

# Specification

## Concessionary Travel Applications Decision Maker

Local Transport Directorate  
Buses & Taxis Division  
Department for Transport

**Contract Reference: TLOT0016**

**Date: 24<sup>th</sup> October 2019**  
**Version: 3**

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## 1. INTRODUCTION

- 1.1 The Department for Transport (DfT) invites proposals for the following services. This contract will be subject to the DfT General Conditions of Contract for Services below £5m 24 January 2019 as found on <https://www.gov.uk/government/publications/general-conditions-of-contract-for-services>.
- 1.2 Please see the document entitled '03 Instructions for Tenderers by electronic means' for details on how to bid for this requirement.
- 1.3 Tenders can only be submitted by electronic means via the AWARD e-tendering system. Please email [ruth.morley@dft.gov.uk](mailto:ruth.morley@dft.gov.uk) for access to this system.

## 2. BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT

- 2.1 Legislation gives bus operators a right to apply to the Secretary of State (SoS) for modification to the reimbursement rates set by local authorities for journeys made under the mandatory England-wide travel concession. In previous years the determination of applications has been delegated by the SoS to a Decision Maker acting on his/her behalf. A contract is required to appoint a Decision Maker(s) to determine applications submitted for the financial years 2019/20 and 2020/21. The contract may be extended for a maximum of one additional year.
- 2.2 Concessionary bus travel for older and disabled people is a popular policy, although the funding and reimbursement arrangements continue to generate some controversy and attract press and Parliamentary interest. This is because the amounts of money at stake are substantial with just over £1 billion spent by local authorities on concessionary travel each year.
- 2.3 Under the Transport Acts 1985 and 2000, the SoS is required to determine applications submitted by bus operators to modify the reimbursement rates offered to them by local authorities which are Travel Concession Authorities (TCAs) for carrying concessionary passengers. These applications are commonly referred to as appeals.
- 2.4 The Acts also permit the SoS to appoint an independent person to determine the appeals on his behalf. Following the introduction of free travel in 2006 the number of appeals submitted was substantial, though it has reduced in recent years. In response, the Department has appointed independent Decision Makers each year to determine appeal cases on behalf of the SoS.
- 2.5 The determination of bus operator appeals is a specialist area of work that requires an unusual skill set including an ability to consider detailed legal and

economic information contained in commercially sensitive submissions and to draft clear and concise determinations that minimise the risk of legal challenge. The Decision Maker is supported by advice from DfT policy advisors, economists and lawyers.

2.6 Appeals should be determined within the same financial year for which the reimbursement arrangements have been set, that is, by 31st March of the following calendar year. However, due to the complexity of some appeals, and where appeals have been subjected to lengthy stays of appeal, this may not be possible.

2.7 As of 28 October 2019, 30 appeals have been submitted. Of these, 11 have been withdrawn and 19 are live. Of the 19 live appeals, a number will be able to be ruled on by the Decision Maker following their commencement.

2.7.1 Assessment of live appeals may be subject to a Stay of Appeal, if agreed between the relevant parties.

2.7.2 Further withdrawals may also occur should the relevant parties reach an agreement.

2.8 It is our intention to run a procurement exercise through Contracts Finder to appoint, through a competitive direct contracting arrangement, a Decision Maker or Decision Makers for the period covering appeals submitted for the financial years 2019/20 and 2020/21. The contract may be extended for a maximum of one additional year

### 3. DEFINITIONS

Expression or Acronym	Definition
Contract Manager	The DfT Contract Manager
Decision Maker	The successful supplier(s) on this contract
DfT and the Department	Department for Transport
ITT	Invitation to Tender
SoS	The Secretary of State for Transport
TCAs	Travel Concession Authorities

#### 4. INDICATIVE PROCUREMENT TIMETABLE

Description	Date
Publication of the ITT	Tuesday 29/10/2019
Clarification Period starts	29/10/2019
Clarification Period closes <b>Tender Clarifications Deadline</b>	08/11/2019 (12:00 Midday)
Deadline for the publication of responses to Tender Clarification questions	12/11//2019 (17:00)
Deadline for submission of Tenders <b>Tender Submission Deadline</b>	15/11/2019 (12:00 Midday)
Commencement of Evaluation Process	15/11/2019 (12:00 Midday)
Conclusion of Evaluation Process	22/11/2019
<b>Potential</b> Conclusion of Standstill Period	06/12/2019
<b>Potential</b> Contract Award	09/12/2019
<b>Potential</b> Contract Signature	09/12/2019
<b>Potential</b> Contract Commencement	09/12/2019
<b>Completion of 2019 Casework</b>	No later than 22 <sup>nd</sup> May 2020
<b>Completion of 2020 Casework</b>	No later than 31 <sup>st</sup> March 2021

#### 5. SCOPE OF REQUIREMENT

5.1 The appeals casework is demand-led depending on the number of appeals submitted each year by bus operators. The contract awarded for this work will cover appeals for 2019/20 and 2020/21. The contract may be extended for a maximum of one additional year.

- 5.2 The criteria required to be met for this contract are set out below. Bidders will need to demonstrate in their proposals examples of how and when they have employed these skills to enable the Department to assess the Decision Maker's skills:
- 5.2.1 The Decision Maker will be required to analyse evidence submitted by bus operators and TCAs and to make a judgement that will determine the level of reimbursement due.
  - 5.2.2 In reviewing the evidence submitted, the Decision Maker will need to be able to identify and resolve any legal issues raised.
  - 5.2.3 The Decision Maker will be expected to familiarise themselves with the latest version of the DfT reimbursement guidance and reimbursement calculator and make use of this alongside any other robust additional evidence provided by operators and TCAs.
  - 5.2.4 Quality assurance of the Decision Maker's analysis will be provided by DfT economists and lawyers.
  - 5.2.5 Legislation gives the Decision Maker powers to hold an oral hearing to bring both parties to an appeal before them to give evidence, although it is at the Decision Maker's discretion whether to do so, as there is no obligation to hold an oral hearing
  - 5.2.6 For each appeal case, the Decision Maker will be required to complete a written determination report following quality assurance of the Decision Maker's analysis by DfT economists and lawyers. When a determination of an appeal is complete the Contract Manager will forward this document to both parties involved in the appeal.
  - 5.2.7 The Decision Maker may be required to comment on revisions made by the Department's officials to its reimbursement guidance and reimbursement calculator.
  - 5.2.8 The Decision Maker may be required to suggest improvements to concessionary travel guidance and the appeals process, or to assist with any reviews of the guidance.
  - 5.2.9 The Decision Maker may be required to attend meetings with external stakeholders. This could include reimbursement training and/or feedback sessions with local authorities and/or bus operators.
- 5.3 For accountability and consistency purposes, the Decision Makers will need to be nominated individuals. Proposals should therefore make clear which individual is being put forward for the role and provide relevant information with a Curriculum Vitae clearly showing the nominated person's experience.

- 5.4 Under the current legislation, bus operators are required to submit appeals within 56 days of the commencement or variation of concessionary travel schemes in TCA areas. As concessionary travel schemes usually commence from 1st April each year, this means the volume of the appeals caseload for that year is usually known by 27<sup>th</sup> May. However, it should be noted that negotiations between both parties continue throughout the appeals process and often lead to agreement and withdrawal of the appeal before determination is required.
- 5.5 Based on past appeals volumes, we estimate that an experienced Decision Maker would take, on average, between three and five days to complete a standard case. However, if the issues are complex, or the Decision Maker is new to the subject area, it may take longer to complete a case.
- 5.6 The appointed Decision Maker will receive the Department's induction pack shortly after the award of the contract. The pack will include details of the reimbursement process and calculations, the appeals process, some legal background and other relevant material, along with the Department's guidance and copies of the relevant legislation. An induction meeting will also be organised to take place as soon as possible, depending on the Decision Maker's availability. The meeting will provide an opportunity to discuss the topics of the pack in more detail. The Decision Maker will receive the submitted evidence and case summaries for the 'live' cases shortly afterwards.
- 5.7 The Decision Maker will be required to complete the 2019 casework at the earliest opportunity and by no later than 22nd May 2020. The Decision Maker should refer any required variations to this date to the Department.
- 5.8 Dates for completion of 2020 cases will be notified closer to the appeals receipt period in that year, although this is expected to be 31<sup>st</sup> March 2021.

## **6. CONTINUOUS IMPROVEMENT**

- 6.1 Changes to the way in which the Services are to be delivered must be brought to the Department's attention and agreed prior to any changes being implemented.

## **7. SERVICE LEVELS AND PERFORMANCE**

- 7.1 The Department will measure the quality of the Decision Maker's delivery via the following performance measures:
- 7.1.1 Appeals casework completed within agreed timescales;
  - 7.1.2 Appeals casework completed within agreed costs;

- 7.1.3 Appeals casework underpinned by sound economic and legal analysis.
- 7.1.4 The risk of Judicial Reviews by either party to an appeal determination is minimised.
- 7.2 If so required by the Department, the Decision Maker shall produce a plan for implementation (based on the above performance measures) in such further detail as the Department may reasonably require in support of their proposal. The Decision Maker shall ensure that each version of the Plan is subject to approval before the contract proceeds.
- 7.3 Progress may be reviewed by meetings at intervals at the request of either the Department's Contract Manager or the Decision Maker. On completion of the casework the Contract Manager may arrange a debriefing meeting with the Decision Maker to review performance.
- 7.4 The Department shall have the right to require the Decision Maker to include any reasonable changes or provisions in the Plan.
- 8. DECISION MAKER SELECTION**
- 8.1 Selection of the service providers will be through a review of suitability via CVs submitted by the candidates and a proposal responding to the criteria identified in this service description document.
- 8.2 Panel members will build up capability through the Departmental induction, referenced in paragraph 5.6
- 8.3 The Department may require to contract one or more Decision Makers to ensure there is availability to cover current and future appeals when they arrive. Should more than one Decision Maker be contracted, the Department will allocate cases on a rotational basis.
- 8.3.1 Where a Decision Maker is unavailable to accept the allocated case due to constraints on their availability, or potential conflicts of interest it shall be provided to the Decision Maker on the rota.
- 8.3.2 Any rota arrangements will be determined following the awarding of contracts.
- 9. EVALUATION**
- 9.1 Please see Appendix B – Response Guidance

- 9.2 Applicants will need to demonstrate a high degree of overall value for money, competence, credibility and the ability to deliver. Written feedback may be available on request to the Department.
- 9.3 This tender will be evaluated using the following weightings to obtain the optimal balance of quality and cost:
- Quality Factors 75%
  - Financial/Price Factors 25%
- 9.4 DfT understands that in the event of any complications arising in relation to an appeal, any additional time incurred on an appeal will be subject to negotiation with the Decision Maker.
- 9.5 The number of appeals cannot be predicted, and the Department cannot guarantee that each Decision Maker will be allocated an equal workload, or that the maximum value of the contract will be reached in the completion of this requirement.
- 9.6 The Decision Maker will also be subject to civil service terms and conditions where expenses are applicable. These can be found here: <https://www.gov.uk/government/publications/guidance-on-civil-servants-business-expenses>.
- 9.7 DfT reserves the right to cancel the procurement process at any point up until formal contract award.
- 9.8 Prices are to be submitted via the Award portal. Access to this system can be obtained by emailing [ruth.morley@dft.gov.uk](mailto:ruth.morley@dft.gov.uk)

## **10. SECURITY REQUIREMENTS**

- 10.1 The provisions of the Official Secrets Act 1911 and 1989 apply to the Decision Maker.

## **11. DATA PROTECTION**

- 11.1 The successful supplier will be required to comply with all applicable requirements of the Data Protection Legislation (including the General Data Protection Regulation ((EU) 2016/679) (“GDPR”), the Law Enforcement Directive (Directive (EU) 2016/680), and all applicable Law about the processing of personal data and privacy).

## **12. INTELLECTUAL PROPERTY RIGHTS (IPR)**

- 12.1 The Department for Transport will own all Intellectual Property Rights (IPR) for work generated under this contract.

## **13. ARRANGEMENT FOR END OF CONTRACT**

- 13.1 All documentation in relation to this contract, including emails, to be transferred to the DfT prior to the completion of this contract.

## **14. PAYMENT**

- 14.1 Payment can only be made following satisfactory delivery of pre-agreed products and deliverables.
- 14.2 Although the Department may award one or more contracts, no work should commence until the Contract Manager has issued the Decision Maker with a case to review and a Purchase Order number.
- 14.3 Before payment can be considered, each invoice must include a detailed breakdown of work completed and the associated costs.
- 14.4 Prior to submission of each invoice the Decision Maker is to provide a report on his/her appeals casework on a monthly basis. This report should detail progress against the agreed timetable, costs and any other agreed performance measures.
- 14.5 Once agreed with the DfT Project Manager or Project Officer, the final invoice shall be sent, within 10 days of the conclusion of the appeal to which the claim relates, to: Shared Service Centre, Accounts Payable Team, Sandringham Park, Swansea Vale, Swansea, SA7 0EA.
- 14.6 The Decision Maker contract will be subject to the Department's purchase order Terms and Conditions for government suppliers. These terms and conditions can be found at: <https://www.gov.uk/government/publications/purchase-order-conditions-of-contract>.

## **15. LOCATION**

- 15.1 It is not anticipated that the work needs to be undertaken at a specific location. Meetings can be held either by conference call or at the offices of the Department in Great Minster House, 33 Horseferry Road, Westminster London SW1P 4DR.

## **16. POINTS OF CONTACT**

OFFICIAL  
Appendix A – DfT Specification  
TLOT0016  
Concessionary Travel Applications Decision Maker

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<b>Procurement Contact</b>	Name	Ruth Morley
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**All queries/ questions should be sent to the procurement contact**