

Decision Maker: Executive

For Pre-Decision Scrutiny by Environment PDS Committee on:

Date: 17th March 2015

Decision Type: Non-Urgent Executive Key

Title: **JOINT PARKING SERVICES CONTRACT:
Gateway Review**

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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: Borough-wide

1. Reason for report

Bromley's current parking operations and enforcement contract with Vinci Park Services expires in September 2016, coinciding with the planned end date for LB Bexley's parking contract with NSL. This report details the proposals for future delivery of these enforcement services and other contracts managed within the parking shared service following a review which took into account:

- the current state of the market for enforcement services
- developments in parking management and enforcement nationally
- consideration of options and services for inclusion in the new contract
- how best to package the services on offer.

2. **RECOMMENDATIONS**

That the Executive is invited to confirm agreement to:

2.1 Procure Services in partnership with the LB Bexley.

2.2 Procure parking and associated services as set out in Appendix 1, using the British Parking Association 'Parking Management and Associated Services Contract'.

- 2.3 The length of the contract be for a 5 year period with an option to extend for a further 5 years, commencing October 2016, plus an option for a discounted 10 year contract .**
- 2.4 The time table as set out in Appendix 2 required to achieve October 2016 contract start date.**
- 2.5 Delegated authority be given to Executive Director of Environment and Community Services in discussion with the Portfolio Holder to approve final service specifications and associated KPIs.**
- 2.6 To note that a review of the parking shared service structure will be undertaken by the end of March 2017 as set out in paragraph 3.10.**

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council Quality Environment Vibrant, Thriving Town Centres
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Financial

1. Cost of proposal: £29m over the 10 year period
 2. Ongoing costs: £2.9m per annum
 3. Budget head/performance centre: Parking contract
 4. Total current budget for this head: £2.9m
 5. Source of funding: Existing revenue budget 2015/16
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Staff

1. Number of staff (current and additional): 23 LB Bromley employees
 2. If from existing staff resources, number of staff hours: 22.8 fte LBB
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All motorists residing in or visiting Bromley and Bexley
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 A commencement of Procurement Gateway review report ES14034 was approved by the Portfolio Holder in July 2014. The report set out in principle the range of services and existing contracts to review, also the method of evaluating the benefits of contracting out services.
- 3.2 The Parking Contract Review team included representatives from finance, legal and procurement teams as well as Bromley & Bexley parking services and has concluded that there are substantial opportunities to realise economies of scale across two boroughs. The review team considered the best way to package services as set in appendix 1, in order to achieve the greatest efficiencies and most competitive price.

The review team remain satisfied there that are a number of active and experienced contractors within the sector to ensure a competitive process and joint procurement of services provides:

- the best opportunity to ensure the most competitive price,
- the greatest opportunity to maintain service standards at the lowest cost
- opportunity for service improvement.

- 3.3 Bromley and Bexley's procurement practice has been to tender each service separately to date. For example Bromley have separate contracts with ICT, Mobile Phone Parking, Bailiff and Enforcement companies. The proposed grouping of these individual contracts may result in larger companies bidding and providing a 'total' solution. A consequence of this would be successful bidders sub-contracting to some of the companies we may have dealt with directly in the past. The loss of a direct relationship with these contractors is a concern but the review team considered the potential benefits outweighed any risks, specifically in this regard.
- 3.4 The British Parking Associations 'Parking Management and Associated Services Contract' (BPA Contract) is a template rather than a framework, which has been developed in consultation with the parking industry, including local authorities and service providers. It is now being used more widely throughout the UK, with approximately 20 licenced authorities, many in London. Members of the review team have met with users of the BPA contract to ask their views and experiences and based on their findings, based on which it is recommended to use this industry standard contract.
- 3.5 Both Boroughs will enter into legally separate contracts with common terms & conditions with a single successful contractor. The BPA Contract has a number of standard terms and conditions, which authorities may make minor adjustments to in order to meet standing orders or other legal requirements. With any change of contract there is a risk to future income and service standards, but officers will work with the contractor and put in place provisions to reduce any risks.
- 3.6 Contractors will be invited to provide a price for each service being sought by the respective councils. Each service will have its own specifications and KPI's. Each bidder will be required to give a percentage reduction for providing the service for both boroughs and the evaluation will be based on 60% price and 40% quality. These proposals have been considered by the Member Parking Working Group which supported the approach being taken.
- 3.7 The review team in its deliberations have taken the opportunity to consider the way each service is to be delivered and if the use of other existing contracts could provide a better solution. For example the car park cleaning element could be incorporated in the street cleaning contract. There are many pros and cons given the diverse services on offer, but in general it was considered prudent to obtain prices and method statements for each service area. Even if the service may not be adopted at the start of the contract, it could be added at a later stage to suit the Council's needs.

- 3.8 As part of pre tender discussions it is clear that many contractors who traditionally provided parking enforcement services have developed their business model to cater for contracts being let such as this one. With the developments of 'hubs/centres' providing call centres, post room functions, permit processing solutions for multiple authorities and private sector parking companies. This model helps contractors develop their own economies of scale and to develop knowledge and skills. Further some companies are also developing their own ICT, Phone Parking Apps, Permit Solutions and Car Park management technologies, giving remote access to barrier controls etc. all resulting in less reliance on 3rd party/sub-contractors and driving costs down further.
- 3.9 The overall staff supporting the parking service is broken down in the table below: -

	Current
	FTEs
CCTV Enforcement	7.00
Parking Permits	1.00
Shared Service	27.57
	<u>35.57</u>

Key Changes to the provision of Services

3.10 Many of the services provided by Parking Services are already outsourced, however there are a number of functions which have been identified which could in future be undertaken by a contractor. These are the CCTV enforcement function and the administrative element of the roles undertaken by the Shared Service. Table 1 below gives further detail.

- In respect of CCTV, there are currently 7 ftes employed to undertake Static, Mobile Unit and Bus lane enforcement. All staff in this section are directly affected by these recommendations.
- For parking permits, 1fte is employed outside of the shared service to undertake the administration functions.
- The Shared Service requires 16 fte to provide responses to statutory appeals under the Traffic Management Act and undertake associated administrative duties to ensure these services are delivered effectively. It is recommended a number of the more administrative functions should be undertaken by the contractor. It has been estimated that this function is equivalent to approx. 3.25fte, therefore a formal process will need to be implemented prior to the start of the new contract to identify which staff this will affect. It is not anticipated that TUPE will apply, as no staff spend more than 50% of their time on the work being transferred to the successful contractor.
- Currently there are a remaining 11.57fte undertaking other duties with the shared service. This will reduce to 10.57fte from April 15 following the transfer of some duties to the contractor, making the post redundant. These staff undertake duties including contract management for the 10 distinct service areas/contracts currently serving the two boroughs, responding to FOIs, cash reconciliation of all paid for parking, payments of invoices and ordering and associated budget monitoring, web management and customer interfaces for appeals and applications, along with related channel shift initiatives, parking related publicity/advertising and information, MP and Cllr enquiries, for respective boroughs, along with looking to develop the service through innovation and technology.

- The period between award of contract in April 2016 and go live in October 2016 will be a period of considerable activity and preparation, requiring the full resources of the shared service. However, a full review of the client side arrangements will take place by March 2017 and be reported to Members.

3.11 The proposals above will result in the following changes to the staffing establishment: -

	Current FTEs
Current Staffing FTEs	35.57
CCTV	-7.00
Parking Permits	-1.00
Shared Service	-3.25
Deletion of post within shared service	-1.00
	<u>23.32</u>

3.12 The overall FTEs in the shared service is split 56% for Bromley and 44% for Bexley. From October 2016 onwards, once the contract has been implemented, a formal review of staffing will be undertaken. Any savings will have to be split proportionally between the two boroughs.

Table 1 shows the services which are currently provided in house, which are recommended to be provided by a contractor.

Item	Service area
1	CCTV ENFORCEMENT - Bromley staff only Static/Mobile/Bus Lane –
2	Provision of hardware
3	Pay machines –purchase and replacement.
4	Line and Sign Maintenance
5	PARKING ADMINISTRATION (Shared Service staff) <ul style="list-style-type: none"> • Printing, scanning and logging • Banking of PCN related cheques. Including processing credit card payments of PCNs & associated reconciliation. • Email communication • Processing of PCN/warrants/DVLA and associated administration. • Dispensations & Suspensions
6	PERMIT PROCESSING <ul style="list-style-type: none"> • Processing of applications, • Payments (cheque /cash and credit cards) and associated

Table 2 shows the services which are currently provided by a contractor. However there are benefits to seek prices under this procurement exercise for possible future use. Prices are currently being sought from existing service suppliers.

7	Fixed penalty Notices. Option only for Bromley and Bexley. Price requested but other solutions may be adopted.	Outsourced (Ward Security)		Price only
8	Call Centre functions Option only. Price requested but other solutions may be adopted/maintained.	Outsourced (Liberata)		Price only
9	Cash Counting & banking. Collection already outsourced to Vinci Park	Outsourced (Liberata)		Price only

The British Parking Association Contract

3.13 The review team considered the BPA Contract offers a number of benefits over other contracts, including:

- Compliance with all parking contract regulations.
- Recommended in Guidance to the Traffic Management Act and by the House of Commons Select Committee.
- **Emphasises parking enforcement for traffic management purposes**, rather than for revenue raising.
- **Focuses on qualitative performance measurement**, such as staff training and correct issue of tickets.
- **Discourages financial targeting** of contractors, particularly based on ticket issue numbers and **incentives or bonus schemes for staff** which are also based on ticket numbers.
- **Encourages standard training** to be undertaken by all enforcement contractors a common contract to be used by both boroughs.
- Contractors understand and have confidence in the payment and performance mechanisms contained within the contract.
- More competitive bidding as contractors are familiar with the contracts terms and conditions and payment mechanisms.
- Known performance management processes linked to profit.
- Accelerator contract payment mechanism, with 2 'bit' drops for poor performance and 1 bit increases for improved performance.
- No additional client management costs with benefit of increased data and management information provided by the contractor.

3.14 Note; the BPA contract is not a framework agreement. Legal advice has confirmed it is suitable for this joint procurement process. The contract allows for both authorities to have their own specifications, KPI's and management information. Many aspects of the specifications and KPI's will be common between Bromley and Bexley but there is flexibility to allow differences to meet the needs of respective borough policies and/or standards. Members should be assured the Council set the standards and requirements of the specification and the levels of service required. The service standards within the specification can be reviewed throughout the course of the contract. The BPA contract does not set any minimum or maximum standards or expect 'industry' standards which should be adhered to.

- 3.15 In terms of financial payments and performance monitoring, the contract has a clear and well tested formula, rewarding good performance and penalising poor performance.
- 3.16 The BPA Model contract price is made up of basic services, (including fixed costs such as, labour cost, rent and equipment), and profit. Payment of the profit element of the contract price is based on contractor performance and meeting the set KPIs.

Contract Term

- 3.17 Longer-term contracts of up to 10 years are common for parking services and encourage investment by the contractor. Through discussions with contractors and other authorities who have recently let contracts, it was established that the optimum minimum contract term is 5 years. This is primarily due to the depreciation and life expectancy of hardware which is a significant investment for the contractor. Hardware items include, cars, motorbikes/scooters, PCs, hand held units, printers and body worn video, which traditionally lasts up to approximately 5 years.
- 3.18 The Council will be looking for a contract price fixed for the first 3 years of its operation and thereafter will allow labour cost indexation. The proposal on possible extension will allow for discussion on future cost increases, for instance those arising from re-provision of equipment etc. to be considered as part of the extension of contracts at the "Breakpoint" proposed.

Service to be tendered

- 3.19 The full list of services being recommended for inclusion in this contract is shown in Appendix 1:
- 3.20 Each of the service areas shown in appendix 1 has sub categories and each borough may not wish to adopt a particular service. For example Bexley have an in house school crossing patrol service, whereas Bromley have an outsourced school crossing patrol service and both boroughs currently wish to retain those arrangements.
- 3.21 Each of these scenarios has been considered by the review team who remain satisfied there is sufficient commonality of services and flexibility in the BPA contract for an effective contract model to be achieved.

Assets

- 3.22 On the termination of the current contract there will remain a number of hardware assets owned by LB Bromley. These include 300+ Pay and Display machines, 4 Mobile CCTV cars, 30 body worn videos, hand held units and printers used for the issuing of PCNs. The depreciation of these assets by the time of the 2016 go live will be significant. It is therefore proposed these are transferred to the successful contractor for ongoing maintenance and repair. Purchase of new hardware will be the responsibility of the contractor. The transfer of these assets will also reduce the contract price as less initial investment will be required. As with the existing contract Bromley owned Car Parks will be licensed to the contractor for the duration of the contract.

Parking Appeals Team.

- 3.23 A recent tribunal judgement against Gloucestershire County Council concluded that representations (appeals against Penalty Charge Notices) should be considered an integral part of the formal appeal process; and therefore that outsourcing appeals *or* representations to an enforcement contractor would conflict with the requirements of the Traffic Management Act 2004.

- 3.24 Bromley's Legal Service sought Counsels opinion on this ruling which stated, *'I agree with the adjudicators reasoning that the wording of the statutory framework is such that the council is not able to delegate decisions in relation to appeals.'*
- 3.25 Officers have undertaken considerable benchmarking and analyzed the process where authorities have used private contractors to make decision on appeals. It was found if any savings were to be had they were marginal as productivity did not increase. In fact some authorities have actually had to bring the service back in house due to poor standards and incorrect decisions on cases being made.
- 3.26 In light of the 2014 Gloucestershire ruling and authorities seeking their own legal opinion, some authorities have now brought the decision making process of dealing with appeals back in house irrespective of performance.
- 3.27 This matter was discussed prior to Counsels opinion being received at Parking Working Group on 18th December 2014, the minute states 'taking all factors into account, the Chairman was minded to recommend that the service be retained in-house, subject to consultation with the Portfolio Holder'.
- 3.28 Parking Working Group felt that appeal work should be undertaken as independently as possible. There would also be duplication if appeals were outsourced - in house officers would need re-assurance that a correct decision was being recommended in a decision letter.
- 3.29 LB Bromley is also one of the highest performing London boroughs traditionally achieving an 80% collection rate for PCNs issued. In a recent "health check" of the shared service, Alpha Parking Consultants indicated a particularly positive performance for appeals work at a low cost.
- 3.30 Bexley Member and officers view is for the appeal team to remain in house. Whilst not insurmountable, having an in-house appeals service for Bexley and an external one for Bromley managed within the same team would complicate the joint service for what is likely to be little or no saving and a significant risk of challenge.
- 3.31 A review in 2014 looked at the staffing structure of the shared service team, following its bedding-in over the previous year. A number of recommendations were identified by officers and also made by the consultants, which have been implemented and the Parking Shared Service continues to deliver savings previously identified. The exact split between client and contractor is to be determined and will be reflected in the final contract documentation.

Performance and management information

- 3.32 Within the contract, performance should be judged according to how far desired transport objectives are achieved and proof that a high level of customer satisfaction has been achieved.
- 3.33 The use of the BPA contract allows for any number of KPIs to be included. Officers have taken time to meet and discuss this particular area of the contract with other authorities.
- 3.34 Payments or deductions of payments are dependent on contractors meeting a number of KPIs. Each primary KPI may be made up from a number of secondary KPIs. For example: (Primary KPI), Ensure all documentation is processed within set timescales. The Secondary KPIs in which case would be, (1) 99% of all incoming post logged and scanned the same working day as receipt. (2) 100% off all statutory documents sent the day they are ready for print, etc.

- 3.35 Officers would like to record their thanks to those authorities who shared experience, knowledge and offered advice in this process to be noted. It is through these discussions that 'key' KPI have been identified to ensure high performance, but allow for efficient solutions to be offered by potential contractors to keep costs down.
- 3.36 The final set of KPI's will form part of the Tender documentation. Recommendation 2.6 seeks delegated authority for the Director of Environmental and Community Services to agree the specification and KPIs to be included in the contract. Setting KPIs which are very high will increase the cost of the contract, but may result in very little effect to the operation or customer experience. e.g. setting 100% of all Permit applications to be dealt with on the same working day of receipt.
- 3.37 This is potentially possible, but a contractor's failure to hit the target will result in the withholding of a payment. In order to guarantee meeting the KPI more resource will be required and ultimately result in an increased bid/contract price.
- 3.38 If therefore a target of 95% of all Permits to be processed within 5 working days and 100% within 10 working days were to be set, this would be more easily achieved with less risk to the contractor and therefore cost to the Council, but little effect on the customer.
- 3.39 The use of management data and information, linked to KPIs is vital to a successful contract. The BPA contract encourages agreeing key reports in advance which are to be produced by the contractor for client scrutiny. This will save considerable officer time and allow for early identification of any issues or concerns.

Procurement options

- 3.40 The Joint Officer Board have considered the various options available under the EU Procurement Regulations and consider the use of the Restricted (Two Stage) Tender process to best provide for the tendering of this service. Care will be taken to ensure that options are properly identified and, where use by others is proposed, this is correctly included in the EU Tender Notice. Provided the Notice includes sufficient detail on the nature of the proposed Joint Contracting with Bexley; the different service elements which may (or may not) be finally adopted and the scope of variations for future activity, the proposed tendering route and contracting arrangements should provide the best opportunity for a satisfactory outcome from this process to be achieved.

4. POLICY IMPLICATIONS.

- 4.1 This Gateway review will further the aim of the draft Environment Portfolio Plan 2014/17 to "Provide fair and effective parking services", as well as the Plan's commitment to "Maintain control of our contracts at both Member and operational level, including reviewing our approach to services whenever contracts are renewed".
- 4.2 The Review team will continue to take into account any relevant issues which may arise from the proposed procurement options.
- 4.3 Should any service changes be recommended under the proposed new contract, some public consultation may be required.
- 4.4 Parking Services has an effect on a number of stakeholders and services directly link to a number of the Building a Better Bromley, including Vibrant, Thriving Town Centres, Safe Bromley, Quality environment, and an excellent council.

5. FINANCIAL IMPLICATIONS.

5.1 The current parking contract is split into two elements; a fixed basic service and a variable fixed rate service. The variable service includes ad hoc repairs to equipment, the cost of tariff changes, re-wiring/replacing plates, and any other miscellaneous services that are required. Such works are in accordance with a pre-approved schedule of rates. Under the new contract much of the current variable element will become part of the fixed contract price.

5.2 LB Bromley's 2015/16 budget for the parking contract is detailed in the table below:

Parking contract budget 2015/16	Fixed Element £'000	Variable Element £'000	Total Budget £'000
Car Park operations and maintenance	576.0	60.4	636.4
Equipment repair and maintenance	333.3	31.6	364.9
Enforcement	1,235.5	6.6	1,242.1
Total Parking Contract Budget	2,144.8	98.6	2,243.4
School Crossing Patrols	179.9	0.0	179.9
Funded by: - schools	(112.1)	0.0	(112.1)
Funded by: - TfL	(66.0)	0.0	(66.0)
Total Net Budget for School Crossing Patrols	1.8	0.0	1.8
Permit parking	42.0		42.0
Equipment/signs & lines/maintenance	118.0		118.0
Airtime for pay & display machines	84.0		84.0
Mobile CCTV enforcement	116.0		116.0
Static CCTV enforcement staff	164.6		164.6
IT system	50.0		50.0
Postage & staffing	121.0		121.0
	695.6	0.0	695.6
Total budget	2,842.2	98.6	2,940.8

5.3 The recommendations in this report will put a number of staff at risk of redundancy. Exact details/costs are not known at this stage and are dependent on how many of the staff are employed by LB Bromley, as redundancy costs within the shared service are the responsibility of the employing authority.

5.4 As highlighted in 3.9 above, within Bromley, 8ftes are directly affected in the CCTV and permit parking areas of the service. In addition there are currently 26.57ftes employed in the parking shared service across the two boroughs, 16ftes of these undertake the statutory appeal work and associated administration work. It is proposed that the parking administrative work will be included in the new contract and that this will be currently being undertaken by 3.25ftes of the shared service.

5.5 Officers are in the process of negotiating reductions in recharges and contractor payments for the post room, contact centre and cash collection functions which are to be included in this contract. It should be noted that there is a risk that for these functions, savings may not be realised, however Members will have an option to exclude these from the contract when the result of the tender exercise is reported back in 2016.

- 5.6 The proposed BPA contract will be significantly different to the current contract in terms of KPI's and incentives. Officers will work with the contractor and undertake stringent monitoring of the new KPI's, to reduce any risks including reduction in service standards or associated risks to future income levels.

6 LEGAL IMPLICATIONS

- 6.1 The primary purpose of penalty charges is to encourage compliance with parking restrictions. The statutory guidance to local authorities under the 2004 Traffic Management Act says "For good governance, enforcement authorities need to forecast revenue in advance. But raising revenue should not be an objective of CPE, nor should authorities set targets for revenue... " The performance measures in this contract will focus on achieving compliance to reduce congestion and improve road safety. They are not a tool for encouraging the contractor to use Penalty Charge Notices to raise revenue.
- 6.2 Bromley's Legal Service sought Counsels opinion on the issue of private sector companies providing replies to appeals as set out in 3.20 to 3.28, this ruling which stated, '*I agree with the adjudicators reasoning that the wording of the statutory framework is such that the council is not able to delegate decisions in relation to appeals.*' It is therefore not recommended to consider the inclusion of this service in the service being recommended for inclusion in the contract.
- 6.3 The Deregulation Bill is currently awaiting decision in the House of Commons. Clause 39 would in effect remove the right to enforce parking restriction by CCTV, with the exception of School Zig Zags and Bus Stops. This legislative change will have a direct effect on the CCTV Enforcement Services shown in appendix 1, along with an associated effect on back office staffing levels. The decision is set for no later than 30th March 2015. Officers will provide an update for members at the committee meeting.

7 PERSONNEL IMPLICATIONS

- 7.1 Any staffing implications arising from these recommendations will need to be carefully planned for and managed in accordance with the Council policies and procedures and with due regard for the existing framework of employment law. In the event that a contract is awarded to an external provider the Council will consider whether or not the Transfer of Undertakings (protection of Employment) Regulations 2006 (TUPE) as amended (2014) would apply and the consequential legal and financial implications arising from this. If an award was made, some of the staff may be subject to TUPE.
- 7.2 The recommendations contained in this report have a known and direct effect on at least 16 staff in two sections within Parking Services. Affected staff have been informed and a consultation process will take place in April 2015 subject to the recommendations contained within this report.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	Parking Shared Service Report November 2012 Collaboration Agreement Report Collaboration Agreement 2013 Paper for Parking Working Group on Outsourcing – October 2013 and December 2014. Report number ES 14034 July 2014 – Procurement Gateway Review.

APPENDIX 1

Core contract.
Contractor must provide the service from day one.
Parking enforcement, on and off street including CCTV enforcement.
Car Park and Asset management, including cleaning and maintenance.
Provision of hardware, cars, computers, etc.
Cash collection (cash counting and banking may be optional)
ICT system, customer interfaces and payment mechanisms.
Administration including post handling, scanning and banking, etc.
Permit processing.
School Crossing Patrols
Mobile Phone payment for park services
Enforcement Agent Services, (formally known as bailiffs).
Additional Services.
Contractor must provide a price, but may not be utilised from the outset.
Fixed Penalty Notices for litter, dog fouling, etc.
Call Centre/Call Handling.

Indicative Timescale

OBJECTIVES	DATE
Formal Committee approval	March 2015
Delegated sign of – specification and KPIs	April 2015
Publication of advertisement, despatch of OJEU notice	May 15
Return of pre-qualification questionnaire	Jul/Aug15
Short list prepared, tender evaluation process agreed	Aug/Sep 15
Specification signed off	Sep/Oct 15
Despatch of invitation to tender and specification	Oct/Nov 15
Pre-tender clarification meetings and dealing with tenderers' questions	Dec 15/Jan 16
Return of tenders	Jan/Feb 16
Tenderers' presentations and evaluation	March 16
Selection and contract award report to Executive	March 16
Transition phase begins	June 16
Contract commencement date	1 st October 2016