



**Executive**  
19 September 2011

**Report from the Director of  
Finance and Corporate Services**

For Action

Wards Affected:  
ALL

**Authority to tender for the provision of a framework for passenger transport services for participating boroughs in the West London Alliance**

**1.0 Summary**

- 1.1 Brent Council is participating in the West London Alliance Transport Efficiency Programme (“the Programme”) in collaboration with the London Boroughs of Barnet, Ealing and Hounslow (known here collectively as the “Participating Boroughs”), with the potential for wider collaboration over the next few years with other future partner organisations including London Boroughs, the NHS, Transport for London and other relevant public sector providers.
- 1.2 The Programme seeks to deliver savings in the cost of transport provision for participating partners, whilst maintaining or improving service standards, through a wide range of collaborative initiatives including the procurement of a single framework for the provision of contracted passenger transport services for the carriage of vulnerable adults, children/young people with Special Educational Needs (SEN) children, disabled people, patients and other authorised individuals (“the Framework”). The provision of high quality accessible passenger transport services is a crucial enabler for these groups to access services and facilitates inclusion and independence.
- 1.3 Officers have proposed that Brent Council acts as the lead borough and central purchasing body for the procurement of the framework to facilitate the widest possible access to the framework for Participating Boroughs and relevant public partner organisations. The Framework is expected to provide savings through greater economy of scale, and more efficient operating arrangements than the current single borough arrangements.
- 1.4 The new Framework will replace existing frameworks and contracts for passenger transport services held by Participating Boroughs. Participating Boroughs and other public partner organisations will call off from the new Framework subject to acceptance and completion of appropriate access agreements.

1.5 This report requests approval to invite tenders for the framework, as required by Standing Orders 88 and 89. The Framework will operate for a period of four years and will commence in April 2012.

1.6 The Participating Boroughs have given their agreement that this requirement should be tendered by Brent as Lead Borough for this Procurement.

## **2.0 Recommendations**

2.1 The Executive to give approval to the pre - tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 7.1 of the report.

2.2 The Executive to give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 2.1 above.

## **3.0 Background**

3.1 Councils provide passenger transport services to meet their statutory duties to facilitate access to schools/colleges for children and young people with Special Educational Needs, and to provide access to care centres and other facilities for vulnerable adults. Typically, these services are provided using a mixture of in-house or contracted transport services, determined by value for money considerations and local requirements.

3.2 Amongst the Participating Boroughs for the Programme, Barnet, Brent and Hounslow operate such a mixture of in house and outsourced services whilst Ealing uses only contracted transport services. It is intended that the mixed approach will continue as part of the collaborative approach being adopted by the Programme, although there may be some adjustment in the balance between the use of contracted transport and in-house according to the relative costs prevailing at the time.

3.3. The intention is that the Programme will establish a Regional Transport Bureau (the "Bureau") to be hosted in Hounslow in the autumn of 2011. This Bureau will act on behalf of the Participating Boroughs to provide passenger transport and other transport related services. Initially, the Bureau will call-off passenger transport services from existing passenger transport frameworks and contracts established by Participating Boroughs, and from the in-house transport services operated by the Participating Boroughs, as appropriate, to provide best value. These arrangements will operate on the basis of a Service Level Agreement (SLA) between the Bureau and the Participating Boroughs; this SLA forms part of an Inter-Borough Agreement for the whole Programme.

3.4. However, the intention is to procure a new single Framework for the provision of contracted transport services for all Participating Boroughs by 1 April 2012 that will offer better value for money than the current individual Borough contracts/Frameworks through economy of scale and a continuously competitive Framework. The new Framework will be used by the Bureau to provide contracted transport services required by Participating Boroughs, where required, as existing contracts/frameworks expire or options to extend are not taken up, or are terminated.

3.5 Amongst Participating Boroughs, current frameworks/contracts are currently due to expire as follows:

- Barnet - April 2012 or September 2012 with 6 month extension
- Brent - December 2012
- Ealing - April 2012 (Adults), September 2012 (Children)
- Hounslow - 2014

Participating Boroughs may elect to terminate existing frameworks/contracts early to benefit from the new Framework if this is permitted contractually, would be advantageous and would not incur unacceptable financial penalty.

3.6 The proposed Framework will provide passenger transport services that meet the requirements of Participating Boroughs, as described in the detailed Specification that will be prepared as part of the Invitation To Tender. These services will include:

- Provision of regular passenger transport services to and from a range of destinations within and beyond the boundaries of Participating Boroughs
- Provision of ad hoc passenger transport services for the movement of staff and clients on behalf of Participating Boroughs. Additionally, provision may be made for clients with Personal Budgets to make use of the Framework through arrangements commissioned by the Participating Boroughs through the Bureau, according to the requirements of Participating Boroughs.
- Provision of a range of vehicle types from saloon cars to 55-seat coaches and including wheelchair accessible vehicles
- Provision of vehicles, drivers and (where required) passenger attendants to carry out the required services that meet the

standards described in the Specification including vehicle roadworthiness, staff vetting and staff training

- 3.7 The Specification is being developed within the Programme by the Contracted Transport Working Group which comprises representatives from all of the Participating Boroughs. This will draw upon best practice from all Participating Boroughs and from the knowledge and experience in this area provided by the supporting consultants for the Programme to produce a single common Specification.
- 3.8 The requirement to continue to provide high quality contracted passenger transport services is a key requirement of all Participating Boroughs. This will be ensured through the Framework terms and conditions of contract and associated detailed Service Specification. Moreover, the Bureau will monitor the required standards of quality, performance, training, Public Carriage Office licensing, and Enhanced Criminal Record Bureau compliance from providers appointed to the Framework through regular monitoring and compliance meetings. The need to maintain safe, secure and suitable providers for vulnerable clients will continue to be paramount.

#### **4.0 Approach to the Market**

- 4.1 The general Private Hire market in London is well-developed, well-regulated (through the Public Carriage Office) and highly competitive, with companies ranging in size from small local private hire providers (known colloquially as 'minicabs' and hired on a booking only basis by the general public), to large private hire and 'black cab' companies operating across all, or large parts, of London, and to providers that specialise in contracted work with generally larger wheelchair-accessible vehicles. Some of the companies can provide Passenger Attendants but others provide vehicle and driver only. Across this range of companies, many have acquired considerable experience in meeting local authority requirements.
- 4.2 Experience has shown that local authority contracted transport frameworks are generally best comprised of a mixture of companies across the range described in paragraph 4.1 above. Typically, local private hire providers prove most economic for the shorter journeys that take place within the borough because their price model spreads costs over a large number of such journeys and their vehicles and drivers are highly-utilised. However, such companies may have limited resources, particularly with regard to accessible vehicles, they may not always be commercially stable although many have been in business for many years, and they may not be able to provide, or be willing to recruit and manage, Passenger Attendants. Whilst the larger companies in the private hire market may often offer newer vehicles of a higher presentational standard than the smaller companies, and may have greater experience in local authority work, this is reflected in their pricing

which does not always represent best value in the scale of a single local authority contract. Moreover, their overheads are often higher and their pricing may be less flexible than is required for local authority work. The more specialist companies may better understand the needs of local authority service users, and often have well-developed training regimes for drivers and Passenger Attendants, but their larger vehicles are generally poorly utilised and their pricing, when profit and overheads are taken into account, does not always compare favourably with the most efficient local authority in-house transport providers. Moreover, because such companies do not generally ply for 'hire and reward', they may be less well-regulated than the wider private hire market and require greater monitoring for compliance and operating standards. A properly configured procurement of a contracted hire framework will balance these competing factors and ensure that Participating Boroughs can benefit from the use of the most appropriate providers across the whole range of providers and secure the best value in every circumstance.

- 4.3 It is also recognised that local private hire providers contribute to local economies in terms of employment opportunities and vehicle purchase and maintenance, and many have a history of providing services to Local Authorities. Therefore, to the extent that considerations with regard to EU procurement legislation, value for money and service requirements will allow, the procurement of the Framework will make opportunities available for local companies to participate through the tendering of four Lots based on the origin of required journeys across Participating Boroughs.

## **5.0 Procurement Approach**

- 5.1 The analysis of the market demonstrates the need for the Framework to be able to draw upon the whole range of private hire providers available in London to meet the needs of Participating Boroughs. This will be achieved through a strategic sourcing approach to the market through the tender process which will ensure that the Framework incorporates a range of providers that can meet all of the WLA's needs in terms of vehicle size/type, accessibility, provision of Passenger Attendants and so on, whilst not requiring all of the participating providers to be able to meet all of them.
- 5.2 Tenderers will be required to provide pricing on a per mile basis, across distance bands, according to vehicle type (including cars, wheel chair accessible vehicles, minibuses and coaches). This provides a firm and generally indisputable basis for pricing each journey, provides a simple and inclusive basis for journey price costing and payment, and ensures that providers that can operate most cost-efficiently on shorter or longer distance journeys, or across all journey lengths, will be readily apparent to the Bureau. However, it is accepted that in some circumstances it may be more cost beneficial for the Bureau to carry out a secondary competition for specific

journeys amongst providers participating in the Framework, and the Terms and Conditions of the Framework will allow for this.

- 5.3 The new Framework will operate on the basis that passenger transport services will only normally be offered to providers within the Framework, and that such work will be awarded to the provider offering the best price within the agreed pricing matrix for the service required or resulting from a secondary competition, and with the capacity to provide the service. Once the Framework is in place, it is intended that price variations will be strictly controlled within the agreed Conditions of Contract through the application of a price adjustment mechanism. It is anticipated that providers will only be permitted to vary the 'per mile' prices offered on an annual basis, and only with full supporting justification, unless there are exceptional circumstances. The inclusion of a price adjustment mechanism is considered essential to enable providers to reasonably reflect the volatile costs (e.g. fuel) of transport services in their prices and, importantly, to enable them to compete more aggressively for business during the life of the Framework. Experience in Brent and elsewhere has shown that the competitive pressures that operate within a framework configured in this way act to constrain speculative price increases and gives the potential for providers to increase their share of the business available by managing their costs tightly and reducing prices.
- 5.4 In a single local authority in London, it would be expected, normally, that at least 8-12 providers would be required in a framework to provide adequate coverage and capacity across the range of journey/vehicle requirements, continuous price competition within the period of the framework, and a degree of redundant capacity against the possibility of the failure of a company or a withdrawal from the framework over the course of its life. In the case of the new Framework, simply scaling this number of providers over the number of participating, and potential, participating Boroughs/organisations, would run the risk of engaging an unmanageable number of providers. Therefore, it is envisaged that the approach to the market, whilst remaining as open as possible and aiming to secure sufficient capacity across all requirements, will also wish to recognise the benefits of a more consolidated approach to the tender requirement that some companies may be able to offer or be able to develop through acquisition or partnering/sub-contracting arrangements, or by acting as consolidators.
- 5.5 It is difficult at this stage to anticipate how the market will respond to the WLA's aggregated requirements for Participating Boroughs, and it is important that the ITT should not be unnecessarily restrictive, so as to encourage innovative responses. These requirements were explained to current and prospective transport contractors at a Trade Briefing on 4 August and it was made clear to them that the ITT will be developed carefully to balance the benefits of more consolidated offers with the need for best value and flexibility

across the spectrum of the requirement and the need to offer opportunities for local providers, subject to complying with the requirements of EU procurement legislation. The tender evaluation model will also take these requirements into account.

- 5.6 The contract value (approximately £46M over 4 years for the 4 Participating Boroughs) dictates that EU procurement regulations apply. It is the intention to use the restricted (two-stage) tender procedure, to be managed jointly by Corporate Procurement and the West London Alliance acting on behalf of all Participating Boroughs.
- 5.7 The procurement will follow a two stage process with suppliers invited to respond initially to a PQQ. These responses will be evaluated against published criteria and those successful will then be invited to submit tenders.
- 5.8 The evaluation of tenders will be weighted on a 60/40 ratio for price and quality, respectively, with the aim of securing the most economically advantageous tender for the Participating Boroughs; refer to Section 7 below.

## **6.0 Access by Other Public Bodies**

- 6.1 It is intended that the Framework should be made available to other public bodies, including the Participating Boroughs, other London boroughs and NHS Primary Care Trusts/Hospital Trusts (for non-emergency patient transport).
- 6.2 To enable other public bodies to access the Framework, Brent Council will act as a central purchasing body under the EU procurement regulations when establishing it. Other public bodies will be able to access the Framework by signing an access agreement which will require such organisations to comply with the terms of the Framework.

## **7.0 Pre-Tender and Procurement Considerations**

- 7.1 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>
(i)	The nature of the service.	Framework agreement for the Provision of Passenger Transport Services
(ii)	The estimated value.	£11.5m per annum for the Participating Boroughs (£1.125m per annum for Brent) and, over a four year period, approximately £46m for the Participating Boroughs (4.5m for Brent)
(iii)	The contract term.	Framework Agreement for a term of 4 Years. To start from 1 April 2012.

Ref.	Requirement	Response	
(iv)	The tender procedure to be adopted.	Restricted procedure - 2-stage tender process	
v)	The procurement timetable.	<p><b>Indicative dates are:</b></p> <p>Adverts placed in trade press</p> <p>Place OJEU notice</p> <p>Expressions of interest returned</p> <p>Shortlist drawn up in accordance with the Council's approved criteria</p> <p>Invite to tender</p> <p>Deadline for tender submissions</p> <p>Panel evaluation</p> <p>Report recommending Contract award circulated internally for comment</p> <p>Executive approval</p> <p>Mandatory minimum 10 calendar day standstill period notification issued to all tenderers</p> <p>Contract start date</p>	<p>20 Sep 11</p> <p>20 Sep 11</p> <p>31 Oct 11</p> <p>18 Nov 11</p> <p>18 Nov 11</p> <p>30 Dec 11</p> <p>3 Jan - 10 Feb 12</p> <p>15 Feb 12</p> <p>12 Mar 12</p> <p>19 Mar 12</p> <p>3 Apr 12</p>
(vi)	The evaluation criteria and process.	Shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines. The Pre-Qualification Questionnaire will probe the financial standing of the companies, business probity, technical expertise, experience, health, safety and environmental standards as well as available human resources and equipment.	

Ref.	Requirement	Response
		<p>Tenders will be evaluated and the contract awarded using the following criteria:</p> <ul style="list-style-type: none"> <li>• Price (60% weighting)</li> <li>• Quality ( 40% weighting ) covering: <ul style="list-style-type: none"> <li>- Proven ability to meet the requirements of the Service Specification.</li> <li>- Approach to the delivery of the service</li> <li>- Approach to ensuring standards are achieved</li> <li>- Development of good working relationship with the Council.</li> </ul> </li> </ul> <p>The relative weighting given to each individual evaluation criteria will be stated in the tender documentation.</p>
(vii)	Any business risks associated with entering the contract.	<p>The following business risks are considered to be associated with entering into the proposed contract.</p> <ul style="list-style-type: none"> <li>- Potential default by a contractor – mitigated by including a number of contractors appointed to the Framework.</li> <li>- Price escalation over the term of the contract mitigated by competition and requirements for a price adjustment mechanism.</li> </ul>
(viii)	The Council's Best Value duties.	<p>The established Framework with pence per mile pricing, and potential for further competition amongst Framework providers where appropriate will ensure best value for the Participating Boroughs. In addition further value for money will be achieved through aggregated spend within the Framework and across Participating Boroughs.</p>
(ix)	Any staffing implications, including TUPE and pensions.	<p>There are no implications for existing Council employees in Participating Boroughs. There may be 'Second Generation TUPE' implications for some Boroughs (excluding Brent) and there may be TUPE implications for employees of existing transport providers in relation to the transfer of work to new providers under the Framework, although this is likely to be limited because of the predominance of self-employed drivers within the industry. This will be clarified prior to the issue of tenders.</p>

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>
(x)	The relevant financial, legal and other considerations.	See sections 8.0 and 9.0 below

- 7.2. A fully detailed Evaluation Document will be prepared for the procurement and it is intended that members of the Contracted Transport Working Group drawn from all Participating Boroughs will participate in the technical/quality elements of the tender evaluation. A member of the Brent Council Finance and Corporate Services Department will undertake the price evaluation on behalf of all Participating Boroughs.
- 7.3. During the evaluation, Participating Boroughs will wish to confirm that the new Framework meets their own value for money requirements and that they will wish to enter into access agreements to enable the Bureau to call off from the Framework, if awarded, on their behalf. It is understood that Participating Boroughs may need to seek formal approval (e.g. Cabinet or Executive, as appropriate) to enter an access agreement, according to local requirements.
- 7.4 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

## **8.0 Financial Implications**

- 8.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.
- 8.2 The estimated value of this Framework is £46M for all Participating Boroughs with the value of call-off made by Brent Council under the Framework estimated to be £5.6m.
- 8.3 The call-off cost of transport provided by providers under the Framework for Brent Council will be met from Children & Families and Housing & Community Care budgets, as agreed under the Service Level Agreement that will operate between the Bureau and the Participating Boroughs.
- 8.4 This procurement is necessary as the means whereby each Participating Borough can re-tender a continuing requirement for the provision of transport services when their current contracts/frameworks come to an end. Nevertheless, it is anticipated that re-procurement will deliver savings against current costs through the approach proposed and further incremental savings arising from the consolidation of requirements from Participating Boroughs. These savings are broadly estimated at between 5% and 20% according to the cost effectiveness of current arrangements prevailing in Participating Boroughs. In the case of Brent, specifically, the savings are estimated at the lower end of this scale because Brent's existing Framework was procured in 2009 using the methodology proposed for this procurement.

- 8.5 Once tenders are received, full financial implications will be reported to Brent and the other Participating Boroughs before the Executive is invited to consider the appointment of providers to the Framework. However based on the detailed business case for the four Participating boroughs, the project as a whole is expected to yield £15m net savings over the next four years with this Framework contributing £7.4m over the four years.
- 8.6 The cost of developing tendering documentation, receiving legal advice and managing the tendering process will be shared, proportionately, by Participating Boroughs under the terms of the West London Alliance Inter-Borough Agreement for the Transport Efficiency Programme and will be net of any grant awarded by Capital Ambition.

## **9.0 Legal Implications**

- 9.1 The estimated value of the Framework over its lifetime is in excess of £500,000 and therefore the procurement and award of the Framework is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts.
- 9.2 As the Framework is for the provision of transport services, it falls within Part A of Schedule 3 of the Public Contracts Regulations 2006 (the "EU Regulations"). The estimated value of the Framework over its lifetime is in excess of the EU threshold for services contracts. As a result, the Framework is subject to the full application of the EU Regulations. A restricted tendering procedure is to be used to procure the Framework.
- 9.3 Under the Council's Standing Orders, as the Framework is classed as a High Value Contract, approval of the Executive is required for authority to tender. Approval of the Executive is also required by Contracts Standing Orders for the award of such Framework and once the tendering process is undertaken, Officers will report back to the Executive explaining the process undertaken in tendering the Framework and recommending award.
- 9.4 The procurement of the Framework is a collaborative procurement with other WLA authorities. Standing Order 85 details that any collaborative procurement should comply with the Council's Standing Orders and Financial Regulations. It is intended to use Brent's own Standing Orders and Financial Regulations for the procurement of the Framework.
- 9.5 In procuring the Framework, Brent Council will act as a central purchasing body under the EU Regulations. As detailed in Section 6, once the Framework is let, it is proposed that other public bodies will be able to access the Framework through signing an access agreement with Brent Council. In advertising the Framework, Brent Council will need to be specific as to the description of public bodies or categories of public bodies able to access the Framework.
- 9.6 The Council must observe the requirements of the mandatory minimum 10 calendar standstill period imposed by the EU Regulations before the

Framework can be awarded. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the Framework may commence.

- 9.7 The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request.

## **10.0 Diversity Implications**

- 10.1 Officers have screened the proposals in this report and believe that there are no diversity implications. The Framework will simply replace the existing provision of contracted transport services in Participating Boroughs.

## **11.0 Staffing/Accommodation Implications (if appropriate)**

- 11.1 The services are currently provided by external contractors and there are no implications for Council staff in Participating Boroughs arising from tendering the requirement.

### **Contact Officer(s)**

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**CLIVE HEAPHY**

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