

CABINET

16 April 2013

Title: Contract for Provision of Taxi Services for Children with Special Educational and Complex Needs - Update Report	
Report of the Cabinet Member for Children's Services	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Divisional Director: Meena Kishinani; Divisional Director Strategic Commissioning and Safeguarding	
Accountable Director: Helen Jenner; Corporate Director of Children's Services	
Summary: <p>At Cabinet on 22 January 2013 (Minute 83) authority was sought, and given, to commence a procurement exercise to appoint providers to a Framework Agreement for the provision of taxi services for children with special educational and complex needs. At the same time, it was agreed that officers should present a further report at the appropriate time on the outcome of the procurement exercise in order for the Cabinet to appoint the successful tenderer(s) to the Framework Agreement.</p> <p>It has subsequently come to light that the ongoing procurement and tender evaluation exercise for this service will not be concluded in time to meet the statutory publication deadlines for the 16 April Cabinet meeting. The next Cabinet meeting, on 21 May, takes place after the current contractual arrangements terminate on 30 April. In view of the potential risks associated with operating these services with no contractual arrangements in place, officers have advised that the appointment of contractors to the new Framework Agreement should not be delayed to the 21 May Cabinet meeting</p> <p>This report is therefore seeking authorisation for the Corporate Director of Children's Services, in consultation with the Cabinet Member for Children's Services, the Chief Financial Officer and the Head of Legal and Democratic Services, to monitor progress of the procurement and approve the appointment of the successful bidders onto the framework agreement upon conclusion of the procurement process.</p>	
Recommendation(s) <p>The Cabinet is recommended to authorise the Corporate Director of Children's Services, in consultation with the Cabinet Member for Children's Services, the Chief Financial Officer and the Head of Legal and Democratic Services, to approve the appointment of the successful bidders onto the Framework Agreement upon conclusion of the procurement process and to execute all contracts relevant to the procurement.</p>	

Reason(s)

To support the Council's key theme of "Better Health & Well-being" and helping to deliver the following Children and Young People Plan strategic priorities (2011-16):

- Priority 1: Ensure children and young people in our borough are safe
- Priority 4: Improve support and fully integrate services for vulnerable children, young people and families (particularly children in care and children with disabilities)

1. Introduction and Background

1.1 The Council has a duty to provide reasonable assistance in transporting children with special educational and complex needs. Children may require transport for a number of reasons, including but not limited to:

- transportation to their appropriate schools,
- attending family contact with birth families, and
- facilitating other activities that have been identified as important and necessary to the child's well being.

1.2 There were two previous procurement exercises for the provision of a Supplementary Passenger Support (Taxis) Framework Contract, led through East London Solutions (ELS) by London Borough of Newham (LBN), was originally initiated in July 2009. This procurement exercise was on behalf of the London Boroughs of Barking and Dagenham, Havering, Newham and Redbridge. These procurement exercises were unsuccessful.

1.3 In January 2013 authority was sought, and given, for LBBD to commence a single-authority procurement exercise to appoint providers to a Framework Agreement for the provision of taxi services for children with special educational and complex needs. This procurement is progressing according to timetable and without issue at this stage.

1.4 LBBD subsequently secured a waiver, for the maximum allowable amount, to ensure contracts were in place underpinning existing arrangements. These contracts were arranged to run concurrently with the above procurement exercise, expiring as they do on 30 April 2013. These contractual arrangements cannot legally be extended beyond the 30 April 2013 due to the value of the contracts. At no point prior to 30 April 2013 have these services been delivered without a contractual basis.

1.5 However, when this procurement exercise was approved Cabinet did not agree for the Corporate Director of Children's Services to appoint the successful tenderer(s) to the Framework Agreement on behalf of the Council following completion of the procurement exercise. It was instead agreed that a subsequent report be submitted at the conclusion of the procurement exercise so that Cabinet may appoint providers to the Framework Agreement themselves.

1.6 This has presented a particular issue as the statutory publication deadline for the April Cabinet is before the anticipated date of the completion of the procurement. The May Cabinet falls after the expiration of the current contractual arrangements on 30 April 2013. Operating without contractual arrangements in place would

expose the authority to significant risks that are outlined in more detail later in this report. .

2. Proposal and Issues

- 2.1 This report proposes that that authority be delegated to the Corporate Director of Children's Services, in consultation with the Cabinet Member for Children's Services, the Chief Financial Officer and the Head of Legal and Democratic Services, to award Framework Agreement for the provision of taxi services for children with special educational and complex needs.
- 2.2 The contracts awarded will be for a period of four years and are likely to be awarded to multiple providers. Forecasts indicate that total expenditure in this area over the four year period will be approximately £4.5m.
- 2.3 The current contractual arrangements cannot legally be extended beyond the 30 April 2013 due to the value of the contracts.
- 2.4 There is no financial commitment involved with this proposed arrangement as the nature of a Framework Agreement is such that it does not oblige the local authority to purchase any particular volume from any provider.
- 2.5 The contract terms and conditions which would be used would be the London Borough of Barking and Dagenham standard short terms and conditions. In the event that any variations are recommended, the Council's Legal Department will be required to approve prior to issue to the supplier.

3. Options Appraisal

- 3.1 **Delegate Authority:** This option would allow the procurement exercise to conclude successfully without the need to operate beyond the 30 April 2013 without contractual arrangements in place. This is the preferred option.
- 3.2 **Do not Delegate Authority:** This option would mean that Cabinet would take the final decision regarding the appointment of providers to the Framework Agreement, but would mean that from the 30 April 2013 until such a time as appointments have been made and contracts issues and signed, no contractual arrangements would be in place underpinning this provision.

4. Consultation

- 4.1 This report has been circulated to key stakeholders whose comments have been incorporated within the report.

5. Financial Implications

Implications completed by: Dawn Calvert, Group Manager (Finance)

- 5.1 There is no financial commitment involved with this proposed arrangements, though the tendering arrangements must not preclude any future efficiency arrangements.

- 5.2 There would, however, be a significant degree of risk associated with operating these services without contractual arrangements in place. This would expose the Council to potential price increases and potential deficit budgetary positions.

6. Legal Implications

Implications completed by: Bimpe Onafuwa, Contracts and Procurement Solicitor

- 6.1 This report requests that Cabinet authorise the Corporate Director of Children's Services, in consultation with the Cabinet Member for Children's Services, the Chief Financial Officer and the Head of Legal and Democratic Services to approve the appointment of the successful bidders and the execution of the framework contract.
- 6.2 In line with Contract Rule 3.6.4, Cabinet can indicate if it is content for the Commissioning Chief officer to award the contract following a procurement exercise.
- 6.3 Furthermore Contract Rule 13.3 provides that the commissioning Corporate Director, in consultation with the Chief Financial Officer, may accept tenders in a duly conducted procurement exercise, in the absence of any direction to the contrary from Cabinet.

7. Other Implications

- 7.1 **Risk Management:** There are no adherent financial risks with regard to this contract as it commits the Council to no expenditure with any particular provider. There are, however, risks of operating these services with no contractual arrangements in place, as follows:

- Purchasing these services outside of contract would result in non-contracted spend, potentially non-licensed taxis providing a service to vulnerable children and young people;
- Absence of contractual arrangements would make it difficult to mandate that transport providers have valid insurances in place;
- Similarly, it would be difficult to enforce mandatory enhanced Criminal Records Bureau (CRB) checks upon providers;
- Cost of services would be much more likely to suffer from fluctuation in the absence of contracted rates.

A suitable and safe taxi service provision for children, young people and adults with special needs would, however, mitigate these risks. Formal contractual arrangements would tie providers into contractual obligations that would better ensure continuity of provision, as well as service quality for young people:

- vehicles will carry a first aid kit, at least one appropriate fire extinguisher, a kit adequate to deal with any spillages (including bodily fluids), safely and without hazard to the driver, or other passengers;
- contractors will provide Passenger Assistants as required by the Council;
- contractors must arrive at the specified collection and drop-off points by the times stated in the Schedule of Journeys;
- all taxi drivers and passenger assistants will be CRB checked (for work with adults and children)

7.2 **Contractual Issues:** In January 2013 authority was sought, and given, for LBBD to commence a single-authority procurement exercise to appoint providers to a Framework Agreement for the provision of taxi services for children with special educational and complex needs. This procurement is progressing according to timetable and without issue at this stage. At no point prior to 30 April 2013 have these services been delivered without a contractual basis.

LBBD subsequently secured a waiver, for the maximum allowable amount, to ensure contracts were in place underpinning existing arrangements. These contracts were arranged to run concurrently with the above procurement exercise, expiring as they do on 30 April 2013. These contractual arrangements cannot legally be extended beyond the 30 April 2013 due to the value of the contracts.

7.3 **Safeguarding Children:** Wellbeing of children in the borough – ensuring that potentially vulnerable children and young people are safely transported and, where appropriate, escorted, is a fundamental responsibility for the Council, staff and Members. Indeed, this is a responsibility for all Members as corporate parents.

Integrated service provision – the ability for children and young people to be safeguarded while transported to school allows them to experience services within the community in a safe way, thereby contributing to positive life chances, educational and social development.

Background Papers Used in the Preparation of the Report:

Cabinet Report 22 January 2013: *“Contract for Provision of Taxi Services for Children with Special Educational and Complex Needs”*

List of appendices: None