

ITEM 22. TENDER – PANEL OF INVESTIGATION SERVICE PRACTITIONERS

FILE NO: S084563

TENDER NO: 1645

SUMMARY

This report provides details of the tenders received for a panel of investigation service practitioners.

The Council requires the services of external investigation practitioners to investigate allegations made against Council. This can occur when the number of concurrent matters requiring investigation exceeds internal capacity or when matters are large and/or complex and require external expertise. It may also on occasion be prudent for Council to have a matter investigated independently to address perceptions of conflict.

The proposed panel of investigation service practitioners will be used to investigate serious fraud and corruption allegations as well as more straightforward misconduct matters. In most cases, the engagement will be undertaken by the Governance Unit and the Human Resource Operations Unit. It is recommended that the new panel be comprised of two tiers. Tier one investigations will be more complex and larger in scale, often requiring specialist skills such as computer forensic examination. Tier two matters are those that are more contained and require the use of basic investigative techniques.

This report recommends that Council accept the offers of Tenderers 'A', 'B' and 'C' for Tier one investigations and Tenderers 'A', 'B' and 'K' for Tier two investigations. The panels will be appointed for an initial period of three years, with an option for a two year extension.

RECOMMENDATION

It is resolved that:

- (A) Council accept the following tender offers for a period of three years, with the option for a further two year extensions:
 - (i) in respect of Tier one investigations, Tenderers 'A', 'B' and 'C'; and
 - (ii) in respect of Tier two Investigations, Tenderers 'A', 'B' and 'K';
- (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 option 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: Schedule of rates for recommended Tenderers (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. The Council requires the services of external investigation practitioners to investigate allegations made against Council. This can occur when the number of concurrent matters requiring investigation exceeds internal capacity or when matters are technical and/or complex and require external expertise. It may also on occasion be prudent for Council to have a matter investigated independently to address perceptions of conflict.
2. Organisations may be engaged by the Council to conduct discrete investigation tasks or full investigations with comprehensive reports that are relied upon by the Council for decision making. Examples of discrete investigative tasks include: surveillance; interviews; and forensic accounting.
3. In general, investigations that require the use of external practitioners also require timely investigative actions such as interviews. Any delay in the engagement of these practitioners is highly undesirable. To ensure delays are minimised, the Council has previously created a panel of practitioners with relevant experience who have provided an agreed schedule of rates for their work. The Council's previous panel of investigation service practitioners expired in November 2016.
4. The proposed panel of investigation service practitioners will be used to investigate serious fraud and corruption allegations as well as more straightforward misconduct matters. In most cases, the engagement will be undertaken by the Governance Unit and the Human Resource Operations Unit. It is recommended that the new panel be comprised of two tiers. Tier one investigations are in general more complex and larger in scale, often requiring specialist skills. Tier two matters are those that are more contained and require the use of basic investigative techniques.
5. An example of what would comprise a tier one investigation would be a serious fraud allegation requiring forensic accounting expertise and computer forensic capability to identify and recover deleted records. A typical tier two matter would be an allegation of a policy breach by staff that would only require interviewing expertise.

INVITATION TO TENDER

5. The tender was advertised in The Sydney Morning Herald, The Daily Telegraph and E-Tender on 26 July 2016 and closed on 16 August 2016.

TENDER SUBMISSIONS

6. Nineteen submissions were received from the following organisations (listed alphabetically):
 - Agilient Pty Ltd
 - Anti Corruption Consultants Australia Pty Ltd
 - Barrington Corporate Risk Pty Ltd
 - Centium Group Pty Ltd
 - Ernst and Young
 - FTI Consulting (Australia) Pty Ltd

- Murphy Davis Management Pty Ltd
 - O'Connor Marsden and Associates Pty Ltd
 - Omedia Pty Ltd
 - PPB Advisory Pty Ltd
 - Q Workplace Solutions Pty Ltd
 - RSM Australia Pty Ltd
 - Russell Kennedy Lawyers
 - TressCox Lawyers
 - Verifact Investigations
 - Westwood (CFW Spice Pty Ltd)
 - Warfield and Associates Pty Ltd
 - Worklogic Pty Ltd
 - Workplace Investigation Services Pty Ltd
7. A tender submission by BDO Australia Ltd was delivered late and was not assessed.

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) proposed methodology/program for the selected tier(s) of investigation;
 - (b) demonstrated capability, qualifications, experience and technical ability of nominated personnel to carry out work under contract;
 - (c) demonstrated experience in providing investigation services;
 - (d) demonstrated understanding of legislation that may impact on the conduct and findings of investigations about City staff;
 - (e) schedule of prices;
 - (f) Work Health and Safety; and
 - (g) financial and commercial trading integrity including insurances.

PERFORMANCE MEASUREMENT

11. The City will monitor the quality and timeliness of every investigation conducted by the successful tenderers during the initial three year term of their contracts. Performance will be assessed on an ongoing basis during the life of the contracts. The results will be used by the City when considering the benefit of exercising the option to extend the contracts for a further two year period.

FINANCIAL IMPLICATIONS

12. The cost of investigation services will be funded from operational budgets within the relevant financial years.

RELEVANT LEGISLATION

13. 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.
14. Attachments A and B contain confidential commercial information of the tenderers and details of Council's tender evaluation 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.
15. 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.
16. Information provided by tenderers which is commercial in confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the Local Government Act 1993. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

CRITICAL DATES / TIME FRAMES

17. The current panel expired in November 2016.

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Director Legal and Governance

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