

ITEM 20. TENDER - LEGAL SERVICES PANEL

FILE NO: X006353

TENDER NO: 1658

SUMMARY

This report provides details of the tenders received for the provision of legal services through the establishment of a legal services panel.

The City's need for legal services has been identified as falling within 10 distinct areas of law: Property, Commercial, Construction, Intellectual Property and Technology, Public Liability and Insurance Litigation, General Litigation, Administrative, Workplace Relations, Planning and Environment and Local Government and Community.

The establishment of a legal services panel provides access for the City's internal legal, insurance and workplace relations staff to an approved panel of legal firms to deliver legal services within the nominated areas of law as and when required. Much of the City's legal work is done by in-house lawyers, but the panel is needed to provide additional support in relation to specialised areas of expertise, to support in high volume work such as the preparation of leases and for occasions where additional resources are required.

This report recommends that Council accept the tender offer of Tenderers 'A', 'B', 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'K', 'L', 'N', 'O', 'P', 'R', 'S', 'T' and 'U' for the provision of legal services. The accepted tenderers vary across the different areas of law, reflecting different skills and experience, as well as to ensure adequate coverage of the City's requirements in the different areas.

RECOMMENDATION

It is resolved that:

- (A) Council accept the tender offers of Tenderers 'A', 'B', 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'K', 'L', 'N', 'O', 'P', 'R', 'S', 'T' and 'U' for appointment to the legal services panel in the areas of law noted in confidential Attachment A to the subject report and at the rates set out in confidential Attachment B to the subject report for a period of three years, with the option of two extensions, each of one year, if appropriate;
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contracts relating to the tender; and
- (C) authority be delegated to the Chief Executive Officer to exercise the options referred to in clause (A), if appropriate, and negotiate the price to extend the contract accordingly.

ATTACHMENTS

Attachment A: Tender Evaluation Summary (Confidential)

Attachment B: Recommended Tenderers' Schedule of Prices (Confidential)

(As Attachments A and B are confidential, they will be circulated separately from the agenda paper and to Councillors and relevant senior staff only.)

BACKGROUND

1. On 5 December 2011, Council resolved to appoint various legal service providers to a legal services panel for a period of three years, with the option of two further extensions, each of one year, at the sole discretion of the City.
2. The term of the legal services panel appointed in December 2011 will expire on 4 December 2016, following the exercise of the two extension options.
3. The services of external legal service providers are required to supplement the City's internal legal services and will be engaged on an "as needed" basis, depending on the need for specialised expertise and the demands on internal resourcing.

INVITATION TO TENDER

4. The tender was advertised in The Sydney Morning Herald on 6 September 2016, The Daily Telegraph on 6 September 2016 and the Financial Review on 8 September 2016.
5. Tenders closed on Tuesday 27 September 2016 at 11.00am.

TENDER SUBMISSIONS

6. Twenty-two submissions were received from the following organisations (listed alphabetically):
 - Ashurst
 - Bartier Perry
 - Bird & Bird
 - Clayton Utz
 - Clyde & Co Pty Ltd
 - Hall & Wilcox
 - Henry Davis York
 - Holding Redlich
 - Holman Fenwick Willan
 - Lex Fori Lawyers Pty Ltd
 - Maddocks
 - Marsdens Law Group
 - Massons Commercial Property Pty Ltd
 - McCabes
 - McCulloch & Buggy

- McCullough Robertson
- Minter Ellison Lawyers
- Moray & Agnew
- Thomson Geer
- TressCox Lawyers
- Workplace Law Pty Ltd
- Wotton & Kearney

7. One late submission was received outside of the tender requirements.

TENDER EVALUATION

8. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
9. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.
10. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) description and experience of the team proposed, its capability and its understanding of the Council or similar clients, and its suitability to provide quality legal services having regard to the anticipated type and volume of work;
 - (b) description of how the tenderer intends to structure the relationship and methodology for maintaining the relationship;
 - (c) the form of costs agreement;
 - (d) Work Health and Safety; and
 - (e) financial and commercial trading integrity including insurances

PERFORMANCE MEASUREMENT

11. The panel will be active for an initial period of three years, with options to extend for a two further periods, each of one year, at the sole discretion of the City.
12. Performance of appointed panel members will be measured according to criteria including, but not limited to:
 - (a) key objectives/deliverables;
 - (b) quality of work (advice given is accurate, achievable and useful);
 - (c) responsiveness and timeliness of providing legal services to Council;
 - (d) reporting (prompt and accurate reporting on current matters assigned); and

- (e) accessibility: (the extent to which Council can readily reach legal counsel when required).

FINANCIAL IMPLICATIONS

- 13. The legal fees paid to firms appointed to the panel are paid from each year's budget for the Legal Services Unit. No further funds are required.

RELEVANT LEGISLATION

- 14. The tender has been conducted in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Contracts Policy.
- 15. Attachments A and B contain 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.
- 16. 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

- 17. As the current legal services panel expires on 4 December 2016, the new panel needs to be appointed prior to that time in order to maintain the current level of the provision of legal services to the City.

OPTIONS

- 18. If no legal services panel is appointed, the ability of internal staff to provide appropriate levels of service to the City, particularly in specialised areas of law, will be severely impacted.

PUBLIC CONSULTATION

- 19. No public consultation was required for the purposes of this tender.

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