

**Forward Plan reference number: FP/170/06/23**

<b>Report title:</b> New Passenger Transport Services Dynamic Purchasing Framework Agreement	
<b>Report to:</b> Cabinet	
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<b>Date:</b> 10 October 2023	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

## 1. Everyone's Essex

- 1.1 Everyone's Essex sets out our strategy for a strong, inclusive and sustainable economy; a high-quality environment; health, wellbeing and independence for all; and for making Essex a good place for children and families to grow.
- 1.2 A strong bus network is central to all these aims. It helps people access education, jobs, services and shops, supporting our schools, colleges, high streets and local employment. It gives people an alternative to car travel, helping to reduce congestion and carbon emissions, and so contributing to our net zero carbon goals. It enables people to live independently and to access friends and family, supporting their health and wellbeing.
- 1.3 Getting that strong bus network becomes much easier when we have a simple, efficient and cost-effective way of contracting the right bus service providers at the right time. The purpose of this paper is to procure what's called a 'Dynamic Purchasing System (DPS)' - an electronic procurement system for the supply of goods, works or services which suppliers can join at any time. It gives buyers, like Essex County Council (ECC) speedy access to a pool of pre-qualified suppliers, with the confidence that they meet our prescribed minimum standards.
- 1.4 The report seeks to agree the re-procurement of a Passenger Transport Services (DPS) for a period of five years with the ability to extend for up to 24 months in single or multiple extensions.
- 1.5 There is ambition for Thurrock Council to join this scheme as well. This reports also seeks to agree the Delegated Authority to the Director of Procurement to agree the mechanism to enable Thurrock Council to source Education Transport services via the DPS when this is determined. The mechanism and any associated costs will be subject to a separate governance process.

The benefits of collaborating with Thurrock Council are:

- Suppliers of the service will only need to tender to join one DPS and will have access to a wider market of both Authorities This reduces duplication as

suppliers do not need to complete a similar process twice.

- Reduces duplication of effort with resources and time efficiencies gained across both Authorities
- Both Authorities can work together to schedule calling off the DPS to avoid and reduce both Authorities competing against each other in the same market to facilitate achieving the best value from the supply market.
- ECC can share best practice with Thurrock having had a successful transport DPS in place for a number of years.

## **2. Recommendations**

- 2.1 Agree to procure a Dynamic Purchasing System (DPS) for Passenger Transport which is used to source Passenger Transport services from 1 January 2024 for a period of up to five years with the ability to extend for up to 24 months in single or multiple extensions. This is subject to change over the period of five years to align with the strategic aims of each of the sub-categories.
- 2.2 Agree that the Director, Procurement in consultation with the Monitoring Officer may approve the mechanism in which Thurrock Council can source Education Transport using the ECC Passenger Transport DPS and that this and any associated costs will be subject to a separate decision.

## **3. Background and Proposal**

- 3.1 Essex County Council has a statutory duty to:
  - Provide home to school transport for those children and young people who meet the eligibility criteria
  - To review the provision of local bus services to decide on whether to make a provision for bus services not met by the commercial bus network.
  - To provide transport for adults attending social care settings who meet the eligibility criteria.
- 3.2 The Council currently has a dynamic procurement system (DPS) which enables us to seek prices from bus operators quickly and simply in a way that complies with procurement law. The current DPS will expire on 1 January 2024 following the maximum extension period. The Council therefore needs to decide how to procure its future needs for transport.
- 3.3 It is proposed that we therefore procure a new DPS to take effect when the current one expires. A DPS is a system with its own rules under which eligible suppliers can register with the system and bid for contracts in accordance with the rules of the system. The rules about awarding contracts are set out when the system is set up.
- 3.4 A DPS is a system which the law allows us to use to award contracts quickly and

simply. Procuring a DPS does not guarantee that any contracts will be awarded or require us to use the system to award contracts. The Council will need to decide to use the DPS and decide what it should buy on each occasion. The DPS will provide a catalogue of potential providers who are able to deliver transport that meet the requirements of the specification for the category they apply to join. There is no limit on the number of providers that can join the DPS.

- 3.5 The opportunity to join the DPS will be advertised and suppliers will need to apply to take part and provide information about themselves before they can be put on to the DPS.
- 3.6 Providers may select the category of service they wish to deliver, and they will be accepted if they meet the minimum standards for that category and none of the grounds for exclusion apply. Where a Service Provider's circumstances change and they wish to provide services under another category they will be required to re-submit to the DPS to amend their original submission.
- 3.7 When the Council wishes to award a contract we will operate competitions under the DPS where providers will submit a bid based on the service specification. Contracts can be awarded at any time, though the majority of these call offs will be on an annual basis.
- 3.8 The Price, Quality, Social Value and Climate / Environment award criteria will be determined within the annual tender round governance paper and will vary across the categories and service specifications but will always fall within the ranges below:
  - Price: 30-100%
  - Quality : 10-50%
  - Social value: 5-20%
  - Climate/ Environment: 5-40%
- 3.9 It is proposed that the DPS will have multiple categories. The proposed categories are:
  - Home to School – Mainstream
  - Home to School – Special Educational Needs
  - Adult Social Care
  - Local Bus services
  - Ad hoc transport
- 3.10 Ticket agreements are an arrangement between ECC and a provider of commercial bus or other transport services. ECC will always maximise use of the existing transport network in the first instance and this arrangement allows ECC to purchase 'bulk' tickets on existing commercial services. The agreements will usually include a number of services operated by the same provider. They cannot normally be procured' via the DPS as there is no competition for these services and ECC are not permitted to arrange a service in competition. The DPS can be used by a provider to submit a ticket agreement price as well as a daily rate price for a service to be provided, if this meets the specification of the tender.
- 3.11 We have spoken to Thurrock Council, who have expressed an interest to join

the ECC Passenger Transport DPS to source elements of their statutory Education Transport for the 2024/25 academic year and are awaiting Cabinet approval in November to proceed. They anticipate that joining the ECC DPS will give them better value and greater flexibility as a wider pool of transport providers would be able to bid for contracts. Thurrock's current contract value for Education Transport services is currently approximately £6.1m per annum.

- 3.12 If Thurrock take part it will help increase the value of contracts awarded via the DPS thus maintain and increase market input. We will ensure that Essex is not worse off and will expect Thurrock to pay a fair contribution to the costs of the system. The Director of Procurement will agree that they can take part once Thurrock's cabinet have agreed and we have agreed terms.

#### **4. Links to our Strategic Ambitions**

- 4.1 This report links to the following aims in the Essex Vision:

Enjoy life into old age.  
Provide an equal foundation for every child.  
Develop our County sustainably.  
Connect us to each other and the world.  
Share prosperity with everyone

- 4.2 Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030: the extension will allow ECC to continue provide sustainable transport and the resultant reduction in carbon emissions produced by car journeys.

This report links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':

- A strong, inclusive and sustainable economy
- A high-quality environment
- Health wellbeing and independence for all ages
- A good place for children and families to grow.

#### **5. Options**

##### **5.1 Option 1 Procure a DPS (recommended option)**

This option will enable the sourcing of Passenger Transport services in a legally compliant way via a pool of transport providers that have met ECCs minimum standards. It also has the benefits of:

- Simpler procurement process
- Ease of use for suppliers
- Less resource-intensive for ECC
- Shorter procurement timescales

- Less time to procure ad-hoc transport.
- Cheaper process than a full open tender for annual tender round
- Increased market engagement, participation and competitive tension to achieve best value.
- New suppliers can be onboarded throughout the life of the DPS.
- Alignment to ECC procurement policies and strategic aims of ECC

## 5.2 Option 2 Procure a Framework (not recommended)

This option is not recommended as it is harder to join and leave a framework meaning that the providers on the framework may not always represent a good selection of operators across Essex.

## 5.3 Option 3 - Do nothing (not recommended): This option is not recommended as it would mean that ECC does not have a simple way of procuring bus services after 1 January 2024. All contracts would need to be procured individually and advertise. This would be an inefficient use of resources.

- More time needed to enable suppliers to submit tenders.
- Longer procurement timescales
- More time needed to procure ad hoc transport.
- More resource-intensive process leading to increased cost.
- Reduced market engagement and participation.

## 6. Financial implications

The decisions to procure passenger transport contracts are subject to a separate process. However, the decision to award a new DPS enables the procurement of these contracts to be undertaken and awarded without going to individual tender. The annual, budgeted value of passenger transport contracts in 2023/24 is approximately £49.9m and future years' Medium Term Resource Strategy (MTRS) draft budgets are set out below.

	2023/24 budget £000	2024/25 MTRS £000	2025/26 MTRS £000	2026/27 MTRS £000
H2S Hired Transport	33,974	36,201	38,570	41,034
Local Bus	12,325	13,782	14,058	14,339
Park & Ride	1,782	1,782	1,782	1,827
ASC	1,866	1,866	1,566	1,566
Total	49,947	53,632	55,977	58,766

The ECC procurement service uses Proactis ProContract as their current eSourcing platform, which enables ECC to run all regulation-compliant (and below threshold) procurement activities. There are no separate costs attributed to DPS, or any other sourcing activity other than the annual fee. An annual cost of £40,000 is paid for the existing platform and is budgeted within the Medium-Term Resource

Strategy, it is assumed that cost level will continue. If no DPS Procurements were run, the same annual cost for the Proactis Procontract system would be paid.

## **7. Legal implications**

- 7.1 Contracts on the existing DPS must be awarded in accordance with the existing DPS arrangements.
- 7.2 Procurement of a new DPS must be undertaken in accordance with the Public Contracts Regulations 2015.

## **8. Equality and Diversity Considerations**

- 8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
  - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful.
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 8.3 The Equalities Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **9. List of Appendices**

Appendix 1 – Equalities Comprehensive Impact Assessment.

## **10. List of Background papers**

None