

Exemption from Tender - IT Maintenance and Support Contract

File No: S064539

Summary

The City utilises a broad range of IT applications and appliances that are critical to the delivery of its business functions. Most of these have maintenance and support contracts in place that were established with suppliers at the time the products were procured and which have been updated as required since then.

One of the City's maintenance and support agreements now requires renewal. This agreement exceeds \$250,000 over a five-year period as detailed at Attachment A.

The existing supplier was evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome.

The requirement to invite tenders in section 55(1) of the Local Government Act 1993 does not apply to those contracts if Council decides by resolution that, because of the unavailability of competitive or reliable tenderers, a satisfactory result would not be achieved because of the unavailability of successful tenderers (section 55(3)(i) of the Local Government Act 1993).

This report recommends that Council grant the exemption from tender for the IT maintenance and support agreement detailed at Attachment A.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender for the agreement for the provision of the maintenance and support for the Online Business Services (OBS) and Non-Resident Register (NRR¹) systems as detailed in Confidential Attachment A to the subject report upon the expiry of the current term, for a three-year period, with the option of an extension of two years if appropriate, noting that because of extenuating circumstances, a satisfactory result would not be achieved by inviting tenders in this case;
- (B) Council note the reason a satisfactory outcome would not be achieved by inviting tenders is that the existing supplier was previously evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome;
- (C) Council enter into the maintenance and support agreement with the supplier as detailed in Confidential Attachment A to the subject report, for annual renewal over a three-year period, with the option of an extension of a two-year period if appropriate; and
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer (including exercising options if appropriate) the maintenance and support agreement with the relevant supplier as detailed in Confidential Attachment A to the subject report.

Attachments

Attachment A. IT Maintenance and Support Agreement (Confidential)

¹ Council Electoral Roll

Background

1. The City has many software applications and hardware appliances that are in daily use and are critical to the delivery of its services to the community. The maintenance and support agreements associated with these IT applications and appliances have been established with suppliers and require periodic renewal.
2. Maintenance and support are essential to ensure the availability and reliability of software through guaranteeing vendor availability to troubleshoot and rectify errors. They also extend the lifecycle of an application or appliance through product enhancement and are in many cases integral to the licensing of the software.
3. In this case, the existing supplier was evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome.
4. This supplier was originally engaged in accordance with the City's procurement policies and procedures with the original maintenance and support agreement established for a three-year period with two fully exercised one-year options. This agreement extension exceeds \$250,000 over the five-year period, as detailed in Confidential Attachment A.
5. This report recommends approval of renewal of the contract for the listed supplier for an additional three years, commencing on the expiry of the current contract periods, with the option of an extension of a two-year period if appropriate.

Performance Measurement

6. Performance is reviewed annually and measured against the following criteria:
 - (a) key outcomes / deliverables;
 - (b) quality of work;
 - (c) timeliness;
 - (d) reporting; and
 - (e) communication.

Financial Implications

7. There are sufficient funds allocated for this maintenance and support agreement within the current year's operating budget and in future years' forward estimates.

Relevant Legislation

8. The exemption from tender process is in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and the City's Procurement and Contract Management Policy.

9. The Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
10. Attachment A to the subject report contains confidential commercial information which, if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
11. 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

12. Renewal of this maintenance and support agreement can commence upon receipt of Council's approval.
13. The current maintenance and support agreement listed in Attachment A is due to expire in March this year (as further detailed in Attachment A).

Options

14. The option exists to Tender for a new maintenance and support supplier for the Online Business Services (OBS) and Non-Resident Register (NRR) bespoke applications. However since both were designed, developed and have since been supported and maintained by the incumbent supplier, it would not be in the best interests of the City to change to a supplier with no knowledge of the applications, or how and why they were developed in the manner they were. This supplier was originally evaluated as best value for money from a competitive tender process, and a repeat tender process is unlikely to yield a different outcome. For these reasons, this option is not recommended.
15. There are no other substantially different options to this proposal. Maintenance and support extend the lifecycle of an IT application or appliance through product enhancements.

Public Consultation

16. No public consultation has been undertaken.

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