

## REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD142

### Title: Operational Contingency Arrangements: Project Initiation

#### Executive summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience for the London Fire Commissioner (LFC) to commit expenditure of £700,000 over two years (comprised of the annual project costs of £323,693, plus an additional contingency fund over two years of £52,614), to establish and fund a project to deliver new contingency arrangements to be implemented when required during gaps in London Fire Brigade (LFB) operational services.

LFB's existing contract for operational contingency arrangements, known as Capital Guard, will end by November 2023. Under the Civil Contingencies Act 2004, LFB has a duty to plan for the purpose of ensuring, so far as is reasonably practicable, that if an emergency were to occur, it would still be able to continue performing its functions.

This report sets out the recommendations to establish and fund a project tasked with delivering, via a tendering process, a new contingency arrangement by the end of the existing provisions in November 2023.

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 expenditure of up to of £700,000 over two years (comprised of the annual project costs of £323,693 plus an additional contingency fund of £52,614) to establish a project to deliver new operational contingency arrangements for the London Fire Brigade.

#### 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-0593y to the London Fire Commissioner (LFC) sets out the background for the request to approve expenditure for the London Fire Brigade (LFB) to establish and fund a project tasked with delivering, via a tendering process (to be reported on separately) a new contingency arrangement by the end of the existing provisions in November 2023.
- 1.2 LFB has a duty under the Fire and Rescue Services Act 2004 (FRSA), section 7, in relation to firefighting, protecting life and property in the event of fires in its area. In doing so, it must secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements. A duty also applies under section 8 of the FRSA, in respect of road traffic collisions. Section 9 of the FRSA deals with additional “emergencies” other than fires and road traffic accidents.
- 1.3 Furthermore under section 2 of the Civil Contingencies Act 2004 (CCA), LFB must formulate and maintain plans for “emergencies”, for the purpose of ensuring, “so far as is reasonably practicable”, that if an emergency were to occur, LFB would still be able to continue to perform its functions. Such emergencies include an event or situation that threatens serious damage to human welfare, the environment or war, terrorism, or security of the UK.
- 1.4 To comply with this legislation and to ensure an emergency provision was in place, in 2003 LFB entered a contract with Securitas Security Services (UK) Ltd to establish an emergency fire crew capability (EFCC). The arrangements, known as Capital Guard, are the contingency measures implemented during times when normal service provision, operational response and control cannot be provided. This includes events such as flu pandemics or strike action taken by a representative body. The budget for the EFCC contract is held within the Procurement department and is set at £4,624,407 for 2021/22. This contract budget is updated for inflationary increases annually as part of the budget process. At this stage this is not a request for additional funding of the contract itself.
- 1.5 The contract expired in November 2020. Extension arrangements were triggered, enabling the service to continue for a maximum of three years with the ability for LFB to end the extension arrangements anytime within that period, with six months’ notice given; it is not currently anticipated that the arrangements will be terminated before the end of the three-year extension. This extension is due to end in November 2023. As such, preparations for a new arrangement need to be put in place.
- 1.6 The EFCC contract secures the provision of trained operational contingency crews, command support teams, and contingency control call-handling staff needed for a response in times of activation of Capital Guard. This is a necessary control measure for periods of service disruption, which is an identified risk in the LFC corporate risk register and the national security risk assessment.
- 1.7 The project will seek to secure areas of improvement in all aspects of EFCC contingency arrangements delivered by the successful bidder. These will be regularly monitored and governed through key performance indicators. This project will seek to identify improvements in arrangements in liaison, operational delivery and command and control.

## 2. Objectives and expected outcomes

- 2.1 The LFC seeks approval for the costs of the Operational Contingency Arrangements (OCA) project.
- 2.2 Following experiences while the current EFCC contract has been either activated or in operation, LFB has identified actions from the lessons learned. These actions require consideration to support improvements for any future arrangements.
- 2.3 The project initiation document appended to LFC-0593y outlines the project objectives and scope. This includes the creation of a project delivery team in LFB's Operational Resilience department. The Project Board sponsor will be LFB's Assistant Commissioner for Operational Resilience and Control.

### *Project scope*

- 2.4 The project will deliver:
- a procurement process to assess bidders for a replacement contingency arrangement, which will deliver a core incident response for the LFC for periods of industrial action, pandemic and other causes of staff loss
  - a revised contract to be in place, at the latest, for 13 November 2023, to deliver a new EFCC
  - a process for ensuring the EFCC provider's standard operating procedures comply with LFB policy and national operational guidance
  - an agreed direction for provision of EFCC vehicles, equipment and information technology requirements.
- 2.5 The project will not provide a training package for the deployment of EFCC arrangements, which are out of scope for the project.

### *Project timetable*

- 2.6 The project timetable is influenced by the need to have a replacement contract in place prior to the expiry of the current provision in November 2023, which cannot be extended. This is summarised in Table 1, below. A replacement contract can supersede the current arrangements at an earlier date if it is ready to be implemented at the discretion of the LFC. A notice period of six months is required for the current contract.

Table 1: OCA project timetable

Project phase	Task	Time frame	Start date
Pre-tender work, revision of requirements and stakeholder engagement	Market engagement		Initial work completed
	Stakeholder engagement and review of requirements	6-8 months	Started January 2021 (Completed)

	Specification revision in line with above	1 month	September 2021 (Completed)
	Internal approval of specification revision	2 months	October to November 2021 (Ongoing)
	Finalise Find a Tender/tender documentation	1 month	December 2021 (Ongoing)
Tender period	Issue Find a Tender notice and tender pack		January 2022
	Tender return deadline	2 months	March 2022
	Clarification and evaluation of tenders	3 months	April to July 2022
	Award report drafting	2 months (parallel to evaluation)	June to July 2022
	Reporting period	4 months	August to November 2022
	Standstill period	10 days	November 2022
	Contract award		November 2022
Implementation and lead-up to go live	Implementation period		November 2022 to November 2023
	Go live with new provider/contract		November 2023

### *Project costs*

- 2.7 The project costs outlined below have been identified to coordinate the lifespan of the project including closedown and handover. This period is expected to last two years. The costs below are annual costs and would therefore be incurred for every year during the project. It is believed that further costs may be incurred as a direct result of the project through professional fees for external consultancy commissioned by General Counsel once the procurement process begins. The risk and size of these additional costs will increase the further the tender specification is from the previous contract. This risk has been highlighted by LFB's General Counsel and potential costs have been indicated by this department. These are estimated to be up to £25,200 in total.
- 2.8 The costs indicated below have been identified as additional costs that will be incurred by the relevant departments to support the delivery of this project. The total cost would represent a temporary growth bid by LFB's Operational Resilience department, which has been included in the LFC's 2022-23 budget submission to the Mayor. The delivery of the project is additional work for the department but is only required for the period of identifying and implementing a new contract. The work associated with managing the existing contract is funded from existing budgets.
- 2.9 Following consultation with LFB's Procurement team, it has been identified that a dedicated resource would be needed by Procurement to support a project of this nature. As this resource is not currently available within the department, funding for this position would be included in the growth bid.

Table 2: Annual project costs

Description	Cost (£)
1 x Group Commander (GC) as Project Manager	£98,713 (GC Competent)
1 x Sub Officer (Sub O)	£60,437 (Sub O Competent)
1 x FRS D as Project Support Officer	£50,343
1 x FRS G for Procurement	£89,000
Additional costs for General Counsel (upper estimate of professional fees for external consultancy)	£25,200
<b>Total</b>	<b>£323,693</b>

- 2.10 It is recommended that a small annual contingency of £26,307 is put in place to allow for budget flexibility during the project. This increases the proposed annual budget for the project to £350,000.

### 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 opportunity to review arrangements for the EFCC capability is an opportunity to consider how this response can be provided with greater regard to the known risks and characteristics of London. Thereby providing a contingency arrangement which better reflects the needs of London and Londoners.
- 3.9 An Equality Impact Assessment (EIA) has been carried out to cover the initiation of this project. Due to an identified impact on those who might have difficulty engaging with the project where the majority of collaboration will take place virtually, further guidance has been sought from LFB's learning support team to make sure all reasonable adjustments are made.

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

##### *Workforce comments*

- 4.1 As this report outlines the need to engage with the representative bodies for LFB staff, there is an impact upon the workforce.
- 4.2 Discussions have already taken place with LFB's Employee Relations Manager, with a view to that officer joining the project board and offering advice on how best to approach the negotiations.
- 4.3 The area of contingency arrangements for periods of industrial action is a sensitive topic that must be explored with care and due consideration, to avoid unnecessary confrontation with representative bodies.

##### *Sustainability implications*

- 4.4 There are no sustainability implications arising from this decision. Implications will be further considered during the future procurement of new EFCC services.

## **5. Financial comments**

- 5.1 This report recommends that annual revenue funding of £350,000 is agreed for the implementation of the OCA project, at a total cost of £700,000 over two years. This includes costs of up to £25,200 for professional fees that may be incurred, and a further contingency of just over £26,000 per year (£52,614 over the two years). Project costs will be incurred in the 2022-23 and 2023-24 financial years. This is because the project team has not yet been fully established and the procurement stream will start during 2022.
- 5.2 In LFB's initial budget submission to the Mayor a growth bid of £350k (entitled Operational Resilience: Operational contingency arrangements: Project Initiation) was submitted for 2022-23 and 2023-24, with a subsequent £350k reduction in 2024-25 in anticipation of this required expenditure (£700k in total). This growth bid has now been included within LFB's revenue budget as proposed by the Mayor in his Final Draft Budget which will be debated by the Assembly on 24 February 2022.
- 5.3 There are no additional 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.

### LFC's Contingency Planning Duties

- 6.2 Section 1 of the FRSA states that the LFC is the fire and rescue authority for Greater London.
- 6.3 Section 7 of the FRSA places a duty on the LFC to make provision for the purposes of extinguishing fires in its area and protecting life and property in the event of fires in its area.
- 6.4 In making provision, the LFC must, in particular, secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements (i.e. requirements for normal fire risks in their area) as regards protecting life and property, including during abnormal times. A similar duty is imposed upon the LFC in respect of rescuing people in the event of road traffic accidents in its area under section 8 FRSA. There is a broad operational discretion as to how to make the required provision.
- 6.5 The above duties are "target duties". In the case of such "target duties" there is not an absolute standard that must be attained. There will not necessarily be a breach if there is just and reasonable excuse, which may be constituted by a temporary lack of provision on account of industrial action or other circumstances such as sickness caused by a pandemic. The grounds for non-provision must, however, objectively be considered to be "compelling and reasonable". Everything must be done that can reasonably be done to remedy the situation, including taking reasonable steps to provide cover, and making contingency plans that are reasonably reliable.
- 6.6 The LFC also has duties under the CCA to carry out contingency planning for emergencies. More detail on the LFC's implementation of those duties is set out in the appended report.

#### Procurement and Expenditure Approval

- 6.8 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. 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).
- 6.9 Paragraph 2.1(b) of Part 3 of the direction requires the prior approval of the Deputy Mayor shall be obtained before a decision is taken for a commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices.
- 6.10 This report includes a request to commit expenditure of £700,000, hence, the Deputy Mayor's prior approval is accordingly required.
- 6.11 The appended LFC report confirms that procurement will be undertaken in accordance with the Public Contracts Regulations 2015.

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

Report – LFC0593 Operational Contingency Arrangements Project Initiation



**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 – 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**

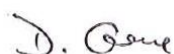
This decision was agreed by the Corporate Investment Board on 7 February 2022

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**



**Date**

**23/2/22**