

AGENDA ITEM:	Pages nos. 189 - 196
Meeting	Cabinet Resources Committee
Date	16 January 2012
Subject	One Barnet Passenger Transport Service – SEN Framework Contract extension
Report of	Cabinet Member for Customer Access and Partnerships
Summary	This report seeks approval to extend the SEN Framework Contract expiring on 29 February 2012 for a second term to allow adequate time for the West London Alliance (WLA) to procure a region-wide collaborative framework contract for the participating boroughs (Barnet, Brent, Ealing and Hounslow)
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Status	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable
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1. RECOMMENDATIONS

- 1.1 That the SEN Framework Contract for passenger transport, expiring on 29 February 2012, be extended for a second term for a period of 12 months and up to a maximum value of £3.042m to allow adequate time for the West London Alliance (WLA) to procure a region-wide collaborative framework contract for the most suitable provider(s) for the service to benefit both the customer and the Council.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 6 May 2008 (Decision item 5) – approved the establishment of the Future Shape of the Organisation¹.
- 2.2 Cabinet, 3 December 2008 (Decision item 5) – approved the programme structure for the next phase of the Future Shape programme and that a detailed assessment of the overall model for public service commissioning, design and delivery should be undertaken.
- 2.3 Cabinet, 6 July 2009 (Decision item 5) – approved that three principles would be adopted as the strategic basis for making future decisions:
- a new relationship with citizens
 - a one public sector approach
 - a relentless drive for efficiency)
- It also approved a phased approach to delivering the Future Shape Programme and immediate consolidation of activity in the areas of property, support and transact.
- 2.4 Cabinet, 21 October 2009 (Decision item 8) – approved plans to implement the Future Shape programme.
- 2.5 Cabinet, 21 June 2010 (Decision item 5) considered the medium-term strategic context for the Council and likely very substantial financial challenges. Cabinet endorsed the Future Shape programme as the response to the challenges set out. The report also noted that the full implementation costs of Future Shape were not budgeted at that time and would need to be factored into future financial planning and in reviewing earmarked reserves.
- 2.6 The financial statements for 2009/10, agreed by the Audit Committee on 21 September 2010, established a Transformation Reserve to meet the costs of the Future Shape programme.
- 2.7 Cabinet, 29 November 2010 (Decision item 6) – approved the One Barnet Framework and the funding strategy for its implementation.

¹ The Future Shape programme has been renamed One Barnet Programme. The relevant previous decisions shown refer to meetings held before this change.

- 2.8 Cabinet, 29 November 2010 (Decision item 9) – authorised the Commercial Director to commence the procurement process to identify a strategic partner for the delivery of the Passenger Transport Services and to extend the current SEN framework contract by 6 months to February 2012 to allow adequate time to procure the most suitable provider for a new service.
- 2.9 Business Management Overview & Scrutiny Sub-Committee, 16 December 2010 (Decision item 6), the report was discussed and Councillors were assured that they would see evidence of our work with other boroughs on passenger transport.
- 2.10 Cabinet Resources Committee, 27 September 2011 (Decision item 16), the committee approved the recommendation to become full members of the West London Alliance (WLA) Transport Efficiency Programme to participate in the procurement of a framework contract led by London Borough of Brent to replace our current framework.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The three priority outcomes set out in the Corporate Plan are: –
- Better services with less money
 - Sharing opportunities, sharing responsibilities
 - A successful London suburb
- 3.2 The One Barnet programme has three overarching aims: –
- A new relationship with citizens
 - A one public sector approach
 - A relentless drive for efficiency
- 3.3 The overarching aim of the One Barnet Programme is to create a new citizen centred council through delivering a new relationship with citizens and, by improving their experience of the passenger transport service this will contribute to the council in achieving this aim.
- 3.4 The aim of this project is to deliver passenger transport services in collaboration with other member boroughs of the West London Alliance (Brent, Ealing, Hounslow) by sharing out-of-borough routes, where possible, to procure a centralised framework contract and a centralised mobility assessment service. This would help reduce the overall cost of the transport provision whilst working in collaboration with other partners to deliver region-wide services and fits within the One Barnet objectives of “a relentless drive for efficiency”, “a one public sector approach” and “a new relationship with citizens”.

4. RISK MANAGEMENT ISSUES

- 4.1 Risks associated with the delivery of the projects are managed and reported in accordance with corporate risk and project management processes and will also be reported through existing democratic processes.
- 4.2 In order to begin the process of achieving potential cost savings during the financial year 2012/13, the award of the contract should take place by July 2012 for the new providers to commence service delivery from start of the school year 2012/13. In order to undertake such a complex procurement thoroughly and safely, it is usual to allow an 6 to 8 month timeframe for the procurement and reporting process from the current stage of the WLA procurement project.
- 4.3 The WLA contract procurement plan aims for the contract to be awarded in May 2012 and to have the new provider(s) delivering passenger transport services from September 2012. However, the WLA project plan has been reviewed by Barnet's Procurement Service who has advised that the implementation plan is ambitious with no contingency to allow for any delays and thus the recommendation is for Barnet to extend the current contract for 12 months to minimise the disruption to the service.
- 4.4 There is a risk that the Barnet's transport requirements will not be met by the number and type of suppliers in the procurement process. This is mitigated by the WLA planning to re-advertise the tender following the evaluation process in March 2012, if necessary, This will result in Barnet missing the September 2012 window to implement the service. The service can only be implemented at term breaks. Thus the recommendation is to allow 12 months extension of the current contract. However, the extension will only be utilised as much as necessary.
- 4.5 If this proposed extension of the current SEN transport framework agreement is not approved, the Council will be required to source the SEN Passenger Transport provision for the interim period between the current SEN Transport Framework agreement expiring on 29 February 2012 and the commencement date of the West London Alliance's SEN Passenger Transport Framework Agreement, planned for April 2012 but with the risk that could also be delayed until September 2012. As such, the council would be exposed to higher market rates and be required to undertake a mini tender process to cover this gap between the council's and the West London Alliance's contract periods.
- 4.6 Currently there is a 2 month interval between contract expiring and WLA Framework Contract award where there will be no contract in place unless this extension is allowed. Further, spot hire will also exceed the threshold which will trigger the procurement via the European procurement process.
- 4.7 The Procurement rules (the Public Contracts Regulations 2006) set out a legal framework within which contracting authorities must carry out their procurement function, this includes an extension/variation to contract, which should normally be subject to a full OJEU procurement Process. There is

therefore a risk that this second extension of the contract could be viewed as being anti-competitive by the market resulting in a complaint or a challenge. This risk is being mitigated by stressing that this extension is solely being sought to enable the Council to participate in the WLA contract procurement and ensuring that the procurement process to replace this contract is conducted in a fair way with open market competition and in accordance with the contract procedure rules and the European regulation on procurement of framework contracts

- 4.8 The WLA Transport Efficiency Programme Board is managing the programme level risks associated with the delivery of the programme and the procurement of the framework contract. The WLA Transport Efficiency Board is sponsored by the Chief Executive of London Borough of Ealing and chaired by the Director of Children's Service at London Borough of Hounslow. The WLA are supported by People Too, a specialist transport consultancy, to ensure the continuation of support to the programme. Procurement is led by officers from Brent with document and process oversight from Barnet's procurement officers to ensure compliance with our contract procedure rules and the European procurement process.
- 4.9 Barnet has senior officer level representation on the WLA Transport Efficiency Programme Board from Environment, Regeneration and Planning to ensure the management of the programme and the procurement of the framework contract is in accordance with Barnet's policies, processes and procedures. The Barnet Council representative is the Assistant Director of Highways and Transport.
- 4.10 The current Passenger Transport suppliers may not agree to a 2nd contract extension for 12 month period, due to the Passenger Transport Services competitive mini tender in August 2011 and effects of global recession and fuel increases.
- 4.11 Council may be required to negotiate enhance passenger transport rates with suppliers to attain the second contract extension.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council and all other organisations exercising public functions on its behalf must have due regard to the need to; (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.2 The project team have considered the Council's equality and diversity policies and have concluded that the extension of the current framework contract for a further twelve months does not give rise to any concerns for staff or the residents of Barnet.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability))

- 6.1 The SEN transport framework agreement contract extension will require the existing eight approved passenger transport contractors (Beeline, Brent Couriers, Cavendish Cars, Chequers, Elite Broadway, Metro Cars, Ladyfare Ltd, Starcars Ltd) be requested to continue to provide passenger transport under existing contract terms and financial rates for the 12 month term.
- 6.2 The projected council spend under the contract (Home to School contract no. 9501) is £3.03m including RPI increase by 5.5% in September 2011, as of November 2011 spend. The projected spend for the 12 months contract extension is estimated to be between £2.95m and up to maximum to £3.042m (estimated RPI at 5.5% as at September 2012) from 1 March 2012 to 28 Feb 2013.
- 6.3 The council's medium term financial strategy does not contain any savings that will be affected by the decision sought within this report.
- 6.4 If the framework agreement contract extension is not granted then there is the risk that the council will be in breach of relevant EU or other procurement rules as it will be required to spot-hire the required service from the market until the WLA framework is in place. The current monthly expenditure is over £150k per month.
- 6.5 Children Services and Adult Social Care and Health transport budgets will fund their respective transport provision from with existing budgets.
- 6.6 There are no staffing implications as part of these proposals.
- 6.7 There are no redundancy implications as part of these proposals.
- 6.8 No additional office space will be required.

7. LEGAL ISSUES

- 7.1 The requirements of the Council's Contract Procedure Rules are addressed within the body of the report.
- 7.2 The extension of the contracts will need to be formally documented and such documentation stored with the original contracts.

8. CONSTITUTIONAL POWERS

- 8.1 The council's constitution, in Part 3, Responsibility for Functions, paragraph 3.6 states the terms of reference of the Cabinet Resources Committee including "approval of schemes not in performance management plans but not outside the council's budget or policy framework".

- 8.2 Contract extensions are permitted, subject to compliance with the provisions of Council Constitution, Contract Procedure Rule 5.6.1 - The Acceptance thresholds for contract additions, extensions and variations, provide that:

5.6.1 In the case of an extension to a contract:

5.6.1.1 The initial contract was based on a competitive tender or quotations;

5.6.1.2 The initial contract has not been extended before; and

5.6.1.3 The value of the extension is less than half the cost of the existing contract without the extension and has a budget allocation.

- 8.3 As the SEN Transport Framework contracts have previously been extended, any further extension requires a waiver of Contract Procedure Rule 5.6.1.2.
- 8.4 The request to waive Contract Procedure Rule 5.6.1.2 is within the terms of reference of the Cabinet Resources Committee as stated in paragraph 5.8 of the Contract Procedure Rules.

9 BACKGROUND INFORMATION

- 9.1 In November 2010, Cabinet approved a paper that proposed significant savings from in-house efficiencies and proposed to initiate a procurement process to identify a strategic partner for the delivery of passenger transport services and to extend the current SEN framework contract by 6 months to 29 February 2012 to allow adequate time to procure the most suitable provider for a new service.
- 9.2 At the Business Management Overview & Scrutiny meeting in December 2010, the Councillors requested more evidence of working with other boroughs on passenger transport. In January 2011, Council Directors Group approved the proposal to join the West London Alliance (WLA) and to participate in the detailed business case for delivering region-wide passenger transport services via the WLA Transport Efficiency Programme comprising Barnet, Brent, Harrow, Hillingdon, Ealing and Hounslow funded by Capital Ambition.
- 9.3 The WLA Transport Efficiency Programme included the procurement of a new region-wide framework contract for passenger transport for the participating boroughs with significant opportunity for financial savings along with service improvement by ensuring maximum utilisation of resources, economies of scale, increased buying power and shared costs. The programme plan indicated that the new framework contract would be in place by Spring 2012 coinciding with the expiry of the Barnet's current contract.
- 9.4 Due to the time taken to carry out the necessary due diligence on the WLA proposals by the participating boroughs, the WLA programme has slipped significantly with various initiatives that were planned to go live in September 2011 are now planned for April 2012. Although the WLA are still planning for

the framework contract to be in place by April 2012, the implementation and mobilisation of the transport services are not expected to go live until September 2012. Further, a review of the programme plan by Barnet's procurement team highlight risks with the timescales. In order to mitigate these risks, the recommendation is to extend our current framework by a further twelve months to allow adequate time for the WLA to procure and implement the new framework for contracted transport.

- 9.5 The project team submitted a proposal to extend the framework by twelve months in June 2011, which was put on hold until a review of the passenger transport services was carried out. A comprehensive review of the passenger transport services within Barnet and the proposal from the WLA was carried out by Edge Public Solutions during August 2011. Edge's recommendations for delivering some of the service via the WLA were accepted as they met all of the criteria. However, their recommendations to work independently to procure a separate framework contract and to continue to deliver the service on our own was rejected in favour of the WLA proposal for the following reasons:
- procuring a separate contract by January 2012 presented a significant challenge to meet the deadline and would risk the continuation of the transport service; and
 - it would limit the opportunities to work collaboratively with other like-minded organisations and would compromise the One Barnet principles of "a one public sector approach" and "a new relationship with citizens".
- 9.6 The project team submitted a report to Cabinet Resources Committee, 27 September 2011, requesting that the Committee approve the recommendation to become full members of the West London Alliance (WLA) Transport Efficiency Programme to participate in the procurement of a framework contract led by London Borough of Brent to replace our current contract extended until February 2012 which was approved.

10. LIST OF BACKGROUND PAPERS

- 10.1 Cabinet Resources Committee report, 27 September 2011, Item 16, Transforming Passenger Transport Services

Legal: PBD

Finance: MCG