

Exemption to Contract Procurement Rules Request

To: Children and Young People Committee

Meeting Date: 9th March 2021

From: Executive Director: People and Communities

Electoral division(s): All

Key decision: Yes

Forward Plan ref: KD2021/037

Outcome: Approval of an exemption waiver to enable 274 expiring Home to School Transport contracts (cumulative value £7.2m) to remain in place for one further year. This will enable the commissioners to undertake a robust procurement exercise for the remaining 458 Home to School Transport contracts due to be tendered and procured within the Social & Education Transport Team (SETT) resources and procurement window.

Recommendation: The Committee is recommended to agree to exemption waiver on 274 home to school contracts for a period of one year.

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1. Background

- 1.1 Each year the Social & Education Transport Team (SETT) undertakes a procurement round of approximately one third of all the 1200 home to school transport routes. This equates, each year, to approximately 180 mainstream contracts and 225 contracts for pupils with special educational needs and disability (SEND). As well as undertaking the full tender reviews of 400 routes, the process must also include time to review existing routes to allow for in-year admissions and leavers. This is an important exercise as the numbers can significantly affect loadings on current routes, vehicle capacities or type and all these need to be negotiated or retendered in addition to the other routes.
- 1.2 The work behind the re-tendering cycle does not start in earnest until SETT has received the in-year admissions data which is normally available in late March. Some assumption regarding pupil numbers for mainstream contracts needs to have been made so that routes are built and assessed prior to the start of the tender going live. This occurs in early April. SEND contracts require a longer lead in time due to the further additional conversations which need to take place between schools, professionals, and parents/carers. This is because allocation of SEND students to routes/vehicles requires review of and consultation about individual pupil needs, behaviours and/or medical conditions.
- 1.3 During March 2020, when the first lockdown occurred due to the Covid pandemic, preparation for the annual tender process was under way. Just prior to lockdown SETT's work was affected, as school closures started, and work necessarily changed to Covid operations. Officers at that time had to arrange transport for schools to provide for the attendance of vulnerable and key worker children. Therefore, resource had to be redirected within SETT to ensure that the transport provisions that were already in place were utilised. At the same time authorisation was given by the Chief Finance Officer for continuation of contract funding. This enabled SETT to adapt transport requirements without incurring additional costs. In addition, the decision was made to ensure that SETT protected providers through continuation of contract funding in line with government guidance, to ensure operational provisions post lockdown.
- 1.4 A further agreement was reached, in line with Covid procurement guidance, to dispense with the 2020 retendering round and roll all contracts forward by 12 months (where applicable) in order to further protect the supplier base and allow some to be able to seek additional government support for other areas of their business, thus ensuring their ability to survive. Despite these measures, during the lockdown one large bus operator ceased to trade which required short term tendering to take place for about 4 routes. As lockdown restrictions eased, schools returned and this introduced further new operational challenges for SETT. The new requirements of Covid restrictions required not sharing transport across school bases (mainstream) and the additional requirements within special schools for bubbles and separation of students, much of which has continued into the current school year.
- 1.5 Further lockdowns and additional requirements to ensure transport operations are conducted in a Covid safe environment have continued in preparation for the next return of all pupils to school this week. This has reduced officers' time on the current year's tender preparation and created further unplanned work, returning transport operation (as it is

planned for September) to pre Covid levels. This situation is resource hungry for officers in SETT responsible for SEND contracts.

- 1.6 SETT had not expected this level of disruption, exacerbated by lack of clear government guidance for March 2021. The Government’s late release of the current road map has led to severe delays in being able to plan. Schools and other stakeholders have not been in a position to carry out vital work with SETT for the preparation of the route tenders and consultation with parents/carers. In addition, the uncertainty of the supply chain needs to be taken into account. As most of the transport service is provided by contracted bus and taxi companies, their financial and staffing difficulties need to be taken into consideration. Many operators have contacted SETT to raise concerns about their ability to plan if all the contracts go to the market at the same time and they risk losing work or not being able to plan for winning more contracts. The transport trade has always been very fluid and due to Covid the environment is currently particularly unstable.
- 1.7 SETT have carefully reviewed the current contracts and have identified areas of stability, continuity, and best value. The contracts that SETT are requesting an extension for meet these criteria.

2. Main Issues

- 2.1 There are currently 1002 routes of which 73% require to be tendered this year. Included in these figures are some of the larger secondary schools, for example Bottisham Village College which has 19 individual routes providing capacity for up to 1000 students.
- 2.2 SEND transport requires much more negotiated work with individual schools who would only be fully re-opening in mid-March and are unlikely to be unable to engage fully with transport reviews as they will be meeting the challenges of the return to school.
- 2.3 To achieve a quality, efficient and cost-effective approach to ensure best value and deliver within its procurement timeframe SETT would like to reduce the re-tendering exercise to 46% of routes. This would leave 27% of routes which SETT would seek waiver approval to extend until the end of the 2021/2022 school year (end July 2022). The overall value of the 274 contracts during a 190 days school year is a cumulative value of £7.2m.

The 274 are all individual contracts, each with its own contract value.

Total number of routes to be reviewed 1002 broken down as follows: -

	Mainstream	Special	Mixed	Percentage
Cancel or Ending	33	223	0	27%
Tender	155	295	8	46%
Waiver	117	152	5	27%
Total	315	673	14	N/A

- 2.4 The value break down of routes to be waived is as follows:
- Mainstream £3.3m
 - Special £3.8m

- Mixed £95.7k

- 2.2 SETT has considered whether additional capacity within the team might enable full tendering to take place. During periods of the lockdown re-assigned staff joined SETT to give additional support to the team. Due to the training and the specific knowledge required to set up school transport provision and particularly regarding SEND transport, this did not prove to be as successful as had been hoped. Delivering training remotely and issues around access to specific IT software also created additional challenges. This experience has served to illustrate that to achieve all the annual procurement within the tight time frame available, will put untenable pressure on SETT and other stakeholders, including schools.
- 2.3 SETT is fully aware of the need to tender within the requirement of procurement guidelines. SETT is currently in the process of working towards a joint procurement platform with Peterborough City Council which is expected to be rolled out during the summer of 2021. This will encourage new entrants to the market, will enable both LAs to review that market and enlarge the supplier base for both SETT and its equivalent team in Peterborough. The new joint procurement process will also give both teams an option to re-tender routes earlier if required.

3. Alignment with corporate priorities

- 3.1 The following bullet points set out details of implications identified by officers:
- 3.2 The best start for Cambridgeshire's children in the provision of statutory education transport provision

4. Significant Implications

4.1 Resource Implications

The report above sets out details of significant implications.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

The report above sets out details of significant implications

4.3 Statutory, Legal and Risk Implications

The Legal parameters relating to home to school/college transport for children and young people of statutory school age are set out in Sections 508, 509 and schedule 35B of the 1996 Education Act as amended by the Education and Inspections Act 2006.

Sections 509(1) and (2) place a duty upon local authorities to provide free transport where necessary to facilitate the attendance of children and students at schools and institutions both within and outside of the further and higher education sectors.

4.4 Equality and Diversity Implications

The following bullet points set out details of significant implications identified by officers:

- Prevention of rural isolation from education provision.
- Education transport is provided to all who are entitled under the Education Act 1996 as amended by the Education and Inspections Act 2006

4.5 Engagement and Communications Implications

There are no significant implications within this category.

4.6 Localism and Local Member Involvement

There are no significant implications within this category.

4.7 Public Health Implications

The following bullet points set out details of significant implications identified by officers:

- Schools coronavirus (COVID-19) operational guidance (February 2021)

4.8 Environment and Climate Change Implications on Priority Areas

4.8.1 Implication 1: Energy efficient, low carbon buildings.

Neutral Status: there are no significant implications within this category.

4.8.2 Implication 2: Low carbon transport.

Positive Status: The following bullet points set out details of significant implications identified by officers:

Explanation:

- Home to school transport reduces the use of private vehicles in delivery of transport to large numbers of students on single transport provisions
- Where school transport is in place there is the opportunity for students to purchase spare seats.
- Where there is public transport provision in place students who meet the eligibility criteria can receive transport assistance in the form of a pass to use on a commercial route

4.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management.

Neutral Status:

Explanation: There are no significant implications within this category

4.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Neutral Status:

Explanation: There are no significant implications within this category

4.8.5 Implication 5: Water use, availability and management:

Neutral Status:

Explanation: There are no significant implications within this category

4.8.6 Implication 6: Air Pollution.

Neutral Status:

Explanation: The following bullet points set out details of significant implications identified by officers:

- Reduced use of private vehicles

4.8.7 Implication 7: Resilience of our services and infrastructure and supporting vulnerable people to cope with climate change.

neutral Status:

Explanation: There are no significant implications within this category

Have the resource implications been cleared by Finance? No

Name of Financial Officer:

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement? Yes

Name of Officer: Gus de Silva

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes

Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact?

Yes

Name of Officer: Jonathan Lewis

Have any engagement and communication implications been cleared by Communications?

Yes

Name of Officer: Simon Cobby

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Jonathan Lewis

Have any Public Health implications been cleared by Public Health? Yes

Name of Officer: Raj Laksham (on behalf of Kate Parker)

If a Key decision, have any Environment and Climate Change implications been cleared by the Climate Change Officer?

No

Name of Officer:

5. Source documents

5.1 None