

John Biggs AM
City Hall
The Queens's Walk
London SE1 2AA

19 January 2016

MOPAC14102015-21716

Dear John,

To Protect and Save: The Met's Approach to Outsourcing

Thank you for your letter of 14 October with the Budget and Performance Committee's report *To Protect and Save: The Met's Approach to Outsourcing*.

Please find below the recommendations to both MOPAC and the MPS, together with responses in italics.

Recommendation 1

The Met's Commercial Programme Board, which oversees the commercial strategy, should include employee representation.

Employee representation already exists in MPS governance arrangements. This sits alongside the oversight provided by MOPAC audit and external representatives (e.g. Home Office). The Commercial Board reports to Management Board, Investment & Resources which includes employee representations.

Staff engagement will continue through existing channels. Programme Managers of each Commercial work stream will present to and be held accountable to these boards.

The Trade Unions meet formally with Management Board three times per year to be updated in the strategic direction and in dispute resolution.

There are two corporate boards for informing and governance, OMM2020 which is driving the modernisation of the organisation delivering best value for London. The Commercial Strategy Board has a wider remit to not just look at the most effective solution but also income generation and the use of the MPS brand in commercial partnership. The terms of reference include an opportunity Trade Unions to resolve potential issues that emit from Tier 1 to enable clarification or resolution of initial disputes.

The third layer at Tier 1 is where the real constructive consultation takes place, working on the principle that true consultation takes place as near to the business as possible.

There are three levels of Tier 1 which sit under the two corporate boards:

Commercial Strand - *For example new tenders and change processes that are likely to have a commercial solution.*

Departmental - organisational change leads must first bring their proposals to the Corporate Tier 1, where it may be suggested that more detailed consultation may continue at departmental level e.g. Forensics.

Corporate Tier 1 - cross - department functions and all organisation change programmes that are likely to result in police staff reductions must come to Tier 1 before any decisions are made to commence Union engagement. It may be decided at this meeting that local engagement can continue in order to consider the detailed design.

Principles of Engagement

To foster effective consultation change leads are asked to follow the principles of engagement. Terms of Reference are to be drawn up and agreed with the attendees including the Trade Unions.

Change leads are advised to be open and transparent, and to share as much information as possible with the Trade Unions that is not subject to commercial sensitivity.

Trade Unions require information at an appropriate time that is relevant and understandable to be able to provide an informed response. The MPS has agreed within the Partnership Framework Agreement that any documents are circulated at least one week prior to a Tier 1 meeting.

The MPS have a legal obligation to consult throughout the development stage before submission to Management Board and before any decision is made.

Business Cases must be submitted to Portfolio and Design Board and Management Board with written commentary from the Trade Unions.

Recommendation 2

MOPAC should lobby the Home Office and the College of Policing to take a greater role in developing business skills in forces, as the National Audit Office has suggested.

MOPAC has regular engagement with Home Office and College of Policing. A number of forces face challenges developing business skills, which Home Office and College are still on a path to developing.

All leadership programmes that are developed and delivered by the College of Policing include modules on executive and business skills.

The Executive skills module of the Senior Leadership Programme (SLP) covers: the skills to lead in a complex policing environment where effective and authentic leadership and the ability to influence others is essential. The module explores emotional intelligence, self-awareness and ethical, values-based, decision making. Delegates complete a 360 feedback tool and MBTI assessment before attending this module.

The Business skills module of the SLP covers: managing people, performance, change, finance and resources, in a fluid and challenging working environment. Subjects explored will include project management, systems thinking, business case development and the health and wellbeing agenda within a policing context.

Recommendation 3

To ensure that decisions about how the Met configures its services are based on sound analysis, MOPAC's Directorate of Audit, Risk and Assurance should, in its 2016-17 Audit Plan for MOPAC and the Met, include a review of how robustly the Met establishes baseline costs and performance in its commercial strategy.

Commercial strategy already features in the Audit plan as it has in previous years. MOPAC's Directorate of Audit, Risk and Assurance already sits on programme boards to provide input as the projects are progressing.

A Review of the implementation of the MPS Commercial Strategy will be included in the 2016-17 work programme.

Attendance on the Senior Leadership Programme (SLP) leads to the opportunity to complete a CMI qualification. The CMI is the only chartered professional body in the UK dedicated to promoting the highest standards in management and leadership excellence.

Recommendation 4

The Met should make the following commitments:

- Before it decides to outsource a service in the future, it should ensure that in-house teams are able to produce business cases to reform services and cut costs themselves.
- If it chooses to test the market, it should make baseline cost and performance data available to all bidders.
- Decisions to outsource services should include an explicit assessment of how the Met could return to an in-house arrangement in the future.

The commitment to in-house proposals existed when the original strategy was agreed at Management Board in 2013. To assist in this specific expertise was commissioned to support the internal bids. It must however be recognised that providing the ability to bid is different from the ability to bid competitively. In the example of the 'Back office functions' it became clear at the outline business case stage that the cost projections of the internal bid would be uncompetitive when compared to alternatives. At this stage the option of an internal bid was discounted. This was not for ideological reasons just simply it would not have been a good use of money to pursue a bid that had no viable chance of success.

1. *The decision to allow in-house teams to produce business cases to reform services and cut costs themselves will be evaluated as part of the outline business case. Note for national Uniform managed Services the option for internal transformation was pursued.*

The outline business case covers all costs including a known baseline. The outline business case ensures that options appraisal is fair and determines the best outcome. There is no bias in this just a straight assessment of the relative options.

2. *The choice of whether the baseline costs are made available for all bidders is a commercial decision. It will depend on the area being considered. In some cases it may make sense for this information to be shared in other cases not. Within the current commercial strategy there are examples of why this information has been shared and others where it has not. The Met will consider making baseline costs available to bidders on a case by case basis. For example in both the Fleet and Back Office Services projects costs were revealed whereas for the ICT total technology infrastructure*

programme they were not. The decision is based upon market and commercial intelligence of what would deliver the best value for money.

The recommendation assumes the MPS has the ability to conduct the services itself. For example the viability of returning the Capgemini contract in-house may not be the most appropriate solution. It will require the purchase of data centres, capital equipment and expertise that is not available. As such exit arrangements should be seen as holistic in terms of how would the exit be managed as opposes to simply returning services in-house.

- 3. All contracts contain clear exit provisions. Consideration is also given to how the Met will deal with failure which may result in the services being delivered by a new provider whether internally or externally. The call for an explicit assessment of a return in-house option will be made in future commercial work streams decisions. A statement on exit management will be contained in the business case with the necessary risk provision captured.*

A specific piece of work should be undertaken by the MPS within twelve months on each new contract award to test business continuity arrangements and exit planning. This report should go to the Commercial programme Board and Management Board/MOPAC oversight panel.

Recommendation 5

MOPAC and the Met should add the following principle to its commercial strategy: all commercial opportunities should, where appropriate, contribute to the Mayor's priorities to support SMEs and create apprenticeships. In addition, where the Met decides to outsource services, it should fully assess the social value of each bid during the bid evaluation process, under the provisions of the Social Value Act.

Consideration of corporate social responsibility is already included in tender evaluation criteria but recognition of the ability of new 'outsource' contracts to support this agenda is acknowledged. The consideration of wider mayoral priorities to the commercial strategy, as part of the broader application of social values, in the bid evaluation processes will be made more explicit in the commercial strategy.

Our standard terms and conditions of contract and our invitation to tender documents already include questions on how the supplier will benefit the community through the Social Value Act and response to questions on how the bidder makes provision for apprenticeships and contributes to the SME agenda are scored as part of the contract award process.

For example the Facilities Management Integrator and its supply chain are contractually obliged to comply with MOPAC's sustainability and responsible procurement objectives, contrary to paragraph 3.7 of the report. Compliance to these and other standards are monitored via the contract management process.

Social Value is one of a number of considerations taken into account as part of the tender evaluation process. It already figures in the process albeit in reality the weighting applied to it is not as high as commercial and technical areas.

Recommendation 6

The Met should update its commercial principles to include a consideration of ethical dimensions. Contractors should have a strong track record in demonstrating the high ethical standards expected in the conduct of public business.

The commercial principles will be updated to include a clear ethical dimension. Work is already underway, the current Fleet tender encompasses the work undertaken by the Total Professionalism Board on the Code of Ethics. Compliance to this standard will be mandatory. This builds upon the provisions already in our terms and conditions and tender documentation where under Public procurement regulations firms can be excluded if they breach bribery, theft, fraud, criminal activity, terrorism and non-payment of taxes.

On the ICT contracts behaviours of bidders has also been evaluated to test alignment to the MPS values.

Recommendation 7

MOPAC, in its response to this report, should set out its position on the use of zero hours contracts by contractors. Specifically, it should state whether its deals with KBR (facilities management) and SSCL (finance, procurement and HR services) would allow for the use of zero hours contracts, including by sub-contractors.

Zero hours contracts are not used on MPS/MOPAC contracts and that MOPAC and the MPS go further in actively supporting the payment of the London Living wage through our contracts. Neither SSCL nor KBR use zero hours' contracts to deliver their services to the Met. Note this comment relates to MPS contracts. The example below from SSCL demonstrates why.

Sopra Steria (including SSCL and NHS SBS) confirms it does not have a policy on zero hour contracts, this is because they do not ordinarily use these types of contract for their employed workforce or for agency temps hired via Sopra Steria Recruitment from agencies such as Brook St. They also confirm that a zero hour contract is not an option within our resource request process when commencing any hiring activity.

There are however approx. 30 employees that Sopra Steria acquired when they took over the Cleveland Police contract in 2011 where zero hours contracts are used, this is part of a legacy arrangement and is only used in that part of the Sopra Steria business for operational reasons on that account.

Recommendation 8

MOPAC should commit to publishing large outsourcing contracts proactively and collecting and publishing regular financial and performance data on outsourced services and these should be published on the London Datastore. MOPAC and the Met should insist that the private sector contractors they use co-operate with Freedom of Information requests submitted to the Met.

Through its contracts the Met requires its suppliers to co-operate with Freedom of Information requests. These contracts also allow the publication of contract details. The Met does not currently publish financial and performance data via London Datastore. This will be investigated and a recommendation to the adaption of such a paper will be taken to the Commercial Board.

The MPS has amended their tender documentation to ensure that all new contracts can be published. This also ensures contractors have a requirement to provide assistance with the collation of information to fulfil freedom of information requests.

All invoicing spend above £500 is already published. Invoices are only paid if the service has been satisfactorily delivered.

The Met will explore the use of London Datastore and establish whether this creates addition value. Irrespective of the delivery method used greater transparency of performance and financial data will be embraced in 2016.

Recommendation 9

MOPAC and the Met should develop a clear policy setting out when and how contracts should be based on open-book accounting principles. Every major contract – perhaps those worth over £50,000 – should have a supply-chain assurance strategy to guide the collection and use of information, as the National Audit Office suggests. In addition, the Met should re-negotiate open-book access rights into old contracts, where appropriate.

The principles suggested are supported. Met contracts already contain open book provisions however the adoption of a supply-chain assurance strategy for contracts above £50,000 is considered too low a threshold. The provision above £500,000 total contract value is considered more appropriate as thorough reviews are also extremely time consuming and the appropriate resource is needed. The requirement will not be retro fitted into all old contracts as all major contracts are being replaced under the commercial strategy.

Open book accounting is a useful tool although this needs to be addressed with a healthy cynicism. For example in 2011 and 2012 the open book review of the Cap Gemini contract indicated that they were making a loss on the MPS contract.

Contract management will be used to ensure all terms and conditions including open book are enforced. The same regime will be used to manage supply chain assurance although it should be noted that the role of the Facilities management Integrator and the Service Integrator and Management contracts have this as a contract obligation. As such they will perform this role on our behalf.

Recommendation 10

The Met should create clear career paths within its commercial function to help to attract, develop and retain skilled staff. In its response to this report, the Met should set out its approach to recruitment and pay for these roles, and how it will fit into its wider grade and pay structure.

The commercial function is one of the few back office functions that was protected under the Met Change programme. As well as protecting staffing numbers the MPS has appointed its first Commercial Director to signify the importance it places on this capability.

Whilst it is difficult to set defined career paths that attract, develop and retain skilled staff in the current 'austere' environment several key changes are already underway.

The Contract management function that was within Digital Policing has moved under Commercial. This will be responsible for managing the new ICT contracts. Two new recruits with previous experience of managing towers based contracts have been selected and are due to join the MPS early in 2016. This exercise has proved that the MPS salaries are attractive. It has shown however that the skills required are in short supply although the market has significant capacity of people released by central government. In discussion with the Cabinet Office the public sector is not attractive to private sector talent given the continued austerity programme without breaking the salary structure. This will continue to be monitored and the necessary conversations held with HR if necessary.

The advertisement for the Met's first Director of Contract Management has been posted with recruitment expected Q1 2016.

The Commercial and Finance transformation programme includes training and development activities with up-skilling of the remaining team a key priority. On this theme members of the procurement team undertook a three week course on contract management developed by the International Association of Commercial Contract management in conjunction with the cabinet Office and University of Southampton.

The MPS are pursuing access to the Cabinet office Contract management Programme which is currently only available to the Civil service. The MPS do however follow the Crown Commercial Service Contact management Framework.

I do hope this information is useful to you.

Yours sincerely,



Stephen Greenhalgh
Deputy Mayor for Policing and Crime

