
Meeting	Cabinet Resources Committee
Date	25 th February 2014
Subject	Independent Transport Operations for SEN and Passenger Transport Update
Report of	Cabinet Member for Education, Children and Families
Summary of Report	This report provides the background to the independent transport needs and seeks retrospective approval to appoint contractors from the Harrow/Barnet Framework.

Officer Contributors	Lynn Bishop Director of Streetscene, Bernard McGreevy Environmental Services Manager - Transport
Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	None
Function of	Executive
Enclosures	None
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1. RECOMMENDATION

- 1.1 To approve B&L Coach and Car Hire Ltd and Ruskins Private Hire Ltd as suppliers to the Independent Transport Operations for SEN and Passenger Transport contract following mini competition.
- 1.2 To retrospectively approve an increase in the annual value of the contracts of £655,000 following an increase of 10% clients being transported over the same period.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee, 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.
- 2.2 Business Management Overview & Scrutiny Sub-Committee, 16 December 2010 (Decision item 6), the report referred to at 1.1 above was called-in and Councillors were assured that they would see evidence of work with other boroughs on passenger transport.
- 2.3 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 to replace the current framework.
- 2.4 Cabinet Resources Committee, 16 January 2012 (Decision item 9), the Committee approved the extension of 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 most suitable provider(s) for the service to benefit both the customer and the Council.
- 2.5 Cabinet Resources Committee, 16 January 2012 (Decision item 9), the Committee approved the extension of 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 most suitable provider(s) for the service to benefit both the customer and the Council.
- 2.6 Cabinet Resources Committee, 25th February 2013 (Decision item 6), the Committee approve an extension to the SEN Framework Contract for passenger transport, expiring on 28 February 2013, for a third term for a period of seven weeks to allow the passenger transport team to mobilise and implement the newly procured framework contract jointly with Harrow to mitigate That the Contract Procedure Rules relating to acceptance parameter for contract extensions be waived to allow for the further extension to the SEN Framework Contract for passenger transport.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The three priority outcomes set out in the 2013-16 Corporate Plan, are:

1. Promote responsible growth, development and success across the borough.
2. Support families and individuals that need it – promoting independence, learning and well-being.
3. Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study.

3.2 This report focuses on creating better life chances for children and young people across the borough.

3.3 This contracted service involves the provision of transport for approximately 936 Home to School SEN / Non SEN pupils and 300 Home to Day Centre service users, on a daily basis throughout the year, with a projected annual spend of £3.4m (2013/14). An increase of 104 SEN /Non SEN pupils and 20 Home to Day Centre vulnerable adults as at the time this report compared to March 2013.

3.3 The use of this contract will ensure that the provision of the high-quality service continues while reducing the cost of the provision and allow the Council to respond to the increasing demand for the service. The joint-procurement with London Borough of Harrow was undertaken using a competitive process with appropriate due diligence to ensure that the above outcomes are met.

3.3 The Council has already recognised the value of Passenger Transport Services being delivered on behalf of Children Service (SEN), Adults Social Care & Health (ASC&H) and other services through the establishment of a centralised Passenger Transport Service. The Council has also recognised the effective delivery of this function via the in-house service model, to identify ways of making services more efficient and to improve the service from a customer's point of view.

4. RISK MANAGEMENT ISSUES

4.1 Failure to vary the annual value of the framework contracts could expose the Council to higher market rates and may require officers to undertake further mini tender process. Additionally, the potential providers could deploy their resources on other contracts if Barnet was unable to confirm payment for the transport services provided to date.

4.2 The risk of challenge from these suppliers that have been excluded from the framework has been mitigated by following a standard procurement process which has been led by London Borough of Harrow with officers from Barnet ensuring the process complied with Barnet's Contract Procedure Rules.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 Under the Equality Act 2010, 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 those with a protected characteristic and those without;
- c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; religion or belief; sex; sexual orientation; race. It also covers marriage and civil partnership with regard to eliminating discrimination.
- c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; religion or belief; sex; sexual orientation; race. It also covers marriage and civil partnership with regard to eliminating discrimination.

The procurement process involved the evaluation of each applicant's equalities procedures in order to ensure compliance with the Council's equality and diversity requirements.

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

- 6.1 An OJEU compliant joint tender process was undertaken with both Boroughs sharing the proportionate cost of the 'E' Auction. The process is detailed at section 9.
- 6.2 The Passenger Transport service is managed and operated by the Street scene Directorate and comprises a combination of in-house and contracted providers. The service is available to all Council Departments, the main users being the Children's Service and Adult Social Care. The table below details the current annual spend, by department
- 6.3 The spend under this contract is primarily funded by Children Services' Home to School transport provision for Special Education Need pupils and Home to Day Centre transport budgets of Adult Social Care & Health.
- 6.4 In November 2012 the projected spend was £2.7m per annum based on the E-Auction valuation for the contract period 2013.14. The current projected spend based on subsequent mini tenders and increase in clients transport has increased to £3.4m per annum.

6.4 PROPOSED VARIATIONS HAVE NO IMPLICATIONS ON STAFFING, IT, PROPERTY AND SUSTAINABILITY.

7. LEGAL ISSUES

- 7.1 On the basis of the information set out within this report, the procurement was carried out in accordance with relevant legislation and with the Council's own Contract Procedure Rules.
- 7.2 In compliance with European Procurement rules, the Framework may continue for a maximum period of four years. During this period individual contracts can be 'called off' from the Framework. Call-off contracts can be entered into which

would have the effect of extending the four-year limit so long as the length of the last call-off contract is consistent with the length of previous call-off contracts. The terms of the Framework will govern the call-off contracts that are awarded during the, aforementioned, four-year period, in particular with regard to price and quantity.

- 7.3 The Council will not be under a contractual obligation to procure services under the Framework.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Council Constitution, Responsibility for Functions – Section 4.6 details the responsibilities of Cabinet Resources Committee.

- 8.2 Council Constitution, Contract Procedure Rules, section 14 sets out the process for extensions and variations of contracts, including that they must be in accordance with the authorisation thresholds as set out in Appendix 1 – Table A. Table A provides that Cabinet Resources Committee is the authority for acceptance of variation or extensions of £500,000 and above.

9. BACKGROUND INFORMATION

- 9.1 In June 2012 the London Borough of Harrow invited all Council's within the West London Alliance (WLA) to join them in a tender for passenger transport services involving an Electronic 'E' Auction. Following agreement by the Passenger Transport Project Board, Barnet Council subsequently entered in to the joint tender process. The proposed framework would be for a period of four years.
- 9.2 Both Councils agreed to undertake an open, EU compliant tender process which does not include prior short listing. With this tender process, all applicants that submit responses to a tender advertisement are evaluated. This process was chosen as both Councils were aware of the likely market response to a tender advert which was not expected to exceed thirty applicants. The services tendered were passenger transport services for SEN Children and Adults receiving education and care services.
- 9.3 Harrow Council had previously conducted an 'E' Auction for passenger transport services in 2008 and found the tendered rates to be more competitive than the rates achieved by the traditional tender process. Companies could apply to price for the routes within Barnet or Harrow or for both Council's routes.
- 9.4 The tender for a Framework of Suppliers was advertised in the Official Journal of the European Union (OJEU) on 20 July 2012. A total of 28 companies responded with completed tender submissions for the Barnet routes. A total of 16 companies that had applied for the Barnet routes scored over the evaluation threshold in the Qualification and the Quality and Technical evaluation stages and were established as the approved providers over the term of the framework contract.
- 9.5 The tender process only allows for evaluation of price following the initial evaluation of quality, initially based on an 'E' Auction and subsequent Mini Competitions process thereafter, as the service delivery demands.

- 9.6 At the time of tender the original contract was valued at £3.1m, and as a result of the E-Auction the contract was projected at £2.7m per annum. The £400,000 projected cost reduction was unsustainable due to a number of circumstances, which resulted in a number of contractors defaulting that they were unable to maintain the E-Auction prices. At the commencement of the contract the impact of contractors defaulting resulted in an increase in the annual projected contract cost of £3.4m.
- 9.7 Two of the 16 approved providers City Fleet and Olympic South withdrew from the framework contract before 15th April 2013, contract award date, both indicating their non-compliance with the terms of the contract and therefore would not be participating further.
- 9.8 Since the contract award in November 2012 the Passenger Transport Services has experienced a significant increase in SEN and Non SEN transport, which includes a number of existing transport requests being upgraded to 1-2-1 transport from shared transport as a result of individual pupil's health and welfare needs during transport. PTS has managed this growth by optimising routes whilst accommodating client needs, and making use of existing resources more effectively through arrangements with approved suppliers and the existing in-house transport provision.
- 9.9 A significant number of providers confirmed that their E-auction prices were not sustainable, with Welcome Cars Ltd returning 60% of the 30 routes awarded one week prior to the contract commencement date. In these instances, the routes affected were provisionally awarded to the next lowest bidder until the price per route was accepted by the provider.
- 9.10 As a consequence, the Passenger Transport Service carried out a further mini competition exercise, enabled B&L Coach and Car Hire Ltd and Ruskins Private Hire Ltd, successfully bid the lowest price and awarded routes in subsequent mini competition processes.
- 9.11 Ruskin's Private Hire Ltd supported the contract until August 2013, reporting the company had ceased trading from September 2013, with the administrator seeking settlement for outstanding payments.
- 9.12 The table below (fig 1) details the projected £3.4m annual spend based on current and future operations, against the November 2012 E-Auction projected spend for 2012.13, a net increase of £655,000. This utilises the approved suppliers that passed the evaluation criteria and remain as approved providers on the Barnet framework contract. Spend per contractor below is subject to change during the year due to various operational and market factors.
- 9.13 As a result of the change in the individual contractor spend and mini competition since November 2012, this report seeks authorisation to increase the individual contractors spend detailed within the table (Fig 1).

Fig 1 Projected Contractor Spend for 2013/14

Service Provider	2013.14 Projected Spend (as per Cabinet Member Decision, 1912, 13/03/13)	2013.14 Projected Annual Spend
Amac Express Services	6,204	£70,000
B & L Coaches	0	£75,000
Brent Couriers Ltd	211,814	£660,000
Cavendish	17,672	£2,000
Cheetah Ltd	136,060	£115,000
Chequers Transport	92,662	£60,000
IHS Corporation Limited	67,320	£15,000
The Impact Group Plc	96,820	£125,000
London Borough of Barnet	641,980	£948,000
Paradrive T/A Metro Cars	310,086	£525,000
RASMI SERVICES LTD	31,956	£9,000
Star cars ltd	669,874	£795,000
Welcome	259,052	£8,000
WGT	0	£2,000
Ruskin Private Hire Ltd	15,426	£8,000
Olympic South	186,732	0
City Fleet Networks Ltd	18,044	0
Total	£2,761,706	£3,417,000

10. LIST OF BACKGROUND PAPERS

None

Cleared by Finance (Officer's initials)	AD
Cleared by Legal (Officer's initials)	MXS