

Cancellation of Tender - T-2022-802 and Exemption from Tender - Construction, Installation, and De-Installation of Lantern Toppers and Ground Based Lanterns for 2023 Sydney Lunar Festival

File No: X087768.003

Tender No: T-2022-802

Summary

This report provides details of the tenders received for the construction, installation and de-installation of Lantern Toppers and Ground Based Lanterns for 2023 Sydney Lunar Festival.

The Sydney Lunar Festival ('Festival') has grown to become one of the largest celebrations of the Lunar New Year outside of Asia. The Festival started in 1995 as a modest community street market and has now transformed to include a large-scale exhibition of Lunar Illuminated Decorations that inspire, excite, and amuse local and international audiences.

The Lantern Toppers and Ground Based Lanterns form a major component of the 2023 Sydney Lunar Festival which is supported by a curated community performance program and an extensive schedule of over 80 associated events.

The City undertook an open Request for Tender (RFT) – T-2022-802, for the construction, installation, and de-installation of Lantern Toppers and Ground Based Lanterns for 2023 Sydney Lunar Festival of which the scope comprised four parts:

- Part A: Twelve (12) Zodiac Lantern Toppers designed by Erika Zhu
- Part B: Five (5) Rabbit Themed Lantern Toppers designed through the Children's Drawing Competition:
 - Rabbit 1: "Chinese Flying Rabbit Boat" Children's Topper
 - Rabbit 2: "Drumming Rabbit" Children's Topper
 - Rabbit 3: "Skateboard Rabbit" Children's Topper
 - Rabbit 4: "Fancy Dress Rabbit" Children's Topper
 - Rabbit 5: "Bubble Tea Rabbit" Children's Topper
- Part C: Two (2) Rabbit Themed Lantern Toppers designed by Alex and Brad Creative; and
- Part D: Ground Based Lanterns: A minimum of six (6) Rabbit Themed Ground Based Lanterns designed by Yuxiao Wang and Meilun Gao. Additional units may be contracted subject to budget availability in accordance with the Schedule of Prices.

Following the close of the tender, the City received no responses to any of the four parts. This was an unexpected response to the tender. However the industry is experiencing unprecedented demand and capacity issues which has impacted the tender process on this occasion.

This report recommends that Council cancel tender T-2022-802 for the construction, installation and de-installation of Lantern Toppers and Ground Based Lanterns for 2023 Sydney Lunar Festival.

Due to the urgent nature of requiring Lantern Toppers and Ground Based Lanterns in time for the upcoming 2023 Sydney Lunar Festival, the City proposes to approach potential suppliers to identify what can be provided given current industry constraints. There will not be adequate time to undertake these discussions and complete a new tender process.

The methodology within the scope of work in cancelled tender T-2022-802 required the manufacture to a traditional fabric and wire framed format, as this was deemed to be most cost effective based on previous experience. In order to ensure manufacture and installation of the lanterns can be achieved in time for 2023 Sydney Lunar Festival, the City will approach potential suppliers to identify what is capable of being achieved. This may require negotiation with suppliers in relation to build methodologies and materials to allow for the most time effective and efficient delivery.

These negotiations may not result in all four parts of the original scope being delivered however, the intention is to deliver as much of the original scope as possible.

Whilst every effort will be made to contract one or multiple suppliers to deliver the Lantern Toppers and Ground Based Lanterns, this may not be possible given the limited supply market and time constraints. In the instance that some or no new builds can be achieved, the City may use existing Sydney Lunar Festival Zodiac Lanterns as part of the exhibition. To re-stage the existing lanterns, the City will need to engage supplier(s) to undertake any repairs and to perform the installation and de-installation as these lanterns are currently out of contract.

In addition, the supply, installation and de-installation of alternate decorations may be procured from a suitably qualified organisation to contribute to the exhibition.

This report recommends that Council grant an exemption from tender process given the current circumstances, enabling staff to enter into negotiations with suitable suppliers for one or more of the following:

- the engagement of one or multiple suppliers for the construction, installation and de-installation of Lantern Toppers and Ground Based Lanterns for the 2023 Sydney Lunar Festival (with the potential to cover the installation and de-installation of lanterns for the 2024 and 2025 events, subject to the outcome of the negotiations); and/or
- the engagement of one or multiple suppliers for the repair, installation and de-installation of existing Zodiac Lanterns for the 2023 Sydney Lunar Festival; and/or
- the engagement of one or multiple suppliers for the supply, installation and deinstallation of alternate decorations for 2023 Sydney Lunar Festival.

Recommendation

It is resolved that:

- (A) Council cancel the tender for the construction, installation and de-installation of Lantern Toppers and Ground Based Lanterns for 2023 Sydney Lunar Festival as no responses were received;
- (B) Council approve an exemption from tender to enter into agreement(s) of up to three-years (subject to the outcome of the negotiations) with suitable supplier(s) for the construction of Lantern Toppers and Ground Based Lanterns for the 2023 Sydney Lunar Festival together with the installation and de-installation for the 2024 and 2025 events;
- (C) Council approve an exemption from tender to enter into one-year agreement(s) with suitable supplier(s) for the repair, installation and de-installation of existing Zodiac Lanterns for the 2023 Sydney Lunar Festival;
- (D) Council approve an exemption from tender to enter into one-year agreement(s) with suitable supplier(s) for the supply, installation and de-installation of alternate decorations for 2023 Sydney Lunar Festival;
- (E) Council note that the maximum contract sum for all contracts that may be entered into under (B), (C) and (D) is outlined in Confidential Attachment B to the subject report;
- (F) Council note the reasons a satisfactory outcome would not be achieved by inviting fresh tenders is due to the following extenuating circumstances:
 - (i) there is insufficient time to undertake required scoping discussions and a tender process for these services, given the timing constraints for construction of the lanterns ahead of the festival in January 2023;
 - (ii) the industry is currently experiencing unexpected demand and capacity issues and timing in the market is very difficult at the moment. As a result, the City needs to work with suppliers to determine the scope that can be delivered within the remaining timeframes. and
 - (iii) it is considered that inviting fresh tenders would not attract additional suitable suppliers to deliver the services.
- (G) authority be delegated to the Chief Executive Officer to finalise negotiations and enter into any necessary documentation to give effect to these resolutions; and
- (H) Council be informed of the outcome of negotiations, including the final scope to be delivered, via the CEO Update.

Attachments

Attachment A. Reference Images of Lantern Toppers and Ground Based Lanterns

Attachment B. Exemption from Tender Proposal (Confidential)

Background

1. The Sydney Lunar Festival ('Festival') has grown to become one of the largest celebrations of the Lunar New Year outside of Asia. The Festival started in 1995 as a modest community street market and has now transformed to include a large-scale exhibition of Lunar Illuminated Plinths that inspire, excite, and amuse local and international audiences.
2. The Lantern Toppers and Ground Based Lanterns will form a major component of the 2023 Sydney Lunar Festival which is supported by a curated community performance program and an extensive schedule of over 80 associated events.
3. In 2023 we will celebrate the Year of the Rabbit and the 27th anniversary of the Festival. As part of the Festival, the City intends to display a number of lanterns which will feature the Rabbit and other zodiac animals.
4. The City undertook a Request for Tender (RFT) for the construction, installation, and de-installation of Lantern Toppers and Ground Based Lanterns for 2023 Sydney Lunar Festival of which the scope comprised four parts:
 - (a) Part A: Twelve (12) Zodiac Lantern Toppers designed by Erika Zhu
 - (b) Part B: Five (5) Rabbit Themed Lantern Toppers designed through the Children's Drawing Competition:
 - Rabbit 1: "Chinese Flying Rabbit Boat" Children's Topper
 - Rabbit 2: "Drumming Rabbit" Children's Topper
 - Rabbit 3: "Skateboard Rabbit" Children's Topper
 - Rabbit 4: "Fancy Dress Rabbit" Children's Topper
 - Rabbit 5: "Bubble Tea Rabbit" Children's Topper
 - (c) Part C: Two (2) Rabbit Themed Lantern Toppers designed by Alex and Brad Creative; and
 - (d) Part D: Ground Based Lanterns: A minimum of six (6) Rabbit Themed Ground Based Lanterns designed by Yuxiao Wang and Meilun Gao. Additional units may be contracted subject to budget availability in accordance with the Schedule of Prices.
5. Tenderers were invited to submit for one or more parts.
6. The Request for Tender was available on the City's eTendering portal, Tenderlink, on Tuesday 16 August 2022. The closing date was 11am on Tuesday 6 September 2022.
7. Following the close of tenders, no submissions were received. This was an unexpected response to the tender as the industry is experiencing unprecedented demand and capacity issues which has impacted the tender process on this occasion.

8. As there were no responses, it is necessary to cancel the tender and seek an exemption from tender approval to enter into negotiations with suitable suppliers to deliver an alternate scope of work. Whilst changes to the delivery method cannot be confirmed until negotiations are underway, examples of amendments to the scope may be alternate methods of creative delivery and/or amended build methodologies and/or reduction to quantities of lanterns being built.

Organisational Impact

9. The negotiation, contracting and operational delivery of the construction, installation and de-installation of the Lantern Toppers and Ground Based Lanterns for the 2023 Sydney Lunar Festival has already been accounted for as core deliverables as part of the Major Events and Festivals 2022/2023 event season. No additional staffing will be required as an outcome of the exemption from tender.

Risks

10. The contracts will be negotiated, executed and delivered within a very short timeframe and there may need to be modification and adaptations to the delivery method and/or quantities in order to meet construction deadlines.

Financial Implications

11. Confidential Attachment B outlines the City's available budget and cost estimates for the delivery of the Lantern Toppers and Ground Based Lanterns and the additional decorative elements for the upcoming 2023 Sydney Lunar Festival.
12. There are sufficient funds allocated for delivery of Lantern Toppers and Ground Based Lanterns within the current year's plant and asset and operating budget.
13. The City may not be in a position to deliver the number of lanterns initially anticipated due to shortened construction timeframes and supplier capacity issues. No additional funds are requested for the repairs, installation and de-installation of existing Zodiac Lanterns, or for the supply, installation and de-installation of alternate decorations. The City intends to use the existing available budget to deliver these elements, if required.

Relevant Legislation

14. The tender has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021
15. Section 55(3)(i) of the Local Government Act 1993 sets out the circumstances in which Council may grant an exemption from the requirement to follow the legislated tender processes.
16. 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.

17. Attachment B contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
18. 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

19. To ensure suppliers have sufficient time to manufacture Lantern Toppers, Ground Based Lanterns, or deliver any alternative decorative elements for the 2023 Sydney Lunar Festival, contracts are required by mid-November 2022.

Options

20. Not proceeding with the exemption from tender for the construction, installation and de-installation of Lantern Toppers and Ground Based Lanterns will result in the City's inability to deliver on its anticipated creative program for the 2023 Sydney Lunar Festival.
21. Should the City be unable to contract one or multiple suppliers to deliver the Lantern Toppers and Ground Based Lanterns, the City may use and re-stage existing Zodiac Lanterns as part of the creative exhibition. To re-stage the existing lanterns, the City will need to engage supplier(s) to undertake any repairs and to perform the installation and de-installation as these lanterns are currently out of contract.

The City may engage suitably qualified suppliers to supply, install and de-install alternate decorations for the exhibition but requires an exemption from tender to do so as there is no current contractor engaged for this purpose.

Public Consultation

22. No public consultation was undertaken.

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Director City Life

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