

## **CABINET**

**9 APRIL 2019**

### **GATEWAY 3 CONTRACT AWARD: HOME TO SCHOOL FRAMEWORK PROVISION**

Portfolio Holder: Councillor Andrew Mackness, Children’s Services  
(Lead Member)

Report from: Ian Sutherland, Director of People – Children and  
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#### **SUMMARY**

This report seeks permission to award a contract to the suppliers listed in paragraph 3.1 of the Exempt Appendix for Medway Council’s Home to School travel assistance. The report describes the tender process conducted and the outcome of the evaluations.

The Cabinet approved the commencement of the procurement exercise at Gateway 1 on 23 October 2018.

This Gateway 3 report has been recommended for submission to the Cabinet after review and discussion at by the Children and Adults Directorate Management Team on 12 March 2019 and Procurement Board on 20 March 2019. Procurement Board have recommended that this project be approved as a high risk procurement.

## **1. BACKGROUND INFORMATION**

### **1.1 Introduction**

- 1.1 Medway Council first put in place a Framework for procuring “SEN Transport” – Home to School transportation of children and young people with Special Educational Needs (SEN) - in 2015 which was successful and saw the managing teams nominated for national recognition. This Framework is coterminous with the academic year and due to expire at the end of the 18/19 academic year. An options paper was presented to senior management to examine the way forward. This resulted in a new procurement being undertaken to establish a new Framework and meet the need of school

children and families to start in September 2019. This report updates Procurement Board and Cabinet on the results of that procurement activity.

## 1.2 Budget and Policy Framework

- 1.2.1 All local authorities have a statutory duty to put in place arrangements for the provision of home to school travel assistance and transport for children and young people with Special Educational Needs and Disabilities (SEND) who meet the published eligibility criteria. Section 508B and 508C of the Education act 1996 (as amended) set out the local authority's duties and powers respectively, to make such suitable travel arrangements as the local authority considers necessary, to facilitate a child's attendance at school.
- 1.2.2 Medway Council's Education Travel Assistance policy was reviewed, updated and approved by Cabinet in April 2018. The changes made do not impact on the Council's statutory duties or national guidance to determine eligibility for travel assistance. The policy changes were related to how services are provided locally to meet Council obligations and ensure the viability and sustainability of services. The number of eligible children requiring travel assistance, the complexity of their needs and the high cost of providing travel assistance is placing an increasing pressure on the ability of Council resources to meet their statutory requirements.
- 1.2.3 The Transport Framework that is being proposed is an overarching Framework from which individual transport contracts can be called off through mini-competitions and direct awards. This will be procured in the first instance for the Home to School transport contract for children with special educational needs. Funding for these contracts will continue to be sourced from the general revenue budget.
- 1.2.4 SEN transport is currently funded from existing revenue budgets. The gap between the financial forecast against the current budget over the next five years is likely to continue to increase if the demographic continues to increase as predicted – see Figure 1 of the report.

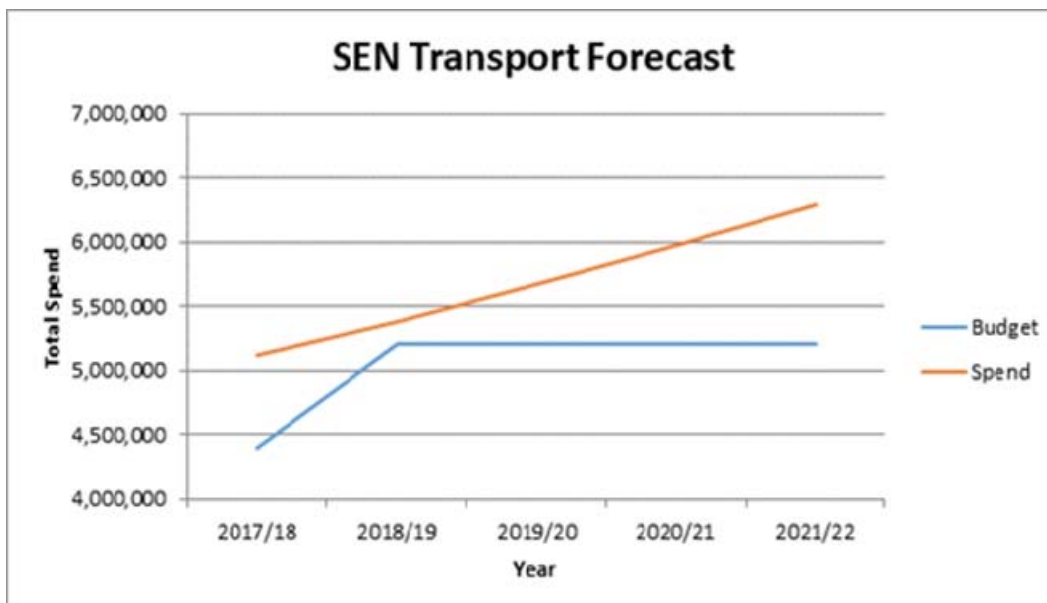


Figure 1

In 2017/18 the SEN transport budget was £4.402m and overspent by £0.826m. As part of the 2018/19 budget setting process, the division requested a budget increase of £1.0m to rebase and match the budget to the anticipated 2018-19 outturn forecast; the request was approved and the budget increased to £5.602m. However, after the budget was rebased, the budget was reduced to £5.250 making savings of £0.440 which was achieved through the revised SEN Transport Policy and additional staffing resources to achieve the savings.

### **1.3 Funding/Engagement from External Sources**

There is no external funding relating to this procurement. The statutory duty rests with the Council to ensure that children and young people with special educational needs are appropriately transported to school. However parents of 16-19 years olds are asked to make a financial contribution towards the cost of their transport.

## **2. PROCUREMENT PROCESS**

2.1 The Cabinet approved the commencement of the OJEU Framework procurement process as per the options appraisal in section 4.2 of the associated report (decision no. 129/2018 refers).

2.2 The five objectives to the procurement of the Home to School transport Framework were:

- Promote independence of service users
- Increase capacity of providers
- Reduce cost of contracts
- Increase auditability of the journeys commissioned and
- Increase levels of quality assurance.

### **2.3 Procurement Process Undertaken**

2.3.1 The procurement was advertised using the Open Procedure in accordance with the Public Contract Regulations 2015. The procurement was managed by Category Management team.

### **2.4 Service Model**

2.4.1 Medway Council has had an operational SEN Transport Framework in place since 1st September 2015. It was proposed that a more comprehensive approach be taken to re-procure a high quality, needs led service. The key drivers are to reduce costs, improve service delivery and increase the number of competitive contractors for the duration of the provision as described in this document.

2.4.2 Following an options appraisal the service model proposed and endorsed was to implement a two Lots framework. The existing framework is formed of 3 Lots which are comprised of the same contractors and the intention is, by implementing 2 Lots, to obtain a more comprehensive list of operators who are able to offer services in more areas of activity.

- 2.4.3 Post award, the contracts will be defined through a tolerance of pupil numbers, geographic location and inclusive of solo provision within Medway and beyond its boundaries. Travel assistance will be provided through predominantly shared vehicles including the use of pick up points where specific routes have been determined. It will also comply with quality assurance to ensure we meet the needs of the children and young people within this framework.
- 2.4.4 A key lesson learned from the current contract was to tailor the tolerance levels as opposed to imposing a one size fits all model.
- 2.4.5 LOT 1 Solo provision. This lot is designed to support children and young people that are either unable to travel in shared provision due to their needs, or that they are the only child or young person travelling to that education establishment.
- 2.4.6 LOT 2 Shared provision. This lot will be predominately consist of mini buses, coaches and people carriers. Transporting groups of children or young people from a geographic locality to the same education provider.

## **2.5 Market Engagement**

### **Internal (Medway) Stakeholder Consultation**

- 2.5.1 The Transport Framework is primarily aimed at Home to School transport for children and young people with special educational needs. Internal consultation has included the following teams:
- School Services
  - Special Education Needs
  - Integrated 0-25 Disability Team
  - Self-Direct Support
  - Engagement and Quality
  - Category Management Team

### **External Stakeholder Consultation**

- 2.5.2 A market engagement event took place in November 2018 to meet with existing contractors and potential new ones. 19 providers attended. There is regular contact with Medway Parents and Carers Forum in relation to this contract.

## **2.6 Evaluation Criteria**

- 2.6.1 Applicants were able to apply for one or both lots:
- Lot 1 – Shared transport;
  - Lot 2 – Solo transport.
- 2.6.2 The tender was constructed with additional quality metrics to the current Framework. All contractors had to reach a defined level of quality to be successful and score as per the tender scoring methodology to be eligible for contract award. This ensured that in all areas the contractor would at least meet the Council's minimum requirements.

2.6.3 It should be noted that once established, a Framework allows for an award to be conducted by either a direct award (awarding a contract to the first ranked supplier) or a mini-competition (a further tender between all framework members) or an e-Auction (an online auction to drive the price down). The incentive to score higher during quality evaluations is due to contractors ranking higher on the direct award lists, which means they are more likely to be awarded contracts.

## **2.7 Evaluation outcome**

2.7.1 Of the 14 submissions received, two providers failed the selection stage of the tender process due to not submitting complete tender packs.

2.7.2 Of the 12 remaining, 3 failed the quality assessment by not meeting or exceeding the required scoring.

## **2.8 Framework Co-ordination and management**

2.8.1 The day to day management and co-ordination of the framework will be undertaken by School services. Should there be any contractual or legal matters that arise, then these will be redirected to the respective teams for their involvement.

## **2.9 Risk Assessment**

2.9.1 Risk was assessed throughout the procurement process. Capacity may be a risk due to the reduced number of compliant submissions. (See Exempt Appendix to the report) Risk will continue to be assessed up to the point of Service commencement. Following this, co-ordination and service outcome indicators, as outlined in the service specification, will apply and be used to ensure a successful framework agreement is implemented and maintained.

### 3. BUSINESS CASE

#### 3.1 Procurement Project Outputs / Outcomes

As part of the successful delivery of this procurement, the project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	Gateway 3 Update
<b>1. Increased transparency in spend</b>	A spend analysis can be undertaken, comparing future spend and detailed price breakdown or routes operating, with the current spend on routes procured using the Framework.	Category Management Team	On-going	Yes
<b>2. Reduction in spend</b>	Comparison of annual spend and cost per head figures between pre award spend and post award spend.	Category Management Team / Finance	On-going	It will be done following the mini competitions
<b>3. Increased surety in budget setting</b>	Comparison of annual spend and cost per head figures between pre award spend and post award spend and cohort analysis.	Category Management Team / Finance	On-going/quarterly	Yes – Because it is a 4 year contract
<b>4. Increased options for procuring transport</b>	Comparison of previous transport procurement procedures and delivery time with new procedures and delivery time.	Category Management Team / Services	On-going	It is currently the same one with additional option under consideration
<b>5. Safe and quality transport provision for all end users</b>	This will be measured through continued contract monitoring, levels of complaints raised, default notices served.	Category Management Team / Services	On-going	Yes
<b>6. Improved service delivery</b>	This will be measured through continued contract monitoring, levels of complaints raised, default notices served, and feedback from service users.	Category Management Team / Services	On-going	Yes
<b>7. Quality Assurance framework implemented</b>	This will be measured through continued contract monitoring, levels of complaints raised, default notices served, and feedback from service users.	Category Management Team / Services	On-going	Yes

## 4. RISK MANAGEMENT

### 4.1 Risk Categorisation

<b>1. Risk Category: Procurement Process</b>	<b>Likelihood: High</b>	<b>Impact: Marginal</b>
<p><b>Outline Description:</b> The proposal is to have the Framework in place by the start of April 2019 school term, failure to do so may mean it will be hard to utilise before the following school year due to the otherwise disruptive change of transport operators mid-year.</p>		
<p><b>Plans to Mitigate:</b> Establish a procurement programme which must be adhered to corporately. <b>GW3 update: Currently on track.</b></p>		
<b>2. Risk Category: Sustainability</b>	<b>Likelihood: High</b>	<b>Impact: Marginal</b>
<p><b>Outline Description:</b> There is a risk that contractors may increase their fees in light of not having seen an increase for some time.</p>		
<p><b>Plans to Mitigate:</b> Run mini-competitions via the Framework to ensure that provider tender affordably. An additional mitigation that could be used is to use e-auctions to tender for routes. <b>GW3 update: a wide range of prices were submitted. Mini-competitions will be used to drive down the price further.</b></p>		
<b>3. Risk Category: Service Delivery/H&amp;S</b>	<b>Likelihood: Very Low</b>	<b>Impact: Critical</b>
<p><b>Outline Description:</b> There is a risk that Providers do not</p> <ol style="list-style-type: none"> <li>1. undertake appropriate recruitment checks in addition to DBS checks and in line with safer recruitment practice.</li> <li>2. provide a training programme for drivers and escorts on the management of behaviour/care and health needs of the young people in their care whilst transporting</li> </ol>		
<p><b>Plans to Mitigate:</b> Include specific requirements on quality and safety standards in the service specification/contract and targeted question in the ITT documents. <b>GW3 update: all successful tenders submitted comprehensive answers around quality assurance.</b></p>		
<b>4. Risk Category: Reputation / Political</b>	<b>Likelihood: Low</b>	<b>Impact: Severe</b>
<p><b>Outline Description:</b> The drivers and passenger assistants may not be fully capable of dealing with the individual requirements of some of the complex needs of the passengers who will be using the service which is paramount.</p>		
<p><b>Plans to Mitigate:</b> The tender documentation included technical assessment and quality assessments to ensure the contractors have obtained the relevant certification, have provided the necessary training, and have the required policies in place to manage challenging passengers appropriately. <b>GW3 update: all successful tenders submitted comprehensive answers around their strategies for handling the needs of complex passengers.</b></p>		

## **5. PROCUREMENT BOARD**

- 5.1 The Procurement Board considered this report on 20 March 2019 and supported the recommendation as set out in section 8 of the report below.

## **6. SERVICE COMMENTS**

### **6.1 Financial Comments**

- 6.1.1 The procurement requirement and its associated delivery will be funded from existing revenue budgets.
- 6.1.2 Further detail is contained within Section 2.1 Financial Analysis of the Exempt Appendix to the report.
- 6.1.3 Transport activity is not a static service so there is no accurate means to compare this year's spend against the forecast for next year as the cohort of pupils being transported will be different. What was proposed, however, was that in October 2019 a briefing paper be presented to the Procurement Board to illustrate the financial impact of the change to the budget at that juncture.
- 6.1.4 It is expected that procuring through this new Framework will both improve the quality of the transportations the Council is able to offer young people, as well as obtain value for money.

### **6.2 Legal Comments**

- 6.2.1 Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.
- 6.2.2 The process described in this report complies with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.
- 6.2.3 This is a level 4 high-risk category B procurement and therefore the decision to award is for Cabinet. Level 4 (High Risk) Procurement Process are prescribed by the Monitoring Officer, in consultation with the Procurement Board with recommendations for the decision-making associated with the initial Gateway 1 Report and subsequent Gateway 3, 4 & 5 Reports being made to the Cabinet.
- 6.2.4 This procurement was in relation to a framework agreement. The Council will be responsible for complying with Public Contracts Regulations 2015 and the Council's Contract Procedure Rules when deciding which supplier appointed to the framework, it will award a contract to and the conduct of any mini competitions.



- 6.2.5 A framework agreement should not exceed four years, except in exceptional cases justified by the subject matter of the framework agreement.
- 6.2.6 The Framework Contract was prepared with assistance from Legal Services and is bespoke to the specification for the services.

### **6.3 TUPE Comments**

- 6.3.1 It has been established that TUPE will apply to some but not all transport arrangements. At the stage of mini competition the relevant TUPE information will be made available to all bidders.

### **6.4 Procurement Comments**

- 6.4.1 This opportunity was procured in line with an OJEU open process and resulted in 14 tenders being returned with some of the incumbent providers not providing a tender response ( as denoted within the exempt appendix).
- 6.4.2 Although an in-depth pre-market engagement was conducted to ensure best market coverage, there were fewer than expected tender returns therefore a potential risk that there may be capacity restrictions during the life of the framework.

### **6.5 ICT Comments**

- 6.5.1 Not applicable.

## **7. OTHER INFORMATION**

- 7.1 Following Cabinet approval to award the contracts to the successful bidders outlined in the Exempt Appendix, the relevant teams will conduct the competition for the following academic years transport provision. The outcome of which will be presented back to Procurement Board in October 2019.

## **8. RECOMMENDATIONS**

- 8.1 The Cabinet is recommended to approve the award of the contracts to the successful bidders outlined in paragraph 3.1 of the Exempt Appendix.
- 8.2 The Cabinet is requested to note that that there is nil financial impact as a result of this contract award and that the Procurement Board has agreed to receive a briefing paper providing details of the financial outturn in October 2019.

## **9. SUGGESTED REASONS FOR DECISIONS**

- 9.1 Awarding the contract to the successful bidders is recommended on the basis that this will ensure a robust legal position for procuring

transportation of children with Special Educational Needs to school, the procurement process has been conducted to deliver the expected results, to do so allows Medway to preserve reputation and have access to quality providers and approved routes.

**LEAD OFFICER CONTACT**

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APPENDICES

Exempt Appendix – Financial Analysis

**BACKGROUND PAPERS**

Description of Document	Location	Date
Gateway 1: SEN Transport Framework	Cabinet Agenda: <a href="https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&amp;MId=4091">https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&amp;MId=4091</a>	23 October 2018