

DELEGATED POWERS REPORT NO.

1912

SUBJECT: Award of Contracts for SEN and Passenger Transport

Control sheet

All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to the Governance Service for publishing

All reports		
1. Governance Service receive draft report	Name of GSO Date	Andrew Charlwood 23/01/2013
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Andrew Charlwood 23/01/2013
3. Finance clearance obtained (<i>report author to complete</i>)	Name of Fin. officer Date	Collette Sutton 24/01/2013
4. Staff and other resources issues clearance obtained (<i>report author to complete</i>)	Name of Res. officer Date	Declan Hoare 24/01/2013
5. Strategic Procurement clearance obtained (<i>report author to complete</i>)	Name of SPO Date	Kevin Bates 28/02/13
6. Legal clearance obtained from (<i>report author to complete</i>)	Name of Legal officer Date:	Sheila Saunders 05/02/2013
7. Policy & Partnerships clearance obtained (<i>report author to complete</i>)	Name of P&P officer Date	Andrew Nathan 23/01/2013
8. Equalities & Diversity clearance obtained (<i>report author to complete</i>)	Name of officer Date	Andrew Nathan 23/01/2013
9. The above process has been checked and verified by Director, Head of Service or Deputy	Name Date	Kate Kennally 04/03/2013
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Andrew Charlwood 13/03/2013
11. Report published by Governance Service to website	Name of GSO Date	Andrew Charlwood 13/03/2013
12. Head of Service informed report is published	Name of GSO Date	Andrew Charlwood 13/03/2013
Key decisions only:		
13. Expiry of call-in period	Date	20/03/2013
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of GSO Date	Andrew Charlwood 13/03/2013

ACTION TAKEN BY CABINET MEMBER (EXECUTIVE FUNCTION)

Subject **Award of Contracts for SEN and Passenger Transport**

Cabinet Member Cabinet Member for Environment

Date of Decision 13 March 2013

Date of decision comes into effect 20 March 2013

Summary	Recommendation to enter into a Framework Contract for the delivery of passenger transport for Adults and SEN children with sixteen providers. The Framework was tendered jointly with the London Borough of Harrow using an Open OJEU procurement process.
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Officer Contributors Kate Kennally – Director for People
Declan Hoare - Assistant Director (Highways and Transport), Environment, Planning and Regeneration
Bernard McGreevy – Environment Manager – Transport
Tahir Mahmood – Project Manager, Corporate Programmes

Status (public or exempt) Public (with separate exempt report)

Wards affected All

Enclosures None

Reason for exemption from call-in (if appropriate) N/A

Key decision Yes

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1. RELEVANT PREVIOUS DECISIONS

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 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. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The three priority outcomes set out in the 2012/13 Corporate Plan are:
 - Better services with less money
 - Sharing opportunities, sharing responsibilities
 - A successful London suburb

This contracted service involves the provision of transport to 832 Home to School SEN / Non SEN pupils and 280 Home to Day Centre service users, on a daily basis throughout the year, with a projected annual spend of £2.7m (2012/13). 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. This has delivered a reduced cost of procurement and reduced costs of transport due to the increased purchasing power of the two boroughs and internal passenger transport initiatives.

- 2.2 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 a shared service model with the West London Alliance, to identify ways of making services more efficient and to improve the service from a customer's point of view.

3. RISK MANAGEMENT ISSUES

- 3.1 There is a risk that in the event of failure or delay of the decision to award contracts for Adults and Children's Services Transport Service, the Council's Contract Procedure Rules would be contravened as the current contract extension expires on 14 April 2013.
- 3.2 Disruption to the service or delay of the provision to SEN children and vulnerable adults could have a significant impact on the reputation of the Council and also seriously impact the Council's business continuity.
- 3.3 Failure to award the framework contract to the approved providers by 14 April 2013 could expose the Council to higher market rates and may require officers to undertake a mini tender process. Additionally, the potential providers could deploy their resources on other contracts if Barnet was unable to confirm the award of the replacement contract.
- 3.4 The risk of challenge from suppliers 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.

4. EQUALITIES AND DIVERSITY ISSUES

- 4.1 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.

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.

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

- 5.1 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 8.
- 5.2 The transport service is managed and operated by the Environment, Planning and Regeneration 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 & Health.

6. LEGAL ISSUES

- 6.1 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.
- 6.2 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-of 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.
- 6.3 The Council will not be under a contractual obligation to procure services under the Framework.

7. CONSTITUTIONAL POWERS

- 7.1 Council Constitution, Part 3, Responsibility for Functions – Section 3.2 details the responsibilities of individual Cabinet Members. The Cabinet Member for Environment has within his portfolio responsibility for transport and transport initiatives. Section 3.3 provides that Cabinet Members can authorise inviting tenders for and acceptance of tenders or quotations in accordance with the Contract Procedure Rules.

- 7.2 Council Constitution, Contract Procedure Rules, Table 5-1 – provides that Cabinet Members can accept tenders for contract with a value of £500,000 and above where tender is: a) lowest; or (b) where tender represents value for money and is the best available option for the Council and the tender value is not more than 25 percent above the lowest priced tender.
- 7.3 Contract Procedure Rules, paragraph 2.3 states that where the Council is entering into a contract as an agent and/or in collaboration with another public body or government department these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the body concerned and where the Council is acting as principal, these Contract Procedure Rules will take precedence

8. BACKGROUND INFORMATION

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 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. The first stage of the tender involved an evaluation of the 'Qualification Envelope' which included questions regarding: Company Details, Commercial Information, Quality Assurance, Performance and Track Record, Health and Safety, Equalities and Sustainability. The average score of all the submissions was calculated and those companies which scored significantly below the average were rejected from the tender process. A total of two companies were rejected at this stage leaving 26 applicants. Evaluation was undertaken

by a team of Officers from Transport Services and supported by staff from Corporate Procurement and Finance.

- 8.5 The second stage of the evaluation involved a quality and technical evaluation. A quality threshold of 65% was set and all companies that scored above the threshold were taken to the next stage. A total of 16 companies that had applied for the Barnet routes scored over 65% and were therefore taken to the next stage. The tables below detail the scores for all 26 companies, itemising the top 16 scoring over 65% (Table 1).

	Company	Score	Pass/Fail
1	Star Cars Ltd	85%	Pass
2	Welcome Cars	82%	Pass
3	Olympia South	77%	Pass
4	Cheetah Ltd	77%	Pass
5	City Fleet Networks Ltd	77%	Pass
6	Amac Express Services	75%	Pass
7	Ruskin Private Hire Ltd	73%	Pass
8	Cavendish	73%	Pass
9	Rasmi Services	71%	Pass
10	Paradrive Ltd t/a Metro Cars	70%	Pass
11	Wheel Get You There	70%	Pass
12	B & L Coaches	69%	Pass
13	Brent Couriers Ltd	67%	Pass
14	The Impact Group Plc	67%	Pass
15	Chequers Transport	67%	Pass
16	IHS Corporation Ltd	66%	Pass

Table 1

The table below (Table 2) details the scores for the 10 companies that scored below 65%.

17	Company A	63%	Fail
18	Company B	58%	Fail
19	Company C	58%	Fail
20	Company D	58%	Fail
21	Company E	55%	Fail
22	Company F	55%	Fail
23	Company G	54%	Fail
24	Company H	53%	Fail
25	Company J	53%	Fail
26	Company K	46%	Fail

Table 2

- 8.6 The tender process only allowed for evaluation of price following the initial evaluation of quality hence price was only evaluated in respect of the 16 companies to be taken forward. The completion of the quality evaluation allowed progression to the final part of the tender process, this being the 'E' Auction.
- 8.7 The E Auction provider – Bravo Solutions conducted the auction over a period of several days in which individual routes within specific Lots were auctioned using the Bravo 'E Tendering Portal'. The 16 shortlisted companies were given access to the portal. The 'E' Auction process took the route prices submitted within the original tender as the starting point for the bidding process. The companies subsequently bid against each other for the different combinations of Lots and individual routes which they had originally priced in the tender. The process works under controlled and timed conditions in which all tendering companies can see their initial bid price and then see the prices of other competing bidders for the same route. The names of all bidders were kept anonymous between the competing companies. The lowest bidder for each route was recorded and taken forward as the provisional company to provide transport services for that particular route. The process was repeated for all Lots and individual routes.
- 8.8 Following the 'E' Auction, further clarification was sought with each of the companies that had submitted the lowest price for each route. In a small number of cases, errors had been made by bidders who confirmed that their prices were not sustainable. In these instances, some routes were provisionally awarded to the second lowest bidder.
- 8.9 A subsequent manual mini tender was carried out for new and amended transport routes that were not available when the tenders were sent out. Two of the 16 shortlisted companies detailed above

withdrew from the mini competition at this stage. The table below details the results of this mini-tender in addition to the final allocation of routes and estimated spend with each of the suppliers that passed the evaluation criteria. Furthermore, the routes and the spend have been carefully allocated to ensure that no external supplier is allocated more than 25% of the total contract value. This is to minimise the risk to the service should the supplier fail to deliver the service during the life time of the contract. The table 3 below details the companies that submitted the lowest prices for the individual routes. The nil figures in the table show that the company did not win any routes during that part of the tender process. For example, Amec Express did not win any routes in the e-auction process but did win routes to the value of £6,204.00 in the mini tender process. In the case of Welcome Cars, routes to the value of £259,052.60 were won during the e-auction but the company did not win any routes from the subsequent mini competition.

Contractor	'E' auction	Mini Tender	Annual Projected spend	%
Amac Express Services	0.00	6,204.00	6,204.00	0.22%
Brent Couriers Ltd	94,002.00	117,812.00	211,814.00	7.67%
Cavendish	17,672.00	0.00	17,672.00	0.64%
Cheetah Ltd	4,134.12	131,926.48	136,060.60	4.93%
Chequers Transport	65,242.80	27,420.00	92,662.80	3.36%
IHS Corporation Ltd	0.00	67,320.00	67,320.00	2.44%
Paradrive Ltd t/a Metro Cars	10,070.40	300,016.00	310,086.40	11.23%
Rasmi Services Ltd	11,280.00	20,676.24	31,956.24	1.16%
Ruskin Private Hire Ltd	0.00	15,426.40	15,426.40	0.56%
Star Cars Ltd	112,894.00	556,980.00	669,874.00	24.26%
The Impact Group Plc	0.00	96,820.00	96,820.00	3.51%
Welcome Cars	259,052.60	0.00	259,052.60	9.38%
Olympic South	158,796.70	27,936.00	186,732.70	6.76%
City Fleet Networks Ltd	7,001.28	11,043.12	18,044.40	0.65%
LBB In-house fleet			641,980.00	23.25%
Total			2,761,706.14	100.00%

Table 3

8.10 The tender process has enabled Barnet to save £278,692.52 via the e-auction process and £27,973.15 via the subsequent mini-tender process resulting in a net savings of £306,665.67 per annum.

9. LIST OF BACKGROUND PAPERS

9.1 None

10. DECISION OF THE CABINET MEMBER(S)

I authorise the following action

10.1 To enter into a four year Framework Contract for the delivery of passenger transport for Adults and SEN children with each of the providers listed in the table at Section 8.9.

Signed

Councillor Dean Cohen

Cabinet Member for Environment

Date

13 March 2013
