

## REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD157

### Title: Provision of External Audit 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 as set out in Part 2 of the report against the existing revenue budget, over five years, for external audit services from 1 April 2023.

The LFC currently opts into a service from Public Sector Audit Appointments Ltd (PSAA), which procures external audit services on its behalf. The current arrangements (approved by the London Fire and Emergency Planning Authority in 2017) will expire at the end of the 2022-23 financial year. LFC has been invited to consider whether to opt in for a further five-year period from 1 April 2023, and has indicated that this invitation will be accepted.

PSAA has undertaken a number of consultations over the past couple of years to obtain user feedback and consider options for improvements. Officers have responded to PSAA consultation, as well as work with Greater London Authority colleagues, to consider alternative options for the procurement of external audit services.

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 as set out in Part 2 of the report over five years for external audit services from 1 April 2023.

#### 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:

28/2/22

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

### **Decision required – supporting report**

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

- 1.1 Report LFC-0654 to the London Fire Commissioner (LFC) sets out the background for the request for the Deputy Mayor for Fire and Resilience to approve the LFC to agree the decision as set out in the Part 2 report, and:
  - for the LFC to agree to opt into the Public Sector Audit Appointments Ltd (PSAA) procurement process, by the 11 March 2022 deadline
  - for the LFC to delegate to the Director of Corporate Services authority to confirm the appointment of external auditors following completion of the PSAA procurement process.
- 1.2 The Local Audit and Accountability Act 2014 and the Local Audit (Appointing Person) Regulations 2015 put in place arrangements for the appointment of auditors by local authorities, necessitated by the winding-up of the Audit Commission. The Regulations set out the concept of an ‘appointing person’, sometimes referred to as a sector-led body, and in 2016 PSAA was specified as the ‘appointing body’. PSAA was originally established to operate the transitional arrangements following the closure of the Audit Commission under powers delegated by the Secretary of State, and is an independent, not-for profit company established by the Local Government Association.
- 1.3 Under the Act and the Regulations, one option open to the local authorities, including the LFC, is to opt in to such a sector-led body. Alternative options are to: set up a Joint Auditor Appointments Committee (AAC), together with other local authorities responsible for auditor selection; ask another authority's AAC to carry out these functions on the LFC's behalf; or make a stand-alone appointment through an LFC AAC.
- 1.4 During 2016 and 2017 officers worked with Greater London Authority (GLA) officers to investigate the options available, and the LFC (as its predecessor body, the London Fire and Emergency Planning Authority (LFEPA) (Report FEP 2685)), considered these options and agreed to accept PSAA's invitation to opt into the national scheme for the appointment of external auditors from 1 April 2018. As a consequence of that, Ernst & Young LLP was appointed as the LFC's (and previously the LFEPA's) external auditors for the five-year appointing period, from 2018-19 to 2022-23.
- 1.5 PSAA is now commencing the latest process for appointment of external auditors; and has formally invited the LFC to become an opted-in authority to the national scheme in accordance with the Regulations. Further information is contained in the PSAA opt-in invitation letter, and at Appendix 1. The length of the compulsory appointing period covers the audits of the five consecutive financial years commencing 1 April 2023.
- 1.6 A decision to become an opted-in authority must be taken by the LFC. The closing date to give notice to PSAA that the LFC accepts its invitation is Friday 11 March 2022.

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

- 2.1 There are three formal options currently open to the LFC under the Regulations:

- opting into the PSAA arrangements
- forming a consortium with other authorities to form an AAC
- establishing the LFC's own AAC.

- 2.2. Chief Finance Officers in the GLA Group and in London boroughs did consider the scope for opting out of PSAA and into a new collaborative purchasing agreement. However, the disadvantages of local arrangements, identified in 2017, still apply. The option to set up an AAC as an alternative to the PSAA arrangements, whether for the LFC alone, or in conjunction with GLA Group or other London-wide bodies, presents a number of challenges.
- 2.3. Key challenges include establishing an independent AAC; allocating resources to this significant procurement activity; and securing pricing comparable to that which could otherwise be secured through the PSAA bulk-buying power. It is likely, therefore, that the LFC would face significant challenges in securing a process to match quality, independence and costs expected from PSAA.

#### *Challenges with current arrangements*

- 2.4. Whilst there are clear advantages to the PSAA arrangements, there have been some challenges in the arrangements for the five-year period from 2018. The key challenges experienced by the LFC have included increasing fees and audits completed after the expected deadlines. These challenges have been set out in the reports to present the Statements of Accounts for 2019-20 and 2020-21. There have, of course, been substantial external pressures that have impacted on both the fees and the time taken to complete the audits. The Covid-19 pandemic has been a key element in this, but the increasing requirements placed on audit firms on the work to be completed before reaching their opinions is another factor. This has seen a number of consultations undertaken to address some of the challenges and put in place future arrangements to address them. These consultations have included the independent review undertaken by Sir Tony Redmond into the effectiveness of an external audit and transparency of financial reporting in local authorities. LFC officers have responded to the key consultations.

#### *External audit fees*

- 2.5 The impact of the further audit requirements has led to fees being incurred that are substantially in excess of the scale fee agreed by PSAA before the start of the financial year to which it relates. The provisional fees, which are subject to review and approval by PSAA, for the audits in 2019-20 and 2020-21 are set out in the table. It is the process for setting, reviewing and updating/amending fees that has in particular been addressed in recent consultations.

#### **External audit fees**

Audit fees	2019-20	2020-21
Scale fee	£51,961	£51,961
Additional fees	£47,200	£47,200
Further fees	£69,723	£26,887
<b>Total</b>	<b>£168,884</b>	<b>£126,048</b>

- 2.6 The additional fees for 2020-21, set out in the table above, are expected to continue to feature in audit fees for future years. The additional fees for 2019-20 were as a result of additional requirements placed on auditors, and were carried forward to 2020-21; these are expected to be

addressed as part of the scale fee from 2022-23. The further fees for 2020-21 primarily relate to additional requirements in relation to the new Value for Money conclusion, as well as additional further pensions work. As much of this wasn't LFC-specific, these further fees are expected to be required in future years, and so again should be addressed as part of the scale fee from 2022-23.

- 2.7 Further consideration of future external audit fees is provided in the Part 2 report.

### *Conclusions and next steps*

- 2.8 The PSAA arrangements are lower-risk than an alternative process, and it is understood that 98 per cent of eligible bodies made the choice to opt in for the five-year period commencing in April 2018. It is expected that a sector-wide procurement might produce better outcomes, and will be less burdensome for the LFC than a procurement undertaken locally, because:
- collective procurement reduces costs for the sector and for individual authorities, compared to a multiplicity of smaller local procurements
  - it avoids the need to establish the LFC's own AAC with an independent chair and independent members to oversee a local auditor procurement and ongoing management of an audit contract
  - it may be the best opportunity to secure the appointment of a qualified, registered auditor – it is understood that there are only nine accredited local audit firms, and a local procurement would be drawing from the same limited supply of auditor resources as PSAA's national procurement
  - despite the current criticism of the external audit process, supporting the sector-led body offers the best way of ensuring there is a continuing and sustainable public audit market into the medium and long term.
- 2.9 PSAA will commence the formal procurement process in early February 2022. Should the LFC agree to opt into the latest PSAA scheme by the 11 March 2022 deadline, it expects to award contracts in August 2022. It will then consult with authorities on the appointment of auditors, so that it can make appointments by the statutory deadline of 31 December 2022.
- 2.10 The appended report seek approval for the LFC to commit expenditure to again opt in to the PSAA arrangements to procure external audit services for the five years from 1 April 2023. LFC officers have worked with GLA colleagues to consider alternative options to PSAA, and have concluded that opting in to the PSAA arrangements is expected to offer the best solution. It is anticipated that LFC will opt in to the PSAA arrangements.

## **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 The procurement of external audit services and opting in to the PSAA arrangements to do so is not expected to have any direct equalities impact. Therefore, no equality impact assessment has been completed.

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

*Workforce comments*

- 4.1. This report is not expected to have a direct workforce impact.

*Sustainability and procurement implications*

- 4.2 The report is not expected to have a direct sustainability impact.
- 4.3 The report proposes that the LFC opts in to the PSAA arrangements to procure external audit services from 1 April 2023. This will allow significant efficiency in the procurement process; and, for the last procurement in 2018, saw 98 per cent of eligible bodies opt in to the PSAA arrangement.
- 4.4 LFC officers have worked with GLA officers to consider alternative options that would allow the LFC to procure audit services in its own right, or in collaboration with perhaps the GLA Group and possibly London boroughs. However, no option that was expected to deliver results at least as good as those expected from the PSAA option was identified.

*Conflicts of interest*

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

**5. Financial comments**

- 5.1 The report proposes that the LFC opts in to the PSAA arrangements for the procurement of external audit services from 1 April 2023. The total costs of the last audit, of the 2020-21 Statement of Accounts, are provisionally calculated at £126,048 and these are to be met from the budget held by Finance for this purpose (see part 2).
- 5.2 This report proposes the continuation of the current budget for Audit Fees from 2023-24.
- 5.3 If future costs of the external audit cannot be contained within the existing budget, pressure will arise on the overall budget, which is reported quarterly, and may require funds to be vired from other budget lines and-or the use of reserves in-year. In that case, a growth bid may need to be submitted to the Mayor as part of his 2024-25 budget-setting process.
- 5.4 There are no direct financial implications for the GLA.

**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 prior approval is accordingly required.
- 6.5 The statutory basis for the actions proposed in this report is provided by section 5A of the Fire and Rescue Services Act 2004, under which the LFC, being a “relevant authority”, may do “anything it considers appropriate for the purposes of the carrying out of any of its functions”.
- 6.6 The LFC is required to comply with the provisions of the Local Audit and Accountability Act 2014 (2014 Act) and subsidiary legislation and guidance by virtue of Schedule 2 of the 2014 Act.
- 6.7 The 2014 Act requires that the LFEPA’s accounts, and the LFC’s accounts, for a financial year must be audited both:
- in accordance with the 2014 Act and provision made under it
  - by a local auditor appointed in accordance with this Act or provision made under it.
- 6.8 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that the decision to opt in to the PSAA procurement process must be made by the LFC and cannot be delegated.
- 6.9 These comments have been adopted from those provided by the LFC’s General Counsel Department in report LFC-0654 to the LFC.

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

Report LFC-0654 Part 1  
Part 2 Form

**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**

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**

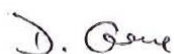
This decision was agreed by the Corporate Investment Board on 28 February 2022.

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**



**Date**

**1/3/22**