

Exemption from Tender - IT Licence, Subscription, Maintenance and Support Contracts

File No: S064539

Summary

The City utilises a broad range of IT applications, platforms and appliances that are critical to the delivery of its business functions. These products perform within an ecosystem of interrelated platforms and systems that are managed via the City's strategy for core systems and digitalisation as set out in the operating plan. In most cases, these systems cannot simply be swapped out for alternate products, they are planned to be uplifted and/or replaced via project work over a rolling five-year horizon. It is thus imperative to continue the subscription, licencing, maintenance and support arrangements in line with the product management cycle.

Most of these applications have the subscription, licencing, 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.

This report recommends that Council grant an exemption from tender for the IT maintenance, support, subscription and licencing of the software applications, platforms and hardware appliances' agreements with suppliers and for the periods listed in Confidential Attachment A.

The estimated total contract value with each supplier listed in Confidential Attachment A is anticipated to exceed \$250,000 (excluding GST). The detailed reasons supporting each exemption from the tender request are outlined in Confidential Attachment A.

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).

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender for the provision of the maintenance, support, subscription and licencing of the software applications, platforms and hardware appliances upon the expiry of the current agreements, for the respective extension period along with the optional extension, if appropriate, as listed in Confidential Attachment A to the subject report, noting that because of extenuating circumstances, a satisfactory result would not be achieved by inviting tenders;
- (B) Council note the reasons why a satisfactory outcome would not be achieved by inviting tenders differ for each application, platform or appliance and include:
 - (i) a lack of availability of alternative suppliers;
 - (ii) high costs and/or extensive business disruption associated with a transition to a new provider; and
 - (iii) upgrades or changes to service requirements are planned to be implemented within the next five years;
- (C) Council note that the detailed reasons as to why a satisfactory result will not be achieved by inviting tenders are outlined further in Confidential Attachment A;
- (D) Council enter into the subscription, licencing, maintenance and support agreements with the suppliers upon the expiry of the current agreements for the respective extension period along with the optional extension, if appropriate, as listed in Confidential Attachment A to the subject report; and
- (E) authority be delegated to the Chief Executive Officer to negotiate, execute and administer (including exercising options, if appropriate) the subscription, licencing, maintenance and support agreements with the relevant suppliers as listed in Confidential Attachment A to the subject report.

Attachments

- Attachment A.** List of IT Licence, Subscription, Maintenance and Support Agreements (Confidential)

Background

1. The City has a number of software applications, platforms and hardware appliances that are in daily use and are critical to the delivery of its services to the community. The agreements associated with these applications, platforms and appliances have been established with suppliers and will require renewal. The estimated total contract value with each supplier listed in Confidential Attachment A is anticipated to exceed \$250,000 (excluding GST). The detailed reasons supporting each exemption from the tender request are outlined in Confidential Attachment A.
2. Every organisation maintains software assets that enable efficiencies and productivity gains and enhance internal and external customer relationships.
3. As part of its software asset management strategy, the City is identifying software in use City-wide and confirming current use and contract periods with a view to planning future contract requirements and terms and also understanding and planning for replacements.
4. Software applications of this type have historically been licensed in perpetuity with additional annual support. However, technological advances have changed the licence model over time.
5. Maintenance and support are essential to ensure the availability and reliability of software by guaranteeing suppliers' availability to troubleshoot and rectify errors, and / or to extend the lifecycle of an application or appliance through product enhancement. In many cases, retaining maintenance and support payments is integral to the licensing of the software.
6. A previous request for exemption from tender for a range of IT applications and appliances was granted by the Council on 9 September 2019 for a period of three years, with the option of an extension for a two-year period.
7. The relevant IT applications, platforms and appliances were each originally procured using the required procurement processes.
8. Technology and Digital Services frequently examines the market through market scans and tendering related to project work to identify alternatives to ensure IT applications, platforms and appliances deliver the best value for the City, its residents and visitors.
9. Due to the essential nature of some IT applications, platforms or appliances, it is anticipated that there will be future reports to Council to approve other exemptions from tender, as required.
10. This report recommends approval of the exemption from tender for the provision of the maintenance, support, subscription and licencing of the software applications, platforms and hardware appliances upon the expiry of the current agreements for the respective extension period, along with the optional extension, if appropriate, as listed in Confidential Attachment A to the subject report.

Performance Measurement

11. Operational and financial performance targets are monitored on a monthly, quarterly and annual basis and through a combination of meetings, audits, inspections and reporting.

Financial Implications

12. There are sufficient funds allocated for these subscription, licencing, maintenance and support agreements within the current years' operational budget and future years forward estimates.

Relevant Legislation

13. 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.
14. Attachment A contains confidential commercial information of the suppliers which, if disclosed, would:
 - (a) confer a commercial advantage on a person or company with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person or company 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.

Critical Dates / Time Frames

16. The majority of the current subscription, licencing, maintenance and support agreements listed in Confidential Attachment A are due to expire on different dates within the next year (as further specified in Confidential Attachment A).

Options

17. There are no other substantially different options to this proposal. Maintenance and support not only extends the lifecycle of an application or appliance through product enhancements, but in many cases is also integral to the licensing of the software.

Public Consultation

18. No public consultation has been undertaken.

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