

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3059

Title: Road User Charging Appeals Service Contract Relet

Executive summary:

Since the creation of the Central London Congestion Charging Scheme in February 2003, and through powers provided through the Greater London Authority Act 1999 (the GLA Act), the Greater London Authority (GLA) is required to provide a road user charging appeals service. It is a legal requirement of the Road User Charging Schemes now in place for the Congestion Charge, Low Emission and Ultra Low Emission schemes that an independent arbitration and appeals service is provided, so that motorists can appeal against Penalty Charge Notices that have been issued to them.

The contract for the independent appeals service is let by the GLA. The current Road User Charging Appeal Service contract expires in December 2023. A new contract is required in order that the current Road User Charging Schemes can continue in accordance with legislative requirements. This contract will apply to any and all future charging schemes, such as planned charging for the Silvertown Tunnel, as the same appeal legislation will apply.

Decision:

That the Mayor:

1. approves the procurement of a new contract for the provision of appeals services for Road User Charging Schemes for five years, with the right to extend for a further two years at an estimated value of £14m
2. delegates authority to the Executive Director of Good Growth to execute the contract relet and any subsequent extension decisions with the bidder submitting the strongest and best-value tender through a Director Decision form.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

21/11/22

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

Decision required – supporting report

1. Introduction and background

- 1.1 The Congestion Charge became operational in February 2003. Drivers entering the Congestion Charge zone pay a daily charge to do so. Some drivers pay less if they have purchased a monthly or annual pass; are eligible for an exemption or discount; or are a resident within the zone.
- 1.2 The Low Emission Zone became operational in February 2008. This requires the payment of a daily charge if driving within the zone, in a vehicle that: does not meet the required emission standards; and is not exempt from the scheme or registered for a 100 per cent discount.
- 1.3 The Ultra-Low Emission Zone became operational in April 2019. This requires the payment of a daily charge if driving within the zone, in a vehicle that: does not meet the required emission standards; and is not exempt from the scheme or registered for a 100 per cent discount.
- 1.4 Transport for London (TfL) operates all three schemes. TfL may issue a Penalty Charge Notice (PCN) for any of the schemes, if it believes the relevant vehicle: has not paid the relevant charge; is not exempt; or is not registered for a discount. The registered keeper of that vehicle will be issued with a PCN. On receipt of a PCN, the recipient can make a representation to TfL. If that representation is rejected, they then have the right to make an appeal to an independent adjudicator. The GLA is responsible for the adjudication service being in place through powers in the GLA Act 1999.
- 1.5 The provision of appeals services is in three parts:
 - (i) The provision of adjudication services: this is provided by independent adjudicators, appointed by the Lord Chancellor, who are reimbursed according to the time they spend undertaking this work.
 - (ii) The provision of the necessary computer systems to enable adjudicators to process the appeals: this may be provided by a third-party contractor or in-house.
 - (iii) The provision of suitable premises and administrative support to adjudicators: this ensures they can carry out their role efficiently and effectively; and that the outcomes of their decisions are correctly processed. This will include the provision of office accommodation for the adjudicators and the administrative staff; IT equipment; and paper records that need to be kept.
- 1.6 The current GLA Appeals Service contract provides for the systems and services detailed at 1.5(ii) and (iii), above; and for the relevant payroll services required for 1.5(i). The contract was awarded to London Councils in December 2016, after a competitive tendering process, for five years. It was subsequently extended for two years, to December 2023.
- 1.7 To ensure continuity of the Appeals Service, approval is sought to begin a competitive procurement process which will culminate in the award of a new contract for the same services; and to delegate responsibility to the Executive Director of Good Growth to award the contract to the strongest and best-value tender, following a competitive and properly conducted procurement exercise, through a Director Decision form.
- 1.8 The contract costs for the appeals service provision are met directly by the GLA. The GLA obtains reimbursement for the cost of this contract from TfL in accordance with the regulatory framework for the costs of the service. TfL meets these costs through the income received

from the operation of the relevant schemes; that is, charges and penalties. There is therefore no overall financial impact on the GLA as a result of this contract being awarded.

- 1.9 The estimated costs of the contract are up to £14m with an initial £10m for the first five years, and a further £4m for any extension options exercised.

2. Objectives and expected outcomes

- 2.1 It is a legal requirement of the Road User Charging Schemes that an independent appeals service be provided. The existing contract for the provision of appeals services expires on 9 December 2023. Therefore, a new contract is required in order that the schemes can continue in accordance with legislative requirements. The existence of this service is an important part of public confidence in London's Road User Charging Schemes.
- 2.2 Changes to any of the existing schemes, and new schemes – such as the proposed Silvertown Tunnel charge – can be included within this contract. The contract is designed to ensure the service can be scaled to manage changes in the volumes of PCN appeals, as a result of changes to the current or new scheme orders.

3. Equality comments

- 3.1 The contract includes all the relevant provisions on equality and diversity. There will be a procurement process conducted in accordance with responsible procurement practices. The service procurement will ensure that members of the public have continued access to an independent tribunal, should they receive a PCN. It is therefore not anticipated that the recommendation in this paper will have any adverse impact on any equality groups within the definition of the Equality Act 2010.
- 3.2 The contract makes provision to ensure the services/contractor are in compliance with all Equality Act provisions; and ensures the tribunal services are accessible to everyone driving within London who may be subject to a PCN.

4. Other considerations

Key risks and issues

- 4.1 The GLA has instructed TfL to begin a tender process, and allow sufficient time for the necessary approvals of the contract award. If an approval for the new contracts is not completed in a timely way, there is a risk that the existing contract would lapse and that an independent appeals service would not be able to operate. This would in turn jeopardise the operation of the Road User Charging Schemes currently in place.

Links to Mayoral strategies and priorities

- 4.2 The Mayor's Transport Strategy (MTS) recognises that Road User Charging Schemes have a role to play in traffic demand management. The MTS commits TfL to investigate proposals for the next generation of road user charging systems; the next contract would need to be responsive to any amends to existing schemes or future schemes.
- 4.3 The provision to operate Road User Charging Schemes is set out in the GLA Act 1999 and confirmed within the MTS. It is a legal requirement for the operation of those Road User Charging Schemes that an appeals service be provided.

Impact assessments and consultation

- 4.4 There are no direct impact assessment or consultation requirements as a result of this procurement.

Conflicts of interest

- 4.5 Those involved in drafting and clearing this decision are subject to the Road User Charging Schemes that operate in London; and have the same recourse to the independent arbitration and appeals service as other drivers.

5. Financial comments

- 5.1 The GLA is seeking to procure and award a new contract for the adjudication service it provides for London's Road User Charge Schemes.
- 5.2 The contract is estimated to cost up to £14m which the Authority will initially incur. However, through the income received via the operation of the relevant schemes (charges and penalties) TfL will reimburse the GLA accordingly. Therefore, there is no overall financial impact on the GLA as a result of this contract being awarded.
- 5.3 It is important to note the risk associated with the retrospective payments are considered to be low given the level of income generated from the schemes.

6. Legal comments

- 6.1 Under section 30 of the GLA Act, the Mayor, acting on behalf of the GLA, is entitled to do anything that he considers will further the promotion, within Greater London, of economic development and wealth creation, social development, or the improvement of the environment.
- 6.2 In formulating the proposals in respect of which a decision is sought officers have complied with the GLA's related statutory duties to:
- pay due regard to the principle that there should be equality of opportunity for all people (further details on equalities are set out in section 3, above), and to the duty, under section 149 of the Equality Act 2010, to have due regard to the need to eliminate unlawful discrimination, harassment, and victimisation; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not
 - consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom
 - consult with appropriate bodies.
- 6.3 The services required must be procured by TfL Procurement who will determine the detail of the procurement strategy to be adopted in accordance with the GLA's Contracts and Funding Code.
- 6.4 Officers must ensure that appropriate contract documentation is put in place and executed by the successful bidder(s) and the GLA before the commencement of the services.

- 6.5 The Mayor may, under section 38 of the Act, delegate the exercise of the GLA's functions to the Executive Director of Good Growth as proposed.

7. Planned delivery approach and next steps

Activity	Timeline
Procurement of contract	Commencing November 2022
Contract award (anticipated)	February 2023
Contract delivery start date	December 2023
Contract delivery end date	December 2028
Contract extension if relevant	December 2030

Appendices and supporting papers

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) 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 it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included 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:**

Claire Hamilton has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Seb Dance has been consulted about the proposal and agrees the recommendations.

✓

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 November 2022

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature**Date**

10/11/22

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature**Date**

6/11/22

