

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD116

### Title: The provision of Respiratory Protective Equipment (RPE) replacement components

#### 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 of up to £500,000 in relation to a contract for the provision of Respiratory Protective Equipment (RPE) replacement component parts for up to two years.

The existing agreement with Draeger relating to the provision of these components is due to expire on 1 July 2021. It is proposed to enter a new one-year contract (plus an option to extend for a further year) with Draeger to continue the arrangement until LFB has fully rolled out updated Breathing Apparatus (BA) sets that are being separately procured. As Draeger supplies LFB's existing BA set, they are the only supplier able to provide the components for service and maintenance of this apparatus and, therefore, the LFB is unable to process a competitive tender in this instance.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire Commissioner to seek prior consent before "[a] commitment to expenditure (capital or revenue) of £150,000 or above". The Direction also provides the Deputy Mayor with the authority to "give or waive any approval or consent required by [the] Direction".

#### Decision:

The Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to commit revenue expenditure of up to £500,000 for the provision of Respiratory Protective Equipment replacement component parts.

#### 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:

6 July 2021

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

### **Decision required supporting report**

#### **1. Introduction and background**

- 1.1. Report LFC–0517 to the London Fire Commissioner (LFC) explains that within the London Fire Brigade's (LFB's) Operations Support Group (OSG), there is an ongoing requirement to ensure Breathing Apparatus (BA) sets are maintained and serviced, in order to deliver adequate protection for London firefighters and the communities of London. As such, replacement parts and materials are required to be purchased throughout the life of the set, in order to guarantee a constant supply of BA sets, to maintain LFB's provision of an operational response to emergency incidents.
- 1.2. In June 2016 the current agreement between LFB and Draeger was submitted and approved. This agreement enabled the LFC to procure replacement components from Draeger, to meet the needs of LFB and the technicians within the OSG. This relationship has worked well across the life of this contract and is due to expire on 1 July 2021.
- 1.3. LFB has recently undertaken a tender process to procure new BA sets. Draeger's existing BA sets will continue in operation until LFB has fully rolled out the replacement BA sets. A new contract of up to two years will be required for the period from 1 July 2021, in order to ensure LFB remains fully operational.

#### **2. Objectives and expected outcomes**

- 2.1. Approval is sought for the LFC to incur expenditure in order to commence a one-year RPE replacement component parts contract with Draeger, commencing on 1 July 2021, with an option to extend for a further year.
- 2.2. The LFC confirms that the new contract will be entered into on the same terms as the existing agreement with Draeger.
- 2.3. This contract will enable the LFB to maintain its current BA sets for up to two years, ahead of receiving its new BA sets. Due to the implementation time for the new arrangements, an interim solution with Draeger is required, in order to ensure the LFB's existing sets are fully operational until their planned end of service. It is estimated that one year will allow sufficient time to complete these works; however, should there be a delay in the arrival of the new sets, an additional year would allow LFB a contingency period, in order to continue providing parts for the BA sets and ensure continuity of service of this operationally critical equipment.

##### *Costings*

- 2.4. With no annual service charge, the budget is solely dependent on the parts that are required in order to maintain LFB's BA sets. The annual costs vary depending on which spare parts are required; these are to be ordered for specific issues that arise. In recent years, the way in which the OSG services and maintains BA sets has undergone evaluations, which have driven changes in working practice that have seen a continual decrease in spend relating to RPE component parts. In 2018-19 total expenditure was £542,600; the table below shows subsequent years' spend, evidencing the impact of these changes.
- 2.4. Furthermore, as the existing BA set is approaching the end of its life, the way technicians service the equipment will change. Where LFB would buy replacements, it will condemn sets where it is cheaper to strip them for parts, further reducing the need to purchase previously seen amounts of RPE components. Therefore, LFB can confidently predict this contract to be under the £500,000 budget that is being requested, due to changes in working related to moving the current BA sets to the

expiration of their service with LFB. Year one (2021-22) is expected to fall comfortably below £300,000; if a year two is required, it is highly unlikely that the full year would be necessary.

Financial year 2019-20	Financial year 2021 to date	Financial year 21-22 forecast
£374,312	£265,337  Year-end c.£300,000	↓£300,000

#### *Alternative options considered and consultation*

- 2.5. Draeger is the manufacturer of the existing BA set, and the only company approved to supply the components for service and maintenance of this breathing apparatus. Regulation 32(5)(b) of the Public Contracts Regulations (PCR) 2015 will be utilised as an exemption from publicising the tender, allowing the move forward with Draeger without prior publication.
- 2.6. Consideration has been given as to whether existing stock of replacement components that have been purchased and are held as assets by LFB could be utilised. However, due to the stock levels and unpredictable nature of repairs, LFB is unable to sufficiently forecast if this would be viable; nor is it believed the current stock levels would be suitable for the period in question.
- 2.7. Consideration was given as to the possibility of bulk-buying items to cover all eventualities across the period noted. This would unfortunately risk leaving LFB with excess stock, and no guarantee of a reverse-purchase from Draeger.

### **3. Equality comments**

- 3.1. The London Fire Commissioner and decision-takers are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when exercising our functions and taking decisions.
- 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 us, in the exercise of all LFC functions (that is, everything the LFC does), 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 and promote understanding.
- 3.8. An equality impact assessment (EIA) was undertaken on 13 August 2020. The impact assessment found there to be no adverse impacts in any area or on any particular group.

#### **4. Other considerations**

##### *Procurement and sustainability*

- 4.1. In order to ensure that the BA sets are repaired using approved parts, regulation 32(5)(b) of PCR 2015 will be utilised to negotiate and contract with Dräger directly without prior publication. This is because there is no competitor able to offer the services/component parts that Dräger supplies.
- 4.2. Regarding sustainability, this agreement will support in maintaining the existing BA sets for the remaining year, assisting in keeping these sets operational and utilising them until such time as a more tailored set is agreed upon.

#### **5. Financial comments**

- 5.1. This report requests approval for expenditure of up to £500,000 in total for the supply of RPE replacement component parts for up to two years. As outlined above, there is no annual service charge for the contract; expenditure is dependent on the parts that are required to be purchased in order to maintain LFB's BA sets. The component parts purchased will include various items at mixed prices, but it is anticipated that any risk of prices fluctuations will be contained within the overall value above.
- 5.2. These costs will be contained within the annual revenue budget for the maintenance and repairs of breathing apparatus. The report also notes that there is confidence that this figure will be reduced over the coming years, any reduction of costs will be identified and communicated as part of the monitoring and budget setting processes.

#### **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. 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.

- 6.2. 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").
- 6.3. 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...".
- 6.4. The Deputy Mayor's approval is accordingly required for the Commissioner to award a contract for the supply of RPE replacement component parts for 1 year, with an option to extend for a further 1 year, at a cost of up to £500,000.
- 6.5. The statutory basis for the actions proposed in this report is provided by section 7 (2)(a) of the Fire and Rescue Services Act 2004, under which the Commissioner must secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements for firefighting.
- 6.6. LFC's General Counsel also notes that the contract with Draeger will be entered into by virtue of Regulation 32(5)(b) of PCR 2015. This is due to that fact that Draeger is the original supplier of the BA sets; therefore, the additional parts are intended as a partial replacement of supplies, and a change of supplier would oblige the LFB to acquire supplies with different technical characteristics. This would result in incompatibility or disproportionate technical difficulties in operation and maintenance.

#### **Appendices and supporting papers:**

LFC-0517 – The provision of Respiratory Protective Equipment (RPE) and Replacement Components.

**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 London Fire Commissioner require deferral of the decision until after the cooling off period for the contract award has expired.

Until what date: 01 October 2021

**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 28 June 2021.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

*D. Gove*

**Date**

6 July 2021