

## **CABINET**

**7 FEBRUARY 2023**

### **GATEWAY 1 PROCUREMENT COMMENCEMENT: SUPPORTED BUS CONTRACTS 2023**

Portfolio Holder: Councillor Phil Filmer, Portfolio Holder for Frontline Services

Report From: Richard Hicks, Director of Place and Deputy Chief Executive

Report Author: James Sutton – Sustainable Transport Manager  
David Tappenden – Project Support Manager

#### **Summary:**

This report seeks permission to commence the procurement of the Supported Buses and MY Yellow Bus Contracts.

#### **Procurement Overview:**

Total Contract Value (estimated): £1,561,516 per annum (based on current available budget)

Proposed Contract Term: 5 years with the option to extend for 3 further years.

#### **1. Background Information**

##### **1.1. Budget and Policy Framework**

1.1.1. The requirement complies with the Council's budget and policy framework. Budget for the service was agreed in December 2022.

##### **1.2. Background Information and Procurement Deliverables**

1.2.1. Medway Council currently provides financial support to thirty bus routes across Medway. As these routes have been deemed financially unviable by operators, the Council directly commissions local operators to run them. These routes provide transport to out-lying areas of Medway, or a continuation of a commercial service at times of the day or days of the week where bus patronage is not high enough for an operator to run the service commercially. However, whilst bus patronage is lower, these routes are still used by a number of

passengers and in many cases provide residents with their only form of transport around Medway. The current annual cost of these routes is £1,320,000 per annum.

1.2.2. In addition, the Council commissions an operator to provide nine routes during term time from key parts of Medway to schools in the area. These nine routes, known as the MY Yellow School Bus routes, provide children with a relatively low-cost service. The routes also ensure pupils arrive to school safely and on time and reduce congestion and air pollution by removing vehicles from the road. The current cost of this contract is £545,000 per annum.

1.2.3. A full list of all the contracts currently in operation is set out in the Exempt Appendix.

1.2.4. When the tender exercise for these contracts was conducted in early 2022 the contract costs increased significantly. This reflected inflationary pressures accumulated over the previous contract term, recent increases in costs of fuel and wages, and reduced fare income after the pandemic. To allow officers additional time to examine these routes more closely and consider procurement options to achieve best value, one-year contracts were awarded on all routes. All of the above contracts expire on 1st September 2023.

### 1.3. Significance of Report

1.3.1. So that the new bus routes and contracts can be registered with the Traffic Commissioner with the required 90 day notice, and to allow officers time to carry out any necessary consultation on the future of contracted routes, it is recommended that the report recommendations are approved by the Cabinet.

### 1.4. Parent Company Guarantee/Performance Bond Required

1.4.1. A Parent Company Guarantee will be sought as part of the mini-competition phase.

## 2. Procurement Dependencies and Obligations

### 2.1. Project Dependency

2.1.1. This project is not dependent upon any additional schemes or projects.

### 2.2. Statutory/Legal Obligations

2.2.1. The Council does not have a statutory duty to provide bus services or financial support existing bus services.

### 3. Business Case

#### 3.1. Procurement Project Outputs / Outcomes

As part of the successful delivery of this procurement requirement, the following procurement 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?
1. New Service provider and successful contracts	The outcome of the tender process will confirm.	Category Management Team	At completion of the tender evaluation stage.
2. Improved service delivery through refined service contract	New service provider will be required to provide regular service delivery updates	Transport & Parking Officers	Quarterly

#### 3.2. Procurement Project Management

3.2.1. The management of this procurement process will be the responsibility of the Category Management team.

#### 3.3. Post Procurement Contract Management

3.3.1. The management of any subsequent contract will be the responsibility of the Sustainable Transport Team within the Transport and Parking Service.

3.3.2. To ensure the needs of the requirement are met and continuously fulfilled post mini competition, the 'bus punctuality' measurement will be captured within the reporting to the Traffic Commissioner that all bus operators must submit as part of operating a service.

### 4. Market Conditions and Procurement Approach

#### 4.1. Market Conditions

4.1.1. The market for bus operators in Medway remains as it was when the contracts were previously tendered, with one main bus operator in Medway (Arriva) and three to four smaller operators. However, it should be noted that the impact of COVID on bus operators is still being felt. Bus patronage is still lower than pre-March 2020 levels. In addition, running costs have increased significantly, including petrol,

staffing, and insurance costs. This might make it much less viable for some operators to tender a low, competitive price for these contracts.

## 4.2. Procurement Options

4.2.1. The following is a detailed list of options considered and analysed for this report:

Do nothing	Whilst there is no statutory obligation to provide these bus routes, failing to provide them would leave a number of residents and school children with a lack of transport. Letting these contracts expire without recommissioning them is therefore not a recommended option.
Decommission the service	As above.
Establish a Framework / Use an existing Framework	An existing framework of local bus operators does not exist and given the small number of bus operators local to Medway and the length of contract we are looking to commission, a four-year framework for this project would not be appropriate.
Joint procurement	As these routes are Medway based routes only, no other Authority / Council has a vested interest in them to warrant a joint procurement.
DPS (Dynamic Purchasing System)	Given that bus operators already have to demonstrate a high level of quality to maintain their operator licence, undertaking extensive quality checks as part of a standard tender exercise is not necessary. Setting up a DPS would ensure that operators are able to submit bids more easily for routes when they need retendering in future. A DPS would also allow new operators to join and bid in future, widening the available market. There is also no time limit on a DPS, saving time and resource costs for future route retendering exercises.

## 4.3. Procurement Process Proposed

4.3.1. It is proposed to use the restricted procurement process and establish a Dynamic Purchasing System to carry out both this contract renewal, and allow easier tendering of these contracts in future.

4.3.2. It is recommended that the Dynamic Purchasing System be set up for an initial 5 year term with the option to extend for three 1 year extensions by mutual agreement.

#### 4.4. Evaluation Criteria

4.4.1. For establishing the Dynamic Purchasing System, the scoring will be based on quality only. The questions will relate to the operators' ability to deliver and holding the relevant licences necessary to perform the services.

4.4.2. Once live, the mini competitions will be based on 20% quality and 80% price. The further competitions will be awarded based on the Most Economically Advantageous Tender (MEAT). As bus operators have to operate at a high-quality level in order to maintain their operator licence, it is not as necessary to have as high a quality assessment percentage in the Council's tender. Increased weighting can thus be given to the price element of the evaluation.

4.4.3. Whilst not finalised at this stage, Officers propose to evaluate bidders against the following quality criteria within the tender.

#	Question	Weighting (%)	Purpose
1	Ability to deliver the service specification	5%	Assess operator's ability to fully meet the requirements of the service specification
2	Restoration of service / breakdown handling	5%	Assess operator's ability to ensure service continuity
3	Customer service and service support	5%	Assess operator's approach to customer service and service promotion
4	Added value	5%	Assess any addition value the operator may bring to the service such as EV, apprenticeship schemes, etc

#### 5. Consultation

5.1. This will be managed jointly by the Project Support Team and Sustainable Transport Team within the Transport and Parking Service, with support from the Council's Category Management Team.

#### 6. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Supplier response	Limited or no response from the bus contractor market	Officers to undertake robust market engagement ahead of tender process	E2
Contract commissioning	Cost of bids received might exceed available budget	Officers will evaluate bids at an 80% cost / 20% quality ratio to ensure cost has a higher impact on evaluation outcome.	B3

For risk rating, please refer to the following table

Likelihood:	Impact:
A Very high	1 Catastrophic (Showstopper)
B High	2 Critical
C Significant	3 Marginal
D Low	4 Negligible
E Very low	
F Almost impossible	

## 7. Service Implications

### 7.1. Financial Implications

7.1.1. The procurement requirement and its associated delivery as per the recommendations will be funded from existing revenue budgets. It is anticipated that contract prices will be at a relatively similar level as to the current pricing, which was submitted by operators in April 2022. However, it should be noted that there may be increases in the submitted bids in this tender exercise due to further increases in operating costs (wages, fuel, etc). Any cost increase will be considered as part of the tender process, cost evaluation, and contract award proposals at Gateway 3.

### 7.2. Legal Implications

7.2.1. The 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.

7.2.2. Under the Council's Contract Procedure Rules, the proposed procurement is a high-risk procurement, and the process set out in this report meets the requirements for such procurements. The proposed procurement must also be advertised on the Kent Business Portal, in compliance with rule 3.3 of the CPRs.

7.2.3. The process described in this report complies with the Public Contracts Regulations 2015 and Medway Council's Contract Procedure Rules.

7.2.4. All tender documentation relating to the award of these services should be sent to Legal Services in a timely manner to ensure that the contract can be prepared.

### 7.3. TUPE Implications

7.3.1. It is the Council's understanding that TUPE will apply to these contracts. Officers will therefore obtain the relevant TUPE information from the incumbent operators and provide this as part of the suite of tender documents.

#### 7.4. Procurement Implications

7.4.1. The Council has historically let long term subsidised bus contracts with no inflations included. As such it is expected that the cost of services might increase, and consideration may need to be given to the decommissioning of some routes outlined within the Exempt Appendix. However, the contracts are coming to an end and with no viable alternative options, the Council must procure as per the recommendation and in compliance with the Public Contracts Regulations 2015 (as amended).

#### 7.5. ICT Implications

7.5.1. None.

### 8. Social, Economic and Environmental Considerations

8.1. Whilst the Council could insist on bids from only those operators who intend to operate electronic vehicles (EV), given that there are no operators in Medway currently using EV, to insist on EV in the service specification would likely result in no bids being received. However, part of the quality assessment will be the operator's environmental credentials and commitment, and the service specification will encourage the use of EV where possible.

### 9. Recommendation

9.1. The Cabinet is recommended to approve the procurement commencement of the Dynamic Purchasing System as per the preferred option identified in paragraph 4.3.1 of the report.

### 10. Suggested reasons for decision

10.1. The recommissioning of these bus contracts will ensure a key transportation link for many residents is maintained, the services are awarded to and operated by good quality operators, and the contracts are for best value.

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### Appendices

Appendix 1 – Current Routes and Contract End Dates

### Background Papers

None.





<b>CONTRACT</b>	<b>CONTRACT END DATE</b>
Supported Bus 100 (Sats, Op1)	01.09.2023
Supported Bus 113	01.09.2023
Supported Bus 116 (am)	01.09.2023
Supported Bus 116 (eves)	01.09.2023
Supported Bus 120/121 (M-F)	01.09.2023
Supported Bus 130	01.09.2023
Supported Bus 131/183	01.09.2023
Supported Bus 132/141 (eves)	01.09.2023
Supported Bus 133 (infill)	01.09.2023
Supported Bus 145	01.09.2023
Supported Bus 190 (eves)	01.09.2023
Supported Bus 141 (am)	01.09.2023
Supported Bus 142/185	01.09.2023
Supported Bus 156/197	01.09.2023
Supported Bus 164 (Suns)	01.09.2023
Supported Bus 169/179	01.09.2023
Supported Bus 170	01.09.2023
Supported Bus 172-175/192	01.09.2023
Supported Bus 177 (eves)	01.09.2023
Supported Bus 176/177 (Suns, Op 2)	01.09.2023
Supported Bus 191 (Infill)	01.09.2023
Supported Bus 191 (eves)	01.09.2023
Supported Bus 191/193	01.09.2023
Supported Bus 600	01.09.2023
Supported Bus 638	01.09.2023
Supported Bus 652*	01.09.2023
Supported Bus 166 (eves)	01.09.2023
Supported Bus 783	01.09.2023
Supported Bus M1	01.09.2023
Supported Bus MM	01.09.2023
MY1 & MY2 Yellow Bus (see below)	01.09.2023
MY3 Yellow Bus (see below)	01.09.2023
MY4 - MY7 Yellow Bus (see below)	01.09.2023
MY8 - MY9 Yellow Bus (see below)	01.09.2023
601 School Service	01.09.2023

MY1	Lordswood - Holcombe Grammar School - Greenacre - Walderslade - Victory Academy
MY2	Gillingham - Twydall - Rainham Mark Grammar School.
MY3	Gillingham - Twydall - Rainham School for Girls/The Howard School
MY4	Wigmore - Rainham Mark Grammar School
MY5	Parkwood - Rainham Mark Grammar School
MY6	Wigmore - Chatham Grammar School for Girls
MY7	Hempstead - Hempstead Valley - Wigmore - Rainham Mark Grammar School - Twydall - Chatham Grammar School for Girls
MY8	Isle of Grain to Strood Academy
MY9	Isle of Grain to Holcombe Grammar School