

Cabinet

9 July 2024

Gateway 3 Contract Award: Special Educational Needs and Disabilities (SEND) Transport DPS

Portfolio Holder: Councillor Adam Price, Portfolio Holder for Children's Services (including statutory responsibility)

Report from: Dr Lee-Anne Farach – Children and Adults

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Procurement Overview

Project Budget: £73,433,678
FTS reference number: 2024/S 000-011823
Contract Term: 48 months with the option to extend for a further 24 months

Summary

This report seeks permission to award the procurement of the SEND Transport Contract.

1. Recommendations

- 1.1 It is recommended that the Council awards a place on the Dynamic Purchasing System (DPS) to the bidders named in section 3.2.1 of the Exempt Appendix as they have been evaluated as having passed the Council's admittance award criteria.
- 1.2 Subsequent to recommendation 1.1 being approved, it is further recommended that the suppliers identified in 3.4 of the Exempt Appendix are awarded the contracts for school transport to the named schools as they have been evaluated as the most economically advantageous against the mini competition award criteria.
- 1.3 It is also recommended to directly award Medway Norse Transport via the Teckal exemption, the routes contained within the table in 3.5 of the Exempt Appendix as per the rationale contained within the body of paragraph 3.5 of the Exempt Appendix.

2. Suggested reasons for decisions

- 2.1. The provision of SEN transport to eligible pupils is a statutory function and the implementation of the DPS and the award of contracts pursuant to the mini competition process fulfills this requirement in the most cost-effective way.
- 2.2 It is imperative to note, transport requirements for young people are often required to be put into place immediately.

3. Background Information

3.1. Budget and Policy Framework

- 3.1.1. 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. This applies to home to school travel arrangements and vice versa but it does not relate to travel between educational institutions during the school day or after school clubs.
- 3.1.2. It is imperative that SEND Transport remains in place for eligible pupils, and is available for newly eligible pupils, for the new academic year in September 2024.

3.2. Background Information and Procurement Deliverables

- 3.2.1. Provision of safe, quality SEND transport and home to school transport for eligible pupils. The existing SEND Transport contracts end in July 2024, and it is imperative that the service continues for all eligible pupils.
- 3.2.2. There has been year on year growth in the number of those eligible for assistance, and an increase in the level of need. We must therefore ensure that there is sufficient, high quality provision to meet this ongoing, increasing call on our service.
- 3.2.3. Non-transport forms of assistance (bus, rail, fuel allowance and PTBS) cost an additional £800,000 per academic year.

3.3. Parent Company Guarantee/Performance Bond Required

- 3.3.1. Officers did not waive the requirement of a PCG or a Bond at Gateway 1 stage but subsequently identified that most current market providers are either unable to obtain one, and/or were disproportionately expensive in doing so. As such and with the only likely risk being the

need to recompetete the routes of a supplier that may not deliver, officers at this juncture request waiving this requirement and recommend awarding contracts without a PCG or a Bond.

4. Procurement Process

4.1. Procurement Process Undertaken

4.1.1. A restricted procurement process was used to qualify suppliers based on their financial standing and technical or professional capability to narrow down the number permitted contractors to submit tenders. A DPS (Dynamic Purchasing System) was the preferred method, the entry barrier for new suppliers is removed and new routes can be commissioned by mini competition. The contract length will be 48 months with the option to extend for a further 24 months by mutual agreement.

4.2. Evaluation Criteria Used

4.2.1. Suppliers were admitted onto the DPS on the basis of pre-qualification quality grounds, including but not limited to: ascertaining the ability for providers to deliver the required services, holding a valid operators licence, insurances and health and safety.

4.2.2. Once admitted onto the DPS, further (mini) competitions were instructed and bidders were asked to provide written statements based on a list of predefined questions, clarifying how they intend to serve the contract as well as a price for doing so. The quality of service is imperative due to the vulnerability of the recipients of the service therefore a split of 20% price and 80% quality was applied.

4.2.3. Each mini competition needed to meet the needs of the pupils being transported, and therefore bidders were evaluated against the following quality criteria within the mini competitions.

	Question	Purpose
1	Please confirm how you will fully mobilise the service ready for service start date	It's imperative a plan for mobilising the contract is provided ensuring key timescales and deliverables have been understood. This includes recruitment of additional drivers/passenger and assistants, training plans and the important meet and greets with the pupil and parents.
2	Detail how you will provide the transport needs within the specification and the licenced operative/PA's	This will ensure the providers have fully understood the service provision required and their responsibilities in doing so.

3	<p>Detail how you intend on managing the meet and greets with parents/guardians/carers of the service user prior to the commencement of the service, including a timeline of when these meetings will be scheduled.</p> <p>Provide details on how you will record the information shared by parents/carers.</p>	<p>It is important that parents feel comfortable in passing their children into the care of others before and after school, and so maintaining good relationships is key. The meet and greets at the start of the contract are key to this and will help provide useful information to the driver/passenger assistants in better understanding the pupil and identify areas where they can offer additional support and reassurance.</p>
4	<p>Demonstrate how you will implement the following:</p> <ul style="list-style-type: none"> • Excellent customer service and effective contract management • Driver/passenger assistant changes • Vehicle breakdowns • Incident management for incidents taken place on vehicles 	<p>It is important that parents feel comfortable in passing their children into the care of others before and after school, and so maintaining good relationships is key. It is imperative the parents and the local authority are clear on the process for managing incidents during the journeys. It is also important that schools have the confidence in the transport contractors and that a good relationship is developed.</p>
5	<p>Demonstrate how you will manage individual pupil medical needs including but not limited to if a service user requires driver/passenger assistant intervention.</p> <p>Detail the protocols the drivers/passenger assistants are required to adopt including specific training each driver/passenger assistant will be provided with</p>	<p>The children transported will experience differing types and levels of needs and demands and the staff must be appropriately trained to ensure each pupils needs are met for the duration of the journeys so that the transport experience forms part of the wider learning for the pupils and does not impact negatively upon their ability to learn in school.</p>

4.3. Contract Management

4.3.1. Contract management will be the responsibility of the School Transport and Contracts Lead.

4.3.2. It is proposed that the below table is used for the purpose of further reporting.

Contract Start Date	Initial Contract End Date	Extension Period in months	Reprocure Period in months	Project Extension Review (GW4) Date	End of project review (GW4) Date
1 August 2024	31 August 2028	24	12	August 2027	August 2029

4.3.3. For the above table, it is assumed that the:

- Extension period must be greater than the reprocore period.
- Project Extension date (if applicable) gives officers sufficient time to reprocore the service should the extension not be granted.
- End of Project date mandates officers present a contract management report to board prior to starting a new procurement process.

5. Risk Management

5.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. Using the following table this section should therefore consider any significant risks arising from your report.

Risk	Description	Action to avoid or mitigate risk	Residual Risk rating
No overarching provision	<p>Not having a DPS or similar provision in place to draw down the required services, we would be unable to fulfil our statutory duty to make suitable transport arrangements for eligible children and young people.</p> <p>Journeys for SEND pupils are often complex and families rely on this assistance to support their attendance at school. Without this attendance, their participation would fall considerably.</p>	Establish a DPS to ensure that transport is available for current and new eligible young people.	Ciii
Financial	<p>Not being able to afford the service or the cost of service disproportionately escalating.</p> <p>Not all families would be able to drive their young people to school, and without suitable alternatives, we may be forced to fund more expensive, less high quality alternatives.</p>	Establish a DPS to drive competition and keep costs at an appropriate level. This will also allow more accurate forecasting on growth and costs.	Bii

Risk	Description	Action to avoid or mitigate risk	Residual Risk rating
Reputational	Being unable to fulfil our statutory duty to make suitable transport arrangements for eligible children and young people would result in a loss of reputation and likely sanctions. The duration of transport taking longer than the maximum allowed durations.	Ensure sufficient vehicle and staff resources are available, via a DPS to transport children and young people efficiently.	CIII

For risk rating, please refer to the following table:

Likelihood	Impact:
A Very likely B Likely C Unlikely D Rare	I Catastrophic II Major III Moderate IV Minor

6. Service Implications

6.1. Financial Implications

6.1.1. The procurement requirement and its associated delivery as per the recommendations will be funded from existing general revenue budget. Robust and frequent monitoring of costs of transport will be undertaken to maintain an oversight of the financial situation and enable appropriate and timely action to be taken to maintain control of the budget.

6.1.2. The 6-year cost is an initial estimate based on the forecast increase in pupils and inflation. A budget of £12,227,085 has been approved for 2024-2025 financial year which aligns with the expected average annual cost as set out in this report for all SEND Transport requirements including fuel allowance, PTB, Bus Passes and Rail Passes for year 1. Whilst initial estimates may put budget expectations in the region of £10,200,000.00, it is expected the requirement to provide transport for additional pupils, new routes will be required to accommodate the increase and therefore the initial estimate will grow. The expected budget increase is in line with the year-on-year growth expected. SEND Transport is a dynamic process with a requirement to fulfil a transport provision for pupils to be completed in a swift and timely manner.

6.2. Legal Implications

- 6.2.1. This procurement activity was above the Find a Tender Service (FTS) threshold and therefore an FTS notice was required.
- 6.2.2. The procedure gives a high degree of confidence that the Council's primary objectives for procurement are met, as required by Rule 2.2 of the Council's Contract Procedure Rules ("the CPRs").
- 6.2.3. Under the Council's Contract Procedure Rules, the procurement is a Process 3 procurement (Rule 18), and the process set out in this report meets the requirements for such procurements. The procurement was advertised on the Kent Business Portal, in compliance with rule 18.4 of the CPRs.
- 6.2.4. 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.
- 6.2.5. The process described in this report complies with the Public Contracts Regulations 2015 and Medway Council's Contract Procedure Rules.
- 6.2.6. This report has been presented as a Process 3 high risk procurement, and therefore the Monitoring Officer, in consultation with the Procurement Board will therefore set the risk and reporting stages for the remainder of the procurement process for Gateway 4.

6.3. TUPE Implications

- 6.3.1. TUPE does apply to several routes and full details were issued to providers with the mini comp. The outcome of the evaluation would mean a change to the current provider on those routes and therefore be the responsibility for the new provider to address/action where applicable, upon official award to them.

6.4. Procurement Implications

- 6.4.1. The current transport framework ended in August 2023, but call-off contracts to cover the 23/24 academic year were awarded prior to it ending. The current transport contracts all end August 2024 and as such it's imperative that the Council has a replacement system in place. It was agreed at Gateway 1 stage and this report therefore proposes the establishment of a PCR compliant DPS to supersede the current provision with scope to onboard new suppliers during its term. There are no further procurement implications at this stage.

6.5. ICT Implications

- 6.5.1. There are no ICT implications from this report or procurement outcome.

6.6. Climate Change implications

6.6.1. Officers are aware of the carbon impact of the service. Whilst incentives have been introduced to better utilise vehicles, there are often routes that receive single bids and therefore our scope to further support this, unless we enforce the use of electric vehicles which would exponentially increase the cost of service, is limited.

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Appendices

Exempt Appendix 1 – Financial Analysis
Exempt Appendix 2 – DPS Round 1 Evaluation
Exempt Appendix 3 – Mini Competition Evaluation

Background Papers

None