

REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD43

Title: Procurement for the Supply of Diesel for Strategic Reserve Storage Tanks

Executive Summary:

Report LFC-0234 to the London Fire Commissioner seeks approval to award a two-year contract for the supply of diesel for strategic reserve storage tanks with a value of up to £814,000.

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:

The Deputy Mayor for Fire and Resilience approves the expenditure of up to £814,000 by the London Fire Commissioner for the supply of diesel for strategic reserve storage tanks as set out in report LFC-0234 to the London Fire Commissioner.

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:

18/12/19

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

Decision required – supporting report

1. Introduction and background

- 1.1. In 2005, the replacement of 39 above ground diesel tanks of the London Fire Brigade (LFB) took place. All tanks had a capacity of 5000 litres, apart from the Croydon tank (20,000 litres) and Kensington's (1500 litres). In January 2014, following the closure of Kingsland Road and Southwark fire stations, two diesel tanks were removed.
- 1.2. The strategic capacity of the remaining 37 diesel tanks provide an adequate stock of diesel for six weeks (based on average consumption) to enable the LFB to function, if there is any reason that deliveries cannot be otherwise made. These tanks are used for day-to-day refuelling by the stations they are attached to, ensuring that the life of the diesel is maintained.
- 1.3. Delivery of diesel to the 37 strategic reserve storage tanks located at fire stations allows operational staff easy access to fuel if accessing petrol station forecourts is problematic e.g. due to bad weather or if there is an issue with supply at petrol stations.
- 1.4. The previous procurement was undertaken by Crown Commercial Services (CCS) on behalf of the LFB following a national aggregation of public sector requirements and a mini competition between framework suppliers.
- 1.5. The previous total spend over two years was £717,000 (01/07/17 to 30/06/19) with Hall Fuels. The price of fuel fluctuated throughout the contract and was updated on a weekly basis by the purchasing unit following an update from CCS by email. This price comprised of the commodity cost of diesel, the fixed supplier margin and CCS fixed fee for managing the framework.

2. Objectives and expected outcomes

- 2.1. Following the procurement process described below, LFB wishes to award a contract to Certas Energy UK Ltd for the supply of diesel for strategic reserve storage tanks and this report is seeking the approval of the Deputy Mayor for Fire and Resilience for the expenditure of £814,000.
- 2.2. CCS has identified the best value supplier through a mini competition with a nationally aggregated requirement. As such, this contract attracted interest from the pre-qualified framework suppliers and achieved a good level of competition. It is therefore recommended to the London Fire Commissioner that the contract be awarded to Certas Energy UK Ltd. Accounting for the expected annual expenditure by the Commissioner and the basis of the contract pricing, the contract value is expected to be up to £814,000 over two years.

3. Equality comments

- 3.1. The Public Sector Equality Duty – and the potential impacts of this decision on those with protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, sex, religion or belief, sexual orientation) – has been considered by the London Fire Commissioner and the Deputy Mayor for Fire and Resilience at the Fire and Resilience Board on 24 September 2019.
- 3.2. The Public Sector Equality Duty applies to the London Fire Commissioner and the Deputy Mayor when they make decisions. The Duty requires them to have regard to the need to:

- a) Eliminate discrimination, harassment and victimisation and other behaviour prohibited by the Act.
- b) Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
- c) Foster good relations between people who share a relevant protected characteristic and those who do not including tackling prejudice and promoting understanding.

3.3. An Equality Impact Assessment has been undertaken which finds that there is neither a positive nor negative impact on individuals within any of the protected characteristics groups, and no further opportunities to advance equality between people who share a protected characteristic nor to foster good relations in the community.

4. Other considerations

Procurement and Sustainability

- 4.1. CCS set up the National Fuels Framework in July 2017. Suppliers were evaluated on quality and price when tendering for a place on the framework.
- 4.2. Every two years, CCS collates public sector data for the national aggregation to hold a further competition. The LFB supplied its specification data on tank location, storage and delivery requirements in March 2019 which CCS took into account when it conducted a bulk further competition as further described below.
- 4.3. Crown Commercial Services (CCS) aggregated the public sector's national requirements for liquid fuels and established a framework for supply (National Fuels Framework RM3801). CCS conducted a bulk further competition under the framework to replace the then existing call-off contracts for all of their public sector customers. The new call-off contracts will expire on the 31 March 2022 (30 months). The phrase "bulk further competition" are the words which CCS use in their correspondence. The framework allows for other further competitions to be run, if required, however, the public sector customers such as LFB whose supply was under the then existing call off contracts, now have access to the new call off contracts. Hence, CCS conducted a bulk further competition on behalf of LFB and other public sector organisations. New call off contracts are now in place.
- 4.4. As part of the invitation to tender a standard questionnaire (detailed in Appendix 1 to report LFC-0234 to the London Fire Commissioner – Evaluation Criteria) was issued to suppliers on the framework and providing they have passed the pass/fail questions they were then asked to take part in the eAuction stage which was evaluated 100 per cent on price.
- 4.5. An electronic auction (eAuction) is a procurement tool that uses web-based software to allow potential suppliers to compete online, in real-time, to provide prices for the goods/services under auction. For this procurement, potential suppliers competed with each other by reducing their margin (in pence) that is charged to the customer for every litre of diesel delivered.
- 4.6. CCS concluded the eAuctions on 27 June 2019 and contacted customers to provide the results week commencing 5 August 2019.
- 4.7. The following suppliers competed in the eAuction:

Position	Suppliers
1st	Certas Energy UK Ltd
2nd	New Era Fuels
3rd	WFL UK Ltd
4th	Wessex Petroleum

- 4.8. Certas Energy UK Ltd won with a bid with a supplier margin of 1.46 ppl.
- 4.9. The recent Sustainable Development Annual Report 2018/19 (LFC-0046) identified a 20 per cent increase in diesel use thought to be primarily the result of the new Euro 6 appliances that are still being deployed across the LFB fleet, suggesting further increases in fuel consumption may be possible. The period reviewed for the consideration of the uplift includes the impact identified with the annual report.
- 4.10. The total cost of diesel per litre includes three elements:
- a) the supplier's margin, charged at 1.46 pence per litre delivered (the supplier's margin is fixed for the term);
 - b) CCS fee which is fixed and charged at 0.20 pence per litre delivered; and
 - c) the variable commodity cost (determined on the global commodity market) (including Duty), which at the time of writing the report (12/08/19) was 99.82 pence per litre (including Duty).
- 4.11. This gives a total pence per litre (ppl) (excluding VAT) of 101.48 (Total including VAT: 121.78) compared to the current pump price of 132.03ppl. The framework therefore saves the Brigade 10.25 ppl (based on the quoted commodity cost).
- 4.12. The actual expenditure on this contract is ultimately determined not only on the price of fuel as a commodity but also should there be a requirement for increased use of the 37 diesel tanks as a contingency measure to provide resilience for front line operations. This could be due to extreme weather preventing access to fuel courts or UK fuel shortages as seen in 2000.
- 4.13. Because of these variables, a 10 per cent contingency has been added to the contract value which was calculated based on 729,453 litres of diesel used in two years (30/06/2017 to 30/06/2019) multiplied by the winning eAuction bid of 101.48ppl (excluding VAT). This gives an estimated spend of £740,000, with an uplift of 10 per cent (£74,000) giving a sum of £814,000, however it should be noted that this only represents a snap-shot in time as it is based on the current commodity cost.

5. Financial comments

- 5.1. This report seeks approval to award a contract to Certas Energy UK Ltd for the supply of diesel for strategic reserve storage tanks. The cost of the contract is dependent on actual fuel usage. However, based on historic usage between July 2017 and June 2019, the expected cost is estimated at £740,000 over two years. In addition, a contingency of £74,000, equivalent to a 10 per cent increase in this cost has been budgeted for, bringing the total estimated expenditure over two years to £814,000. Excluding this additional contingency, the annual forecast cost of £370,000 per year would represent a £12,500 increase, compared to annual expenditure over the previous contract period.
- 5.2. The expected increase in expenditure will be considered as part of the budget process for future years. The plans do not commit the Mayor to provide additional funding to LFC and, as a result, there are no new direct financial implications for the Greater London Authority. As noted above in section 2.4, the actual expenditure on this contract is ultimately determined by the price of fuel and its day-to-day usage, including the potential for increased use of the 37 diesel tanks as a contingency measure to provide resilience for front line operations.

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 for the expenditure of up to £814,000 is accordingly required for the Commissioner to be able to purchase the required Diesel for Strategic Reserve Storage Tanks.
- 6.5. The Commissioner's General Counsel has reviewed this report and notes that the arrangement proposed is consistent with the Commissioner'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. Furthermore, under section 7 (2)(a) of the aforementioned legislation, the Commissioner has the power to secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements for firefighting.
- 6.7. The Commissioner's General Counsel also notes that the procurement was in compliance with the Public Contracts Regulations 2015. The CCS have conducted a compliant OJEU procurement in accordance with section 33 of the Public Contracts Regulations 2015 to set up CCS National Fuels Framework Agreement RM3801. In addition, CCS have aggregated public sector requirements and undertaken a further competition, from which the Commissioner is able to make a compliant call off.
- 6.8. In taking the decisions requested, the Deputy Mayor must have due regard to the Public Sector Equality Duty, namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, sex, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Deputy Mayor should have particular regard to section 3 (above) of this report.
- 6.9. The approval by the Deputy Mayor, and subsequently by the London Fire Commissioner, will result in the award of contract to Certas Energy UK Limited at an expected cost of up to £814,000 over two years for the provision of diesel to the London Fire Brigade.

Appendices and supporting papers:

LFC-0234 – *'Procurement for the Supply of Diesel for Strategic Reserve Storage Tanks'*

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:

Publication of the procurement outcomes and prices achieved as detailed in report LFC-0234 to the London Fire Commissioner prior to completion of the cooling-off period would risk damage to the commercial interests of the Commissioner.

Until what date: 1 January 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

Tom Middleton 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 16 December 2019.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Allen

Date

17.12.19