

Forward Plan reference number: FP/305/11/18

Report title: Education and Community Travel Contract Extensions and Awards 2019	
Report to: Cabinet	
Report author: Andrew Cook, Director, Highways and Transportation	
Date: 26 February 2019	For: Decision
Enquiries to: Helen Morris Head of IPTU or Karen Saunders Lead for Community & Education Travel	
County Divisions affected: All Essex	

1 Purpose of Report

- 1.1 To agree the extension and the procurement of education transport contracts, including the provision of travel allowance, hired transport and public transport tickets, which are due to expire in July 2019, totaling £25.460m. The 2019/20 budget for Mainstream is: £7,453,990 and for Special Educational Needs is: £17,401,071
- 1.2 To ask Cabinet to agree action to ensure that suitable transport arrangements are in place for September 2019 onwards, to fulfil Essex County Council's (the Council) statutory and policy based obligations to provide transport to school for children meeting the eligibility criteria.

2 Recommendations

- 2.1 Agree that the Director, Highways and Transportation, is authorised to extend for one year any education transport contracts which expire in July 2019 where extension is permitted under the terms of the contract and where he considers this to be in the Council's best interests.
- 2.2 Agree that the Director, Highways and Transportation, is authorised to procure new contracts via the Council's existing dynamic purchasing system where extension as per 2.1 above is not permitted or where extension is not consider to be in the Council's best interests. Any such new contract is to be for a period determined by the Director, Highways and Transportation initially for a maximum of three years, where relevant, on terms which give the Council the right to extend for up to a further a further three years.

3 Background and proposals

- 3.1 The Council has a statutory duty under the terms of the Education Act 1996 (as amended) and its Education Transport Policy to provide taxpayer funded education transport to pupils who meet statutory eligibility criteria. In addition we have a policy which says we will provide transport in some cases.
- 3.2 This report relates to transport arrangements for pupils who are transported to school on transport secured by the Council from commercial operators where the

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current contracts expire at the end of the 2018-19 academic year in July 2019.

- 3.4 There are 198 individual education transport contracts that are due to expire in July 2019, covering the full spectrum of primary, secondary and special school transport. Action must be taken in respect of all of these contracts to either extend or re-tender them so transport is provided for the relevant children from September 2019.
- 3.5 For the purposes of this decision paper, the table and commentary below illustrates the scale of the contracts in question, their current value in financial terms and the number of passengers affected at the time of this report.

Number of contracts	Number of pupils travelling	Value based on number of school days travelled	Number to be offered for 1 year extension at 0%	Value of number to be extended for 1 year at 0%	Number identified for tender	Value of number identified for tender
198	12733	£25.460m	170	£24.005m	28	£1.455m

- 3.6 In addition to the contracts detailed above, ECC also provides transport provision in the form of travelling expenses (referred to in this report as 'travel allowance') where this represents best value.
- 3.7 Detailed analysis has been undertaken by Officers of all the 198 expiring education transport contracts to determine a proposed way forward as identified below:
- 3.7.1 A total of 170 contracts have been identified as suitable for extension (see 3.8 below) for a year based upon a 0% price increase. The conditions of these contracts allow for such an extension. This would mean that the contracts in question would continue to be operated by the current contractor (subject to agreement) at the existing operating price. If the requirements have materially changed, and negotiation at 0% is not possible, we have the ability to tender.
- 3.7.2 The reasons for concluding that extension of around 170 contracts is attractive are as follows:
- Requirements have not materially changed since the original tender/contract award with little or no increase to cost.
 - The contract(s) have been tendered in one of the most recent tender rounds.
 - The daily operating price is considered to represent efficient value based on the nature and complexity of the contracts.
 - There is opportunity to renegotiate the operating price of some of the contracts based upon reduced pupil numbers.
 - It would not benefit pupils or the Council in the short term to change the contractor for a number of special needs contracts, whereas an extension would provide greater flexibility for the Council to consider more efficient and

effective models of delivery in the medium to longer term.

- The contracts were awarded on terms which permit them to be extended on this occasion.

3.7.3 A total of 28 contracts have been identified as likely to require a new tender for some or all of the following reasons:

- The maximum term of the contract duration, including any extension clauses, has been reached.
- Material change of requirements due to natural variations in pupil numbers.
- Change of transport requirement due to impact of policy changes e.g. phasing out of faith school transport and effect of the new 'nearest school only' transport policy.
- A review of the current contract suggests that better value could be achieved by retendering, based on comparing the contract price with the current and historical data.
- The impact of an integrated approach such as cluster contracts, use of existing public transport and shared transport across passenger groups.

3.8 Where requirements need tendering, the procurement will be undertaken via the Council's dynamic purchasing system. Contracts will be awarded for a period of up to a maximum of three years with the option to extend. Routes being tendered will include all existing operators and will expose routes to competition.

4. Options for Consideration

Option 1: Tender all 198 contracts.

- 4.1 The Council has statutory and policy based obligations to provide transport for pupils meeting the eligibility criteria.
- 4.2 To tender all contracts is likely to increase costs to the Council. Contracts were previously awarded through a competitive tender process with the option to extend. An extension for a year is based upon a 0% price increase negotiation.

Option 2: Where conditions allow, extend contracts at 0% increase and tender those where a 0% increase cannot be achieved.

- 4.3 A total of 170 contracts have been identified as suitable for extension. The conditions of these contracts allow for such an extension. The contracts in question will continue to be operated by the current contractor (subject to agreement) at the existing contract cost, unless requirements materially changed.
- 4.4 Where a tender process is necessary, the procurement will be undertaken via the Council's dynamic purchasing system. Contracts will be awarded for a period of up to a maximum of three years, with the option to extend.
- 4.5 All contracts will be procured in such a way so as to comply with the law.

5. Issues for Consideration

5.1 Financial Implications

5.1.1 The proposed procurement approach of extending the majority of existing contracts by 12 months is likely to deliver the best value in overall cost. As well as securing continued service delivery relatively quickly, the Authority has an opportunity to remain with existing contractors on existing terms and conditions.

5.1.2 For those contracts where a retender is now required, it should be noted that the costs of the contracts will fall across two financial years, although travel arrangements are being sought for the 2019/20 academic year. Once evaluated, service orders will be raised in each financial year accordingly

5.1.3 The table below summarises the budget envelope for the two financial years the 2019 academic year crosses for hired transport, public tickets and travel allowances.

	2019/20 Budget			2020/21 Budget		
	Mainstream	SEN	Total	Mainstream	SEN	Total
Hired Transport - Gross	5,110,803	18,824,915	23,935,718	4,685,288	19,165,433	23,850,721
Hired Transport recharge (Dedicated Schools Grant contribution)	0	(1,761,000)	(1,761,000)	0	(2,404,500)	(2,404,500)
Hired Transport - Net	5,110,803	17,063,915	22,174,718	4,685,288	16,760,933	21,446,221
Public Tickets	2,402,487	134,031	2,536,518	2,474,561	138,052	2,612,613
Travel Allowances	250,000	300,000	550,000	250,000	300,000	550,000
Education Recoupment	-	32,000	32,000	-	32,000	32,000
Contributions from OLAs	-	(128,875)	(128,875)	-	(132,742)	(132,742)
Concessionary Fares	(309,300)		(309,300)	(318,579)	-	(318,579)
Net Budget	7,453,990	17,401,071	24,855,061	7,091,271	17,098,243	24,189,514
Total Number of days of the 2019 academic year in the financial year	191			* 190		

* 2020 academic school calendar as not yet been published

5.2 Financial Risks

5.2.1 The current academic year has seen an increase in demand for transport, predominantly for children with Special Educational Needs. It is anticipated that the growth in SEN from 2018/19 to 2020/21 will continue to increase over and above the rate of growth seen in the number of school children within Essex. As a result, cost pressures are being seen in the current financial year and are anticipated to continue across the medium term with additional funding being awarded by Essex County Council and the Dedicated Schools Grant in 2019/20 and 2020/21.

5.2.2 The pupil numbers quoted above include an estimate of the number of new children that will need transport provision in the forthcoming academic year. Final numbers are unlikely to be known until September once primary and secondary school placements are realised.

5.2.2 In order to contain the cost pressures whilst ensuring that ECC fulfills its statutory duty, the most economical and suitable method of transport is selected, which includes travel allowances, use of the commercial bus network and hired transport. Coupled with the increased funding agreed by the Schools Forum from the Dedicated Schools Grant it is anticipated that the delivery of services will

remain within the budget envelope stated above. Any cost pressures that cannot be contained will be mitigated from the wider Highways budget.

5.3. Financial Opportunities

- 5.3.1 Following changes to the Education Transport Policy from September 2015, an analysis of the impact suggests potential reduction in mainstream secondary passengers between the academic years 2018 to 2021 of approximately 15%, with an associated reduction in cost of approximately 18%, to the mainstream transport spend. Where renegotiation or re-tender takes place, a reduction in operating prices is possible where the numbers of children expected to be transported decreases.

5.4 Legal Implications

- 5.4.1 Contracts will only be extended where it is lawful to do so because they were awarded on terms which permit this extension. Where new contracts are to be procured, they will use the Council's dynamic purchasing system which was awarded in accordance with the Public Contracts Regulations 2015.
- 5.4.2 The Council has a legal duty to provide education transport in certain circumstances and provides transport to some children over and above statutory requirements in accordance with its Education Transport Policy.

6. Equality and Diversity implications

- 6.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (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.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 6.3 The Equality Impact Assessment (attached as appendix 1) indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

- 7.1 Appendix 1 – Equality Impact Assessment.
- 7.2 Appendix 2 – potential passenger data across future years
- 7.3 Appendix 3 - List of home to school transport contracts expiring in July 2019.