

DMPC Decision – PCD 702

Title: National Legal Services Framework – Re-tender

Executive Summary:

A procurement exercise to re-tender the National Legal Services Framework (NLSF) for a 4 year term commencing in February 2021. The NLSF is a National Framework accessible by Police Forces and Police and Crime Commissioners in England, Wales and Northern Ireland as well as the Greater London Authority and other stakeholders such as the National Crime Agency and British Transport Police. The NLSF is used by the Directorate of Legal Services (DLS) as an overflow facility for business as usual work to accommodate peaks in demand. The NLSF is also used by Property Services Department (PSD), Digital Policing (DP) and Commercial Services for legal advice in relation to project work where DLS does not have a specialism.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

1. Approve the request to run a procurement exercise to re-tender the National Legal Services Framework as the current Framework expires on 31 January 2021.
2. Approve delegated authority to award the contracts under the Framework to the MPS Director of Commercial Services.
3. Note it is estimated that the total spend on the NLSF for all eligible users will be a maximum of £65m for the four-year term commencing in February 2021. Of this it is estimated that the MPS spend will be no more than £25m. Spend will come from existing approved budgets, across the MPS.
4. Note work is ongoing in relation to the new rates for the NLSF. As the market has significantly improved since the current NLSF was tendered in 2015 it is acknowledged that there will be a rate increase under this contract.

Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature

Spence Under

Date 14/2/20

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1. The current Framework expires on 31 January 2021, a new Framework needs to be in place for 1 February 2021 as the current Framework has been extended to permit collaboration with the Home Office's Collaborative Law Enforcement Programme (CLEP) in relation to ensuring Police Forces are deriving the optimum value from their engagement with external solicitors. Part of this work is to engage with Forces to make the next NLSF as collaborative as possible. A further extension to the current NLSF would be non-compliant with the procurement rules. Being a Framework agreement there is no committed level of expenditure by either the MPS or Nationally.
- 1.2. DLS utilise the services available under the NLSF as an overflow facility for "business as usual" work to accommodate peaks in work. Other Directorates within the MPS use the NLSF for legal advice in specialist areas where DLS does not have the necessary specialism or resources to dedicate to complex projects. As this is generally in relation to project work, the budget for this is identified within the relevant approved business case. The DLS "business as usual" work is funded from the DLS annual revenue budget.
- 1.3. DLS are working to identify areas where the NLSF can be improved to encourage more Police Forces and Police and Crime Commissioners to use the NLSF making the Framework more attractive to firms.
- 1.4. Although the collaboration and engagement is ongoing, it is acknowledged that the rates will increase under the new Framework as the market has improved since the last tender reflecting the improvement in the general economy over the last 4/5 years resulting in an increase in fees. The spend estimates given above are based on previous spend and projected project spend over the next 4 years following consultation with Commercial Services, PSD and DP usage of the current Framework.
- 1.5. It is anticipated that the work undertaken under the NLSF will be structured in Lots as under the current contract.

2. Issues for consideration

- 2.1. Approval is required to commence the procurement process to ensure continuity in the provision of legal services. The current Framework ends on 31 January 2021.
- 2.2. By having the facility to use the NLSF either during periods of high demand or for specialist areas of work, DLS is better able to provide legal advice and support to the MPS to achieve the aims of the Police and Crime Plan and keep London safe.
- 2.3. Keeping high level and complex legal work in-house such as counter-terrorism, complex litigation and public inquiry work allows the MPS to keep costs to the minimum. This creates flexibility when selecting the appropriate type of legal work to outsource and what to be kept in-house, which will maximise value for money.

- 2.4. Value for money is also achieved under the NLSF by the provision of free training; provision of secondees to provide support and legal advice to cover short term staffing issues or for more long-term project support; and free helplines in specialist areas of law.
- 2.5. The contract will be managed by the DLS MetLaw Team who will monitor Key Performance Indicators on behalf of the MPS, enforce any contractual penalties if applicable and interrogate invoices thoroughly. DLS Watching Brief lawyers also oversee work performed and spend incurred. Audits will be carried out regularly to ensure firms comply with the contract term.

3. Financial Comments

- 3.1. Subject to approval, this contract will be set up as a Framework Agreement. The Official Journal of the European Union notice advertising the procurement will give an estimated value of expenditure for the MPS and Nationally. Being a Framework agreement there is no committed level of expenditure by either the MPS or Nationally. Figures given are based on previous contract spend.
- 3.2. The total MPS spend is anticipated to be no more than £25m over the four-year period, which will cover business as usual spend funded from the DLS annual revenue budget and spend on specialist projects by other Directorates, funded from budgets identified within approved business cases. It is estimated that the additional external spend will be no more than £40m which is managed by the other public bodies themselves and does not affect MPS budget.
- 3.3. Any external spend from other public bodies is set at a rebate value of 1%, which means that MPS generates a 1% income from all spend outside of the MPS up to a value of £40m, creating a potential maximum income of £400,000 over the duration of the Framework. This income is used to offset the cost of the MetLaw Team within DLS, who manage the Framework on behalf of the MPS and all Participating Bodies.
- 3.4. The MPS are currently working with CLEP to maximise other public bodies' use of the framework to deliver standardisation of rates, reduce time to market for other police forces and external public bodies, drive consistency of legal advice across forces and share knowledge and best practice.
- 3.5. The procurement will be undertaken via the OJEU restricted procedure, in line with EU Directives and the Public Contract Regulations 2015, and will be in place when the current framework expires on January 31st 2021.

4. Legal Comments

- 4.1. The Mayor's Office for Policing Crime is a contracting authority as defined in the Public Contracts Regulations 2015 ("the Regulations"). All awards of public contracts for goods and/or services valued at £189,330 or above will be procured in accordance with the Regulations. No Transfer of Undertakings (Protection of Employment) implications are envisaged.

4.2. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime has delegated authority to approve all requests to go out to tender for contracts of £500,000 or above.

5. GDPR and Data Privacy

5.1. The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the European Convention of Human Rights and the Data Protection Act (DPA) 2018. Both legislative requirements place an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the rights and freedoms of individuals.

5.2. Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) become mandatory for organisations with technologies and processes that are likely to result in a high risk to the rights of the data subjects.

5.3. The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the service meets its compliance requirements. The service does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.

6. Equality Comments

6.1. Equality and Diversity impact has been considered with no issues identified or foreseen. The successful bidder will be evaluated on their ability to meet the MPS requirements under the Equality Act 2010 and responsible procurement guidelines. The evaluation will consider their ability to act as a responsible employer and meet employment obligations in accordance with MOPAC objectives.

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 MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

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

If yes, for what reason:

Until what date:

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA 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

Tick to confirm statement (✓)

Financial Advice

The Strategic Finance and Resource Management Team has been consulted on this proposal.

✓

Legal Advice

The MPS legal team wrote this proposal.

✓

Equalities Advice:

Equality and diversity issues are covered in the body of the report.

✓

Commercial Issues

The MPS Commercial team have been consulted on the commercial issues within this report. The proposal is in keeping with the GLA Group Responsible Procurement Policy.

✓

GDPR/Data Privacy

- GDPR compliance issues are covered in the body of the report
- A DPIA is not required.

✓

Director/Head of Service

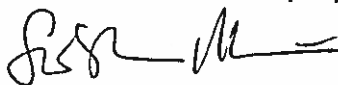
The Head of Workforce and Professional Standards has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.

✓

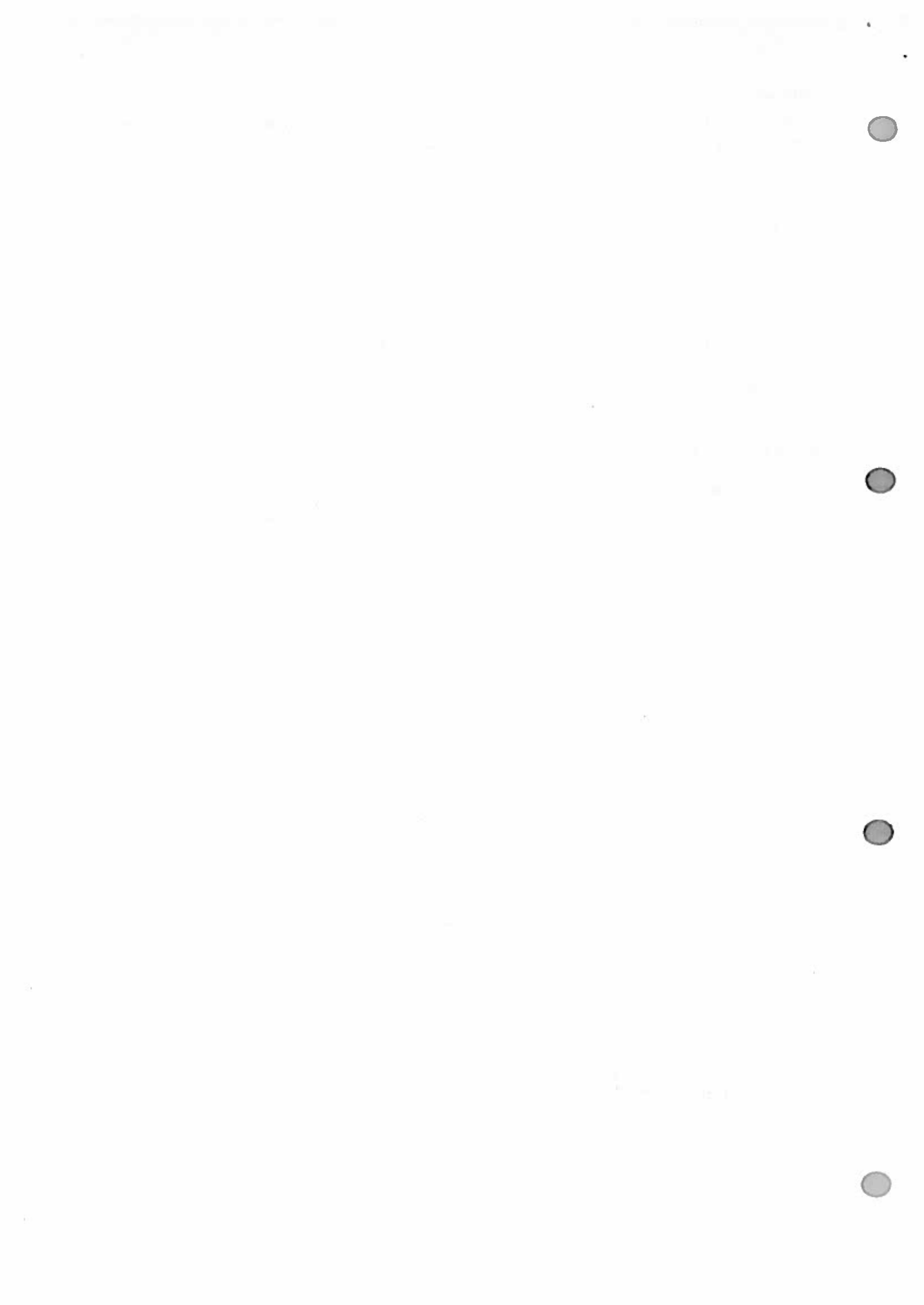
Interim Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature



Date 14/2/20



**MOPAC**MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME**National Legal Services Framework – Re-tender****MOPAC Investment Advisory & Monitoring meeting 31 January 2020****Report by Helen Johnson on behalf of the Chief of Corporate Services****Part 1 – This section of the report will be published by MOPAC. It is classified as OFFICIAL – PUBLIC****EXECUTIVE SUMMARY**

To run a procurement exercise to re-tender the National Legal Services Framework (NLSF) for a 4 year term commencing in February 2021.

The NLSF is a National Framework accessible by Police Forces and Police and Crime Commissioners in England, Wales and Northern Ireland as well as the GLA and other stakeholders such as the NCA and BTP.

The NLSF is used by the Directorate of Legal Services as an overflow facility for business as usual work to accommodate peaks in demand. The NLSF is also used by Property Services Department, Digital Policing and Commercial Services for legal advice in relation to project work where DLS does not have a specialism.

Recommendations

The Deputy Mayor for Policing and Crime, via the Investment Advisory and Monitoring meeting (IAM), is asked to:

- 1. Approve the request to run a procurement exercise to re-tender the National Legal Services Framework as the current Framework expires on 31 January 2021.**
- 2. To note, it is estimated that the total spend on the NLSF for all eligible users will be a maximum of £65m for the four year term commencing in February 2021. Of this it is estimated that the MPS spend will be no more than £25m, which will cover the business as usual spend funded from the annual DLS revenue budget and spend on specialist projects by other Directorates, funded from budgets identified within approved business cases.**
- 3. To note, work is ongoing in relation to the new rates for the NLSF. As the market has significantly improved since the current NLSF was tendered in 2015 it is acknowledged that there will be a rate increase under this contract.**
- 4. Approve delegated authority to award the contracts under the Framework to the MPS Director of Commercial Services.**

Time sensitivity

A decision is required from the Deputy Mayor by 14 February 2020. This is to enable the relevant documentation to be finalised in readiness for publication in late February 2020 to meet the timetable and ensure the new Framework is in place for February 2021.

Non-confidential facts and advice to the Deputy Mayor for Policing and Crime

Introduction and background

1. The NLSF is a National Framework for legal services which is accessible by Police Forces and PCCs in England, Wales and Northern Ireland as well as the GLA and other public bodies such as the NCA. The current Framework expires on 31 January 2021, a new Framework needs to be in place for 1 February 2021 as the current Framework has been extended to permit collaboration with the Home Office's Collaborative Law Enforcement Programme (CLEP) in relation to ensuring Police Forces are deriving the optimum value from their engagement with external solicitors. Part of this work is to engage with Forces to make the next NLSF as collaborative as possible. A further extension to the current NLSF would be non-compliant with the procurement rules. Being a Framework agreement there is no committed level of expenditure by either the MPS or Nationally.
2. DLS utilise the services available under the NLSF as an overflow facility for "business as usual" work to accommodate peaks in work. Other Directorates within the MPS such as PSD, DP and Commercial Services use the NLSF for legal advice in specialist areas where DLS does not have the necessary specialism or resources to dedicate to complex projects. As this is generally in relation to project work the budget for this is identified within the relevant approved business case. The DLS "business as usual" work is funded from the DLS annual revenue budget.
3. DLS are working to identify areas where the NLSF can be improved to encourage more Police Forces and PCCs to use the NLSF making the Framework more attractive to firms.
4. Although the collaboration and engagement is ongoing it is acknowledged that the rates will increase under the new Framework as the market has improved since the last tender reflecting the improvement in the general economy over the last 4/5 years resulting in an increase in fees. The spend estimates given above are based on previous spend and projected project spend over the next 4 years following consultation with Commercial Services, PSD and DP usage of the current Framework.
5. It is anticipated that the work undertaken under the NLSF will be structured in Lots as under the current contract.

Issues for consideration

6. Approval is required to commence the procurement process to ensure continuity in the provision of legal services. The current Framework ends on 31 January 2021, if a new Framework is not in place it may mean that legal advice to ongoing projects will cease potentially affecting decision making which may

result in additional spend or reputational damage.

Contributes to the MOPAC Police & Crime Plan 2017-2021¹

7. By having the facility to use the NLSF either during periods of high demand or for specialist areas of work, DLS is better able to provide legal advice and support to the MPS to achieve the aims of the Police & Crime Plan and keep London safe.

Financial, Commercial and Procurement Comments

8. Subject to approval, this contract will be set up as a Framework Agreement. The OJEU notice advertising the procurement will give an estimated value of expenditure for the MPS and Nationally. Being a Framework agreement there is no committed level of expenditure by either the MPS or Nationally. Figures given are based on previous contract spend. The NLSF will be hosted by the MPS and will serve internal and external users; this includes other Police Forces and PCCs in England, Wales and Northern Ireland as well as the GLA and other public bodies such as the National Crime Agency (NCA). The Total MPS spend is anticipated to be no more than £25m over the four year period, which will cover business as usual spend funded from the DLS annual revenue budget and spend on specialist projects by other Directorates, funded from budgets identified within approved business cases.
9. It is estimated that the additional external spend will be no more than £40m which is managed by the other public bodies themselves and does not affect MPS budget.
10. Any external spend from other public bodies is set at a rebate value of 1%, which means that MPS generates a 1% income from all spend outside of the MPS up to a value of £40m, creating a potential maximum income of £400,000 over the duration of the Framework. This income is used to offset the cost of the MetLaw Team within DLS, who manage the Framework on behalf of the MPS and all Participating Bodies.
11. Under the 2016/2020 Framework the MPS has received a rebate of £169,821.55 for the first three years, with a forecast rebate of £226,429.00 for the full Framework term. The value of the rebate is dependent on the number of other public bodies and forces who use the Framework and is paid to the MPS annually on the anniversary of the contract.

Rebate 2016 - 2020

	2016/17	2017/18	2018/19	Forecast 2019/20	Forecast 4 year total
Annual fee	£54,286.76	£62,770.91	£52,763.88	£56,608.19	£226,429.74

12. The MPS are currently working with CLEP to maximise other public bodies' use of the framework to deliver standardisation of rates, reduce time to market for other police forces and external public bodies, drive consistency of legal advice

¹ [Police and crime plan: a safer city for all Londoners | London City Hall](#)

across forces and share knowledge and best practice.

13. The procurement will be undertaken via the OJEU restricted procedure, in line with EU Directives and the Public Contract Regulations 2015, and be in place when the current framework expires on January 31st 2021.

Value for money

14. Keeping high level and complex legal work in-house such as counter-terrorism, complex litigation and public inquiry work allows the MPS to keep costs to the minimum. This creates flexibility when selecting the appropriate type of legal work to outsource and what to be kept in-house, which will maximise value for money. The more forces and partner agencies that utilise the Framework will provide value based on economies of scale.
15. Value for money is also achieved under the NLSF by the provision of free training; provision of secondees to provide support and legal advice to cover short term staffing issues or for more long term project support; and free helplines in specialist areas of law.
16. The contract will be managed by the DLS MetLaw Team who will monitor KPIs on behalf of the MPS, enforce any contractual penalties if applicable and interrogate invoices thoroughly. DLS Watching Brief lawyers also oversee work performed and spend incurred. Audits will be carried out regularly to ensure firms comply with the contract term.

Legal Comments

17. The Mayor's Office for Policing Crime is a contracting authority as defined in the Public Contracts Regulations 2015 ("the Regulations"). All awards of public contracts for goods and/or services valued at £189,330 or above will be procured in accordance with the Regulations. No TUPE implications are envisaged.
18. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime (DMPC) has delegated authority to approve all requests to go out to tender for contracts of £500,000 or above.

Equality Comments

19. Equality and Diversity impact has been considered with no issues identified or foreseen. The successful bidder will be evaluated on their ability to meet the MPS requirements under the Equality Act 2010 and responsible procurement guidelines. The evaluation will consider their ability to act as a responsible employer and meet employment obligations in accordance with MOPAC objectives.

Privacy Comments

20. The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the European Convention of Human Rights and the Data Protection Act (DPA) 2018. Both legislative requirements place an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the

rights and freedoms of individuals.

Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) become mandatory for organisations with technologies and processes that are likely to result in a high risk to the rights of the data subjects.

The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the service meets its compliance requirements.

The service does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.

Background/supporting papers

21. There are no applicable supporting papers.

Report author: Helen Johnson, Head of Administrative Services, 767902

