

19/61

+ Exempt Appendix
Not for Call-In
Havering
LONDON BOROUGH

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because refers to information relating to the financial or business affairs of any particular person, including the authority holding that information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Provision of Passenger Transport Services to Thurrock Council
Cabinet Member:	Cllr Damian White, Leader of the Council
SLT Lead:	Jane West
Report Author and contact details:	Mark Butler, 01708 432947 mark.butler@onesource.gov.uk
Policy context:	Supports outcomes within the broader Opportunities context of the Havering Corporate Plan
Financial summary:	<p>Successful bids will result in additional staffing and vehicle costs which will be offset from contract income. Prices have been set to recover operational costs, to provide an appropriate contribution to overheads and include an element to offset the risk of increased costs,</p> <p>Winning bids are likely to result in the need to procure additional vehicles funded by the internal leasing reserve which will be replenished over time via an annual charge to revenue</p>

Key Executive Decision – Part Exempt Report

Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	14 th August 2019
Relevant OSC:	Children & Learning Overview and Scrutiny Committee
Is it an urgent decision?	Yes
Is this decision exempt from being called-in?	Yes – the tender invitation issued on 7 th August requires submissions by 14 th August 2019

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve a tender submission for the provision of Passenger Transport Services to Thurrock Council for a 4 year period commencing September 2019.

AUTHORITY UNDER WHICH DECISION IS MADE

For the Leader

Part 4: Rules of Procedure

Working with Third Parties

E9 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies.

STATEMENT OF THE REASONS FOR THE DECISION

The Passenger Transport Service's (PTS) principal role is to provide home to school transport on behalf of Children Services' clients and a number of additional routes on behalf of Adult Services. In recent years the PTS service has sought to minimise costs to internal clients by successfully tendering for external work and using this additional income to defray fixed costs e.g. depot overheads. As a result of this strategy, external income has increased over the last 5 years from £350k p.a. to approaching £1.m p.a.

Havering PTS have undertaken a varying number of Home to School routes on behalf of Thurrock Council over the past 5-6 years, contracts for which were won through a competitive tender process having successfully been accepted onto Thurrock's framework for transport services. These contracts expired in July 2019.

In addition to contracted work on regular routes, the PTS service also markets to schools, academies and other organisations within Thurrock in order to secure additional 'ad-hoc' work to increase fleet utilisation and income.

Thurrock Council are re-procuring their transport arrangements for Home to School and SEND clients. Havering PTS submitted an earlier tender to Thurrock Council in March 2019 for 23 of the 80 routes being offered at that time (Key Executive Decision issued 4/3/19 refers). Whilst Havering PTS were successful in satisfying the quality criteria and consequently qualified for Thurrock's transport framework, they were not awarded any of the Thurrock routes at that point.

Thurrock Council have subsequently contacted Havering PTS earlier this month to offer the opportunity to re-tender for up to 22 of the routes within the original 80.

Having reviewed the tender invitation, Havering PTS are proposing to bid for the routes as set out within the confidential appendix to this report.

OTHER OPTIONS CONSIDERED AND REJECTED

Havering PTS could decline to tender for this work, effectively withdrawing from operating the routes currently provided on behalf of Thurrock with the consequential loss of income and contribution to central overheads.

Alternatively, Havering PTS could simply apply for qualification onto the Thurrock transport framework, but not bid for any contract routes, instead relying upon the opportunity to attract ad-hoc hire, via the framework. The likelihood of attracting ad-hoc work in this manner is likely to be severely impaired if the Havering PTS fleet is not undertaking contract work and visible within Thurrock.

Loss of current routes may result in the TUPE transfer of existing drivers and passenger assistants to the new provider. If this is not the case most staff would be transferred to existing Havering routes which are currently being covered by either zero-hour contracted staff or agency staff. For excess staff affected that cannot be accommodated within existing (or other new routes) redundancy/redeployment may arise. Consideration would also need to be given to disposal of the vehicles.

PRE-DECISION CONSULTATION

None

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Mark Butler

Designation: Technical Director - OneSource

Signature: 

Date: 14/8/2019

be managed by the creation of an earmarked reserve. The Transport service has a corporate savings/income target of £50k from 2019/20 and any contribution to overheads generated through any Thurrock contracts will help meet this savings target.

No TUPE information has been provided by Thurrock Council. As such prices have been based on Havering staff costs. Should TUPE costs be identified at a later date that exceed those contained within the bid we would have the option to decline to accept the route.

Any redundancy costs arising would either be funded from the Council's provision for such costs and/or contained within PTS budgets.

Capital Implications

Changes in other routes mean that 7 existing vehicles will be available to service Thurrock work. In the unlikely event that Thurrock were to award Havering more than 7 routes, the Council may need to decline the additional routes or consider procuring additional vehicles. The purchase will be funded by the internal leasing reserve which will be replenished over time via an annual charge to revenue.

These revenue costs associated with fleet procurement are included within the calculation of operating costs referred to above and would be fully recovered over the contract period.

There are no other infrastructure costs relating to this tender proposal as any routes awarded by Thurrock to Havering PTS would be operated from existing depot facilities. Workshop capacity can absorb any increase to the fleet.

Risks

Whilst every effort has been made to estimate costs associated with potential routes, there is a risk that actual costs and therefore contributions to overheads will differ. This may arise for a number of reasons, wherever possible, this will be offset from additional income received as a result of ad hoc work and/or contained within overall Passenger Travel Service Budgets. Where costs cannot be contained, the issue will be raised through normal budget monitoring processes.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

TUPE protection (Transfer of Undertakings (Protection of Employment) Regulations 2006) would potentially apply as a result of changes to existing Thurrock transport arrangements where staff are dedicated to specific routes.

TUPE protection would potentially apply in both directions i.e.

- to Council drivers and passenger assistants dedicated to any current Thurrock

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The recommendations within this report seek authority to tender to supply services to Thurrock Council relating to Passenger Transportation.

Local Authorities (Goods and Services) Act 1970 allows the Council to charge and make a profit from Public bodies such as Thurrock Council within the meaning of the Act. Such powers may be supplemented by other legislation notably Council has a wide "general power of competence" under s1 Localism Act 2011 to do anything that individuals can generally do subject to statutory restrictions.

s113 Local Government Act 1972 permits the Council to enter into arrangements to put staff at the disposal of another authority for the purposes of delivery of their functions. Agreement from the staff is required. Similarly the Council can utilise its equipment to deliver such arrangements.

The recommendations in this report are compatible with the above statutory powers.

During tender process before submissions deadlines the Council will advise Thurrock Council of any TUPE liabilities arising in line with Transfer of Undertakings (Protection of Employment) Regulations 2006 which, in the event of failing to achieve an award of contract to Havering, any new provider of the service will be expected to take on such liability. Information will also include any pensions arrangements and liabilities arising.

Any requirement to procure additional fleet will be the subject of separate governance decisions duly made under the constitution.

FINANCIAL IMPLICATIONS AND RISKS

Revenue Implications

The costs associated with submitting the tenders has largely been in relation to use of existing staff time, with the possibility of additional driver costs in order to assess the new routes. These costs can be contained within existing Passenger Travel Service revenue budgets.

Should the bids be successful there will be additional staffing and vehicle costs associated with each route. These will be offset from the contract income. The Thurrock routes being tendered for have been costed to cover all operational costs (staff, vehicle, fuel etc) and to provide a contribution to overheads.

The tender sum is fixed throughout the 4 year period with no provision for indexation - consequently account has been taken of pay increments and projected increases in other operating costs up to 2023 in order to ensure that inflation risks have been mitigated. The expectation is that the impact across the different financial years will

Key Executive Decision – Part Exempt Report

- route which is transferred from September 2019 to another provider to any external staff working for other providers on dedicated routes that are subsequently awarded by Thurrock Council to Havering from September 2019 onwards.

Previous transfers in provider have not resulted in TUPE protection being claimed but the possibility remains depending on the TUPE information received in relation to this tender. The risk to the Council applies not only those routes lost from the current contract, thus potentially moving staff from the Council but to routes won, whereby the existing staff working that route are covered by TUPE protection and transfer to the Council on their current terms and conditions.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

From a staff perspective, the proposals within this decision do not have any disproportionate impact upon any group with protected characteristics. The part-time nature of the work does tend to attract a higher proportion of older/retired employees albeit the service is seeking to attract a broader cross-section of staff of varying age.

From a customer perspective, a high proportion of the service users have disabilities although the continuance of this work, means there is no greater or lesser impact on equalities.

BACKGROUND PAPERS

None

APPENDICIES

Appendix A	Details of proposed tender submission	Exempt
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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

~~Proposal NOT agreed because~~

Details of decision maker

Signed



Name: Councillor Damian White

Cabinet Portfolio held: Leader of the Council

Date: 14/8/2019

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 14/08/2019

Signed

