

Exemption from Tender - SSROC T2022-03 - Provision of Linemarking Services

File No: X095581

Tender No: T2022-03

Summary

This report seeks an exemption from tender for the Provision of Linemarking Services, as the Southern Sydney Regional Organisation of Councils (SSROC) has an arrangement with a suitable panel of suppliers resulting from a recent competitive tender process, and the City does not anticipate any material benefit or value in re-tendering.

SSROC is an association of 11 councils in the southern region of Sydney. SSROC provides a forum for the councils to deal with common issues, particularly those that cross boundaries and achieve economies of scale. Key issues include procurement, planning, environment, transport, sustainability and waste management.

SSROC conducted the Provision of Linemarking Services tender in 2022, which went to a reject and negotiate process. This resulted in four organisations being awarded contracts as a panel of suppliers. Details of the tender evaluation and result are at Confidential Attachment A.

The objective of the SSROC tender was to ensure competitive pricing for linemarking services for participating councils to support the delivery of capital and maintenance works. The tender has been evaluated and awarded by SSROC for an initial three-year period. There are three options available to extend the contracts, each for a period of one year.

This report recommends Council approval to engage one of the SSROC panel of suppliers for the Provision of Linemarking Services (Tenderer D).

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender for the Provision of Linemarking Services as Southern Sydney Regional Organisation of Councils (SSROC) has an arrangement with a suitable panel of suppliers resulting from a competitive tender process;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because:
 - (i) SSROC conducted a tender process in 2022 which resulted in a suitable panel of competitive suppliers being available to the City, providing a value for money outcome; and
 - (ii) there is unlikely to be any material benefit or cost saving to repeating the tender process;
- (C) Council note that the total contract sum is detailed in Confidential Attachment A to the subject report; and
- (D) authority be delegated to the Chief Executive Officer to finalise, execute and administer the contracts relating to the Provision of Linemarking Services, for a period of up to six years, and for the total contract sum detailed in Confidential Attachment A to the subject report.

Attachments

Attachment A. Negotiation Evaluation Summary (Confidential)

Attachment B. Price and Schedule of Rates (Confidential)

Attachment C. SSROC Tender Evaluation Summary (Confidential)

Background

1. The City of Sydney is a member of the Southern Sydney Regional Organisation of Councils (SSROC), an association of 11 councils, established in 1986.
2. SSROC provides a forum for councils to deal with common issues, particularly those that cross boundaries and achieve economies of scale. Areas of common interest include procurement, planning, environment, transport, sustainability and waste management.
3. One of SSROC's roles is to act as a facilitator of joint procurement activities to enable individual councils to benefit from economies of scale.
4. SSROC publicly invited tenders for the Provision of Linemarking Services, for an initial contract period of three years and, subject to satisfactory performance, an option to extend for up to three 12-month extensions.
5. In addition to tendering to become the primary supplier of these services, tenderers were also provided with the option to tender for these services under a panel arrangement.
6. SSROC released an open Request for Tender to the market on 6 April 2022, via Tenderlink. It closed on 2 May 2022. The tender process was facilitated by Inner West Council.
7. Only two supplier submissions were received from the tender process, and after reviewing these, the SSROC members felt that there was insufficient market tension to demonstrate value for money. They agreed that a more favourable outcome could be achieved via negotiation with a larger group of capable industry leading suppliers.
8. The SSROC members sought and obtained Reject and Negotiate approval from the participating Councils.
9. In addition to the two suppliers who responded to the tender, an additional four suppliers were identified, and negotiation letters were issued to each of them in October 2022. Only four submissions were received and evaluated. Suppliers were interviewed by the evaluation panel.
10. Negotiations were finalised in November 2022, and four suppliers were recommended by the evaluation panel for award as part of a panel arrangement (refer to Confidential Attachment C). All four companies scored well in the non-pricing criteria and demonstrated their experience and expertise during the interviews. The negotiation panel agreed that all four companies are capable to deliver and will satisfactorily meet the councils' expectations.
11. The City of Sydney's requirements, including WHS management, formed part of the tender document. Following review by the City of the SSROC evaluation outcomes, only Tenderer D satisfactorily met the City's requirements.

Performance Measurement

12. Performance will be monitored via:
 - (a) regular meetings with the contractor; and
 - (b) regular reviews and monitoring of key outputs to ensure the contractor remains on track with program and quality of works.
13. SSROC performs annual reviews of service provision via surveys of other SSROC Councils.

Financial Implications

14. The estimated contract value for the full contract term, including the three extension options, is contained in Confidential Attachment A. The contract value is based on an estimated annual expenditure, the tendered schedule of rates (at Confidential Attachment B), prior average annual expenditure, estimated known and future programs expenditure, and provision for future ad hoc and emergency requests.
15. The rates offered through these new contracts compare favourably to the rates available in previous City contracts on which works programs are based.
16. There are sufficient funds allocated for these works within the relevant capital and maintenance budgets and future years' forward estimates.
17. The quantity of work awarded each year is subject to approved capital works programs and maintenance activities required to achieve desired service levels for the City. The City does not guarantee any minimum quantity of works in any year.
18. The procurement of services under this tender will require the payment of a two percent management fee to SSROC. A comparison of the contracted schedule of rates to the City's most recent rates for similar services confirm that this fee will be absorbed by the savings achieved.

Relevant Legislation

19. The tender by SSROC has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
20. 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.
21. Attachments A, B and C 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.

22. 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

23. The contract period for the SSROC Preferred Supplier Master Agreement (PSMA) is for three years with three optional 12-month extensions, based on performance determined by SSROC and the City of Sydney. The PSMA commencement date is anticipated to be 1 September 2023.
24. The initial contract term will end on 30 November 2025, and if the three optional extensions are exercised the final expiry will be on 30 November 2028.

Options

25. An alternative option is for the City to conduct its own Request for Tender process to procure linemarking services. This option is not recommended for the reasons outlined in this report.

Public Consultation

26. No public consultation has been undertaken due to the nature of the services.

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