

## PFCC Decision Report

<b>Report reference number:</b> 179-21 <b>Classification</b> Not protectively marked
<b>Title of report:</b> BlueLight Commercial Limited – Next Generation Forensics Procurement Sub-Agreement
<b>Area of county / stakeholders affected:</b> Countywide
<b>Report by:</b> Dave Levy (7 Force Director of Commercial Services) <b>Date of report:</b> 22 December 2021 <b>Enquiries to:</b> Dave Levy (7 Force Director of Commercial Services) ( <a href="mailto:david.levy@essex.police.uk">david.levy@essex.police.uk</a> )

### 1. Purpose of the report

The purpose of this report is to seek the PFCC's approval to enter into the Next Generation Forensics Procurement Sub-Agreement with BlueLight Commercial Limited, attached as Appendix 1 to this report.

### 2. Recommendations

That the PFCC enters into the Next Generation Forensics Procurement Sub-Agreement with BlueLight Commercial Limited, attached as Appendix 1 to this report.

### 3. Benefits of the proposal

The Forensics Capability Network (FCN) has developed a strategy for the Next Generation Procurement (NGP) for Physical Forensic Services to address lessons learnt from previous contracts. A request was recently made by the Policing Minister through the NPCC Lead for the Forensics Marketplace for forces to declare their commitment to the NGP. Staff from 7 Force Commercial Services have played an integral role in designing the procurement and contract management approach as part of the FCN programme. Two members of the 7F Commercial team have been fully engaged throughout the process and have influenced the proposals. Operational leads have been provided opportunity to comment on any subsequent documentation issued, such as specifications, contract management documents, Key Performance Indicators and so forth.

A national Dynamic Purchasing System (DPS) is to be put in place to foster a collaborative national approach to the procurement of forensic services and encourage new entrants to the market. BlueLight Commercial was asked by the FCN to act as the contracting authority for the proposed DPS. By entering into the sub agreement attached at Appendix 1, Essex Police can access the DPS to source physical forensic services.

The benefits of the proposed DPS are:

- A national standardised process and standardised specifications which support aggregation and are easier for suppliers to respond to.
- Process for surge and emergency demand to be factored into competitions offering greater resilience and transparency to market.
- Approach has followed Sourcing Playbook guidance, peer review from the Competitions and Markets Authority and Cabinet Office Complex Transactions Team.
- Opportunity to stimulate markets and enable new entrants into the market and ultimately inclusion onto any DPS arrangement, which can also offset volatility of losing suppliers or suppliers reaching capacity.
- Ability to introduce new suppliers and 'service lots'
- The ability to minimise the impact of price increases through aggregation of demand at a national level.

#### **4. Background and proposal**

The capacity and stability of the external forensic supply chain has been identified as a force strategic risk, due to financial instability, reduced capacity through a shortage of scientists and quality issues. Historically the situation has been compounded by procurements that have driven down pricing to unsustainable levels and which led to an uplift in costs for all forensic providers during 2019 which all forces had to bear.

Delivery of the Next Generation Procurement (NGP) of national contracts for physical forensic services for policing is a key output of the Forensic Marketplace Strategic Plan (FMSP) project. New national contracting arrangements were discussed and agreed at Chiefs Council in March 2020. Following this, a dedicated FMSP work package was established to deliver NGP.

BlueLight Commercial Limited is a national model for police procurement and commercial functions. BlueLight Commercial was established as a condition of the police funding settlement for 2020/21 to oversee and undertake procurements on a national basis in order to secure both financial and resource savings for UK policing by reducing the need to duplicate procurement processes and by utilising and co-ordinating its purchasing power.

On 18 March 2020, through decision 041/2020, the PFCC applied to become a member of BlueLight Commercial. On 8 March 2021, through decision 032/2021, the PFCC entered into BlueLight Commercial Limited's overarching Customer Agreement. In doing so, it was clear that any specific procurement or project activity that is entered into will be governed by a separate sub-agreement which the parties wishing to participate will need to sign up to. The Next Generation Forensics Procurement Sub-Agreement now attached at Appendix 1 sets out the detailed arrangements and process whereby forces will purchase physical forensic services via the Dynamic Purchasing System (DPS) conducted by BlueLight Commercial on behalf of the national Forensics Capability Network (FCN). The terms of this Sub-Agreement take precedence over the Customer Agreement already signed.

Signing this Sub Agreement does not commit the PFCC to engaging BlueLight Commercial for any further forensic service purchase requirements. Equally, the DPS does not guarantee any supplier any exclusivity, quantity or value of work.

## **5. Alternative options considered and rejected**

Any PCC and Chief Constable wishing to purchase services under the DPS utilising BlueLight Commercial to run a Further Competition with suppliers must first enter into the Sub Agreement attached at Appendix 1. Direct access to the DPS will not be possible other than through a Sub Agreement.

The PFCC could choose to procure forensic services for Essex Police outside of the proposed DPS. This approach is not recommended as it would not deliver benefits in terms of efficiencies and standardisation as set out in section 3 above. In addition, the issues encountered with the forensics marketplace over the last few years have resulted in the need for a co-ordinated national approach to provide stability and encourage new entrants into the market. The PFCC would also need to balance any such decision against their statutory duty to collaborate and the Secretary of State's statutory power to compel or direct this where they consider appropriate.

## **6. Police and Crime Plan**

The Police and Crime Plan sets out a clear commitment to delivering efficiencies by working more closely with other police forces. The proposal also aligns with the wider commitments made to collaboration and partnership working within the Police and Crime Plan.

Effective forensic services underpin the force's ability to detect crime and provide justice for victims of crime.

## **7. Police operational implications**

Forensics Services are a fundamental part of operational policing. These services support all the operational priorities of the force as the contract will cover analysis across a wide range of offences, including homicide and other serious violence, rape and other sexual assaults, volume crime, drugs analysis to drink / drug driving. Without provision of these services, Essex Police will not be able to investigate and prosecute a wide range of offences effectively.

## **7. Financial implications**

The Essex Police budget for Forensic Services in 2020/21 was £2,841,662. The total estimated contract value across the seven forces of the eastern region is £10 million, which factors in an anticipated price increase.

## **8. Legal implications**

The Sub Agreement, which sits under the Customer Agreement that has already been signed by the PFCC, provides the formal legal vehicle for BlueLight Commercial to act as agent for the PFCC and Essex Police when conducting the Further Competition process under the DPS. By signing the Sub Agreement, the PFCC confirms that they will permit any suppliers to the DPS to follow the instructions of Forensic Capability Network or BlueLight Commercial staff when acting in their capacity as agents under the terms of the Sub-Agreement. The Sub Agreement also permits BlueLight Commercial to act on the PFCC's behalf with regard to certain contract management matters. BlueLight Commercial will undertake due diligence of suppliers on behalf of PCCs and Chief Constables and monitor supplier performance across the individual call-off contracts for each area.

BlueLight Commercial will be the contracting authority for the DPS pursuant to Regulation 2 of the Public Contract Regulations 2015 and has entered into DPS Agreements (attached at Appendix 2) with suppliers of physical forensic services to facilitate this. The DPS is a regulated procedure under the Public Contracts Regulations 2015 (as amended). The terms of the DPS and call-off contract under the DPS, together with the specification set out at Schedule 2 of the Sub-Agreement, will facilitate a streamlined process with forensic service providers on standardised terms.

Each competition under the DPS will be based on the individual requirements of each force / collaboration. The Essex Forensic lead has been working with colleagues in the eastern region on a regional approach and 7 Force Commercial Services has been working with the Forensics Capability Network to design the approach to market. This approach was endorsed by the Commercial Executive Board, in accordance with 7 Force Contract Standing Orders, on 13<sup>th</sup> December 2021.

Once the competitions under the DPS have been conducted by BlueLight Commercial, the PFCC will enter into their own Call-Off Contract with the successful supplier(s) (in the form set out at Schedule 2 of the Sub Agreement) in accordance with the outcome of the Further Competition. Signing the Sub-Agreement commits the PFCC to entering into a call-off contract for the services set out at Schedule 1 to the Sub Agreement. They will have the right to terminate the call-off contract at any time, without reason or liability, by giving the supplier at least three months' written notice, and they will have the right to terminate all or part of the call-off contract immediately if any of the events described in paragraphs 10.4.1, 10.4.5 and 32.3 of the call-off contract occur.

The DPS will be for an initial period of four years (from 1 April 2023 – 31 March 2027), with three optional extensions of 12 months each. Call-off contracts concluded prior to the end of the DPS can outline the expiry of the DPS.

## **9. Staffing implications**

There are no staffing implications to this report. Neither the DPS Agreement nor the subsequent call-off contract(s) will create a partnership, joint venture or employment relationship.

## **10. Equality and Diversity implications**

There are no equality and diversity implications arising directly from this report. Under the DPS Agreement and the call-off contracts, the supplier must follow all applicable equality law when it performs its obligations under these agreements. In addition, Appendix 2 to the call-off contract sets out the expectations of suppliers in relation to modern slavery, child labour and inhumane treatment, as well as to ensure the income security and reasonable working hours of their own staff and workers.

## **11. Risks**

As stated above, the capacity and stability of the external forensic supply chain has been identified as a force strategic risk, with an initial risk score of 20 (yellow), a current risk score of 45 (amber) and a target risk score of 10 (green). Next Generation Procurement and the Dynamic Purchasing System will help to address the risks, vulnerabilities and challenges identified.

There is a risk that the services procured through this route will prove unfit for purpose. To mitigate against this, specifications have been developed by the FCN in consultation with Forensic leads and have been standardised to ensure that the services procured meet the

demands of modern policing. Significant market engagement has already taken place with suppliers in developing the proposed specifications and approach.

The current market for Forensics Services is small and therefore has suffered from lack of capacity in recent years. The use of the Dynamic Purchasing System provides greater flexibility than traditional tenders or framework agreements, specifically allowing new entrants to the market to apply throughout the life of the DPS. This means that, as new science / techniques evolve, forces will be able to access them via the DPS, providing greater market choice and a more competitive environment than previously existed. However, this does require continued market engagement over the life of the DPS which the 7 Force Director of Commercial Services has raised with both FCN and BlueLight Commercial. If, on completion of a Further Competition, there is insufficient capacity in the winning supplier to provide services to all customers requiring those services, BlueLight Commercial and the Forensics Capability Network will hold good faith discussions with all affected PCCs and Chief Constables to agree how supplier capacity should be shared amongst them.

Under the terms of the call-off contract, the supplier shall maintain risk logs which identify risks to any and all parts of the service delivered to the PFCC and Chief Constable.

## **12. Governance Boards**

The procurement principles agreed by Chiefs Council on 14 July 2021 take a nationally aggregated, standardised and efficient approach to the Next Generation of Procurement.

Across the seven forces of the eastern region, forensic services are governed by the 7 Force Forensics Project Board chaired by ACC Tom Richards, which has endorsed the proposal. The proposed procurement approach was also endorsed by the Commercial Executive Board (formerly Strategic Procurement Governance Board) in accordance with Contract Standing Orders on 13<sup>th</sup> December 2021 – see Appendix 3 attached.

Under the terms of the DPS Agreement, a Commercial User Group (CUG) will be established to enable collective discussion between the Heads of Procurement and Heads of Forensics regarding contract performance, marketplace issues, supplier financial stability and supply chain economic risks.

## **13. Background papers**

Appendix 1 – Sub Agreement 5 - Forensics

Appendix 2 – Forensics Sub Agreement Schedules 1 and 2 – Definitions, Dynamic Purchasing System (DPS) Agreement, Specification and Call-Off Contract

Appendix 3 – Commercial Executive Board Gateway Report

### **Report Approval**

The report will be signed off by the PFCC Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign:



Print: P. Brent-Isherwood

Date: 7 January 2022

Chief Finance Officer / Treasurer Sign: Julia Berry.....

Print: Julia Berry .....

Date: 10 January 2022.....

**Publication**

Is the report for publication?

YES

NO

**If 'NO', please give reasons for non-publication** (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

However, the "Definitions" document and Specification are not to be published as they have been protectively marked Commercial in Confidence and Official Sensitive respectively. Appendix 3 (the Commercial Executive Board Gateway Report) is likewise not to be published as it has been deemed Official-Sensitive (Commercial).

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

**Redaction**

**If the report is for publication, is redaction required:**

1. Of Decision Sheet?

YES

2. Of Appendix?

YES

NO

NO

**If 'YES', please provide details of required redaction:**

The "Definitions" document and Specification are not to be published as they have been protectively marked Commercial in Confidence and Official Sensitive respectively. Appendix 3 (the Commercial Executive Board Gateway Report) is likewise not to be published as it has been deemed Official-Sensitive (Commercial).

**Date redaction carried out:** .....

**Treasurer / Chief Executive Sign Off – for Redactions only**

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

**Sign:** .....

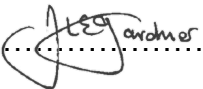
**Print:** .....

**Chief Executive/Treasurer**

**Date signed:** .....

**Decision and Final Sign Off**

I agree the recommendations to this report:

**Sign:**  .....

**Print:** Jane Gardner

**Deputy PFCC**

**Date signed:** 10 January 2022

I do not agree the recommendations to this report because:

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.....  
.....

**Sign:** .....