

# London Councils' Transport and Environment Committee

## Taxicard Procurement

Item No: 17

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**Summary**      This report summarises the results of the Taxicard consultation and explains how the findings have been used to inform London Councils' recommended approach to re-procuring the Taxicard supply contract in partnership with Transport for London (TfL).

**Recommendations**      Members are asked to:

1. Note the outcome of the Taxicard consultation;
2. Agree the proposed changes to the service; and
3. Agree the proposed approach to procurement i.e. working through, and with, TfL to set up a framework using the competitive procedure with negotiation subject to London Councils and TfL concluding a service level agreement.

### Introduction

1. After considering the outcome of TfL's review of social needs transport in October 2015, TEC agreed to support boroughs and London Councils to work with TfL to develop detailed proposals for change and greater integration between Taxicard and TfL's Dial-a-Ride service, including financial and governance arrangements and the development of a detailed work programme to take this work forward.
2. The TEC Executive sub- and full committees were updated on progress on 21 July and 8 December 2016 respectively and supported the principle of London Councils and TfL exploring joint procurement of elements of the Taxicard and Dial-a-Ride (DaR) schemes.
3. Since then, London Councils and TfL officers have continued to meet regularly, have undertaken early market engagement work with suppliers to gauge levels of interest in this opportunity and developed procurement strategy options. Officers

continue to believe that a joint procurement exercise is viable and could lead to cost savings through increased buyer bargaining power, scale economies and reduced tendering costs.

4. At this stage, it is not proposed to undertake integration of the services, which will retain their distinct identities. In most respects, service users will see no significant change in the way the schemes are operated. However, some changes are being considered and these have been subject to service user consultation. This paper sets out for members' consideration a recommended approach and timescales, taking into account the views of service users collected through the consultation.

### **Taxicard Consultation**

5. In consideration of a joint procurement exercise for taxi/PHV supply to the Taxicard and DaR schemes, London Councils undertook a consultation to obtain the views of Taxicard and DaR members on matters relevant to the service and the procurement.
6. The consultation took place between 6 December 2016 and 19 May 2017. TfL and London Councils engaged face to face with 13 user groups of these schemes through meetings with various mobility forums, charities and representative groups.
7. In addition, London Councils contacted all current Taxicard members by post with a survey; which could be returned by freepost or completed online. There was a very high level of response (15,092), of which 14,900 were from, or on behalf of, scheme members (24% of the total membership). TfL also invited comments on DaR Taxi/private hire vehicle (PHV) journeys from members in their regular In Touch newsletter.

### **Key themes and responses**

8. A number of key themes emerged from the consultation:
  - Telephone booking is very important: 81% of respondents valued this highly.
  - Many users (32%) value taxi rank/hail availability.
  - Some customers were keen for the service to offer innovative booking options like web-booking (6%) and app based booking (8%) (both of which are currently available).
  - The majority of respondents (59%) indicated that they would prefer a kerb-to-kerb instead of a door-to-door service. However, some organisations felt that the wording of this question suggested that a door-to-door service may mean fewer or more expensive journeys, and may have influenced responses.
  - The most important factors to those using the service (i.e. rated very important) are; the availability of vehicles (64%), the quality of the driving (63%), and the ability to get in and out of the vehicle (61%).
  - The results of the survey show a general preference for taxis compared with PHVs. The following attributes were rated as having a positive, or very positive impact in respect of taxi and PHV provision respectively; high driver training standards (59% v

43%), disability assistance (64% v 47%), a number of other factors were also cited such as, good spoken English, communication skills, and topographical knowledge. In the group consultation sessions, it became clear that these attributes are more associated with taxis, but that it is the high service standards themselves that were generally more important than the type of vehicle.

- Some users emphasised the importance of cheaper and/or fixed cost fares, which were slightly more associated with PHV provision (53%) than Taxis (52%).
- Some customers like a vehicle tracking/arrival time update facility, which is already available to those who book online or via the Taxicard App.
- Some respondents also suggested that they sometimes do not know how, or find it difficult, to raise official complaints
- Ensuring that the specific needs and the required levels of service are met for the visually impaired and wheelchair users were identified as sometimes being a challenge in the context of the current contract. This includes driver attitudes to accepting assistance dogs and/or wheelchairs, difficulties in street hailing and potential differences in the experience of vehicle availability.
- The need to provide more regular service updates to customers was also highlighted, including the need to provide this information to customers in appropriate formats, particularly for those with a visual impairment.
- Users have asked London Councils to ensure that it appoints supplier(s) committed to be involved in consultation and engagement with our members; this would include their attending user group meetings. They have also asked for user representation in the tender evaluation.

### **Procurement of Taxicard and Dial-a-Ride (Taxi Element)**

9. London Councils' current contract (worth up to £12.277 in 2017/18) for the supply of vehicles for the Taxicard scheme ends in March 2018. Therefore, in order for the scheme to continue, London Councils must re-procure these services. In addition, TfL's taxi consolidator contract, which it uses to supplement the supply of vehicles for its DaR service with taxis and private hire vehicles, ends at the same time.
10. Consequently, London Councils and TfL officers believe that a joint procurement exercise is the most logical place to begin joint working in respect of DaR and Taxicard services in light of the social needs transport review. The combined procurement opportunity would be worth c. £13 million per annum (based on current levels of demand). The following paragraphs set out what benefits would accrue, the opportunities for change, and the best route to market.

### **Benefits of joint procurement**

11. Officers consider that the following benefits could be gained from a joint procurement exercise. First, both organisations will learn from each other's experience in delivering similar activities. This will mean that there is a wider pool of knowledge from which to draw when writing the specification for the services.

12. A joint procurement exercise will reduce the costs of tendering in two ways. Both London Councils and TfL will avoid costs by sharing the work that needs to be done in procuring the relevant services. The cost to suppliers will also be decreased, as they only have to engage in one procurement exercise. It is likely that these cost savings will be reflected in their tenders.
13. By working together, London Councils and TfL increase their bargaining power, as they are creating a bigger market for this procurement. This increased bargaining power has influenced the recommended technical approach to procurement (covered later in this report). Nevertheless, given that many drivers are self-employed and can switch circuits and draw from a large pool of other customers, the effect of bargaining power should not be over-stated.
14. By increasing the scale and scope of the activities to be procured, it is anticipated that scale economies can be created that could result in reduced cost to the boroughs and TfL. By creating a more unified set of service and contract management requirements for suppliers to work to, it should be possible to reduce supplier overheads, thereby generating savings.
15. The social needs transport road map, developed by TfL, and endorsed by TEC, sets out how further integration of social needs transport can be achieved to the benefit of customers. A joint procurement exercise could begin to lay the foundations for further integration, specifically in the areas of service quality and customer services.
16. Given these benefits, officers consider that undertaking a joint procurement for Taxicard and the DaR taxi consolidator contract is viable. Indeed, there is scope within the existing TEC agreement to enter into contracts for goods, works and services in relation to any aspects of the functions discharged by TEC and to do anything which is calculated to facilitate or is conducive or incidental to the functions TEC may discharge.

### **Changes to the scheme**

17. Currently the Taxicard and D-a-R schemes use a single supplier. However, the ways in which bookings can be made differ across the two schemes. Members of the Taxicard scheme are able to make advanced and as soon as possible (ASAP) bookings. They can also hail taxis in the street or from a taxi rank.
18. In DaR taxi bookings are made by TfL on a pre-booked and ASAP basis only. For this reason, officers consider that a sensible approach to manage this issue within a joint procurement would be to separate the tender into two lots.
19. Lot one, will cover advanced and ASAP bookings on Taxicard and DaR and Lot two, to cover street and rank hailing for Taxicard only. This approach will potentially enable new entrants to tender for aspects of the service and generate greater competition.
20. This approach does have implications for the type of company that might win Lot 1, as it opens up this area of the contract to more PHV provision and as seen above, members have a preference for the higher service standards associated with taxis.
21. However, splitting the opportunity into lots could add costs in respect of London Councils database provision. Currently, the single supplier updates member-level trip allocations. Were, contracts awarded to two separate providers, London

Councils would have co-ordinate this process. London Councils is currently seeking estimates for this work from its database supplier and will factor this additional cost into the tender scoring framework.

22. In order to address this and other matters raised in the consultation, the specification of requirements will contain explicit minimum requirements in the following areas:

- Driver training – all drivers to successfully complete the passenger assistant training scheme (PATS);
- Members to be able to specify whether they require kerb-to-kerb or door-to-door assistance and drivers to fulfil stated preference;
- Minimum requirements (35%) re the number of accessible vehicles within fleets to ensure that there are sufficient vehicles to provide a good level of service for street hailing and for people with specific mobility needs such as wheelchair users ;
- Minimum English language requirements for drivers;
- An improved complaints procedure, with clearer referral processes to TfL's licensing division, The Taxi and Private Hire Directorate (TPHD), where there is evidence of breaches in regulations e.g. refusal to accept a wheelchair user, or assistance dogs;
- To require the supplier to attend quarterly user representative forums hosted by TfL and London Councils;
- Strict contract monitoring processes to ensure that the areas above are being delivered.

## Route to market

### ***Procedural, governance, and contracting arrangements***

23. The Public Contracts Regulations 2015 allow public authorities to choose one of six routes to market. Of these, three are appropriate in the context of this tender exercise. The table below sets out the advantages and disadvantages of each of these:

Choice of Procedure	Advantages	Disadvantages
The open procedure	- Shortest time to market	- No ability to screen suppliers - Difficult to manage resources - Encourages speculative bids - No ability to negotiate post tender submission
The restricted procedure	- Allows supplier screening - Can better plan resources as a result	- Longer time to market than open procedure - No ability to negotiate post tender submission
The competitive procedure with negotiation	- Allows supplier screening - Can better plan resources as a result - Provides ability to clarify	- Longer time to market than open and restricted procedures

	and negotiate post tender submission	
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24. In single authority procurement, the route to market is fairly straightforward. The contracting authority decides its requirements, its preferred procedure, and works within its financial and procurement regulations to choose a supplier that meets its needs. In the context of joint procurement, governance arrangements must be developed that meet both parties' needs and there must always be a lead authority.
25. Having taken legal counsel, officers consider that;
- London Councils cannot delegate the exercise of functions (delegated by the 33 authorities to London Councils as set out in the governing agreement) to TfL;
- and
- London Councils cannot appoint TfL as a lead authority to act for and on behalf of London Councils TEC.
26. Therefore, there are two routes that could enable joint procurement. These, and related advantages and disadvantages, are set out in the table below:

Choice of governance	Advantages	Disadvantages
TfL to procure all the services (for Taxicard and Dial-a-ride) subject to having the power to do so and London Councils could sub-contract Taxicard services from TfL (subject to satisfying procurement law requirements and noting that there are likely to be costs of contract management and VAT payable on those services)	<ul style="list-style-type: none"> <li>- It does not require variation of the London Councils TEC Agreement</li> <li>- It allows London Councils control over its sub-contracting terms and conditions</li> </ul>	<ul style="list-style-type: none"> <li>- Given the value of the Taxicard contract and the risk of legal challenge, London Councils could not simply give a contract to TfL</li> <li>- Sub-contracting arrangements would have to go through an OJEU procurement, adding time and cost and negating many of the benefits of joint-procurement described above</li> <li>- TfL might not win the sub-contracting competition and therefore joint procurement might not happen;</li> <li>- Additional layers of contract management (TfL and its supplier) would add unnecessary cost</li> </ul>
TfL could set up a framework agreement <sup>1</sup> for	<ul style="list-style-type: none"> <li>- It does not require variation of the London</li> </ul>	<ul style="list-style-type: none"> <li>- In the absence of an SLA, TEC and London</li> </ul>

<sup>1</sup> Frameworks are vehicles through which call-off contracts can be procured. They require a lead authority and must state which authorities can use them. Frameworks have a maximum duration of four years i.e. contracts can only be called off by relevant authorities within a four year period.

all the services (i.e. for Taxicard and Dial-a-Ride) and London Councils TEC/the London local authorities could call off under that framework subject to being listed a contracting authority who is permitted to use the framework i.e. to purchase services contracted for under the framework <sup>2</sup> .	<p>Councils TEC Agreement</p> <ul style="list-style-type: none"> <li>- With the correct SLA in place between London Councils and TfL, TEC retains control over decision making and contract award</li> <li>- It is the quickest and cheapest route to market of those available</li> <li>- It allows London Councils to have a direct call-off contract with the supplier and thereby retain lead authority status</li> <li>- The cost of procurement and associated expertise are pooled.</li> </ul>	Councils could lack control over how the framework is procured
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27. Given the points outlined above, officers recommend working through, and with, TfL to set up a framework using the competitive procedure with negotiation subject to London Councils and TfL concluding a service level agreement covering:

- *Conduct of the procurement:* London Councils officers to approve the *Official Journal of the European Union* (OJEU) notice and responses to bidders' clarifications prior to publishing;
- *Content of framework and tender documentation:* London Councils to approve tender documentation (including draft contract terms) and to be explicitly named (along with the London boroughs) as having the ability to call off from the framework;
- *Tender Assessment:* Assessment framework must be agreed by London Councils and London Councils officers must be involved and have equal decision making powers at every stage of the assessment process;
- *Recommendation of preferred bidder:* Cannot take place without London Councils' approval and recommendations must be put before TEC for decision;
- *Decision making:* No decision on which supplier(s) to appoint can be made without TEC approval;
- *Liability in the case of legal challenge:* Reciprocal protection against any acts or omissions that render the procurement process ineffective;
- *Contract call-off arrangements:* Explicit recognition that only London Councils can call off Taxicard services; and

28. In this instance, officers recommend advertising a three year framework, with call off contracts of three years that include the option of three 12-month extensions. In theory (and always subject to TEC approval), it would be possible to award an

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Nevertheless, individual call-off contracts that are the subject of the framework can have a longer duration.

<sup>2</sup> NB London Councils could not currently set up a framework that allowed TfL to procure -DaR services through a call-down as TEC has not delegated any powers to London Councils in respect of D-a-R.

initial contract of three years and call off a new contract of three years in year three<sup>3</sup>.

29. Officers consider that this approach gives TEC the flexibility to re-tender after three years if external factors, such as local authority financing or the size and shape of the taxi industry, change substantively. Should no such changes occur, and were TEC happy with the service, a framework approach offers the possibility to extend, or call-down, contracts in a way that provides continuity of service for up to nine years. At the same time, the proposed arrangement provides sufficient guarantees to a prospective service provider regarding length of contract and return on investment.
30. London Councils officers will ensure that the tendering exercise meets all of the requirements set out in the Public Contracts Regulations 2015. These include advertising the opportunity on the OJEU, application of a supplier selection questionnaire (SSQ), publishing compliant invitations to negotiate (ITN) and invitations to submit final tenders (ITS), as well as respecting the standstill requirements.

### ***Proposed Timetable***

	<b>Start Date</b>	<b>End Date</b>
<b>Market Warming</b>	Dec-16	Feb-17
<b>Consultation with Taxicard and DaR members</b>	Dec-16	May-17
<b>Publish OJEU Notice</b>	17/07/2017	
<b>SSQ Return</b>	16/08/2017	
<b>Evaluation Period</b>	17/08/2017	06/09/2017
<b>Issue ITN</b>	11/09/2017	
<b>ITN Return</b>	11/10/2017	
<b>Evaluation Period</b>	12/10/2017	01/11/2017
<b>Negotiation Period</b>	02/11/2017	22/12/2017
<b>Issue ITS</b>	05/01/2018	
<b>ITS Return</b>	25/01/2018	
<b>Evaluation Period</b>	26/01/2018	15/02/2018
<b>Report to TEC for decision</b>	15/03/18	
<b>Approvals and standstill period</b>	19/03/2018	28/03/2018
<b>Contract Award</b>	April 2018	

<sup>3</sup> In practice, this would require an amendment to the TEC agreement, which currently allows London Councils to award contracts of up to four years in duration. Such an amendment is proposed in a separate report on the agenda.



<b>Mobilisation</b>	April-18	Oct-18
<b>Go-live</b>	01/10/2018	

### **Financial Implications for London Councils**

London Councils has the resources to undertake a joint procurement exercise. There may be some additional costs in respect of contract handover should a new contractor win the service. The decision to split the opportunity into lots could also require some additional database costs as outlined in paragraph 24. The full financial implications will be confirmed following the completion of the procurement exercise, when the outcome is reported back to Committee. As stated in the legal implications, officers will ensure that the procurement exercise is undertaken in accordance with the Public Contract Regulations (2015) and London Councils Financial Regulations.

### **Legal Implications for London Councils**

London Councils officers will work with legal services to draft appropriate SLAs where necessary with TfL and ensure that any procurement undertaken is done in accordance with the Public Contracts Regulations (2015).

### **Equalities Implications for London Councils**

The consultation highlighted some potential equality considerations in respect of vehicle accessibility and the ability to raise complaints in cases where equalities duties may have been breached. The bullet points in paragraph 22 set out how London Councils will address these points.

### **Recommendations**

Members are asked to:

1. Note the outcome of the Taxicard consultation;
2. Agree the proposed changes to the service; and
3. Agree the proposed approach to procurement i.e. working through, and with, TfL to set up a framework using the competitive procedure with negotiation subject to London Councils and TfL concluding a service level agreement covering.

### **Background papers**

Transport and Environment Committee 15 October 2015, Item 6 – Social Needs Transport  
 Transport and Environment Committee 23 March 2016, Item 9 –Taxicard Scheme Progress Report  
 Transport and Environment Executive Sub-Committee 21 July 2016, Item 6 – Social Needs Transport Review Update  
 Transport and Environment Committee 8 December 2016, Item 10 – Taxicard Update