

**ITEM 9. EXEMPTION FROM TENDER AND CONTRACT EXTENSION -  
COMMERCIAL WASTE COLLECTION SERVICES**

**FILE NO: S072015.034**

**SUMMARY**

The City of Sydney has a responsibility to ensure the timely collection of commercial, general and recycling waste material from 69 City owned properties. The current commercial waste collection contract between the City's Property Services Manager, Brookfield Global Integrated Solutions (BGIS) and Sydney Waste Pty Ltd (the Commercial Waste Collection Contract) is due to expire on 30 June 2016.

In preparation for this expiry, the City commenced its re-tendering cycle in late 2015. This process included scoping and procuring a waste audit for the property portfolio to inform the scope of waste services required. At the time, it was also determined that completion of a waste audit would require an extension of the term of the current Commercial Waste Collection Contract.

To facilitate this, the City requested a fee estimate for a one year extension to 30 June 2017. Subsequently, the incumbent contractor (Sydney Waste Pty Ltd) submitted a cost estimate that was significantly higher than their current 2016 fee.

As an alternative, the City decided to go to market to seek a competitive costing via a Schedule of Rates Tender. The scope of this tender also sought to include the operational waste management and reporting requirements recommended by the Better Buildings Partnership (BBP) Operational Waste Guidelines.

Following the release of the Schedule of Rates Tender (Tender 1630), it was identified that the BBP Operational Waste Guidelines, which recommended contracts preferencing management and reporting of waste by weight for commercial premises, had not yet become standard industry practice and few potential service providers would be able to conform. Tender 1630 was amended to reflect this.

This amendment to Tender 1630 also necessitated an extension to the closing date of Tender 1630. This extension to the closing date means that the new contract cannot be awarded before the current contract expiry date on 30 June 2016.

On this basis, the City seeks to extend the current Commercial Waste Collection Contract by three months until 30 September 2016 to allow for the new contractor to be appointed and operational transition to occur. Sydney Waste Pty Ltd have agreed to a minimal increase for this three month period. It is intended that the report to award the new contract will be submitted to the July 2016 meeting of Council.

**RECOMMENDATION**

It is resolved that:

- (A) Council approve an exemption from tender for the extension of Commercial Waste Collection Contract because, due to extenuating circumstances, a satisfactory result would not be achieved by inviting tenders;

- (B) Council note that the reasons why a satisfactory reason would not be achieved by inviting tenders are:
- (i) there is insufficient time to have a separate request for tender for a three month period, given the imminent expiry of the current contract period at 30 June 2016; and
  - (ii) the incumbent service provider under the Commercial Waste Collection Contract has provided a quote for the three month period from 1 July 2016 to 30 September 2016 which allows for a minimal increase versus the previous quarter, thus ensuring value for money;
- (C) Council approve the variation of the existing Commercial Waste Collection Contract to provide for the extension of the term by three months and change in the contract value (see confidential Attachment A to the subject report for details); and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the variation of the Commercial Waste Collection Contract, to provide for the extension of the term by three months expiry date and change in the contract value (see confidential Attachment A for details).

## **ATTACHMENTS**

**Attachment A:** Summary of Commercial Waste Collection Contract (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 of Sydney has responsibility to ensure the collection of commercial, general and recycling waste from 69 City owned properties. The current contract between BGIS and Sydney Waste Pty Ltd (the Commercial Waste Collection Contract) is due to expire on 30 June 2016.
2. It was originally intended to extend the current Sydney Waste Pty Ltd contract by one year until 30 June 2017 to allow for completion of a waste audit and gap analysis, the results of which would inform the scope of waste services required.
3. To facilitate this, the City requested a fee estimate for the proposed one year contract extension. Subsequently, the incumbent contractor (Sydney Waste Pty Ltd) submitted a cost estimate that was significantly higher than their current 2016 fee.
4. As an alternative, the City decided to go to market to seek a competitive costing via a Schedule of Rates Tender (Tender 1630). The tender has been scoped to allow sufficient flexibility under the contract, e.g. new waste streams etc., so that the results of the waste audit when finalised can be used to inform operational requirements.
5. The scope of the tender also sought to include the operational waste management and reporting requirements recommended by the Better Buildings Partnership (BPP) Operational Waste Guidelines.
6. Following release of the tender, it was identified that the BPP Operational Waste Guidelines which recommended contracts preferencing management and reporting of waste by weight for commercial premises, had not yet become standard industry practice and few potential service providers would likely conform.
7. Tender 1630 was amended together with an extension to the closing date of Tender 1630. This extension means that the new contract cannot be awarded before the current contract expiry date on 30 June 2016.
8. On this basis, the City seeks to extend the current Commercial Waste Collection Contract by three months until 30 September 2016 to allow for the new contractor to be appointed and operational transition to occur. Sydney Waste Pty Ltd have agreed to a minimal increase for this three month period. It is intended that the report to award the new contract will be submitted for the July 2016 Council Meeting.
9. The extenuating circumstances for approving the exemption from tender relate to the scope of Tender 1630, potentially including the request for a weight-based contract (a new business model for many contractors), the length of the contract (possibly not long enough for a contractor to make a major investment in upgrading trucks with certified scales) and the nature of the portfolio covered (predominantly non-commercial assets), proving difficult for the market to deliver and the need for an amendment and extension of Tender 1630 closing date. This now means that the new contract cannot commence on 1 July 2016 and the current contract must be extended to 30 September 2016.
10. Council note that the reasons why a satisfactory reason would not be achieved by inviting tenders are:

- (a) there is insufficient time to have a separate request for tender for a three month period, given the imminent expiry of the current contract period at 30 June 2016; and
- (b) the incumbent service provider under the Commercial Waste Collection Contract has provided a quote for the three month period from 1 July 2016 to 30 September 2016 which allows for a minimal increase versus the previous quarter, thus ensuring value for money.

**FINANCIAL IMPLICATIONS**

- 11. There are sufficient funds allocated for this service within the draft 2016/17 operational budget.

**RELEVANT LEGISLATION**

- 12. The requirements for the tendering under section 55(3) of the Local Government Act 1993 do not apply to a contract where extenuating circumstances are demonstrated and Council decides by resolution, which states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders.
- 13. 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.
- 14. 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**

- 15. The current contract expires on 30 June 2016.

**AMIT CHANAN**

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