

Exemption from Tender and Contract Variation - Corporate Risk Management System

File No: X095108

Summary

This report seeks an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993, for second phase implementation and consulting services for the City's Corporate Risk Management System (known as the Governance, Risk and Compliance (GRC) system).

This report also requests that Council approve a contract variation for the services to be delivered by C A Technology Pty Ltd (ABN: 80 101 710 534).

In 2020, the City entered into a contract with C A Technology Pty Ltd to deliver a Governance, Risk and Compliance system following an open tender process.

The Governance, Risk and Compliance system:

- replaced the City's then existing risk registers; and
- provided new governance registers for policies, investigations and conflicts of interest.

As part of the implementation of the system, staff have identified additional registers that can be appropriately delivered through this system (referred to as the second phase implementation). These include registers for environmental management, child protection, gifts and benefits, organisational procedures and corporate compliance.

There is an existing contract with C A Technology Pty Ltd for the provision of this software. A contract variation is recommended to add scope and budget to allow the delivery of the additional registers.

It is not viable to undertake a new tender for these additional registers as the system is proprietary software owned and developed by C A Technology Pty Ltd. A tender would not result in a satisfactory result as the additional registers are most appropriately incorporated into the existing system.

This report therefore recommends that Council grant an exemption from tender and approve an increase of the contract value to procure the implementation and consulting services from C A Technology Pty Ltd to support current and future enhancements to the City's Governance, Risk and Compliance system.

Recommendation

It is resolved that:

- (A) Council approve an exemption from tender in accordance with section 55(3)(i) of the Local Government Act 1993 for the implementation and consulting services for enhancements to the Governance, Risk and Compliance system;
- (B) Council note that a satisfactory result would not be achieved by inviting tenders for this work because:
 - (i) C A Technology Pty Ltd is already engaged to provide the services associated with the Governance, Risk and Compliance system; and
 - (ii) a tender would not result in a competitive tender response because the additional registers can only be provided within the existing system by C A Technology Pty Limited;
- (C) Council approve a variation of the contract with C A Technology Pty Ltd to provide for an increase to the overall contract price and scope to implement enhancements to the City's Governance, Risk and Compliance system as outlined in Confidential Attachment A to the subject report;
- (D) Council approve the revised total contract value and the contingency (inclusive of the additional scope) as detailed in Confidential Attachment A to the subject report; and
- (E) authority be delegated to the Chief Executive Officer to negotiate, execute and administer any contract variations required to give effect to this approval.

Attachments

Attachment A. Financial Implications (Confidential)

Background

1. In 2019, the City sought to replace the current Risk Management System "INCOM" with a new tool through an open tender.
2. In December 2019, following a tender process, the Chief Executive Officer approved under delegation the City entering into a contract with the successful tenderer, C A Technology Pty Ltd (ABN: 80 101 710 534), to deliver a Governance, Risk and Compliance (GRC) system. This platform ensures that the City can record and manage risk, governance and compliance tasks in a centralised location with appropriate workflows and reporting to ensure reviews and approvals are completed in accordance with the City's requirements.
3. In October 2021, the Chief Executive Officer approved under delegation a contract variation to increase the total contract value. This increase was required to deliver additional module licences that were within the scope of the original engagement of C A Technology Pty Ltd.
4. The GRC platform has been in use for 18 months. The proposed new scope of nine new registers listed below was approved in the 2022/23 budget for the Phase 2 project. These registers have been identified as required by various business units during the development and initial implementation of the GRC platform.
5. The City intends to engage with the incumbent supplier, C A Technology Pty Ltd, to configure the following registers.
 - (a) Environmental Management Plan (EMP) Register
 - (b) Environmental Incidents Register
 - (c) Environmental Risks Register
 - (d) Child Safety Incident Register
 - (e) Legislative and Regulatory Change (LRC) Register
 - (f) Non-compliance Register
 - (g) Obligations Register
 - (h) Procedures Register
 - (i) Gift and Benefits Register
6. The current licencing is sufficient for the additional scope of this project.
7. C A Technology Pty Ltd is the only supplier able to build and configure these registers as they are the intellectual property owners and developers of the CAMMSRisk Management System upon which the GRC system is built.
8. C A Technology Pty Ltd has provided the price estimate for the consultation and implementation services required to deliver these new registers, which is in line with the original engagement contract. The increase however is beyond the contingency allowed for in Phase 1 and exceeds 10 per cent of the current approved total contract value.

Financial Implications

9. There are sufficient funds allocated for this project within the current year's capital works budget and future years' forward estimates.
10. The revised total contract value and the contingency (inclusive of the additional scope) are detailed in Confidential Attachment A.

Relevant Legislation

11. 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.
12. Attachment A contains confidential commercial information of the supplier 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.
13. 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

14. The GRC platform implementation for the nine new registers is expected to be completed by July 2024.

Options

15. An alternative option is for the Council not to approve an exemption from tender and the contract variation to increase the total contract value. This option is not recommended because it would limit the City's ability to manage and report on the governance, risk and compliance issues required to meet its obligations to the community.

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