
Decision Maker: Executive

Date: 30th November 2016

Decision Type: Non-Urgent Executive Key

Title: SPECIAL EDUCATIONAL NEEDS TRANSPORT: AUTHORISATION TO PROCEED TO PROCUREMENT FOR FRAMEWORK TRANSPORT CONTRACT

Contact Officer: Julia Cavalli, Head of SEN & Disability, 020 8313 4168, julia.cavalli@bromley.gov.uk

Maya Vadgama, Project Manager SEN Transport, 020 8313 4046, maya.vadgama@bromley.gov.uk,

Chief Officer: Jane Bailey, Director of Education 020 8313 4146, jane.bailey@bromley.gov.uk

Ward: All Wards

1. Reason for report

- 1.1 Statutory Special Educational Needs (SEN) Transport for children and young people is currently provided through a range of providers operating under a framework contract with the London Borough of Bromley. The current framework commenced on September 2015 for a duration of four years with an option to extend for a further two years (see report ED15070 for background).
- 1.2 The SEN Transport service has identified capacity and cost issues with the providers on the current framework. It is proposed to procure additional providers via a new framework contract, operating concurrently with the existing framework, to address these issues. The proposed new framework will operate within the existing budget for the service – there are no additional cost implications in operating a parallel framework, the purpose is to expand the overall provider base to support capacity and competitiveness in SEN Transport procurement.

2. **RECOMMENDATIONS:**

2.1 **The Executive is asked to:**

- i. **Approve the commencement of procurement for a parallel framework of providers for Special Educational Needs Transport provision.**

Corporate Policy

1. Policy Status: The service operates under an existing SEN Travel Assistance Policy agreed by members and implemented in September 2015.
 2. BBB Priority: Children and Young People and Supporting Independence:
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Financial

1. Cost of proposal: £3,989,073. (Within existing SEN Transport Budget)
 2. Ongoing costs: £23,934,438. Whole life value for the six year period
 3. Budget head/performance centre: SEN transport 136586, SEN transport Schools Budget 136587 (DSG)
 4. Total current budget for this head: £3,989,073.
 5. Source of funding: RSG £3,658,740. and DSG £330,000
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Staff

1. Number of staff (current and additional): 0 within budget head (3.7 FTE involved in SEN transport)
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement: Education Act (1996) as amended) Special Educational Needs and Disability Act 2001
 2. Call-in: Is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): July 2016: 846 passengers accessing the service with projected demand to remain comparable.
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Ward Councillor Views

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

3. COMMENTARY

3.1 The Council has a statutory duty, Education Act 1996 (as amended) and the Special Educational Needs and Disability Act 2001, to make free home to school travel arrangements for eligible children to access their education. For Special Educational Needs (SEN) children, that meet the eligibility and distance to travel requirements, transport can be provided in the form of mini-buses and taxis – sometimes specially adapted and/or with passenger assistant support. Children may also access other types of travel support such as travel training, parental mileage reimbursement or public transport reimbursement.

3.2 Travel support in the form of mini-buses or taxis is procured by the Council through its SEN Transport Services Framework. The current framework contract commenced in September 2015 and is due to run for four years with an option to extend for a further two years.

There are a range of transport providers on the framework from which routes are negotiated annually or spot purchased as necessary. The Executive report ED15070 details the Gateway Review and procurement process that was undertaken in setting up the framework.

3.3 In addition, the framework acts as a central resource for a range of internal and external Council services to procure travel provision as necessary through either planned or ad hoc arrangements. Route sharing with internal services and other Councils achieves efficiencies, maximises the economies of scale, and draws in recoupment income

3.4 Following a full tendering process for the framework in 2015, sixteen providers were deemed to have submitted a compliant tender and met the minimum quality criteria and were allowed to participate in the framework. The ratio of successful providers to applicants was 16/35, compared to 35 successful providers in the 2010 framework.

3.5 SEN transport routes are planned and procured annually from the framework on the basis of the most economically advantageous available provider from the framework matrix for routes less than twenty miles. Routes in excess of twenty miles are procured through a mini-tender competition. Transport arrangements for all eligible SEN pupils are reviewed, as a minimum, annually during the school summer holidays with new routes awarded prior to the start of a new academic year.

3.6 The market for SEN Transport is varied, with generic transport providers, such as minicab and taxis, together with specialist transport providers with access to a wider range of vehicles sizes and crew, including specially adapted vehicles. The current SEN Transport framework reflects this varied market, the range being essential to ensure the Council has a wide choice of providers and options to plan and deliver the service.

3.7 Ongoing service review, and in particular the route planning and allocation process for the 2016/17 academic year, has identified emerging capacity issues on the current framework. For the allocation of routes of less than twenty miles, lower cost providers have increasingly turned down offered routes leading to the increased use of more expensive providers. Three of the lower cost minicab operators rejected either the majority or all of the routes offered to them before the start of term September 2016, leading to a reduction of approximately 19% of provider capacity on the framework. Similarly, for routes awarded by mini-tender, a limited range of competitive quotations were received, leading to the increased use of the more expensive providers on the framework.

3.8 At the same time, demand for SEN Transport is growing; the new legislation has seen increases in demand from those families with younger age children requesting travel assistance to access the special provision. There has also been an increase in demand this year for EHC plans from reception age. This coupled with the pupils with more complex needs, adds to pressure on the transport budget. The average distance travelled by these pupils to access their special provision is 4.8 miles.

The growth populations for outer London Boroughs, including Bromley is increasing due to both greater migration and whilst birth rates did drop, they have recently increased again. Since 2010, we have seen the volumes of reception places in Bromley Primary Schools rise from approx. 3,400 per year to approx. 4,100. It therefore follows that there will also be a proportionate increase in those with high needs alongside the increase in primary classes.

- 3.9 Supporting data on both provider availability and participation by children and young people is detailed below.

Transport volumes and data

	<u>End academic Year 13-14</u>	<u>End academic Year 14- 15</u>	<u>End academic Year 15- 16</u>	<u>Start of academic Year 16-17</u>
Total Number of Pupils in receipt of Travel Assistance	822	806	845	801 (812 at date of report)
Number of Routes in Borough	175	184	195	163
Number of Routes out of Borough	108	106	125	91
Total Number of Routes	283	290	320	254
Total number of contractors used	13/35	13/35	16/16	11/16
Phoenix Pre School Resource Centre pupils in receipt of travel assistance (In house operation)	32	26	21	15
Pupils aged 3-5 years old on SEN Transport	0	3	34	62
Primary School Pupils	261	266	279	248
Secondary School Pupils	429	404	409	408
Age 16 to 18	114	104	114	112
Age 19 to 23	15	27	39	36

- 3.10 Demand also arises throughout the academic year as Education Health & Care (EHC) plans are completed and it is expected that volumes will increase between now and July 2017, the end of this academic year. The introduction of EHC plans covers the 0 – 25 years age range, and the data supports the increasing demand from age 4+ and the 19+ age bracket.

- 3.11 The service continues to face unprecedented and severe budget pressures with officers regularly reviewing the most cost effective and appropriate travel assistance offer, having regard to a young person’s additional needs, health, age, distance from home and journey times.

- 3.12 Policy amendments are kept under regular review, in keeping with the spirit of the new EHC planning protocols and the SEN Code of Practice. The Council’s travel assistance policy was reviewed in September 2015 and offers a menu of travel assistance offers.

- 3.13 The take up of parental mileage is relatively low with parents citing work and family commitments preventing them from accepting this offer. Statutory guidance from the DfE (July 2014) directs that parents agreement to this offer must be received.

Home to school travel and transport guidance July 2014, <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

- 3.14 The travel training programme continues to offer independence to those pupils suitable for the programme. The offer is limited to those with the less complex needs and most able to succeed and become independent travellers. The programme commenced at Glebe School and is being

rolled out across suitable students and schools where travel assistance is provided. The programme helps to mitigate some of the increases in cost pressures.

- 3.15 Operational service delivery is at optimum levels by maximising seating capacity and sharing routes where possible. Choice and competition between providers is essential for continued and efficient service delivery to secure value for money as routes are amended or new routes secured. The reduced variety of providers operating on a regular basis at schools highlights the reduction in providers available to the Council. This could place the service in a vulnerable position if provider capacity is fully utilised. Providers do not maintain high levels of costly reserve vehicles in case of need, as they are unable to maximise the use of these assets in their other business operations.
- 3.16 To address the issues of provider capacity and aim to achieve greater competition on the current framework, it is proposed to conduct a new tendering exercise for an additional framework contract for SEN Transport. The second framework will run concurrently with the existing framework and will operate under the same contract terms and duration. Both frameworks will operate within the existing budget for SEN Transport – there are no cost implications in setting up an additional framework.
- 3.17 The intended outcome of setting up a second framework contract for SEN Transport is to expand the overall provider base to ensure the Council has sufficient capacity to meet Transport needs. The service requires a sufficient range of specialist / generic providers; to improve the effectiveness of the framework approach in relation to price, competitiveness and value for money. In year demand and annual planning of routes will be called off as usual, but from either framework based on price. Similarly, mini-tenders will be offered to both framework providers
- 3.18 The aim is to achieve greater choice and competition between providers, which may lead to keener pricing by providers to secure business. However, reductions in cost cannot be guaranteed as these will reflect the prevailing market and economic conditions when prospective providers offer their framework prices and when minitenders opportunities are offered.

4. MARKET CONSIDERATIONS

- 4.1 Over half the providers that applied for the original framework tender in 2015 were rejected. Many of these were due to technical reasons (incomplete or inaccurate completion of tender documentation). In addition, a number of other transport providers who did not originally apply for the transport framework have subsequently expressed interest in participation. It is expected, therefore, that there will be sufficient interest from the market to successfully undertake tendering for a second framework contract.
- 4.2 The tender opportunity will be published on Due North and Contract Finder, and contact will be made with previously unsuccessful providers (for both the SEN and the Adult transport tender) to alert them to this opportunity. Advertisements will also be placed in the local press to widen the pool of prospective tenderers as far as possible.

5 STAKEHOLDER CONSULTATION

- 5.1 Stakeholder engagement has not been undertaken as this proposal does not affect the existing arrangements for the provision of SEN Transport other than seeking to widen the current provider base.

6. SUSTAINABILITY IMPACT ASSESSMENTS

- 6.1 The proposal is judged to have no or very small impact on local people and communities. The proposal is concerned with the management of the existing SEN Transport arrangements only.

7. PROCUREMENT STRATEGY & CONTRACTING PROPOSALS

- 7.1 The estimated potential whole life value of the proposed additional framework is £15,956,000 for a period of two years with an option to extend for a further two years (the contract duration being set to align with the existing framework). This equates to £3,989,000 per annum, the current agreed budget for SEN Transport. This is not additional expenditure to the contract value already agreed for the existing SEN Transport framework – the two frameworks will operate within, and draw down, from the existing agreed budget.
- 7.2 Advice has been sought from Corporate Procurement on the procurement strategy. Corporate Procurement has advised that a second tender for a concurrent framework is the preferred route, rather than expanding the existing framework.
- 7.3 It is intended to undertake a quick turnaround tendering exercise for the parallel framework. Providers on the existing framework will be notified that they do not need to re-apply. The tender will be a 1 stage process without a PQQ stage. The current specifications and the previous Invitation to Tender documentation and evaluation criteria, updated as necessary, will be used.
- 7.4. The tender evaluation team will be comprised of staff familiar with the requirements of the SEN Transport programme. The evaluation will be based on the evaluation process established in the previous tender for the existing framework, with the weightings (updated to include the new financial requirement weighting) and the Council's standard price/quality split of 60/40 being applied.
- 7.5. Following the evaluation of the new tenders, a further report recommending providers to be added to a parallel framework will be submitted to Executive to seek authorisation to award contracts on the new framework.

8. FINANCIAL CONSIDERATIONS

- 8.1. The current SEN Transport budget is estimated to overspend by £1.2m in 2016/17 due to the rise in the number of routes, complexity of children and a shift from placing children at independent boarding placements to independent day placements.
- 8.2 Although action is being taken to address this including, travel training, route review and rationalisation, route sharing and parental mileage, this has not addressed the overspend issue.
- 8.3 The purpose of the new tender framework is to increase the number of suppliers, and therefore competition, for routes with the expectation that this will drive down the cost of routes and lower the prices that the Council has to pay. However there is no guarantee that this will happen and at this stage any potential benefit cannot be costed .

9. LEGAL CONSIDERATIONS

- 9.1 This report seeks the approval of the Executive to procure a contract for the provision of Special Educational Needs transport services for a period up to 2 years with an option to extend for a period or periods up to 2 years and an estimated total value of £15,956,000.
- 9.2 Pursuant to the Contract Procedure Rules Rule 5 of the Contract Procedure Rules provides that for a contract with a total value of £1,000,000 or more the Executive will be formally consulted on the intended action and contracting arrangements. Rule 8 of the Contract Procedure Rules provides that for contracts with a value above £500,000/the EU threshold the Council must invite tenders from between 5 and 8 organisations and comply with the Public Contracts Regulations 2015.

9.3 The Public Contracts Regulations 2015 apply to this contract and the Council wishes to use a Framework Agreement which will be competitively tendered and will comply with the Regulations. Under Rule 3.5 of the Contract Procedure Rules the report author must consult with the Finance Director and the Director of Corporate Services before entering into collaborative procurement arrangements. In particular the report author must consult the legal department regarding the terms and conditions of the framework agreement and the call-off contract.

Non-Applicable Sections:	Policy Considerations Personnel Considerations
Background Documents: (Access via Contact Officer)	Transport Gateway Review (Report No. ES14062) SEN Transport Contract (Report No. DCYP10115 – PART 2) Special Educational Need and Children’s Transport Contract Award (Report ED15070)
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