

## TRAFFORD COUNCIL

### DELEGATED OFFICER DECISION REPORT

**Report to:** Corporate Director, Place  
**Date:** 3<sup>rd</sup> June 2020  
**Report for:** Decision  
**Report of:** Head of Regulatory Services

#### Report Title

**Greater Manchester's Clean Air Plan – Tackling Nitrogen Dioxide Exceedances at the Roadside – Preparatory implementation and contract arrangements**

#### Summary

The purpose of this report is to summarise the procurements that need to be undertaken to deliver the Clean Air Zone (CAZ) and other Greater Manchester Clean Air Plan (GM CAP) measures and to seek approval for TfGM to undertake the preparatory procurement arrangements on behalf of the 10 GM Local Authorities in accordance with the GMCA and TfGM's existing Constitutional arrangements.

A report that set out the progress that has been made following the Government's response to Greater Manchester's Outline Business Case to tackle Nitrogen Dioxide Exceedances at the Roadside (OBC), was considered on 6<sup>th</sup> January 2020 at the Council's Executive meeting.

At this time a delegation was given to the Corporate Director, Place to determine the preparatory implementation and contract arrangements that need to be undertaken utilising the initial tranche of £36m of funding from Government to deliver the CAZ and other GM CAP measures.

#### Recommendation(s)

The Corporate Director, Place is recommended to approve that GMCA (acting by its officer, TfGM) is authorised to undertake the preparatory procurement arrangements that need to be undertaken to deliver the CAZ and other GM CAP measures on behalf of Trafford Council in accordance with TfGM's existing Constitutional arrangements.

#### Contact person for access to background papers and further information:

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## 1 Background

- 1.1 In July 2017 the Secretary of State issued a Direction under the Environment Act 1995 requiring seven Greater Manchester local authorities, including Trafford Council, to produce a feasibility study to identify the option which will deliver compliance with the requirement to meet legal limits for nitrogen dioxide *in the shortest possible time*.
- 1.2 In accordance with this Direction, Trafford Council has been developing the study collectively with the other 9 Greater Manchester local authorities and the GMCA, coordinated by TfGM in line with Government direction and guidance and an Outline Business Case (OBC) was duly submitted in March 2019.
- 1.3 Trafford Council, along with the other 9 Greater Manchester local authorities, is now subject to a Ministerial direction dated 16 March 2020 requiring the submission of an Interim FBC (along with confirmation that all public consultation activity has completed) as soon as possible and by no later than 30 October 2020. Under this direction Trafford Council, along with the other 9 Greater Manchester local authorities, is under a legal duty to ensure that the GM CAP Charging Clean Air Zone Class C with additional measures is implemented so that NO<sub>2</sub> compliance is achieved in the shortest possible time and by 2024 at the latest and that human exposure is reduced as quickly as possible.
- 1.4 The key features of Greater Manchester's feasibility study and its Outline Business Case (OBC) to reduce nitrogen dioxide exceedances in Trafford and across Greater Manchester in the shortest possible time were approved on 18<sup>th</sup> March 2019 at the Council's Executive for submission to the government's Joint Air Quality Unit (JAQU).
- 1.5 Ministerial feedback was received in July 2019 along with a further direction under the Environment Act 1995 which requires all ten of the Greater Manchester local authorities to take steps to implement a plan to deliver compliance with the requirement to meet legal limits for nitrogen dioxide in the shortest possible time.
- 1.6 The ministerial letter that accompanied the July 2019 direction requested from GM further options appraisal information (including transport and air quality modelling as well as due regard to economic, financial and deliverability considerations) to be submitted prior to statutory consultation.
- 1.7 The additional options appraisal information was duly completed and submitted to government.

- 1.8 A further Ministerial Direction requiring the submission of an Interim FBC (along with confirmation that all public consultation activity has completed) as soon as possible and by no later than 30 October 2020 was issued on 16 March 2020. The 2020 direction confirmed that legal duty remains to ensure the GM CAP (Charging Clean Air Zone Class C with additional measures) is implemented so that NO<sub>2</sub> compliance is achieved in the shortest possible time and by 2024 at the latest and that human exposure is reduced as quickly as possible. The Ministerial letter accompanying the March 2020 direction confirmed that the minister was satisfied that the main evidence queries from the July 2019 direction had been addressed.
- 1.9 A report that set out the progress that has been made following the Government's response to Greater Manchester's Outline Business Case to tackle Nitrogen Dioxide Exceedances at the Roadside (OBC), and the implications for the 10 Greater Manchester (GM) local authorities in relation to the schedule of work and statutory consultation on the Clean Air Plan was considered on 6<sup>th</sup> January 2020 at the Council's Executive meeting.
- 1.10 The report set out that, given the scale and challenging timeline to deliver a charging Clean Air Zone as required by the March 2020 Ministerial Direction, there is preparatory work that needs to be undertaken, ahead of the report that will determine progressing the statutory consultation. This is in order to maintain delivery momentum in line with the funding arrangements agreed with JAQU, for example in relation to automatic number plate recognition (ANPR) cameras, back office systems and service providers.
- 1.11 At this time a delegation was given to the Corporate Director, Place to determine the preparatory implementation and contract arrangements that need to be undertaken utilising the initial tranche of £36m of funding from Government to deliver the CAZ and other GM CAP measures.
- 1.12 This report considers the preparatory procurement arrangements that need to be undertaken.

## **2 Purpose of Report**

- 2.1 Although TfGM has been leading on the development of the Full Business Case (FBC) on behalf of the ten GM local authorities, the formal legal powers and duties relating to the GM CAP, including the duty to secure compliance with the March 2020 ministerial direction fall on the GM authorities themselves.
- 2.2 For any procurements intended to be undertaken by TfGM on behalf of the GM authorities, appropriate delegations will need to be put in place by the GM authorities to TfGM via the GMCA.

- 2.3 The purpose of this report is to summarise the procurements that need to be undertaken to deliver the CAZ and other GM CAP measures and to seek approval for TfGM to undertake the preparatory procurement arrangements on behalf of the 10 Local Authorities in accordance with the GMCA and TfGM's existing Constitutional arrangements.
- 2.4 This report is not seeking approval for TfGM to enter into contracts on behalf of the Local Authority but to run the procurement exercise with potential suppliers to final evaluation and to provide a report to allow the GM Authorities make a decision to award to the successful supplier(s).

### **3 Introduction**

- 3.1 GM has been directed by Government to introduce a category C Clean Air Zone across the region, therefore the key elements of the Clean Air Zone including the intended boundary and times of operation, proposed discounts/exemptions, vehicles affected and daily charges, require a statutory consultation. The supporting measures, the detail of proposals of the funds and vehicle finance will also set out to enable consultees to respond fully to the GM CAP proposals. Given that the 10 Local Authorities are subject to the direction to implement the CAZ, the preparatory procurement arrangement can commence without a risk of the consultation outcome being pre-judged.
- 3.2 It is proposed that the governance procedures outlined will be applied to each individual procurement in order to progress procurements through a robust process whilst demonstrating assurance to the GM Authorities of the controls and approvals in place for transparency and accountability throughout each stage.
- 3.3 It is anticipated that in the latter half of 2020 GM will determine the arrangements of an operating body that will be responsible for day to day operation of the CAZ in particular, and the implementation of other GM CAP measures. TfGM commencing the procurements at this stage does not undermine the ability of the 10 GM Local Authorities to subsequently determine the organisation to be appointed as the Operating Body.
- 3.4 A number of procurements are required to deliver the CAZ and other GM CAP measures. An overview of the procurements required is outlined in table 1 below. Detailed information on the procurement can be found at Appendix One.
- 3.5 The Appendix contains commercial or industrial information in respect of which confidentiality is provided by law to protect a legitimate economic interest, and disclosure would adversely affect that confidentiality. As such, it is considered that these reports falls within the exception under regulation 12(5)(e) EIR and that, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

Table 1: GM CAP Procurements

<b>Procurement</b>	<b>Description</b>	<b>Tender Process</b>	<b>Estimated Contract Value £m</b>
CAZ Signage	2468 signs – blend of entry, exit & advance and repeater signage.	OJEU - Open Tender to market	30.6 (CAPEX) 4.0 (OPEX)
CAZ Service	Clean Air Zone (CAZ), Service  Outsourced contract inclusive of; 1. Field Equipment - Roadside ANPR camera, and ANPR systems to detect and identify the vehicles entering the scheme. 2. Customer contact channels for charges and penalty collections, Charge determination, scheme management, penalty issue, representation and debt registration.	Competitive Dialogue	62.0 (CAPEX) 98.5 (OPEX)
CAZ Debt Recovery	Recoveries of outstanding debts both nationally and internationally	CCS Framework	40.7
Vehicle Funds - Grant Administration	Grant Administration service provider for Clean Commercial Vehicle Funds and Clean Taxi Funds	Open Tender	16
Vehicle Funds - Vehicle Financier	A panel of Vehicle Financiers selected to offer owners of eligible vehicles preferential financial arrangements	Open Tender	114*
Funds Platform	Digital Platform provider to manage and control the applicants for both grants and vehicle finance	Open Tender	3
Diffusion Tube Procurement	Pan GM Diffusion Tube Network to assess compliance with Legal limit values at points of exceedance.	Open Tender	1.1

\* total value of Vehicle fund, assumes all applicants select a loan rather than a grant

#### **4 GM CAP Procurement Process**

4.1 Procurements for the GM CAP have been developed in line with the approach set out summarised in table 2 below in order to develop individual procurement strategies.

Table 2: Procurement 6-Stage Process (Summary)

<b>Process Stage</b>	<b>Description</b>	<b>Action</b>
1	Project Concept	Defining objectives and deliverables
2	Environment	Resourcing requirements and defining milestones
3	Market analysis	Informal market engagement to understand

Process Stage	Description	Action
		capability, attractiveness and inputs to risk register
4	Risk Management	Inputs from market engagement and mitigation activities into project and Programme level registers
5	Options Analysis	Identification of short list of options from long list recognising bundling efficiencies, sequencing of activities, contracting mechanisms, timeline and tested through formal market engagement. Identify preferred route to market.
6	Procurement Strategy	Strategic sourcing document (SSD) to be approved through GM CAP and TfGM Corporate governance

4.2 The 6-stage process applies rigor to the development of GM CAP Key Procurement strategies as part of TfGM corporate governance requirements.

## 5 TfGM's Procurement Process

5.1 TfGM's Constitutional arrangements ensure that there is appropriate governance in place, to ensure that procurement activity across the business:

- achieves value for money;
- complies with legislation;
- is open and transparent and provides safeguards against fraud and corruption;
- is properly documented and provides a clear audit trail;
- ensures active and widespread involvement with TfGM making it as easy as possible to engage; and
- ensures TfGM procurement supports the organisation to achieve its Sustainability, Environmental and Diversity Policies.

5.2 As procurement sourcing options for the GM CAP will be above OJEU threshold activities and would be managed through TfGM's Strategic Procurement Group who report into TfGM's Executive Board and meets as part of the monthly Finance & Corporate Services Functional Board.

5.3 The Strategic Procurement Group are the body within TfGM that are responsible for approving to proceed (or rejecting) through the various stages of relevant procurements, from initiation stage through to award of contract and will work within the rules laid down in the TfGM Constitution and Scheme of Delegation.

5.4 The purpose of the Strategic Procurement Group is to:

- Review and approve the Sourcing and Contract Pipeline (SCP) activities in line with Strategic Sourcing Document stages.

- Review, coordinate and approve Strategic Sourcing actions for activities identified on the SCP.
- Ensure that TfGM complies with Procurement Regulations.
- Ensure that TfGM delivers best value for money from its supplier expenditure.
- Provide initial approval of procurement strategies prior to submission to the Executive Board, as required.
- Ensure that sourcing activity achieves TfGM objectives.
- Ensure that sourcing activity can be completed to meet programme or service requirements.

#### 5.5 Strategic Procurement Group Members:

- Director of Finance and Corporate Services;
- Head of Procurement;
- Head of Finance;
- Head of Legal; and
- Other Functional Leads, as required to support / review a sourcing proposal or activity.

5.6 TfGM processes are designed to identify the future sourcing and contractual activities to ensure the Senior Management Team has visibility of TfGM future exposure for activities above OJEU threshold by the use of Strategic Sourcing Documents (SSD). This process ensures that appropriate procurement and legal requirements are agreed and signed off at each stage of the sourcing process, and will help TfGM in planning resource requirements.

5.7 The Strategic Sourcing Document (SSD) confirms the sourcing strategy to be adopted for the particular requirement / initiative and is drafted by the business and procurement representative collaboratively. The SSD includes the following details:

- Confirmation of business requirements;
- Options and recommendation of sourcing option;
- Confirmation of business case;
- Whether OJEU/RFQ/ITT as appropriate, should be followed;
- The evaluation criteria to be adopted;
- Confirmation of form of contract to be used; and
- Details of any pre-tender estimates.

- 5.8 For the GM CAP the SSDs will be reviewed and approved by:
- GM CAP Programme Board, chaired by the GM CAP Senior Responsible Officer,
  - the Strategic Procurement Group during the monthly Functional Board, chaired by the Director of Finance and Corporate Services,
  - TfGM Executive Board, chaired by TfGM's Chief Executive.
- 5.9 The sequence of the approval stages will remain and each stage approvals are a prerequisite for submission to the next. The proposed governance is fully auditable and transparent in accordance with the TfGM Constitution.
- 5.10 Throughout all approval stages the GM CAP Steering Group will be kept updated with the development of the SSDs and the progression through the governance stages.
- 5.11 Once the SSD is approved, the TfGM procurement team will oversee the initiation of the external facing procurement exercise with potential suppliers and will complete a Supplier Recommendation Report (SRR) after final evaluation. The SRR will form the basis of a report to allow the GM Authorities make a decision to award to the successful supplier(s).

## **6 COVID-19 Risk**

- 6.1 It is recognised that all procurements detailed will be subject to the current national emergency regarding COVID-19. TfGM are monitoring this situation with the application of clear guidelines that formal procurements can only commence on the "normalisation" of the market. No tenders will be issued to market during a period of national emergency unless specific market conditions indicate an ability of all bidders to effectively bid.
- 6.2 Mitigation to current circumstances is being undertaken through the development of all procurement documentation to a position of imminent release once the market stabilises and the supply chain are positioned to respond in a fair and competitive manner. Market engagements in compliance with Public Contract Regulations 2015 are being undertaken to assess supplier capabilities, mitigate risk and ensure outsourced service requirements are aligned to industry standard to reduce design, build and implementation timescales for services post contract award.
- 6.3 Further mitigation can be addressed through the disclosure of locations and detailed design for camera and signage infrastructure to allow early supplier awareness of tendering requirements.
- 6.4 Extensive market engagement across all key procurements has been undertaken which may allow for remote tendering practices to be implemented if the market can confirm they can support this approach.



## 7 Recommendation

- 7.1 The Corporate Director, Place is recommended to approve that GMCA (acting by its officer, TfGM) is authorised to undertake the preparatory procurement arrangements that need to be undertaken to deliver the CAZ and other GM CAP measures on behalf of Trafford Council in accordance with TfGM's existing Constitutional arrangements.

### Other Options

None

### Reasons for Recommendation

The recommendations will help ensure that the authority complies with the Directions served by the Government in 2017, 2019 and 2020, requiring the authority to deliver compliance with legal limits for nitrogen dioxide in the "shortest possible time".

**Finance Officer Clearance** DS

**Legal Officer Clearance** PC

### HEAD OF SERVICE SIGNATURE

