

DERBYSHIRE COUNTY COUNCIL

CABINET MEETING

2 June 2014

Joint Report of the Strategic Director – Economy, Transport and Environment,
the Strategic Director for Children and Younger Adults and the Acting
Strategic Director for Adult Care

**DYNAMIC PURCHASING SYSTEM FOR TAXI AND SMALL
VEHICLE SPECIALIST PASSENGER TRANSPORT SERVICES
(JOBS, ECONOMY AND TRANSPORT)**

(1) **Purpose of the Report** To seek Cabinet approval to replace the existing Framework Agreement for taxi and small vehicle specialist passenger transport services with a Dynamic Purchasing System (DPS).

(2) **Information and Analysis**

Background

The County Council secures specialist transport services for students who have an entitlement because of their special educational needs, and for Adult Care clients to attend and participate in day care opportunities throughout the County.

Contracts for these services are let through a process of competitive tendering designed to ensure value for money and the effective and efficient use of resources.

In June 2013, a procurement exercise was undertaken to establish a two part Framework Agreement for the provision of taxi and small passenger vehicle transport services:

- Part A for transport services **without** the requirement of a Passenger Assistant.
- Part B for transport services **with** the requirement of a Passenger Assistant.

(NB Passenger Assistants supervise and assist students and clients with special requirements or behavioural / medical needs).

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Operators were given the option of applying for Part A, Part B, or both.

It was a stated intention in the tender specification that Part B would be re-opened every six months to allow for new suppliers to apply to the Framework.

Outcome

A total of 250 operators were successful in their submissions while approximately 40 were unsuccessful because they did not meet the published criteria.

At the meeting on 22 October 2013, Cabinet approved the award of a four year Framework Agreement to run to 31 December 2017.

Operating the Framework

Since the Framework became operational, it has become apparent that it is not as effective and flexible as a procurement method that had been anticipated to achieve efficient and cost effective specialist transport services.

Legal restrictions in operating the Framework mean that it is now closed to new suppliers for a four year period, resulting in existing suppliers who leave the Framework not being replaced with new ones. Since starting the Framework, losses of a number of operators coupled with requests to join the Framework that cannot be accommodated, has raised concerns that this may have a significant impact on not only service delivery but could also lead to significantly increased costs by reducing competition and capacity.

The consequences of remaining with the current Framework system can be summarised as follows:

1. Restriction of Competition

- a. The taxi and small vehicle market is typically a fluid market with constant change in terms of staff turnover, change of ownership, and frequent new 'start-up' companies. In a 3 month period, the Specialised Transport teams have received approximately 12 calls from new companies who would like to register to tender for Derbyshire County Council contracts but are currently unable to do so.
- b. The constant change in the market contributes to healthy competition and reduces the likelihood of gaps in provision in some parts of the County.
- c. It is a Council aim to nurture Small and Medium Sized Enterprises (SME's), and encourage maximum economic activity in the County.

2. Reduction of Suppliers on the Framework

- a. Due to the fluid nature of the market, it is estimated that the original supplier base of 250 operators may reduce to a level around 175 over the 4 year period while the Framework remains closed to new suppliers.
- b. If the Council is not in a position to replace these suppliers who cease trading, then it will ultimately impact on both service provision and costs.

3. Changes to Legislation

New EU Procurement Directives were approved by the European Parliament and the EU Council in early 2014 and came into force on 17 April 2014. Under these new Directives the Part B services distinction will be abolished, meaning the Part B service will cease and resulting in a requirement to change the procurement process. All EU member states have two years from this date to implement the Directives into national legislation, but it is expected that the UK will implement them quickly.

Review of the Framework

Officers from the relevant Departments have reviewed the operations of the Framework and the options available including: continuing with the Framework for the full four year period; a temporary arrangement to re-open Part B only and run two separate systems until the legislation is implemented; and the replacement of the Framework with an alternative system. Having given careful consideration it has been concluded that the Framework should be closed and replaced by an alternative system.

Changing to a new system will involve considerable officer time and it would have significant implications for operators if they had to re-submit new electronic applications via the Council's 'Due North' procurement system. It is important to minimise any additional administrative burden on operators and officers are currently investigating the possibility of transferring data to the new system for operators who are already on the Framework. Nevertheless, this is considered to be a necessary step in terms of addressing a system which is inflexible, and which ultimately would not deliver efficient transport services during its four year life time. In the current financial climate it makes greater economic sense to change to a procurement system now which will provide a better and more appropriate system for the Council to use.

Solutions

It is proposed that a Dynamic Purchasing System (DPS) would be a more appropriate procurement solution. A DPS is an electronic system which is used to purchase goods, works or services. Significantly it differs from a Framework Agreement in that it must be open throughout its duration for the admission of any supplier which satisfies the selection criteria. This element will offer greater flexibility and enable a healthy and competitive market

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supply. Once the DPS is established, new SME's can join at regular intervals which will encourage greater supply.

It is proposed that a DPS is procured and awarded in 2014. In practice, this is merely a change in process from one procurement method to another. However, it should be noted that:

- A DPS must be advertised as a new tender on the Official Journal of the European Union (OJEU) and Cabinet approval will be sought for the award.
- The DPS will be awarded for a new four year period.
- The existing Framework will continue to operate until the DPS is awarded and, at this point, tendering will transfer to the DPS and the Framework will be terminated.
- All existing suppliers on the Framework will be required to submit a new application for inclusion onto the DPS i.e. registration of interest in the new tender and completion of a new commercial questionnaire.
- There will be no additional service expenditure in facilitating this change, although it is expected to involve considerable staff and operator resources to establish the new system.

(3) **Financial Considerations** When the Framework was awarded in October 2013, the overall contract value was £48 million over the 4 year period 1 January 2014 to 31 December 2017 (i.e. £12 million per year).

It is recommended to provide the new DPS for the same areas of service and for a further 4 year period from the date of the award.

(4) **Legal Considerations** The tendering process is compliant with current procurement legislation and provides fair access to new as well as existing operators to tender. A DPS will be compliant with the new European Procurement Regulations.

As has been the case under the Framework, when services are required, there will be a 'mini-competition' between suppliers on the DPS and, if more than one provider can meet the need, the lowest cost supplier will normally be selected, unless a specialist supplier or care arrangements are required.

Services commissioned via the DPS will be monitored for contract compliance.

The existing Framework agreement contains provisions whereby notice can be given to terminate the contract at no cost to the Council.

(5) **Equality and Diversity Considerations** Under the Education Act 1996, the Authority is required to make suitable home to school travel arrangements for eligible children of compulsory school age, including children

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who live beyond walking distance from school, and children with special educational needs, disabilities and mobility problems who live within walking distance but cannot reasonably be expected to walk to school. The Authority must also make such transport arrangements for persons of sixth form age and adult learners as it considers necessary, and having regard to the Authority's duties to secure education and training opportunities for young adults subject to learning difficulty assessment.

The Chronically Sick and Disabled Persons Act 1970 requires local authorities in certain circumstances to provide access to services for prescribed groups of disabled people.

(6) **Human Resources Considerations** There will be a short term increase in workload to establish the DPS that can be met from existing resources.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, environmental, health, property and transport considerations.

(7) **Key Decision** Yes.

(8) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(9) **Background Papers** Held within the Economy, Transport and Environment Department. Officer contact details – Deborah Oddy, extension 36743.

(10) **OFFICER'S RECOMMENDATIONS** That Cabinet:

- 10.1 Approves the establishment of a Dynamic Purchasing System for taxi and small vehicle passenger transport services, as outlined in the report.
- 10.2 Approves the continuation of the existing Framework Agreement until the new Dynamic Purchasing System is established. Approval for this will be subject to a further Cabinet report later in 2014.

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