

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD163

Title: Waste and Recycling Services

Executive summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience for the London Fire Commissioner (LFC) to: commit revenue expenditure for the value set out in Part 2 of this report, following a procurement exercise; and award a new contract for the supply of waste and recycling services across the LFC's estate. These services are required to maintain the LFC's estate; contribute towards the Mayor's Environment Strategy and the achievement of the LFC's recycling target; and ensure waste is removed and disposed of in a compliant manner.

The contract will be procured using the NHS London Procurement Partnership (LPP) framework. The use of this framework achieves the value and quality benefits from collaboration with other public sector bodies, and will enable the LFC to benefit from centralised procurement. The new waste management supplier will ensure zero waste goes to landfill in line with the London Fire Brigade's (LFB's) Environment Policy (PN677) and will aim to achieve the 80 per cent recycling rate as set out in the Single Environment Plan. The costs for this new contract will be met from existing budgets.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the LFC 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:

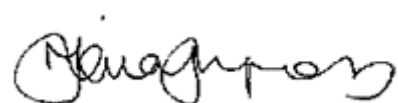
That the Deputy Mayor for Fire and Resilience authorises the LFC to commit revenue expenditure for the value set out in Part 2 of the report following a procurement exercise for the waste and recycling services contract for the period of five years.

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:

11/7/22

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

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0682 to the London Fire Commissioner (LFC) sets out the background for the request to: approve expenditure following a procurement exercise; and award a new contract for the supply of waste and recycling services across the LFC's estate.
- 1.2 The LFC requires a provider for waste and recycling services, including general waste, mixed recyclable waste, food waste, confidential waste and other miscellaneous waste. The current contract for the supply of these services across all premises in the estate is held by Bywaters and expires on 30 September 2022.
- 1.3 The current contract was awarded following a competitive procurement exercise in 2017 with a contract term of three years with two optional extension years. Both optional years have been utilised and no further extensions are available.
- 1.4 The scope of the planned service within the contract is for regular collections from all sites of the three main waste streams (general waste, mixed recyclable waste and food waste) in accordance with an agreed schedule. Confidential waste collections from specific sites are also included in the planned service. The contract includes the provision of all external waste bins, but internal bins are excluded and provided directly by the LFC as required.
- 1.5 The reactive service allows for removal of miscellaneous waste including hazardous waste, confidential waste, bulky and electrical items, and any other items that require removal and disposal. The provision of skips is also included.

2. Objectives and expected outcomes

- 2.1 It is proposed to procure a new contract for these services using the NHS London Procurement Partnership (LPP) framework. This framework provides for general waste, recycling and other miscellaneous waste streams which can be awarded as one lot or, if required, as separate lots. The framework is open for four years, with a commencement date of December 2021. The framework is a dynamic purchasing framework that is open to suppliers to join at any time. There is a good range of suppliers on the framework to provide for a competitive process. All suppliers appointed to this framework provide comprehensive and innovative waste solutions, and proactively assist to reduce waste quantities and achieve recycling targets. The framework encourages suppliers to undertake training and education and work with the LFC to encourage and increase waste awareness.
- 2.2 The current specification for these services remains appropriate and in accordance with the LFC's policies, but has been enhanced to reflect new priorities. The new supplier will use the LFC's computer-aided facilities management system provided by Bellrock Group to manage and deliver both the planned and reactive services and report on its performance. There will be an additional focus on support in increasing the LFC's achievement of its recycling target – the current percentage of waste recycled is around 65 per cent. The new specification will include a review of

the waste streams at each site with an aim of increasing recycling capacity and reducing reliance on general waste streams along with the provision of further training and education on recycling.

- 2.3 The performance mechanism has also been tailored to ensure it's relevant and proportionate, and encourages performance and swift resolution of any issues. The new contract will include additional performance indicators that focus on the delivery of training and education to increase the current percentage of waste that is recycled. This will support the delivery of the Mayor's Environment Strategy by maximising the recycling of materials and reducing waste where possible.
- 2.4 The proposed contract term is three years with two optional extension years. It is the intention to utilise these two extensions, providing that: service delivery is being achieved; and market intelligence on the rates current at the time of the extension has confirmed value for money is being, and can still be, achieved from the contract. Approval is requested for the full five years of spend.
- 2.5 This decision supports the delivery of the Mayor's Environment Strategy. London Fire Brigade (LFB) Policy 677 (Environment Policy) sets out how the LFC will fulfil its compliance obligations and other requirements to continually enhance environmental performance. The LFC aims to send zero waste to landfill, and reduce total waste produced by minimising LFB's consumption of resources; increasing reuse and recycling; and using refurbished and recycled equipment, products and materials. The LFC is also committed to managing hazardous waste materials and, where they cannot be avoided, aims to reduce their use and harm to the environment. This policy includes a target of 80 per cent of all waste generated to be recycled. This waste and recycling service supports these commitments and targets. Zero waste is sent to landfill in accordance with the contract conditions.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 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:
 - eliminate discrimination, harassment and victimisation and other prohibited conduct
 - advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it

- 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:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - 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
 - 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:
- tackle prejudice
 - promote understanding.
- 3.8 An Equalities Impact Assessment has been undertaken and it has been determined that the waste and recycling services will not have a negative impact on any groups.

4. Other considerations

Workforce comments

- 4.1 Representative bodies have not been formally consulted in the development of the proposed decision. This service will replicate the existing provision and there are no workforce implications.

Sustainability comments

- 4.2 This report addresses the existing sustainability concerns associated with the delivery of a waste management contract. The LFC has a duty to ensure that all waste streams are disposed of responsibly, using the appropriate schemes. Due to the diverse nature of the LFC's activities, a variety of waste is produced, from general waste and recyclable materials to special and hazardous waste.
- 4.3 This report notes that the new waste management supplier will ensure zero waste goes to landfill in line with LFB's Environment Policy (PN677), and will aim to achieve the 80 per cent recycling rate as set out in the Single Environment Plan.

- 4.4 It is a mandatory requirement of the contract for a fleet that is compliant with the Ultra-Low Emission Zone (ULEZ) to be utilised by the new service provider.
- 4.5 The LFC's sustainable development team would support the inclusion of sustainability and environmental issues within the key performance indicators of the new contract.
- 4.6 The new waste contract will be in excess of £100,000 and therefore in line with the LFC's Responsible Procurement Policy (PN696). The LFC is required to consider how social, economic and environmental value can be generated through the contract.
- 4.7 The specification includes requirements for training and education, and working with the LFC to encourage and increase waste awareness – including waste reduction/minimisation within the waste priorities, particularly around food waste and single-use plastics.
- 4.8 The supplier is required to develop, in collaboration with the LFC, a Waste Management Plan that contains SMART targets for reduction, reuse and recycling of the LFC's waste, in line with the LFC's own waste and recycling targets. The plan will be developed during the mobilisation and confirmed three months after the contract award. The plan will detail proposed disposal methods for each type of waste generated by the LFC that will be covered by the contract, ensuring that no waste is sent to landfill; and that all waste sent to incineration is truly non-recyclable, as far as practicable. The plan will also incorporate waste reduction targets.
- 4.9 The evaluation of the responsible procurement elements of this contract will be completed using the Social Value Portal. Mandatory themes, outcomes and measures have been set that include reducing risks of modern slavery, unethical work practices and/or labour rights violations; compliance with the Mayor's Good Work Standard; local employment; reducing environmental impact; the circular economy; fleet emissions; and reducing single-use plastics. Suppliers will have to provide details on their fleet, and provide commitments towards a zero-emission and ULEZ-compliant fleet.
- 4.10 The Sustainable Development team is involved in the ongoing environmental and responsible procurement management of this contract. Any additional targets set via the GLA will be incorporated into the training and staff awareness in this contract. The contract includes a variation process that provides flexibility to incorporate any changes in legislation including changes as a result of the Resources and Waste Strategy.

Procurement comments

- 4.11 The procurement approach will use the LPP framework, which was subject a full procurement process in accordance with the Public Contract Regulations. The framework operates as a Dynamic Purchasing System (DPS), and a mini competition will be carried out in accordance with the rules of engagement set by the framework owner. The procurement approach will be in accordance with Part 3 of the LFC's Standing Orders relating to Procurement.
- 4.12 The DPS has only just been launched; therefore, it is up to date in terms of the current supply market.
- 4.13 Pre-market engagement with the bidders on the DPS will be carried out to inform bidders about the operational and commercial details of the opportunity, including the outline of the specification to highlight any perceived benefits or challenges. Furthermore, affordability will be

part of the mini-competition documentation issued, and mid-tender meetings will be held with bidders to ensure that the affordability aspect is clearly communicated to them. The mini-competition between the bidders on the DPS will bring competitive tension to the tender process.

- 4.14 The evaluation of price and quality will be weighted in order to maximise value for money for the services included within the contract, and to assist with its overall affordability.

Conflicts of interest

- 4.15 There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

5. Financial comments

- 5.1 This report requests approval to procure a new LFC waste and recycling service for a period of five years, using the NHS LPP framework. The contract will run for three years with the option to extend for a further two years. The detailed financial information to support this request is contained within Part 2 of the report.
- 5.2 LFC contracts have provision to terminate early (a no-fault termination clause), albeit with a notice period. If a contract is no longer viable then LFC will seek to terminate it on this basis, or work with suppliers to pause delivery and/or renegotiate what is being delivered. This is preferable to inserting a break clause for inflation as such pressures apply across the market so unlikely that benefits will be gained from terminating a contract in order to go back out for competition.

6. Legal comments

- 6.1 Under section 9 of the Policing and Crime Act 2017, the LFC is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the LFC specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
- 6.2 By direction dated 1 April 2018, the Mayor set out those matters, for which the LFC would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the Deputy Mayor).
- 6.3 Paragraph (b) of Part 2 of that direction requires the LFC 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...".
- 6.4 The Deputy Mayor's approval is accordingly required for the provision of waste and recycling services contract which has an estimated cost exceeding £150,000 and is set out in full in Part 2 of the report.
- 6.5 The arrangements proposed is consistent with the LFC's power under section 5A of the Fire and Rescue Services Act 2004 to do anything it considers appropriate for the purposes of the carrying out of any of its functions.

- 6.6 The report sets out details for the proposed procurement, and procurement via the LPP framework is compliant with the Public Contracts Regulations 2015. The procurement approach will be in accordance with Part 3 of the LFC's Standing Orders relating to Procurement.
- 6.7 These comments have been adopted from those provided by the LFC's General Counsel Department in report LFC-0682 to the LFC.

Appendices and supporting papers:

Part 1 of LFC-0682 – Waste and Recycle 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? NO

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 – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Andrew Beesley 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

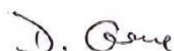
A summary of this decision was reviewed by the Corporate Investment Board on 11 July 2022

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

14/7/22