

Officer Decision Record

**Title of Report: Eden, South Lakes and Keswick Special Educational**

**Needs and Adult and Local Services transport –**

**Authorisation to Award contract**

Decision of: Angela Jones – Acting Interim Executive Director –

Economy and Infrastructure

Cabinet Member: Councillor Keith Little – Cabinet member for Highways and Transport

Councillor Peter Thornton – Cabinet member for Finance

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What is the decision about? (Brief Summary)

1. This Officer Decision Record seeks authorisation to award contracts to 1 Transport Operator and decide the routes Cumbria Transport Operations Teams (CTOT) will provide, in relation to Special Educational Needs (SEND) and Adult Services transport for the Eden, South Lakes and Keswick areas.
2. The Transport Operator shall provide SEND and Adults transport for 12 routes from 1 September 2019 to 31 August 2023 (4 years) without the option to extend, at a cost of £956,657.
3. The Council's Cumbria Transport Operations Teams (CTOT) provide SEND and Adults for 6 routes from 1 September 2019 at a cost of £434,143.

Recommendation(s) to the Executive Director?

4. Authorise the award of contracts to the following Transport Operators (Details provided in Appendix 1 – Transport Operator\_Routes\_Over £500,000. a. K Cars Kendal (UK) Ltd
5. Authorise the provision of home to school transport to the in-house transport team, Cumbria Transport Operations Teams (CTOT) for the routes listed in paragraph 12. (Details provided in Appendix 2 – CTOT routes). Background to the proposals

6. These contracts support the Council meet its statutory duties under the Education Act 1996 to provide home to school transport to eligible children and young people and the Care Act 2014 to provide discretionary transport to Day Care services for adults.

7. On 10th December, 2018 the Executive Director People, under Rule 5.30 at the Contract Procedure Rules at Part 5H of the Constitution provided authorisation for the Council to commence procurement of the Home to School transport for Eden, South Lakeland and Keswick.

8. In compliance with the Public Contracts Regulations 2015 an open tender commenced on the 4th of February 2019. The tender was advertised by way of Open Journal of the European Union (OJEU) Notice and Contracts Finder via the Council's digital tender portal.

9. Thirty One transport operators submitted tenders by the deadline of the 12th of April 2019. 10. From 15th April to 3rd May 2019 staff, using the pre-determined criteria and scoring methodology, assessed the submitted tenders. The award criteria used to determine the most economically advantageous tender is the lowest cumulative price. All tenderers agreed to the terms and conditions of the contract that includes adherence to service delivery standards.

11. As per Rule 6.39 of the Contract Procedure Rules, this is a composite report bringing together the award decision for several routes, under one report rather than producing several reports for each individual contract awarded. As noted in paragraph 4 a transport operators may be awarded more than one contract, that when combined, will take the total value of contracts recommended to be awarded to a single Transport Operator to be over the £500,000 Key Decision Threshold. As the award criteria is on overall lowest cost to the Council, taking into account packages of routes, and cost differentials between operators, it means the awards cannot be looked at in isolation.

12. CTOT are able to accept 14 routes that include: H5727, H5737, H5745, S12003' S5755, SLA00101.

13. Cumbria Transport Operations Teams (CTOT) provided alternative service delivery costs per route on 11 April 2019 for each route tendered. CTOT offered best value for 13 routes. CTOT accepted to provide SEND and Adults transport, as of 1 September 2019, on 6 routes. In comparison with the prices offered in the formal tender, CTOTs acceptance of these routes is forecast to save the Council £34,367 per annum (£137,470 over the 4 year term of the contracts).

14. The context data related to this tender relates to the thirty one transport operators that submitted a bid. The data includes the 17 Transport Operators that under a separate authorisation to award report are recommended to be awarded contracts with cumulative values of less than £500,000.

a. Of the 31 Transport Operators that submitted bids, 31 are Cumbria based Small Medium Enterprises (SMEs). All Transport operators have local provision and employees.

b. All tenderers were requested to state their current status in relation to the payment of the Living Wage Foundation Rate. The responses for 17 of the 31 Transport Operators that submitted bids are summarised as: 15 are paying the Living Wage Foundation Rate of these 4 have secured the Living Wage Foundation Employer accreditation and 2 are not paying the Living Wage Foundation Rate.

c. The result of this tender exercise is expected to impact the turnover of transport operators. When comparing the income of incumbent transport operators that are providing SEND transport: 8 transport operators will see an increase in income and 20 a reduction in income. 5 incumbent transport operators did not submit a tender.

15. The terms and conditions of the contract include provision for regular contract monitoring of the Service, including random inspections of vehicles and drivers at school sites.

Reasons for the recommendation(s)?

16. The Transport Operators listed in paragraph 4 and 5 offer the Most Economically Advantageous Tenders.

What options have been considered?

17. Option a – Award the contracts to transport operators and decide that CTOT provide routes as recommended in the report

18. Option b – Do not award the contracts To not award the contract would require the Council to meet its home to school transport duty by alternative means.

What risks have been identified?

19. If the Council is unable to provide Special Educational Needs and Adult and Local Services transport in Eden, South Lakes and Keswick it may be challenged on its non-compliance with its statutory duty under the Education Act 1996 and Care Act 2014.

20. Transport Operators may refuse to accept or hand back certain routes. In the likely event of this risk being realised the Council will offer the refused and returned routes to the Transport Operator that submitted the next most economically advantageous tender. In the event where no other tenders have been received for the route(s) in question the Council will retender the route.

What resources will be needed/how will the proposal be funded?

21. -- The purpose of this Key Decision Record is to recommend that the Acting Executive Director – Economy and Infrastructure award the routes detailed in Appendix 1 & 2 to the operators identified (preferred option a).

22. The contract period is for four years commencing 1 September 2019 with no option to extend and has been procured through an open tender exercise via OJEU. 31 bidders submitted bids within the tender deadline. The tenders have been evaluated on a price only basis; this should ensure value for money for the Council.

23. The provision of SEND and Adults transport is a revenue activity and the 2019-20 budgets to fund transport contracts for the County is £5.578m and £2.210m respectively.

24. 2018/19 outturn for SEND transport resulted in an overspend. There has been budget growth within the MTFP of £0.600m for 2019/20 however there is expected to be a continued pressure into 2019-20. The proposed reduction in costs through CTOT routes could partially mitigate this.

25. The Adults budget includes reductions in relation to the re-profiled MTFP saving from the Day Care Service Review of £0.100m. The saving is to be achieved through reductions to day care attendance and implementation of a revised social care transport policy. However, the budget currently has an unfunded pressure of £0.384m and savings from the retendered routes will in part mitigate this pressure.

26. The anticipated reduction in cost of £0.034m per annum is based on the current routes that have been tendered. The proposed savings could be affected by changes of circumstance to the routes, children's needs, along with the need for additional routes and the tenders associated with these over the contract

period. Savings are based on academic year and in 2019-20 only part year effect of savings would be realised.

27. Should the Acting Executive Director decide not to award, it could result in the Council not being able to meet its statutory obligations in relation to the delivery of school and adult transport. (DBond 15/05/19)

What Legal considerations are relevant to the decision?

28. Section 111 of the Local Government Act 1972 enables local authorities to enter into contracts in order to deliver their functions.

29. By virtue of Rule 6.37 of the Contract Procedure Rules at Part-5H of the Constitution "CPRs" the Executive Director is authorised to award a contract between £500,001 and £5,000,000 in consultation with the relevant Cabinet Member with a written record of the decision to be kept.

30. Rule 6.4 of the CPRs also been complied with in that the minimum process of conducting a written tender open advertisement appropriate to the market was followed.

31. Owing to the anticipated value of the contracts the award is a key decision and the key decision process must be followed.

32. From a legal perspective there are no concerns with the Recommendation.

Executive member consultation

Names: Keith Little & Peter Thornton

Details of any registrable interest relevant to the decision: N/A

Details of any dispensation granted: N/A

Key Decisions

Notice on Forward Plan? Yes

Rule 15 Notice? No

Rule 16 Approval by Chair of Scrutiny Board? No

Exempt from Call in? No

Decision

Signature of the decision record authorises the implementation (following expiry of the Call In period where applicable) of the recommendations in Section 2.

Signature of decision maker:

Name: Angela Jones

Post title: Acting Executive Director – Economy & Infrastructure

Date: 16 July 2019

Delegated authority to make the decision: Authority to make this decision is granted as per the Procurement Rules set out in part 5H – Section 6.37 of the Constitution