

**Subject:** Home to School Transport for Pupils with Special Needs and Other Social Care Transport Contract

**Date of Meeting:** 11 July 2014

**Report of:** Executive Director of Children's Services

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**Ward(s) affected:** All

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report seeks approval for the procurement of a framework agreement to provide for home to school transport for pupils with special educational needs, and other hired transport for vulnerable children and adults on behalf of social care teams.

**2. RECOMMENDATIONS**

That Policy and Resources Committee:

- 2.1 Approves the procurement of a framework agreement for home to school transport for pupils with special educational needs and other transport for vulnerable children and adults on behalf of social care teams, for a term of four years from 1 September 2015 to 31 August 2019;
- 2.2 Grants delegated authority to the Executive Director of Children's Services to carry out the procurement of the framework agreement referred to in 2.1 above including the award and letting of the framework agreement.

**3. CONTEXT/ BACKGROUND INFORMATION**

Summary of the current service provision

- 3.1 The provision of home to school transport is an essential service which the council has a responsibility to provide for entitled pupils under the Education Act 1996. Hired home to school transport is provided for approximately 500 pupils with special educational needs who would otherwise have difficulty in attending either mainstream or special schools. Each child's needs are assessed individually before transport is provided, and there is no automatic entitlement to hired transport assistance. Transport is provided for most pupils through whole school contracts established with external transport providers.

- 3.2 In addition to home to school transport as described in paragraph 3.1, other transport is arranged by the Home to School Transport team on behalf of child and adult social care teams in order to secure best value and manage social care transport requirements in one place. This work is commissioned by social care teams and is re-charged to them. The majority of work is commissioned on a one-off basis, although there is some recurring business. Transport is provided for vulnerable children and adults, including children in care, adults with learning difficulties and older clients. Clients are transported to a variety of destinations including contact meetings (children in care), hospital appointments and day centres.

#### Previous framework agreement

- 3.3 In 2011, a four year framework agreement was established to cover a number of schools and the provision of transport for adults and children in social care. The current framework agreement is due to expire on 31 August 2015. A number of individual 'call-off' contracts have been awarded under the framework, some of which expire after that date. It is intended that any contracts that expire after this date will be terminated early, if the Committee approves the procurement, so that the new arrangements can be effective from the same date.
- 3.4 Under a framework agreement, there is no guarantee of work and therefore no contract value in its own right. The expenditure under the contracts let under the current framework is £1.9 million per year; however it is anticipated that the new framework will achieve cost savings for the council through a revised specification and contract monitoring arrangements for call-off contracts.

#### Best practice and consultancy opinion

- 3.5 The Department for Transport (DfT) published '*Tendering Road Passenger Transport Contracts – Best Practice Guidance*' in October 2013. This included recommendations for making the tendering process easier and more relevant. In addition, it recommended that local authorities consider establishing an Integrated Transport Unit (ITU) to manage all their transport planning and organisation. This recommendation was also made by the consultants, EY, as part of a report on the council's procurement of goods and services.
- 3.6 The Value for Money approach, phase 4, incorporates Client Transport. A working group has been established to undertake a review of transport services. The project is looking at establishing an ITU for better use of the council's existing fleet and developing a strategy for partnership working with neighbouring authorities, the Clinical Commissioning Group (CCG) and third sector, either through joint commissioning and procurement, and/or with different models of provision.
- 3.7 As this project may result in the transport management for this service changing, the framework agreement allows a more flexible implementation of any call-off contracts awarded under it, which can be awarded from year to year during the framework period. This should allow quicker implementation of any recommendations arising from the transport review.

## Tender process for new framework agreement

- 3.8 In order to comply with the UK Public Contracts Regulations and the council's internal Contract Standing Orders, a formal tendering process must take place to procure the new framework agreement.
- 3.9 Using a framework agreement has a number of benefits as the council has the ability to 'call-off' contracts at short notice without the need to undertake a time-consuming comprehensive contract award process, which therefore reduces administrative effort and costs. It also allows the council the flexibility to determine specific requirements at the 'call off' stage.
- 3.10 In order to meet the deadline for contract commencement on 1 September 2015, a procurement timetable has been drawn up which proposes that the Invitation to Tender (ITT) will be published in October 2014 to ensure selection of a preferred bidder and contract award by February 2015. A comprehensive specification will be drafted to accompany the ITT. The tender will be split into separate lots which may be based on individual schools or groups of schools or on geographical areas. These two options should result in a reduction in the number of overall call-off contracts under the new framework agreement.

## **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 An alternative would be to establish a Dynamic Purchasing System (DPS). A DPS is an electronic system for purchasing commonly used goods and services. It remains open throughout its duration for the admission of providers that satisfy the selection criteria and submit an indicative tender that complies with the service specification.
- 4.2 The Client Transport Value for Money review will explore the possibility of providing some or all of this contract in house by better fleet management utilising existing capacity within the Adult Social Care service. This will require detailed mapping of the use of the fleet and identifying any impact on other services.
- 4.3 The alternative options are not recommended whilst the transport review is being undertaken although this may be pursued in the future depending on the outcome of the review, subject to gaining any relevant approvals.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 Current providers, and other providers not currently on the framework agreement but who have expressed an interest in providing the service, will be contacted in advance of the tender to seek opinion on the specification and contract terms to ensure that they are suitable and relevant. This will ensure a balance between achieving value for money and that the service is appropriately specified.
- 5.2 All current contractors will be invited to apply to tender for this work, as well as other transport providers.

- 5.3 Schools and parents of pupils using the service will be consulted on their experience of home to school transport provision to better inform the requirements for the new arrangements.

## **6. FINANCIAL & OTHER IMPLICATIONS**

### Financial Implications:

- 6.1 The award of the framework itself has no financial value; however the total current value of the contracts called off under the framework is approximately £1.9million per year.
- 6.2 It is important throughout the procurement process that the council achieves value for money and the principles of value for money are upheld as well as having secure arrangements in place for those pupils with special educational needs.
- 6.3 There are financial risks associated with the provision of home to school transport. These will arise from a number of factors, such as the number of pupils qualifying for assistance and the effect that has on unit cost, the changing costs of transport provision including fuel that affect annual price reviews, and the degree of individual pupil need which can result in costly individual transport arrangements.
- 6.4 An understanding of the wider financial risks to the council is necessary in planning future measures to secure the provision of home to school transport in the city. During the development of the contract specification, officers will need to be mindful of proposed payment mechanisms to ensure that the proportion of risk between the council and the providers is reasonably balanced.

*Finance Officer Consulted: Paul Brinkhurst*

*Date: 30 May 2014*

### Legal Implications:

- 6.5 The council has a statutory duty to provide home to school transport for certain pupils attending schools in the Brighton & Hove area under the Education Act 1996 (as amended).
- 6.6 The Policy & Resources Committee is the appropriate decision-making body in respect of the recommendations at paragraph 2 above, given that the value of the contract which is the subject of the proposed tendering exercise is likely to have corporate financial implications.
- 6.7 Further, the council's Contract Standing Orders require that authority to enter into a contract valued at £500,000 or more be obtained from the relevant committee, which in this instance is the Policy and Resources Committee due to the value involved.

- 6.8 Although the proposed procurement is classed as a Part B service and therefore not subject to the full impact of the UK Public Contracts Regulations, due to the value of the proposed framework a number of processes will be utilised from Part A to ensure that the procurement is competitively tendered using a fair and transparent process. The tender will be advertised using EU Supply, and will be scored on the criteria of quality and price as part of the evaluation process.
- 6.9 Careful consideration will need to be given to any current contracts that may need to be terminated early and the correct termination procedure should be followed.

*Lawyer Consulted:*

*Jo Wylly*

*Date: 5 June 2014*

Equalities Implications:

- 6.10 The council has a responsibility to promote access to appropriate educational provision for all in accordance with legislation including the Equality Act 2010. It must balance that responsibility against any change in transport provision, to ensure that it is not compromising access by vulnerable individuals.
- 6.11 It is not necessary to carry out an equalities impact assessment on this occasion as the criteria for accessing transport services are not changing as a result of this new procurement.

Sustainability Implications:

- 6.12 The Education Act 2006 (as amended) places a general duty on the council to promote the use of sustainable travel and transport. The duty applies to children and young people of compulsory school age and sixth-form age who travel to receive education or training in the council's area.
- 6.13 It is accepted that hired transport contributes to traffic levels in the city. However, this is offset by the council's contractual requirement to maximise the use of all spaces on vehicles (except where, through health or safety considerations, children must travel alone).

Any Other Significant Implications:

- 6.14 Potential risks arise for pupils and service users if suitable contractual arrangements are not made by 1 September 2015, and any failure to do so would mean that the Council would not comply with its statutory duty to provide home to school transport to entitled pupils with special educational needs. The greatest risk for students is that in the absence of transport they could not attend school. Not only would this impact on the pupils, but also on their families.

- 6.15 Any overspending on home to school transport and social care transport is at the opportunity cost of other service provision within the council and services to children in particular. It is considered that the procurement of a framework agreement, and the subsequent implementation of call-off arrangements, will achieve the greatest value for money for the council, particularly if the contract specification is carefully drafted to ensure the most cost-effective and efficient transport provision.
- 6.16 Specific safeguarding guidance for transport services is not currently in place, although it is a requirement that all personnel involved in providing transport for children have a current Disclosure and Barring Service (DBS) check. It is considered that this is essential to the safe provision of the service and therefore guidance is currently being drafted which shall form part of the tender documents.

Risk and Opportunity Management Implications:

- 6.17 There has been a consolidation of providers in the local taxi market since the framework agreement was previously procured in 2011. The specification for the service and the contract terms must limit the possibility for unexpected additional costs whilst attracting sufficient interest from providers to achieve value for money. Consultation with current providers and careful drafting of the specification and framework agreement in advance of the formal tender should mitigate this risk.

**7. CONCLUSION**

- 7.1 It is necessary to re-tender this framework agreement which expires at the end of August 2015. In order to build in sufficient time to carry out a fair and transparent procurement process, the process must commence now. Although the tendering process will run alongside the wider value for money transport review, it will enable the council to comply with its duty to provide home to school transport for all eligible pupils in the city from 1 September 2015, as well as providing other social care transport, whilst achieving value for money savings through a revised contractual specification.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. None

**Documents in Members' Rooms**

1. None

**Background Documents**

1. Department for Transport (DfT) 'Tendering Road Passenger Transport Contracts – Best Practice Guidance' October 2013

