

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD67

### Title: Statutory Compliance and Audit Provision for Building Maintenance Services

#### Executive Summary:

This report seeks approval for the London Fire Commissioner (LFC) to award a Statutory Compliance and Audit contract, for building maintenance services across the London Fire Brigade estate, for a total revenue cost of £1,837,968 over five years. This is based on an estimated first year cost of £356,730, with year-on-year inflation assumed at 1.5%. The initial duration of the contract will be for a three-year term, with an option to extend for two further years. The current provision of LFC's statutory compliance and audit services under independent auditors and the KBR Integrators model is due to expire, and will now be procured as a separate service.

LFB has explored the opportunity to collaborate across Greater London Authority (GLA) in the procurement of the Compliance and Audit contract. The TfL Professional Services Framework does not include the services required and Mayor's Office for Policing and Crime (MOPAC) uses the direct contract with KBR for these services, which is the contract LFB is currently demobilising out of in accordance with the FM strategy outlined in a previous paper. Discussion with the GLA estates collaboration group have suggested that the LFB's new approach would be of interest to the group going forward, and could be included in the TfL Framework at a future date.

Consideration was also given to including other GLA bodies in the procurement so they could join this service at a later date. However this is not possible as under the Public Contract Regulations there is a requirement to be open and transparent and include sufficient information about the scope and size of a project being advertised. We would need to know the anticipated costs and scope and this information is not available for all parties at this stage.

Collaboration will continue to be considered for future delivery of these services and information will be shared with other GLA bodies about this service to inform thinking about future delivery models. The contract term is three years, with two potential extension years, and in advance of utilising these optional extensions the position on collaboration opportunities will be explored again to ensure value for money is being achieved.

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:

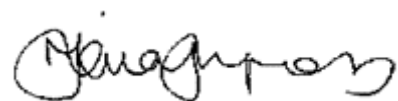
That the Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to commit expenditure of up to £1,837,968 whole-life value for. statutory compliance and audit provision for building maintenance services across the London Fire Brigade estate.

#### 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:

12 June 2020

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

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

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

- 1.1 Report LFC-0343x to the London Fire Commissioner sets out the background for the request to award a facilities management Compliance and Auditing (C&A) contract.
- 1.2 The report recommends a contract model by which the London Fire Brigade (LFB) can discharge its obligations under the Health and Safety at Work etc. Act 1974 and related primary and secondary legislation. The proposed model will require the appointment of a C&A contract to support LFB Property in delivering a legally compliant and safe estate, with reactive works carried out under agreed schedule of rates. This contract will be managed by dedicated resources recruited to the LFB Property function to discharge the Brigade's Duty Holding responsibilities.
- 1.3 The current FM services are managed under an 'Integrator' model, whereby KBR act as the service provider, appointing and managing all facilities services providers as managed subcontractors. This contract will come to an end in March 2021, and as such, the services they manage are being re-negotiated or re-tendered where required, to ensure continuity of service.
- 1.4 LFB's statutory compliance inspections are conducted by the hard services contractor, and monitored against compliance under a 12-month contract with an independent consultant, who acts as LFB's competent person. This contract reaches its final expiration date on 30 September 2020. The proposed new C&A contract will cover this monitoring service, from this date, on the assumption the timeline below can be delivered.
- 1.5 The proposed model would also cover value for money assurance, planned preventative maintenance (PPM) assurance and access to technical expertise on a wide range of building related consultancy subject matters not currently covered by existing team members, on an 'as needed' basis. The current KBR Integrator model currently provides a validation check against all quoted works over £1k, to ensure conformance to agreed rates, or where there are none, against market expected rates, to ensure value for money. This contract expires in March 2021.
- 1.6 The report supports the development of the LFB Target Operating Model, which will deliver these requirements on compliance and value for money validation within the Property team and wider supply chain.
- 1.7 A C&A contract is required to deliver the required estate compliance and provide the wider focus on safety, assurance and competence needed, as reported in previous reviews of the LFB Property function.
- 1.8 The total value of the fixed cost of the C&A contract is estimated at £356,730 annually. The new C&A contract will be offset against the existing spend on the related matters, under KBR, which expires March 2021. Implementing the recommendation outlined in this paper will ensure that LFB Property is resourced appropriately in order to meet its compliance obligations, delivers value for money, and aligns with London Fire Commissioner's strategic objective to constantly improve the effectiveness of services.
- 1.9 The contract will primarily provide assurance that the delivery of technical and statutory requirements of the Property supply chain are compliant, and of the required standard, whilst also providing additional services on building condition surveys, and commercial verification of quoted works.

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

- 2.1 The proposed C&A contract seeks to ensure LFB are compliant with property related statute, and that there is sufficient commercial auditing in place to provide assurance that LFB get value for money from its supply chain.

### *Compliance*

- 2.2 In order to achieve statutory compliance and deliver a safe working environment the following three steps would ensure LFB are legally compliant, but also be working in line with market 'best practice':
- following of regulations, including Health and Safety Executive guidance and Approved Codes of Practice (ACOPs);
  - appointment of Duty Holder(s) & Responsible Person(s) and empower them appropriately; and
  - undertake independent validation / audit.
- 2.3 The Health and Safety at Work etc. Act 1974 (HSE Act) is the primary piece of legislation covering occupational health and safety in Great Britain. The Health and Safety Executive, with local authorities (and other enforcing authorities) is responsible for enforcing the HSE Act and a number of other Acts and Statutory Instruments relevant to the working environment. These cover a wide range of subjects, including several that are relevant to LFB Property (see Appendix 1 of the attached report LFC-0343x). These cover the functional areas listed below:
- Asbestos Management Plan;
  - Legionella (Water Management including cooling towers);
  - Gas & Oil Systems;
  - F-Gas (Refrigeration Systems);
  - Low Voltage and High Voltage Electrical Systems;
  - Fixed Wire Testing;
  - Pressure Systems;
  - Fire & Security Systems; and
  - Lifting Systems (Lift Operations and Lifting Equipment Regulations) (Property related only).
- 2.4 Guidance is issued by the Health and Safety Executive (HSE). Following the guidance is not compulsory (unless specifically stated), and organisations are free to take other action, however if organisations do follow the guidance they will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance. They have the authority to close premises if compliance is not demonstrated, thus as a minimum, it is recommended that LFB follow and comply with the HSE guidance.
- 2.5 Responsibility for compliance in an organisation rests with LFC, as the employer. It is an important element of the statutory obligations to evidence compliance. This includes, as a minimum, the following activities relating to Property only:
- regular statutory certification of service reports, inspections and reviews of essential maintained to gas, electrical and water systems and equipment;
  - review received statutory certification, validity, competency, track corrective works and where required, re-certification;

- regular on site audits (rolling programme) to include site records, the premises logbook, previous completed corrective works and previous completed planned preventative maintenance; and
- supplier audits to determine the competence of external contractor operatives, their accreditations and safe systems of work.

2.6 LFB currently has an appointed consultant, Quintain FM, who are under contract to carry out all statutory compliance checks and monitoring activities on behalf of Property, as a competent person. This includes the receipt and validation of inspection and service certificates; monthly reporting on supplier compliance, performance and competency; support to on-site audit programme; assistance to tender documentation on specialist services such as fixed wire electrical testing, and water hygiene.

#### *Proposed model – Outline Benefits*

- 2.7 To provide the required level of audit a new C&A contract is proposed. Whilst the core objective of this appointment is compliance with statutory obligations, the overall remit will be broader, and include:
- **Compliance:** To support the LFC in ensuring that the estate remains compliant with all relevant health and safety, legal and departmental regulations and policies at all times.
  - **Value for Money and Affordability:** To ensure all (untendered) reactive works provide value and in line with market rates and/or pre-agreed schedule of rates, by checking and validating quotes over an agreed threshold. This underpins the proposed Hard Services delivery model which seeks to bundle services together.
  - **Building Condition Surveys:** To provide building condition surveys, of 50% of the estate on an annual rolling basis, to maintain the historic practice of biennial surveys. These building condition surveys would provide planning and budget information for the Property team's Forward Maintenance Register, whilst also ensuring the surveys are conducted by the party already monitoring and reporting elements of maintenance.
  - **Technical Site Audits:** A monthly rolling programme of site inspections, where 100% of estate is visited annually (c. 8 per month), to ensure asset maintenance, compliance and standards are met, and provides a validation of the FM Hard Services contractor provision.
  - **High Quality Technical Support:** To increase the capacity and capability of the internal Property team through (call off) access to appropriately skilled, experienced and qualified technical and assurance professionals. Ad hoc support paid for on pre-agreed call off schedule of rates.
  - **Innovation & Continuous Improvement:** To proactively work with the internal Property team to offer advice and demonstrate new and innovative ways of delivering the FM operating model, eliminating inefficiencies throughout the term of the C&A contract.
- 2.8 These duties inform the service standards and specifications, which will form part of the C&A appointment and contract terms and is reflective of these activities stated above.

#### *Budget for Service*

- 2.9 The current property spend on related matters is as follows:
- KBR - £281,325 per annum

- Condition surveys – £80,000 per annum funding for the biennial condition surveys was historically funded under the Revenue budget. These would now be included in the C&A budget.

2.10 The estimated fixed cost of the contracts of £356,730 will be offset against the above existing contracted spend. This would allow for the remainder of the KBR Integrator management fees to be used for any ad hoc variable services identified (as per matrix below), and the planned new CAFM solution.

2.11 The proposed C&A contract is assumed to commence during Q2 2020/21. The existing Quintain contract expires in Q2. This could create a possible overspend on the LFB Property revenue budget in this period, as the KBR funding from demobilisation will be required for both the proposals in this paper and the FM change team.

A&M Contract – Core Items (Minimum Service)					
Fixed Core Services		Resource (FTE)	Level of expertise required	£pcm	£annual
Compliance monitoring	Review and monitor 100% statutory compliance works, checking and approving standards met, and flagging areas of non-compliance. These will be managed through to completion. Monthly reporting of statutory compliance and issues	1FTE	Tech expert consultants (£400 per day)	£8,640	£103,680
Technical Site Audits	8-9 site audits per month/102 per year for 100% compliance. Audits to ensure technical performance reviewed, issues logged, escalated and resolved with out FM provider. To include station log book review	1 FTE	Tech expert consultants (£400 per day)	£8,640	£103,680
Commercial Audit on Quotations	Commercial verification and value for money checks on quotes and invoices against schedule of rates	0.5FTE	Tech expert consultants (£400 per day)	£4,320	£51,840
Condition surveys	Bi-annual activity @£1k per report/building				£51,000~
Supplier monthly self reporting (& meeting attendance)	Each month, the A&M provider will report on performance and attend three meetings. One with LFB and one with Authority				

	and the FM provider and one with the FM CAFM provider				
Management Fee	Assumed 15% management fee (profit) applied.				£46,530
					£356,730

<b>Variable services (as required)</b>	<b>Description</b>	<b>Level of expertise required</b>
Technical Performance advice	Provision of technical advice on fabric, M&E, Maintenance or design matters	Tech Expert Consultants
Contract Risk Reports	Ad-hoc reviews of poor KPIs. Root cause investigation to identify reasons for poor performance, highlight risks if issues are not resolved, and provision of options for solutions.	Tech Expert Consultants
Security Clearance Status Reports	The Supplier may be required to conduct a review of some or all of the FM Provider's staff and FM Provider's subcontractors and to ensure all relevant staff have completed the required security clearance, and shall produce a report detailing the findings.	Tech Expert Consultants
Beyond Economic Repair Report	When instructed, the Supplier shall provide assistance to the Authority in analysing assets reported by the FM Provider as BER to determine whether or not the asset is BER	Tech Expert Consultants
Project Management Support – Ad-hoc Service	The Supplier shall provide competent and experienced project management expertise to manage and deliver projects where required	Tech Expert Consultants
Payment Disputes Resolution	The Supplier shall provide intermediary advice on payment disputes between the FM Provider and the Authority.	Tech Expert Consultants
Asset Verification	An activity to count the items within the Estate.	Tech Expert Consultants £65per hour



Recruitment process – tech roles	x	x	x	x	x	x					
Specs and tender docs for C&A Services	x	x	x								
Tender process for C&A services				x	x	x					
Mobilisation of C&A contract							x				
Quintain contract expires						x					
KBR Integrator model exit											x

### *Risk and Dependencies*

2.19 Whilst a key dependency in the C&A contract being mobilised and managed correctly, is the recruitment of new Technical Services roles, the service can be mobilised and operated in parallel, and is not fully dependant on these being in place.

2.20 The major risks are outlined below:

<b>Risk</b>	<b>Mitigation</b>
A new vendor is appointed, but will take a period of time to mobilise and take on the role left by KBR exiting.	The procurement exercise to select a provider has realistic timelines for procurement and mobilisation. KBR to be retained during the handover process.
A new vendor is appointed, but may not be mobilised prior to Quintain expiry.	The new technical roles could provide support as competent persons, or interim resource sought.
The C&A contract, scope and quotation validation process is not defined or in place ahead of soft services bundle being mobilised.	Ensure soft services bundle tender process has sufficient clauses and scope to notify bidders, or successful party that A&M services will be introduced, and the approx. guidelines.
FM team and Stakeholders may not be fully/properly engaged	FM team to actively drive specification content via workshops and 121s Stakeholder engagement strategy to be developed Workshops scheduled to ensure that Stakeholders are properly engaged
The model may cost more than has been budgeted/currently provided under KBR integrator model.	Regular engagement with Finance representative, and review of scope to identify elements of service to suspend/remove.
A lack of market interest in the tender activity, and/or a suitable framework that attracts the correct size and type of C&A service provider suited for LFB's scope and budget.	Clear specifications of requirements at the start of the procurement process and a tender selection process which identifies suitable bidders, in a compliant procurement process. Regular contact with Procurement, & monitoring progress through the bid process.



### **3. Equality comments**

- 3.1 The London Fire Commissioner and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (s149 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:
  - (a) eliminate discrimination, harassment and victimisation and other prohibited conduct;
  - (b) advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it; and
  - (c) 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:
  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
  - (b) 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; and
  - (c) 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—
  - (a) tackle prejudice; and
  - (b) promote understanding.
- 3.8 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse effect on any persons with a particular characteristic.

## **4. Other considerations**

### *Workforce comments*

- 4.1 The workforce implications of the provision of the revised FM model supports a positive outcome for staff as benefits will be realised by a safer and improved place to work with more effective service provision. Property Services staff are engaged in the development of the Target Operating Model, and will be fully involved in the design of the new structure for the LFB property function as this unfolds in the coming months.
- 4.2 The recognised trade unions which collectively represent Property Services staff (GMB and UNISON) are being kept informed of developments within the Joint Committee for FRS staff (JCFRS), and will be fully consulted with regards to the revised Property organisation structure and ways of working in the coming months. In the meantime it is proposed that the LFC report is sent to GMB and UNISON (redacted as necessary in respect of commercially sensitive information) in the event the trade unions have comments on the report which they wish to be reported to Commissioner's Board

### *Sustainability implications*

- 4.3 The project will be administered in accordance with LFC's sustainability policies.

### *Collaboration*

- 4.4 LFB has explored the opportunity to collaborate across GLA in the procurement of the Compliance and Audit contract. The TfL Professional Services Framework does not include the services required and MOPAC uses the direct contract with KBR for these services, which is the contract LFB is currently demobilising out of in accordance with the FM strategy outlined in a previous paper. Discussion with the GLA estates collaboration group have suggested that the LFB's new approach would be of interest to the group going forward, and could be included in the TfL Framework at a future date.

## **5. Financial comments**

- 5.1 This report recommends approval for the award of a compliance and auditing contract. The contract is estimated to cost £356,730 in the first full year, beginning from 1 October 2020. The contract is for a three year term, with an option to extend for a further two years, for a total cost of up to £1,837,968, including 1.5% inflation applied year on year over that period.
- 5.2 The cost be funded through the existing LFB revenue budgets related to this capability of £281,000 per annum for services provided by KBR and condition surveys of £80,000 per annum.

## **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 statutory basis for the actions proposed in this report is provided by sections 7 and 5A of the Fire and Rescue Services Act 2004 (FRSA 2004). Under section 7 (2)(a) of FRSA 2004, the Commissioner has the power to secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements for firefighting and section 5A allows the Commissioner to procure personnel, services and equipment they consider appropriate for purposes incidental or indirectly incidental to their functional purposes.
- 6.5 The proposed service will be procured in compliance with the Public Contracts Regulations 2015 and the Commissioner’s Scheme of Governance.

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

Appendix 1: Report LFC-0343x - Facilities Management Compliance and Audit Provision

**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: 31 July 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**

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.

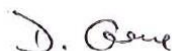
✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 1 June 2020.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature****Date**

12 June 2020