;
- any rushed procurement process would need to rely on the same specification used in 2014. This would effectively remove significant opportunities to improve the contract;
- the Commissioner would be unable to award the contract and implement a new supplier as there is not enough time for the required delegated authority to be granted through the governance process and leave little time to no time for specification revision, engaging with stakeholders and the market which is where the real value could be achieved; and
- there would be a time pressure on the procurement process which would increase the risk of a challenge from tenderers due to insufficient time to complete complex tender responses. Pressure on suppliers to submit their tender within the shortest possible time increases the risk of not receiving high quality tender submissions.

Performance of the Contract

2.16 At the start of the contract in November 2014 Securitas had three Key Performance Indicator (KPI) failures in the first 12 weeks of the contract roll-out. From December 2014 to February 2015 Securitas incurred KPI failures by not having sufficient personnel available in between the 28 to 35-day period. There were also KPI failures to provide a required number of staff with set competences for Continuing Professional Development (CPD).

2.17 Since March 2015 to date, Securitas have met all of their KPI requirements with no failures.

2.18 Securitas have provided all of the training detailed in the contract to the required standards. LFB have recently completed an audit of the EFCC provisions at the Fire Service College confirming this.

2.19 Securitas are fulfilling the contractual requirements for the support services provisions and firefighting training. The audit evaluation team were satisfied that the key requirements were being delivered to an acceptable standard.

Responsible Procurement Considerations

2.20 Securitas are currently providing the requested responsible procurement information on a monthly and quarterly basis. This includes but not limited to:

- small and medium enterprise supplier spend information each quarter;
- ethnicity information on a month by month basis; and
- gender ratios allocated to the contract on a monthly basis.

Cost to Extend

2.21 The cost of extending the contract will predominately be made up of the steady state service charge agreed in the contract. There are also costs indirectly associated with the contract such the equipment and vehicle costs paid to Babcock Critical Services Ltd for use of equipment and vehicles; there is also the internal time and resource required to run the contract which is difficult to quantify.

2.22 Total costs are at £13,885,000 for a three-year extension, a breakdown is provided below:

Steady state costs (i.e. service charge):

Year	AWE (%)	AWE annual increase (k)	Total Staff Costs including AWE (k) (48.50% of total costs)	RPI (%)	RPI Annual increase (k)	Total Non-Staff costs including RPI (k) (51.50% of total costs)	Total Annual increase (k)	Year Total (k)
18/19 (Year 5)			£2,048			£2,198		£4,247
19/20 (Year 6)	2.9	£59	£2,107	2.6	£57	£2,255	£117	£4,363
20/21 (Year 7 – 1 st Year of Extension)	3.6	£76	£2,183	2.1	£48	£2,303	£123	£4,486
21/22 (Year 8 – 2 nd Year of Extension)	3.3	£72	£2,255	2.9	£67	£2,469	£139	£4,625
22/23 (Year 9 – 3 rd Year of Extension)	3.5	£79	£2,334	3.0	£73	£2,440	£150	£4,775

Please note these figures have been rounded to the nearest £1k.

AWE = Average Weekly Earnings RPI = Retail Price Index

2.23 The only contract increases are for steady state costs. These are based on the Average Weekly Earnings (AWE) index and Retail Price Index (RPI) which are the price review mechanisms built into the contract. RPI is applied to non staff costs and AWE is applied to staff costs. The future years' AWE and RPI percentage increases in the table above have been estimated by LFB Finance. The costs are split as follows:

- Steady State: 48.5% staff costs (AWE) and 51.5% non-staff costs (RPI); and
- Deployment (Operational state): 65.5% staff costs (AWE) and 33.5% non-staff costs (RPI).

Risk Assessment

2.24 A risk assessment finds that the extension of the EFCC contract will continue to provide London Fire Brigade (LFB) with a reasonable level of cover for periods of reduced staffing, based on a reduced set of incidents to be attended. The LFB believes that measures such as its industrial relations framework and the use of pre-arranged overtime to deal with staff shortages would prevent the need to activate these contingency plans. However, should the contract be stood up, it should be noted that it is not intended to provide a like for like service comparable to that which is provided in normal business. The risk assessment sets out the controls that exist alongside the contract to mitigate the impact of the level and type of cover provided. It also notes the extent to which the provision has been found to be

sufficient and reasonable on the occasions when it has been in use. As a consequence, the contract provision is considered to be sufficient and reasonable, providing a level of service that is the best that is possible in the circumstances, taking account of availability of firefighters, cost and other resources.

Conclusion

- 2.25 The current contract allows for an extension up to a maximum of 36 months beyond the initial contract period. Hence, using this provision, there is sufficient time to accommodate any required review, market research, procurement and implementation of a new contract. The relationship with Securitas should be carefully preserved during the review. This is best achieved by involving Securitas in any pre procurement market engagement and market research undertaken. It also enables compliance and fairness to all potential future bidders. They should be given the opportunity to contribute to potential improvements, however it is important that any reviews do not include anti-competitive practice.

3. Equality comments

- 3.1 The London Fire Commissioner and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), Race (ethnic or national origins, colour or nationality), Religion or belief (including lack of belief), Sex, and Sexual orientation.
- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other prohibited conduct;
 - (b) advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) tackle prejudice; and
 - (b) promote understanding.
- 3.8 Environment and Sustainability, Supplier Diversity and Equalities was assessed as part of the original tender in 2013 and their response included in the contract.
- 3.9 An Equality Impact Assessment (EIA) was undertaken on 21/02/20. The impact assessment identified potential adverse impacts and steps taken to mitigate these. A Contract Change Notification will be issued to the supplier asking for agreement to sign up to the LFC – Equalities Protocol and further measures to ensure any supplier personnel who have learning disabilities are properly supported. Ongoing monthly monitoring reports on the make up of the supplier workforce include reporting on BAME and male/female. The supplier is encouraged to ensure their workforce is inclusive and diverse, this includes ensuring that PPE supplied is appropriately sized and women's PPE is taken into account

4. Other considerations

Workforce comments

- 4.1 There are no specific workforce implications identified. This contract does not involve any of the LFB's workforce; it is an external workforce.

Sustainability implications

- 4.2 The EFCC contract includes a number of requirements in support of delivery of the Greater London Authority Group Responsible Procurement policy, in particular Securitas:
- has an ISO14001 certified Environmental Management System used to assure their environmental compliance and sustainability objectives across their business as well as minimise negative impacts:
 - reports quarterly on contract related spend with Small to Medium Enterprises;
 - reports monthly on ethnicity of the workforce and gender ratios; and
 - is currently compliant with the Modern Slavery Act.
- 4.3 Strategic Labour Needs and Training (SLNT) requirements were not included in the 2014 procurement process and subsequent contract. Securitas are subject to the Government apprenticeship levy. Going forward LFC will request reports on Securitas activity in this area and how it relates to our contract.

5. Financial comments

- 5.1 Report LFC-0363 recommends approval is given to extend the EFCC contract for a period of up to 36 months at a cost of up to £13,885,000, including anticipated inflationary requirements. Any variance to current anticipated inflationary increases in 2020/21 will be considered as part of the regular

financial position reports. Inflationary requirements for 2021/22 and 2022/23 will be considered as part of the budget process and updated as required, with the projected costs in 2021/22 and 2022/23 then being met from within those index linked budgets. The additional spend should also be considered in the wider financial context and the projected budget gap for the London Fire Commissioner for 21/22 and beyond.

- 5.2 The expenditure covers the 'steady state' element of the contract. It should also be noted that if the emergency provision of fire cover is required under the contract there would also be additional costs related to the 'operational state'. During the initial six year period of this contract from November 2014 to November 2020, the LFB made extra payments to the contractor of £10,300,000 during periods of strike action.
- 5.3 There are no additional financial implications for the GLA.

6. Legal comments

- 6.1 Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office.
- 6.2 Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.
- 6.3 When carrying out its functions, the Commissioner, as the fire and rescue authority for Greater London, is required to 'have regard to the Fire and Rescue National Framework for England ("Framework") prepared by the Secretary of State (Fire and Rescue Service Act 2004, section 21).
- 6.4 The Framework states that:

"2.11 Fire and rescue authorities must have effective business continuity arrangements in place in accordance with their duties under the Civil Contingencies Act 2004. Within these arrangements, fire and rescue authorities must make every endeavour to meet the full range of service delivery risks and national resilience duties and commitments that they face. Business continuity plans should not be developed on the basis of armed forces assistance being available."
- 6.5 It is not a requirement to provide the same service under our business continuity arrangements as during 'normal' business. Though the Commissioner must consider the impacts a business continuity event (an 'event'), will have and do all it reasonably can to ameliorate the risks posed to our service by that event. The Commissioner is entitled to plan to provide for a reduced service, so long as the plan provides for the minimum safe service (i.e. 27 pumps), and provided that this level of service is the best that is reasonably possible in the circumstances, taking account of availability of firefighters, costs and other resources issues.
- 6.6 Appendix 2 to this report 'Emergency Fire Crew Capability Services Contract Extension Risk Assessment' sets out relevant factors for the Commissioner to take into account when reaching a decision. The Introduction to Appendix 2 also incorporates General Counsel's comments on the legal position.
- 6.7 Additionally, under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
- 6.8 By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor").

- 6.9 Paragraph (b) of Part 2 of the said direction requires the Commissioner to seek the prior approval of the Deputy Mayor before “[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...”.
- 6.10 Based on the values set out in this report, the Deputy Mayor's approval is accordingly required for the London Fire Commissioner to extend this contract.

Appendices and supporting papers:

Report LFC-0363 – Contract Extension Request Emergency Fire Crew Capability Services

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval 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:

The commercial interests of the LFC require confidentiality until the cooling off period for new contractual agreements has expired.

Until what date: 1 December 2020

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be 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

Richard Berry has drafted this report with input from the LFC and in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service

Niran Mothada has reviewed the documentation and is satisfied for it to be referred to the Deputy Mayor for Fire and Resilience for approval.

✓

Advice

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 24 August 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

4 September 2020