

Procurement Plan

TITLE: Supported Bus (including Kent Karrier) and Home to School Transport Services	VALUE: £123,600,000	Ref: SS15 96
Procurement Lead: Ola Yerokun	Date: 02.06.2016	
Client Lead: Phil Lightowler	Position: Head of Public Transport	

Commissioning Route

The Commissioning Plan is being considered by the Strategic Commissioning Board on 7th June 2016.

The Key Decision process is currently being initiated and a Record of Decision should be in place by Summer 2016. As procurement under this DPS spans two portfolio areas, the Key Decision will be made by Mathew Balfour, the Cabinet Member for Highways Transportation and Waster with reference to Roger Gough, the Cabinet Member for Education and Young People.

Description:

The Public Transport team currently procures two different 'bus' service types both of which require suppliers licensed as a Public Service Vehicle Operator and using vehicles licensed as Public Service Vehicles. The two distinct categories are known as:

- i) Supported Local Bus (Socially Necessary Bus)
- ii) (PSV) Home to School Transport

Supported Bus services are procured for the delivery of socially necessary bus services (including Kent Karrier), where the authority will fund the provision of a local bus service which is not commercially viable, which would therefore not otherwise run but which the authority has identified as meeting a social need i.e. rural connectivity.

Home to School Transport services are procured to provide school transport for those pupils who are determined by Education to be eligible for free home to school transport. Where the volume of pupils is sufficient to justify a larger vehicle (minibus, coach or bus) these will require provision of this transport by a Public Service Vehicle Licensed Operator who can run services either as a public bus service or as a privately hired vehicle.

The Public Transport team reviewed current procurement and contracting processes and concluded that any new procurement model should seek to standardise the supplier base and procurement practice applied to Supported Bus Services and Home to School Transport where they are provided by this common (PSV) supplier group.

The Authority therefore intends to consolidate the procurement and contracting processes for the Supported Bus and PSV Home to School services. It is considered that this will offer greater opportunity to package and plan services more efficiently, expose all potential suppliers to all opportunities and in doing so increase levels of competition in areas where this is lacking.

The Commissioning Plan details the commissioning options and rationale for decisions made to go out for this procurement.

Linkage to Category Strategy:

There is currently no Transport Procurement Category Strategy in place, however a document is currently being produced in consultation with the Public Transport team and this Strategy will be presented to the Strategic Commissioning Board in due course.

Business Objectives:

The overriding need of the business is to continue to secure the provision of PSV licensed transport services for the purposes of providing public bus services (as deemed socially necessary against the Council's criteria) and for the conveyance of pupils deemed entitled by statute for free Home to School Transport. In both instances, this provision should ensure the best, safe and legal, value for money solution arrived at through a compliant procurement process.

The particular objectives of this procurement plan are;

- to provide a compliant procurement platform for securing PSV licensed transport services
- for this platform to be responsive in terms of managing a fluent supplier base and facilitating the need to sometimes secure services at shortened timescales
- to establish mechanisms designed to increase levels of competition both generally and also against individual opportunities
- to provide greater opportunity for efficient planning of services and related cost savings through the packaging of work (contracts) and by facilitating variant bids spanning both service types.
- to ensure absolute compliance from suppliers with respect to their safe and legal standing to provide such services and in their delivery of them.

Current Supply arrangements:

Supported Bus Services (including Kent Karrier service)

The Council currently holds 124 contracts for the provision of Supported local bus services plus 11 relating to Kent Karrier services. These are summarised in Appendix A. In the 2015 / 16 financial year, KCC made payments to operators of £7.26m relating to the provision of Public Bus services. This is formed of £6.5m of contractual payments (KCC subsidy) and £761k of payments made in respect of Bus Service Operator's Grant (BSOG).

KCC receive £1.087m from DfT for the BSOG devolved funding and these payments are not therefore made using KCC funding. The Supported Bus budget also attracts income from other sources such as EYP and other Local Authorities. These incomes total up to £1.07m and reduces the net spend from the budget to around £6.2m

These contracts were procured through a Dynamic Purchasing System (DPS) established in 2011 however, this expired in October 2015. The expired DPS had approximately 30 operators which has enabled them to be engaged for mini competitions.

The Transport team employs a number of different commercial and delivery methods; for example, KCC will provide its owned vehicle as part of the contract for performance of the work in some instances. This approach is sometimes shown to generate a marginal saving to the Council overall, when depreciation and vehicle management costs are accounted for.

The Council also has 11 contracts for provision of Kent Karrier services across the County. The Kent Karrier services typically operate on a membership basis and provide a more demand responsive (dial-a-ride) service. They are designed for users in more remote areas of the County who do not have access to a bus or rail service or for members who have mobility or other impairment deeming that they are unable to use more conventional public

transport. Many of these services are provided by voluntary sector operators using a variation of the PSV license, a Community Transport permit. Use of this sector typically provides cheaper costs to the Council and it is therefore intended that operators licensed in this way form part of the procurement solution. A South East Kent Rural Transport Network will be part of the Kent Karrier service but a procurement exercise will be carried out separately on this occasion due to time constraints. Future procurement of the service will be under the Supported Bus contract platform.

Home to School Transport Services

There are currently a total of 125 approved providers of this form of transport to the Council. Of these 73 hold live contracts of which there are around 320 (see Appendix B).

In the 2015 / 16 financial year, KCC made payments to PSV operators totalling £5.1m relating to the provision of transport for children entitled to free home to school transport. This spend provides transport of 6,500 entitled school children and is paid by EYP's Mainstream Transport budget.

These contracts were procured by issuing tenders via email to a managed list of suppliers who have presented themselves to the Council and who have passed a series of pass / fail entry questions verifying their ability to legally provide this sort of services. There are currently 125 approved suppliers.

One of the continuous improvement aims of this contract will be to consider where routes and vehicle options can be consolidated (as well as separated) to receive better outcomes.

Appendices A and B detail the current scope of contracts that will be tendered through this contract.

Market Position:

Entry to the PSV market is regulated by the Department for Transport through the Traffic Commissioner (TC) for the South East and Metropolitan traffic area. The TC determines whether operators are an appropriate body and have the financial requirements to provide PSV services. The TC also regulates the number of vehicles an operator can have through issuance of 'O' Licenses.

The scale and scope of suppliers varies from large multi-nationals such as Arriva and Stagecoach, who are licensed to provide hundreds of vehicles countywide to sole trader organisations carrying a license to operate one vehicle. In between a large number of medium sized operations exist and a significant bank of SMTs hold multiple contracts with the Council. Whilst all groups are represented within the current Local Bus and Schools Transport market, it is considered that as a general rule, larger organisations with multiple vehicles approved by the TC tend to be more evident with the local bus service market while the Home to School providers can tend to be smaller organisations with fewer vehicles approved by the TC.

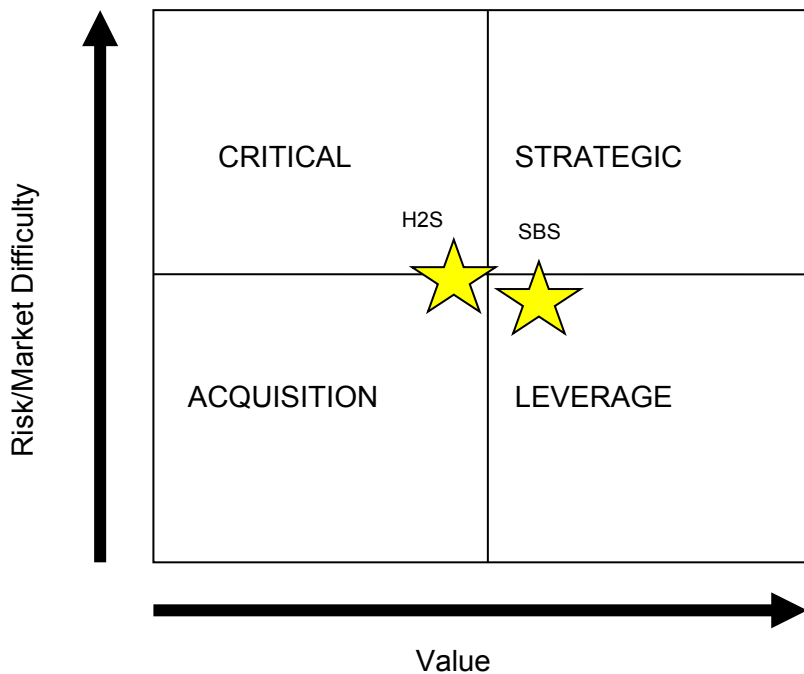
Levels of competition have been seen to fluctuate over the life of the current procurement arrangements. For example, levels of competition in north West Kent have seen a significant increase in recent years which has been supported by the ability of new suppliers to enter into competition without time restrictions. This has seen response rates to tenders for local bus work in this area increase to the benefit of cost.

Conversely, competition for bus services in parts of East Kent is cause for concern following the demise of some smaller operators in recent years. However, the same trend is not experienced with respect to Home to School transport services which aligns with our having a larger number of registered suppliers for schools transport work than there is for bus

services despite there being no difference between suppliers in terms of licensing or regulation.

Some more Schools Transport PSV suppliers have traditionally not held an interest in tendering for Public Bus Service work despite there being no legal of licensing barrier to them entering into this market. This is probably best understood in terms of local bus work being considered to be more specialised and complex to provide. To an extent this is true given that Public Bus Services have unique elements (not present on Coach and Minibus work) notably in terms of the need to charge fares (and therefore handle cash have ticket machines), register services with the Traffic Commissioner and to a certain extent demand different vehicle features such as a destination display. It is considered that there are many very capable school transport operators who would be able to provide public bus services to the required standard. Standardising the supplier base and the procurement platform would expose them to these opportunities and facilitate KCC positively engaging and supporting them to compete for local bus work.

The current state of the market risk/value matrix is that the two markets are in different stages. However, as mentioned above, this distinction is somewhat artificial as the operators are, in theory, very similar and there is no legal reason why there cannot be cross-tendering. The cause is mostly based on minor operational differences. One of the aims of bringing these two services under one contract is to increase cross-tendering opportunities.



Procurement Risks:

Procurement stage	Risk	Controls/Mitigating Action
Pre-tender Planning	➤ Managing contract ends/ extensions/ variations of current contracts.	<ul style="list-style-type: none"> ➤ Transport have confirmed that all current contracts that expire before January will be extended, by when the DPS should be live. Should there be a delay in putting the DPS in place; arrangements will be made for further extensions. ➤ TUPE is a consideration for

		the transition of contracts. Communications with current providers is crucial to understand situation.
DPS setup	➤ Failure to meet agreed timetable (particularly with the high volume of providers to be evaluated).	<ul style="list-style-type: none"> ➤ Ensure robust resource management. ➤ Maintain a managed project timeline. ➤ Regularly review project progress.
DPS setup	➤ There is the potential risk of not having sufficient competition in some regions.	<ul style="list-style-type: none"> ➤ This risk has been mitigated by having just the single Category (Lot) which should ensure that routes/ services can be consolidated and encourage competition. ➤ Provide early pipeline information and educate providers on sub-contracting opportunities.
DPS setup	➤ There is the potential risk of a lack of sufficient providers registering on the DPS.	<ul style="list-style-type: none"> ➤ Ensure proper market engagement undertaken. ➤ Actively encourage providers to register. ➤ Monitor interest and registrations.
DPS setup	➤ Risk tender documentation and Terms and Conditions are not fit for purpose.	➤ Legal services are currently reviewing the terms and conditions to ensure they are suitable for a DPS.
DPS management	<ul style="list-style-type: none"> ➤ Compliance with managing mandatory turnaround times and notices. ➤ ensuring due diligence of mini-competitions. ➤ ensuring minimum standards/ requirements are maintained. 	<ul style="list-style-type: none"> ➤ Detailed management and resource plan for the DPS will be created and circulated to all relevant parties. ➤ Systems and process training to be provided to relevant personnel. ➤ Process training will include how checks will be carried out and how providers will be suspended and reinstated.
DPS management	➤ Savings achievement.	➤ Regular reviews to track savings.

Procurement Route Options & Evaluation:

1. Procurement options – Supported Bus and Home to School Transport

Option 1 : Standard contracts through Open/ Restricted procedures

There is an option of competing each of the contracts as they expire through Open or Restricted procedures. This option will not require as much preparation and market engagement as will be the case for either the Framework or the DPS option however, the volume of contracts mean there will be continuous full procurements being carried out and the resources required will be enormous and the process would not support the requirement for more rapid procurement.

Option 2 : Single Provider Framework contract

The Framework option enables the Authority to work with one or more providers over a period of time determined by the Authority. The single provider framework option will be for a lead Provider to manage all the Authority's requirements and sub-contract where necessary.

This option should reduce the Authority's contract management burden by only dealing directly with one provider and provided Key Performance Indicators and Service Levels have been meticulously set, should improve efficiency. On the other hand, the Authority is one step further removed from delivery of a key service and in particular with respect to children's safeguarding. In addition, it needs to be considered that a large number of suppliers are already needed to service demand in these areas and this approach is not favoured by the market. As such, this type of arrangement and will likely not be workable in the current climate.

Option 3 : Multiple Provider Framework contract

A more flexible and conventional framework option is to have a number of providers which could be split by the required geographical or service Lots. The advantage of this option is that it reduces the number of providers the Authority will be managing and, in theory, could provide superior savings to the other procurement options because providers should be more competitive with their prices to ensure they make it onto the framework. The disadvantage of this option is that because of the high volume of contracts, time-sensitivity, service types and market composition, the advantages may not be fully realisable.

Option 4 : Dynamic Purchasing System (DPS)

This is created for commonly used purchases the characteristics of which as generally available on the market. The system may be divided into categories of services that are objectively defined, for example geographical area, in which subsequent specific contracts will be performed. It is operated as a completely electronic process, open for the validity of the purchasing system to any supplier that satisfies the selection criteria (if applicable for each category). Additional participants may enter the DPS provided they meet the required selection criteria. All admitted participants would be invited to tender for each specific procurement under the DPS. In order to procure a DPS the Restricted process must be used.

The DPS may offset an often cited criticism of the framework, which is that it is more skewed towards the larger organisations at the expense of smaller and potentially more dynamic organisations. The fact that more providers can join the DPS could provide further competition and potentially better commercial and delivery outcomes.

Feedback from other Local Transport Authorities generally indicates that a larger and more fluid supplier base, supported through a DPS has a positive impact on competition and cost. A link to a recent example report follows relating to Haringey Council who have recently adopted a DPS to secure transport services follows;

http://www.useadam.co.uk/news/haringey-lbc-increase-their-supply-chain-by-62/?utm_source=Transport+emails&utm_campaign=7e8d63c76b-Transport_May_Newsletter5_25_2016&utm_medium=email&utm_term=0_7b2865a448-7e8d63c76b-434416461

2. Procurement options – South East Kent Rural Transport Network

Open OJEU Process

An Open process allows all suppliers expressing an interest in the opportunity to submit a tender. The timescale may be reduced to a minimum of 30 days (using electronic tendering), but this process may require considerable time and resource for the drafting of

the requirement and documentation & supplier assessment. The Open process could encourage a wide range of bids, therefore, carefully structured Mandatory Requirements would be required, to help ensure that only those qualified to bid would submit a tender.

Restricted OJEU Process

This involves a two-stage process of a Pre-Qualification Questionnaire, followed by an Invitation to Tender for those that successfully pass the PQQ stage. The Restricted process allows the Authority to deselect suppliers not capable, or with insufficient financial or technical capability, to perform a given contract. In a saturated market, this should reduce the number of tenders to be evaluated, through the pre-selection of suitable suppliers.

Single-Source

Given its potential value, this Procurement would be subject to a full OJEU Procurement process. Failure to follow this procedure would bring significant risk of legal challenge. Since this requirement has not been competitively tendered for a number of years, a lack of competition is not to be recommended for the achievement of Value-for-Money.

Competitive Dialogue

The service needs are well defined and understood, therefore, there is no need for an expensive and elongated Competitive Dialogue process. This procedure is not appropriate for this requirement.

Call off from an external Framework

No suitable local bus service frameworks have been identified; many are specific to a particular region, and its local supply base. Work is underway to establish a suitable KCC contractual 'vehicle' for future requirements.

KCC Public Transport to perform service in-house

Since KCC transport own a number vehicles that could be used to operate this route, the option of in-house provision has been considered. However, the Council does not currently hold the appropriate PSV license and, as an organisation has moved away from the in-house provision of bus services. Historically, a number of services had been delivered by Kent Top Travel, when owned by KCC.

Current method of procurement through an approved list

This option involves using the current method of procurement and inviting tenders from providers on an approved list. There are resourcing issues currently and this option has the shortest timeframe and the market is experienced in this method of procurement so there would be no need for any upskilling of the market. The Public Transport team estimate that savings in the region of £40k - £50k per annum may be achieved through this rationalisation.

The values of these contracts exceed both 'Spending the Council's Money' and the OJEU financial limits but this method has been used for many years within transport and is accepted as the norm by the market. Due to this there is a low risk of challenge. This risk may be considered acceptable as work is already ongoing to put the DPS in place and future procurement will be carried out using the Supported Bus and Home to School DPS.

Procurement Route Recommendation:

Following consideration of the options detailed above, the recommended procurement route for the Supported Bus and Home to School transport services is through a Dynamic Purchasing System (DPS).

The South East Kent Rural Transport Network procurement will be carried out using the current method of an approved list. Future tenders of the service will be under the Supported Bus and Home to School transport DPS.

Other considerations

Category composition – For the DPS, There was consideration given to having defined geographical categories and/ or vehicle type categories but this risks unduly fragmenting the market and reducing competition. There will therefore just be one standard category based on the three services i.e. Supported Bus (including Kent Karrier) and Home to School. This supports the idea of bringing the two services closer together and making the currently divergent markets to consider cross-tendering.

Contract duration – For the Supported Bus and Home to School Transport DPS, having considered a number of contract lengths, it was decided to go with a 10 year contract. This will standardise the DPS contract duration across the Transport services and provide at least two cycles of mini-competition re-tendering for all the contracts detailed in Appendices A and B (assuming the current standard of 4 year contracts continue).

For the South East Kent Rural Transport Network procurement, there are a two options:

Option 1 – A contract length of 1 year, after 12 months the contract will be re procured through the DPS. This minimises the risk of challenge as it is only a reasonably short period of time the contracts do not comply with OJEU requirements. This option is unlikely to generate a competitive price owing to the shortened length of contract and also causes practical difficulties relating to the transfer of vehicles that will be allocated as part of the agreement. In addition, this would also cause distress and concern for service users who will include SEN children and the elderly members will experience and unnecessary amount of change.

Option 2 – A contract length of 5 years with an option for a one year extension. This would increase the risk of challenge as it would mean the period of time the contracts do not comply with OJEU requirements is increased. Although this option would be better financially for the Council and for the service user as they would have consistency in the service they receive for a longer period of time.

Other commercial considerations – As part of the specification development for the DPS, the following considerations will be finalised:

- Evaluations for contract/ route consolidations, which may include termination of some existing contracts;
- pricing options for individual contracts;
- vehicle type considerations; and
- asset provision e.g. Authority vehicles

Expiring contracts - There are currently 7 Supported Bus and 112 Home to School contracts that will expire before the planned DPS goes live in January 2017 (see Appendices A and B).

These contracts have extension options and these options will be taken for short periods until the DPS is live.

Outline Timescales:

For the Supported Bus and Home to School transport service DPS, the most time consuming element of this will be the market engagement it is a big piece of work to upskill the market.

Task	Start Date	End Date
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Planning	June 2016	July 2016
Market Engagement	July 2016	October 2016
Develop Tender Documents and internal processes. (Includes internal training)	July 2016	October 2016
Initial Tender Period	October 2016	November 2016
Tender Evaluations	November 2016	December 2016
DPS Go Live	December 2016/ January 2017	

For the South East Kent Rural Transport Network procurement, the current method of an approved list would begin in June/ July 2016 and end September/ October 2016.

Task	Start Date	End Date
Develop Tender Documents	June 16	June 16
Initial Tender Period	July 16	August 16
Tender Evaluations	August 16	August 16
Contract Award	August 16	October 16

Resources Required:

All final resources are to be identified and agreed as part of the detailed project planning phase which is currently underway.

Current method

Resource	Role
Ola Yerokun	Procurement Advice
Steve Pay	Public Transport Client lead
Evaluators x2	Transport client group
Steve Pay	Ongoing management of the contract.

Dynamic Purchasing System

Resource	Role
Communication Resources	To communicate with schools, parents and suppliers
Ola Yerokun	Procurement Lead
Phil Lightowler	Public Transport Client lead
Evaluators x5	Transport client group
Scott Bagshaw	Admissions & Transport Client lead
Solicitor	Legal support for terms and conditions review/update and TUPE advice as required
Health & Safety Advisor	Health & Safety aspects
Tim Edwards	Ongoing management of the DPS.

Reviews Planned:

Regular updates will be provided to the Strategic Commissioning Board and Project team as required.

Approval to Proceed:

Signed (Procurement Professional in accordance with Delegated Authorise Matrix
: Name: Date:

Check List

Please review items on check list and complete response box and where appropriate include in plan above.

Check Item	Action Required	Response
Social Value	Social Value needs to be considered	Social value considerations will be incorporated into the Specification and Performance framework (for ongoing contract management). Market engagement will seek Expertise in social, economic and environmental aspects.
Equalities Impact Assessment	Is and impact assessment necessary, in most cases this will be a requirement the Service are responsible for carrying this out. If in doubt contact Janice Hill, Equalities & Diversity Officer 01622 221981	Initial EIA has been shared with Equality and Diversity Officer. EIA will be updated with information supplied through the planned engagement with stakeholders through this process.
Legal Support Required	Legal support requirement should be considered and agreed with the client. Also if a risk of challenge has been highlighted this should be communicated to legal and added to the risk register on the shared drive.	<i>Terms and conditions required for both the overarching contract and individual mini-competitions.</i>
Kent Business	Ensure plan has addressed supporting Kent Business	The planned procurement will support Kent Business potentially securing larger contracts. It will also ensure opportunities for sub-contractors which will support smaller local operators unable to bid for the entire contracts which are available. This opportunity will be advertised on the KBP and the sub-contractor facility promoted.
TUPE/Pension Staff Transfers	Ascertain if there is any possibility of staff transfers and discuss with Client. If TUPE or Pensions may be involved for TUPE discuss with legal for Pensions see Steven Tagg	Currently no TUPE implications have been identified. These will be addressed with current suppliers throughout the process and if applicable then information will be shared with bidders during the tender process.
Environment	Are there environmental issues or implications in this contract	
Business Continuity	Business continuity issues this does not just mean IT but consideration of providing essential services	Business Continuity considerations will be considered through the Specification and KPI development.
Financial Risk	What is the financial risk associated with this contract, Supplier Risk: how much assessment of the supply base is necessary, what is the risk if a supplier fails. If the tender is above EU value we should use Finance Projects Team to carry out financial assessments. Budget Risk: Is the budget confirmed for the duration of the contract	Many suppliers currently working for KCC have not undertaken a financial assessment to date. Validation of the robustness of the financial assessments needs to be undertaken to ensure that assessments do not destabilise the supply base, which on the whole are small businesses. If a supplier were to fail, there is a vast supply base that could step in and ensure the service continues uninterrupted. As part of the initial review adequate

		budget provision will be confirmed via the EY EPA Admissions & Transport budget holder.
Collaboration/Access to Contract	Will this contract be shared with others, if so how is procurement being undertaken.	<i>The contract will be used by KCC only</i>
Authority to Award	Has the Client ensured that the correct authority, will be in place when contract needs to be awarded. Suggest to the Client they need to do this now.	A Key Decision will be required as the total spend is over £1m Also Member approval will be required for the Award Report sign-off.
iProcurement	Is the client aware it is mandatory to raise an iProc order for any spending? Have the advantages of this been explained to the client? What advice has been given by the P2P team?	<i>Clients will be re-informed of this requirement for each contract awarded through a mini-competition.</i>

RACI Template

Detailed project plans will be developed and agreed with all parties this will include roles and responsibilities.