

ITEM 15. EXEMPTION FROM TENDER – SUPPLY OF ELECTRICITY TO CITY SITES

FILE NO: S084740

SUMMARY

The contract for the supply of electricity to City sites (the Electricity Large-site Contract) will expire 31 December 2015.

It is proposed to enter into a contract with the City's current retailer for a further period of 2.5 years. The current retailer has offered reduced rates for the extension period and offered the commencement date of this new contract to be backdated to 1 July 2015. The proposed extension will therefore give immediate and sustained commercial benefits that will reflect favourably on current and future operating budgets.

The current retailer has also agreed to continue with current contractual terms and conditions, including a provision to sell back energy generated on-site at City premises (typically from solar PV installations and from the proposed trigeneration plant(s)) on a commercial basis. This allows the City to continue to advance its Sustainable Sydney 2030 objectives of lowering carbon emissions and increasing local generation of renewable energy.

This report seeks approval to enter into a contract with the City's existing energy provider under the same conditions of supply as the previous contract, and with reduced energy charges, expiring 30 June 2018.

RECOMMENDATION

It is resolved that:

- (A) Council approve an exemption from tender, in accordance with section 55(3)(i) of the Local Government Act 1993, to contract with the City's existing supplier of Electricity for three years, noting the financial implications in confidential Attachment A to the subject report;
- (B) Council note that the reason for seeking an exemption from tender is that, due to extenuating circumstances, a satisfactory result would not be achieved by inviting tenders due to:
 - (i) the prevailing market price is expected to increase prior to expiry of current contract on 31 December 2015;
 - (ii) there is no potential for back-dating of contract commencement period with a tender, thus missing out on an opportunity to secure significant savings;
 - (iii) a minimum requirement to meet current terms and conditions would limit the number of potential complying tenderers; and
 - (iv) by entering into this new arrangement, Council is better able to align future large-site electricity purchases with the major group purchasing entities electricity procurement cycle;

- (C) authority be delegated to the Chief Executive Officer to execute and administer the contract; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer future variations to contract.

ATTACHMENTS

Attachment A: Analysis of Electricity Prices (Confidential)

(As Attachment A is confidential, it will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)

BACKGROUND

1. The City purchases electricity from approved electricity retailers via two separate contracts. This is consistent with commercial best practice and also with State Government contract arrangements.
2. The City's existing energy provider is the retailer supplying large sites, which generally means sites that consume in excess of 100,000 kWh per year. This contract, which expires on 31 December 2015, accounts for about 90 per cent of the City's electricity purchases.
3. This report applies only to the large site electricity supply contract. The current contract has terms and conditions that are consistent with the previous State Government contract ('the 777 contract'), which was the basis on which the City purchased electricity until late 2013.
4. The City no longer has access to the 777 contract due to exclusion of all local councils by the State Government and must negotiate terms and conditions directly with an electricity retailer or via an eligible group purchasing arrangement.
5. The City's existing contract includes special conditions which are important to the City's policy stance on low-carbon emissions and renewable energy. In particular, the contract allows for the City to sell back energy generated on-site at City premises (typically from solar PV installations and from the proposed trigeneration plant(s)).
6. The current retailer meets the City's expectations in terms of billing arrangements, continuous consumption reporting, data delivery and other metering-related requirements.
7. The electricity market is increasingly volatile, due to a number of factors. These include ongoing changes in government policy, impact of energy efficiency initiatives, reduced demand from traditional industrial consumers, weather-related impacts and planned and potential shutdown of older fossil fuel power plants. Further information about the reasons for increasing market volatility are provided in confidential Attachment A.
8. Competitive offers have been available to large scale purchasers of energy over the past 18 months. However, there is now evidence that the market is hardening and there is a risk of a continuing upward trend in prices as the market gradually adjusts to changes in customer demand and government regulation, as outlined in confidential Attachment A.

KEY IMPLICATIONS

Strategic Alignment

9. The proposed purchase of electricity is aligned with the City's actions to progressively reduce its demand for grid electricity in the lead-up to 2030. The amount of electricity to be purchased will be adjusted downwards to take into account additional energy efficiency measures, the street lighting program, additional PV generation and the near-term introduction of trigeneration at Town Hall.

Term of contract

10. It is generally expected that electricity prices are likely to rise over the medium term. In particular, expert advice obtained by the City during the appraisal of the Town Hall trigeneration program indicates a gradual increase in prices. However, the pace and extent of price rises has proven notoriously difficult to predict in the shorter term and, for this reason, there is an advantage in returning to the market more regularly (at least every three years).
11. The City's demand for electricity is gradually declining. Accordingly, it is prudent not to enter into contracts for more than three years, given contractual requirements to commit to a minimum usage.
12. A further reason to select a term of 2.5 years is to better align future purchases of electricity with the procurement cycle of group purchasing entities, being Local Government Procurement Partnership and/or Procurement Australia. It is noted that major electricity contracts, offered by these entities, expire in June 2018.

Environmental issues

13. The proposed contract will allow the City to export (and be paid for exporting) renewable electricity and low-carbon energy to the grid. This is an essential requirement, given the City's stance on decentralised energy and renewable energy.

BUDGET IMPLICATIONS

14. The offer from the City's current energy provider is competitive with the market and will impact favourably on the 2015-16 operating budget and on longer-term financial planning estimates.
15. Extensive benchmarking has been undertaken, as well as references to reputable energy sector forecasts.

RELEVANT LEGISLATION

16. Local Government Act 1993 and the Local Government (General) Regulation 2005 and the City's Contracts Policy.
17. The exemption from tender is sought in accordance with section 55(3)(i) of the Local Government Act 1993.
18. Confidential Attachment A contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.
19. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

CRITICAL DATES / TIME FRAMES

20. The current contract expires on 31 December 2015. The new contract proposes backdating the lower rates offered under the new contract to 1 July 2015.

OPTION

21. An alternative option would be to allow tendering as part of a group buying scheme. This would therefore require an extension of the current supplier's contract by approximately six months to meet these time frames. It is unlikely that a shorter term extension would be provided with the lower rates now being offered for the 2.5 year extension, including the six month back-dating of energy charges.

CONCLUSION

22. The arrangement proposed in this report is considered to be commercially and environmentally preferable because it:
- (a) allows the certainty of favourable prices available in the market at the current time to be locked in, effective immediately and back-dated to the commencement of the current financial year;
 - (b) allows the City to use its attractive electricity load profile (relatively small number of relatively large sites, high off-peak component, low commercial risk) to achieve the best outcome for ratepayers and residents;
 - (c) allows future purchases of electricity to be coordinated with major group purchases of electricity negotiated through major group electricity purchasing entities; and
 - (d) ensures that steady progress towards the goals of Sustainable Sydney 2030 is maintained.

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