

DMPC Decision – PCD 1400

Title: Digital Forensics Interim Contracts

Executive Summary:

This decision concerns the award of contract as a single tender action without prior advertisement. The request relates to those contracts which are in excess of the Metropolitan Police Service's delegated authority.

The request has come about due to the exit of a previous contractor where it has not been possible to novate their subcontracting arrangements directly into the MPS and where there has been insufficient time to conduct a procurement process. The MPS therefore wants to maintain those arrangements on an interim basis ('interim contracts') to ensure continued supply and stability for the marketplace whilst a tender process is run for replacement contracts.

The Business Justification also requests approval to go out to tender for (and to delegate the authority to award) replacement contracts with an estimated contract value of £8m over 4 years.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

A.

- i. Approve the direct award without competition of contracts for Digital Forensic Services, for a period of eighteen (18) months to the following Contractors and for the following values:

Disklabs Ltd	£135,000
Mobile Content Management Solutions Ltd	£135,000
Footprint Investigations LLP	£360,000
IntaForensics Limited	£360,000
CCL-Forensics Ltd	£490,000
MD5 Ltd	£490,000
QCC Global Limited	£490,000
EX1 - Digital Forensic Services Ltd	£540,000

- ii. Approve the delegation of authority to the Director of Commercial Services to uplift the contract value in Ai) above by 50% subject to not exceeding £3,000,000 overall across a period of 18 months.

B.

- i. Approve the MPS to procure Digital Forensic Services through a competitive process

(estimated contract value of £8,000,000 over 4 years). This will either be sourced via call off from a Staffordshire Police Framework or tendered by the MPS in accordance with the PCR (or its replacement in UK law) for a period of up to 4 years from the date of award at a cost of £2,000,000 per annum.

- ii. Approve the delegation of authority to the Director of Commercial Services to award contracts in excess of £500,000 tendered in accordance with Bi) above.

Deputy Mayor for Policing and Crime

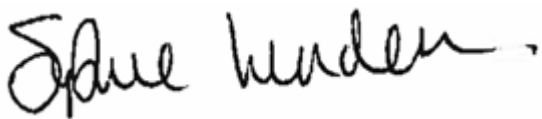
I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature

Date

25/10/2021



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

1. Introduction and background

- 1.1. The Metropolitan Police Service has entered into time limited contracts in respect of its limited authority to directly award contracts. The values of the required interim contracts expressed in the recommendations are the full values for the eighteen month period and are reflective of the values which will be published into the EU Regs. This incorporates the values already approved by the MPS which is below the £100k threshold.
- 1.2. During the next eighteen months the MPS will carry out a compliant tender process for replacement contracts either under the PCR (or its replacement in UK law) or under the Staffordshire Police Framework. This will allow a fragile marketplace time to prepare for the competition, time for the process and handover as well as ensure a period of stability following the exit from a previous contract.
- 1.3. The request is for the approval of contracts for digital forensic services. The providers of these services analyse phone, computers, audio, CCTV, other niche services and the carrying out cell site analysis in respect of evidence seized by the MPS. The services are business critical in enabling the MPS to carry out its objective of tackling crime and protecting the victims of crime. These contracts will be entered into for an 18 month period whilst the authority goes out to tender for replacement contracts.
- 1.4. If the digital forensic service contracts (as per recommendation A) are approved the MPS will then commence a new tendering process for replacement contracts in line with recommendation B. This paper sets out an increased annual value for award due to increased volumes and complexity of digital forensics work which has impacted the cost of outsourcing this work.
- 1.5. Within PCD779 the previous authority was to procure contracts or novate them against a budget value of £1.1m per annum. This value was based upon 2019-2020 spend. The volume and complexity of work has increased since 2019/20 and spend during 2020/2021 was around £2m. This latest paper therefore requests a higher value for award of the interim contracts (for 18 months) as well as for procurement of their replacement. These values represent an additional pressure of £900k pa.

2. Issues for consideration

- 2.1. This information is contained in the restricted section of the report.

3. Financial Comments

- 3.1. Currently there is a £1.1m budget to support this expenditure with anticipated spend of £2m a year. Additional funding for Digital Forensics is included within a separate

paper currently seeking a decision. This additional funding will correct the budget pressure to ensure this expenditure is fully funded.

4. Legal Comments

- 4.1. The Mayor's Office for Policing and Crime ("MOPAC") is a contracting authority as defined in the PCR. All awards of public contracts for goods and/or services valued at £189,330 or above shall be procured in accordance with the PCR. This report confirms the value of the proposed contracts exceed this threshold.
- 4.2. Regulation 32 permits MOPAC to award directly a contract without prior publication of a contract notice in specific circumstances. Regulation 32(2)(b)(ii) provides MOPAC may directly award a contract where the works, supplies or services can be supplied only by a particular economic operator where, amongst other reasons, competition is absent for technical reasons.
- 4.3. Under paragraph 4.13 of the MOPAC Scheme of Delegation and Consent the Deputy Mayor for Policing and Crime ("DMPC") has delegated authority to approve all requests for contract exemptions valued at £100,000 or above.

Request for commencement of new procurement process

- 4.4. This report confirms the MOPAC will either procure its own contract or utilise a third party framework agreement for its requirement, either route to be performed in compliance with the PCR.
- 4.5. The Scheme provides the DMPC has delegated authority to approve:
 - a. Business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8); and
 - b. All requests to go out to tender for contracts of £500,000 or above, or where there is a particular public interest (paragraph 4.13).
- 4.6. Paragraph 7.23 of the Scheme provides that the Director of Strategic Procurement 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.
- 4.7. Other information is contained in the restricted section of the report.

5. Commercial Issues

- 5.1. The Authority's original position had been to novate the previous contractor's subcontractor agreements however it has not been possible for the Authority to carry out the novation or a tender process prior to the exit of the previous contractor. There are also good marketplace reasons to be cautious with unplanned or unforeseen changes due to the risk of supplier failure. Due to the lack of time to put in place alternative arrangements the MPS is recommending using provisions under PCR,

regulation 32(2)(b) to award directly a contract under the negotiated procedure on the grounds of technical reasons. This relates to:

- a. a need to contract with these entities in the event that there are additional submissions due to historical work undertaken relating to the same case;
- b. the reflection that the contracting approach from the MPS is already across the marketplace due to the limited size of the marketplace (reflective of accreditation requirements) to provide these services. Therefore the approach reflects a fair opportunity to recognised providers of digital forensics.

5.2. The MPS approach is across a large number of providers (through the previous supplier's subcontracting arrangements) and represents a large number of suppliers capable or qualified to provide a range of digital forensic services within this marketplace. In certain disciplines there is a requirement for accreditation at an ISO standard. This therefore limits the availability of suppliers in the marketplace suitable to carry out this work. The Authority has published a VEAT notice to ensure all providers are aware of the Authority's approach before it enters into any contracts. In addition the Authority will look at opportunities for working with suppliers who were not previous providers under the previous arrangements where this increases capacity appropriately against current policing demand within the MPS.

5.3. The interim contracts entered into will be for a period of eighteen months. This will allow the MPS to carry out a procurement process to replace these and with sufficient time for a handover and management of the outcome of the tender in order to ensure that the marketplace is not destabilised. Permission is also sought in this paper to carry out a tender process for a four year contract with a value of £8m (£2m per annum). This may be discharged through a series of procurements including use of the Staffordshire framework and/or procurements conducted by the MPS in accordance with PCR 2015 (or its successor).

Disklabs Ltd	£135,000
Mobile Content Management Solutions Ltd	£135,000
Footprint Investigations LLP	£360,000
IntaForensics Limited	£360,000
CCL-Forensics Ltd	£490,000
MD5 Ltd	£490,000
QCC Global Limited	£490,000
EX1 - Digital Forensic Services Ltd	£540,000

5.4. The recommendation A requests the delegated authority to the Director of Commercial Services to increase or decrease the contract value by 50%. This is reflective of the demand nature of digital forensics (where crime types may have an impact on the submission profile, and therefore providers who are capable of delivering the work) as well as the capacity and performance of the marketplace (where suppliers may not have capacity at certain times to fulfil the services or where quality issues may mean that submissions are reduced whilst quality issues are resolved).

6. GDPR and Data Privacy

- 6.1. The exiting contract arrangements included protections in respect of GDPR as a flow down from the main contract between the outgoing provider and the MPS and their subcontractors. The MPS is now working with the Interim contractors to ensure that Data Protection Impact Assessment (DPIA) are in place between the MPS and each contractor (rather than as an overarching arrangement).
- 6.2. 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.
- 6.3. 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.
- 6.4. The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the contract meets its compliance requirements.
- 6.5. DPIAs are in progress on a contractor by contractor basis (previously covered under the exiting contract arrangements) and the contract will ensure a privacy by design approach. This will allow the MPS to find and fix problems at an early stage, ensuring compliance with GDPR. DPIAs support the accountability principle, as they will ensure the MPS complies with the requirements of GDPR and they demonstrate that appropriate measures have been taken to ensure compliance.

7. Equality Comments

- 7.1. Under represented groups are not impacted by the change in the contracting approach or the nature of the entities delivering the services under the contract.

8. Background/supporting papers

- 8.1. Report

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 The proposal is in keeping with the GLA Group Responsible Procurement Policy.	✓
GDPR/Data Privacy <ul style="list-style-type: none"> • GDPR compliance issues are covered in the body of the report. • A DPIA has been completed and is being revised to reflect the new contractual arrangements. 	✓
Drafting Officer Craig James has drafted this report in accordance with MOPAC procedures.	✓
Director/Head of Service: The Chief Finance Officer 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

Diana Kuchard.

Date 20/10/2021



MOPAC

MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

Digital Forensics – Interim Contracts

MOPAC Investment Advisory & Monitoring meeting - October 2021 via PIB Extremis

Report by Emma Rice 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

This Business Justification concerns the award of contract as a single tender action without prior advertisement. The request relates to those contracts which are in excess of the Metropolitan Police Services delegated authority.

The request has come about due to the exit of a previous contractor where it has not been possible to novate their subcontracting arrangements directly into the MPS and where there has been insufficient time to conduct a procurement process. The MPS therefore wants to maintain those arrangements on an interim basis ('interim contracts') to ensure continues supply and stability for the marketplace whilst a tender process is run for replacement contracts.

The Business Justification also requests approval to go out to tender (and to delegate the authority to award) replacements contracts with an estimated contract value of £8m over 4 years.

Recommendations

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

- A. i) Approve the direct award without competition of contracts for Digital Forensic Services, for a period of eighteen (18) months to the following Contractors and for the following values;

Disklabs Ltd	£135,000
Mobile Content Management Solutions Ltd	£135,000
Footprint Investigations LLP	£360,000
IntaForensics Limited	£360,000
CCL-Forensics Ltd	£490,000
MD5 Ltd	£490,000
QCC Global Limited	£490,000
EX1 - Digital Forensic Services Ltd	£540,000

- ii) Approve the delegation of authority to the Director of Commercial Services to uplift the contract value in Ai) above by 50% subject to not exceeding £3m overall across a period of 18 months;
- B.
- i) Approve the MPS to procure Digital Forensic Services through a competitive process (est. contract value of £8m over 4 years). This will either be sourced via call off from a Staffordshire Police Framework or tendered by the MPS in accordance with the PCR (or its replacement in UK law)) for a period of up to 4 years from the date of award at a cost of £2m per annum.
 - ii) Approve the delegation of authority to the Director of Commercial Services to award contracts in excess of £500k tendered in accordance with Bi) above

Time sensitivity

A decision is required from the Deputy Mayor by 29th October 2021. This is because for some contractors previously used by the exiting provider the volume of work and their capacity to deliver is in excess of £50k and we will require approval to continue to work with these providers.

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

- i. The Metropolitan Police Service has entered into time limited contracts in respect of its limited authority to directly award contracts. The values expressed in the recommendations are the full values for the eighteen month period and are reflective of the values which will be published into the EU Regs. This incorporates the value already approved by the MPS which is below the £100k threshold.
- ii. During the next eighteen months the MPS will carry out a compliant tender process for replacement contracts either under the PCR (or its replacement in UK law) or under the Staffordshire Police Framework. This will allow a fragile marketplace time to prepare for the competition, time for the process and handover as well as ensure a period of stability following the exit from a previous contract.

Introduction and background

1. The request is for the approval of contracts for digital forensic services. The providers of these services analyse phone, computers, audio, CCTV, other niche services and the carrying out cell site analysis in respect of evidence seized by the MPS. The services are business critical in enabling the MPS to carry out its objective of tackling crime and protecting the victims of crime. These contracts will be entered into for an 18 month period whilst the authority goes out to tender for replacement contracts.
2. If the digital forensic service contracts (as per recommendation A) are approved the MPS will then commence a new tendering process for replacement contracts in line with recommendation B. This paper sets out an increased annual value for

award due to increased volumes and complexity of digital forensics work which has impacted the cost of outsourcing this work.

3. Within PCD779 the previous authority was requested to procure contracts or novate them against a budget value of £1.1m per annum. This value was based upon 2019-2020 spend. The volume and complexity of work has increased since 2019/20 and spend during 2020/2021 was around £2m. This latest paper therefore requests a higher value for award of the interim contracts (for 18 months) as well as for procurement of their replacement. These values represent an additional pressure of £900k pa.

Issues for consideration

1. This information is contained in the restricted section of the report.

Contributes to the MOPAC Police & Crime Plan 2017-2021¹

2. The interim contracts and future procurement contributes to the Police and Crime Plan by providing a better policing service for London. By externalising elements of digital forensics this increases the organisations capacity to investigate and detect crime, achieving faster outcomes for the victims of crime and meeting CJS timescales.

Financial, Commercial and Procurement Comments

Finance

3. Currently there is a £1.1m budget to support this expenditure with anticipated spend of £2m a year. Additional funding for Digital Forensics is included within a separate paper agreed at PIB on 14 September and to be presented to IAM on 7 October. This additional funding will correct the budget pressure to ensure this expenditure is fully funded

Commercial

4. The Authority's original position had been to novate the previous contractor's subcontractor agreements however it has not been possible for the Authority to carry out the novation or a tender process prior to the exit of the previous contractor. There are also good marketplace reasons to be cautious with unplanned or unforeseen changes due to the risk of supplier failure. Due to the lack of time to put in place alternative arrangements the MPS is recommending using provisions under PCR, regulation 32(2)(b) to award directly a contract under the negotiated procedure on the grounds of technical reasons. This relates to;
 - a) a need to contract with these entities in the event that there are additional submissions due to historical work undertaken relating to the same case
 - b) the reflection that the contracting approach from the MPS is already across the marketplace due to the limited size of the marketplace (reflective of accreditation requirements) to provide these services.

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

Therefore the approach reflects a fair opportunity to recognised providers of digital forensics.

5. The MPS approach is across a large number of providers (through the previous suppliers subcontracting arrangements) and represents a large number of suppliers capable or qualified to provide a range of digital forensic services within this marketplace. In certain disciplines there is a requirement for accreditation at an ISO standard. This therefore limits the availability of suppliers in the marketplace suitable to carry out this work. The Authority has published a VEAT notice to ensure all providers are aware of the Authority’s approach before it enters into any contracts. In addition the Authority will look at opportunities for working with suppliers who were not previous providers under the previous arrangements where this increased capacity appropriately against current policing demand within the MPS.
6. The interim contracts entered into will be for a period of eighteen months and for the values as expressed in the table below. This will allow the MPS to carry out a procurement process to replace these and with sufficient time for a handover and management of the outcome of the tender in order to ensure that the marketplace is not destabilised. Permission is also sought in this paper to carry out a tender process for a four year contract with a value of £8m (£2m per annum). This may be discharged through a series of procurements including use of the Staffordshire framework and/or procurements conducted by the MPS in accordance with PCR 2015 (or its successor).

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MD5 Ltd	£490,000
QCC Global Limited	£490,000
EX1 - Digital Forensic Services Ltd	£540,000

7. The recommendation A requests the delegated authority to the Director of Commercial Services to increase or decrease the contract value by 50%. This is reflective of the demand nature of digital forensics (where crime types may have an impact on the submission profile, and therefore providers who are capable of delivering the work) as well as the capacity and performance of the marketplace (where suppliers may not have capacity at certain times to fulfil the services or where quality issues may mean that submissions are reduced whilst quality issues are resolved).

Legal Comments

8. The Mayor’s Office for Policing and Crime (“MOPAC”) is a contracting authority as defined in the PCR. All awards of public contracts for goods and/or services valued at £189,330 or above shall be procured in accordance with the PCR. This report confirms the value of the proposed contracts exceed this threshold.
9. Regulation 32 permits MOPAC to award directly a contract without prior

publication of a contract notice in specific circumstances. Regulation 32(2)(b)(ii) provides MOPAC may directly award a contract where the works, supplies or services can be supplied only by a particular economic operator where, amongst other reasons, competition is absent for technical reasons.

10. Under paragraph 4.13 of the MOPAC Scheme of Delegation and Consent the Deputy Mayor for Policing and Crime (“DMPC”) has delegated authority to approve all requests for contract exemptions valued at £100,000 or above.

Request for commencement of new procurement process

11. This report confirms the MOPAC will either procure its own contract or utilise a third party framework agreement for its requirement, either route to be performed in compliance with the PCR.
12. The Scheme provides the DMPC has delegated authority to approve:
 - a. Business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8); and
 - b. All requests to go out to tender for contracts of £500,000 or above, or where there is a particular public interest (paragraph 4.13).
13. Paragraph 7.23 of the Scheme provides that the Director of Strategic Procurement 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.
14. Other information is contained in the restricted section of the report.

Equality Comments

15. Under represented groups are not impacted by the change in the contracting approach or the nature of the entities delivering the services under the contract.

Privacy Comments

16. The exiting contract arrangements included protections in respect of GDPR as a flow down from the main contract between the outgoing provider and the MPS and their subcontractors. The MPS is now working with the Interim contractors to ensure that Data Protection Impact Assessment (DPIA) are in place between the MPS and each contractor (rather than as an overarching arrangement).

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 contract meets its compliance requirements.

DPIAs are in progress on a contractor by contractor basis (previously covered under the exiting contract arrangements) and the contract will ensure a privacy by design approach. This will allow the MPS to find and fix problems at an early stage, ensuring compliance with GDPR. DPIAs support the accountability principle, as they will ensure the MPS complies with the requirements of GDPR and they demonstrate that appropriate measures have been taken to ensure compliance.

Real Estate Implications

17. There are no implications.

Environmental Implications

18. Contractors are required to have appropriate sustainability approaches or policies in place. Otherwise environmental impacts are indirect in respect of delivery of the service.

Background/supporting papers

Not applicable

Report author: Emma Rice, Head of Commercial (Operational and Forensics)
07554223135

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 Digital Forensics – Interim Contracts is exempt from publication for the following reasons:

- Exempt under the Freedom of Information Act 2000, Section 43 – Commercial Interests.

The paper will cease to be exempt until 1st October 2026.