

<b>Report title: Extension of six local bus service contracts expiring in 2020 and 2021</b>	
<b>Report to: Cllr Ray Gooding – Cabinet Member for Education and Skills</b>	
<b>Report author:</b> Andrew Cook, Director, Highways and Transportation	
<b>Date:</b> 19 June 2020	<b>For:</b> Decision
<b>Enquiries to:</b> Helen Morris (Head of IPTU) (helen.morris@essex.gov.uk) or Karen Saunders (karen.saunders@essex.gov.uk)	
<b>County Divisions affected:</b> All Essex	

## **1. Purpose of Report**

- 1.1 This report relates to 6 local bus service contracts which ECC subsidise and are due to expire.
- 3 contracts due to expire in July 2020
  - 3 contracts due to expire in July 2021
- 1.2 This report is asking the Cabinet Member decision to extend contracts at the current rate:
- Extend 1 contract due to expire in July 2020 until March 2021
  - Extend 2 contracts due to expire in July 2020 until July 2022
  - Extend 3 contracts due to expire in July 2021 until July 2022

## **2. Recommendations**

- 2.1 Agree to seek agreement with operators to extend contracts as set out in Appendix A at current prices.
- 1 contract to be extended until March 2021
  - 5 contracts to be extended until July 2022
- 2.2 Agree that, where the contractor will not agree to extend a contract, ECC will undertake a procurement exercise using the Proactis Purchasing System to replace only those contracts, on the basis that the existing services are maintained. Any new award shall be for the period that the extension would have covered and can be awarded by the Director, Highways and Transportation if the cost of the new contract can be met from within the local bus budget.

## **3. Summary of issue**

- 3.1 ECC has a number of bus service contracts that are due to expire before 2022 and this document sets out steps to be taken so that each can be reviewed.

Due to the Coronavirus outbreak, which is a major public health emergency ECC have been left unable to consult on the services in this paper within the original planned timeframe. All services are set out in Appendix A.

- 3.2 Whilst the contracts' terms allow for such an extension at existing contractual rates, this is by mutual agreement. Some current providers may choose not to extend their contracts with ECC and prefer that the contract is allowed to naturally expire at the end of the contractual period. In these instances, ECC will need to carry out a short procurement exercise using the Proactis Purchasing System (PPS) to ensure that there is no loss of service on these routes over the next 12-24 months. Any contract extensions awarded will align contract length to correspond with other Sunday contracts allowing ECC the necessary time to undertake a review and consultation exercise.
- 3.3 Any contracts declined for extensions will be procured for award of a contract term running until July 2022 or March 2021. It is proposed that these new contracts are awarded by the Director, Highways and Transportation.
- 3.4 During the next 12 months, ECC propose to commence a public consultation on the services included in this paper. This consultation will seek to explore the options for re-shaping the local bus network and investigate how bus services are run and commissioned and consider how ECC could devolve more of that activity to communities and their representatives. The consultation will also seek to identify the journeys that people feel are the most important to them.
- 3.5 ECC will also look at how to procure services as flexibly as possible. This includes seeking ways of operating services in different ways where appropriate. This might include demand responsive services or the use of accessible minibuses rather than full size traditional buses. A cabinet paper will be prepared prior to this further work.

#### **4. Options**

- 4.1 **Option 1 – Do Nothing** – 2 contracts would end in July 2020, 3 contracts would end in July 2021 and 1 contract would end in September 2020 (all listed in appendix A) **(Not recommended)**.

##### **4.1.2 Benefits:**

- By not extending or procuring these contracts, the annual expenditure of £288,541 would not be incurred

##### **4.1.3 Potential Issues:**

- With 2 contracts finishing in July 2020, 3 contracts finishing in July 2021 and 1 Sunday service finishing in September communities will be left without services.
- ECC have not consulted on the withdrawal of these services and therefore it does not meet the objectives of the current ECC Passenger Transport Strategy and there is a risk of legal challenge.

**4.2 Option 2 – Extend 6 contracts listed in appendix A (5 week day services and 1 Sunday service) – This would maintain services as they currently operate and ECC will tender and award any contracts where extension is declined by the current operators. (Recommended)**

**4.2.1 Benefits:**

- Where an offer of contract extension is accepted by the operator, the service continues under the existing contracted terms and there is no exposure to price increases for the period of extension.
- Communities would retain access to all current services, maintaining existing links to key services at the times and locations they serve.
- This would allow the team to review current services and identify those that could be provided in a different way.
- It would allow a future 12-week public consultation to be carried out
- By reviewing services, it would allow opportunities to reduce future costs.

**4.2.2 Potential Issues**

- Extension will mean delaying opportunity to review contracts to further improve value for money in line with potential changed market conditions. There would be no opportunity to reflect alternative delivery options in service delivery.
- Some operators may decline to extend the extensions at current rates so ECC will need to re-procure those contracts. This is thought to be unlikely but if so, may increase current contract costs and create a revenue pressure which cannot be managed within the existing budget.. As the contracts were last procured in 2016 they may not reflect current market value because there is no allowance for inflationary uplifts within the existing contracts.
- There may be price increases for those contracts proposed for re-procurement
- In addition, timetable requirements set in 2016 may not meet current passenger travel patterns, therefore a full public consultation is required to identify current demand.

**Option 2 is the preferred approach as this allows time for ECC to design future service provision to reflect the weight of actual journeys undertaken on each route.**

**5.0 Financial implications**

**5.1.1. The existing budget provision included in the Medium Term Resource Strategy for local bus is set out in the table below:**

Local Bus	2020/21 £m	2021/22 £m	2022/23 £m
Annual Contracted expenditure	9.794	9.194	8.194
Annual Non Contracted expenditure	0.077	0.077	0.077
Annual Income	-2.050	-1.294	-1.134
Controllable Net Budget	7.821	7.977	7.137

- 5.1.2 The total annual cost for the 6 contracts listed in appendix A proposed for extension is £289,000 which is funded from part of the overall local bus budget in 2020/21.
- 5.1.3 The current cost of these contracts is contained within the 2020/21 budgetary envelope. However, extending contracts beyond their original term may give rise to an unfunded revenue pressure should the contracts not be able to be extended at zero increase.
- 5.1.4 Additionally, where a procurement exercise becomes necessary should the operators choose to allow the existing contracts to expire, a revenue pressure may also arise if services are unable to be procured within existing budgetary limits. Should a cost pressure arise this will be expected to be contained by the service identifying appropriate mitigations.
- 5.1.5 There is the risk that contracts that are extended may not represent best value for money for the Council in the short term if the cost exceeds £5 per passenger journey which represents the current policy threshold for intervention. However, an extension conversely allows for appropriate consultation and analysis to be undertaken ensuring that the value for money criteria that the Council must consider will be met beyond the initial contract extension term whilst providing continuity of the existing service to communities in the intervening period.

## 5.2 Legal implications

- 5.2.1 ECC is under a statutory duty in accordance with the Transport Act 1985 to secure the provision of such passenger services as ECC considers it appropriate to secure to meet any public transport requirements within its area which would not in its view be met otherwise.
- 5.2.2 Existing contracts contain extension provisions. Where the providers choose not to extend the current contracts, ECC will undertake a procurement exercise in accordance with the provisions set out within the Public Contract Regulations 2015 and ECC's procurement policy and procedures.

## 6. Equality and Diversity implications

- 6.1 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.
- 6.2 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).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

### **List of appendices**

Appendix A - List of contracts expiring in 2020 and 2021

Appendix B- EQIA

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b> 26 June 2020
<b>Cllr Ray Gooding – Cabinet Member for Education and Skills</b>	

### **In consultation with:**

<b>Role</b>	<b>Date</b>
<b>Executive Director for Finance and Technology (S151 Officer)</b>	19 June 2020
<b>Stephanie Mitchener on behalf of Nicole Wood</b>	
<b>Director, Legal and Assurance (Monitoring Officer)</b>	19 June 2020
<b>Paul Turner</b>	