

10.2. Tender 11/2021 - Advertising on Selected Council Infrastructure (small format) - Reject & Negotiate

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ATTACHMENTS: Nil

PURPOSE:

This report is to provide Council with an update on the tender process for Tender 11/2021 for Advertising on Selected Council Infrastructure – Part A: Small Format (bus shelters and comms panels).

EXECUTIVE SUMMARY:

Despite numerous meetings and discussions, oOh!media and Council have been unable to mutually agree on contractual terms for this tender and a Contract cannot be executed for the small format (bus shelter and comms panels) advertising assets.

In order to finalise this matter, Council will need to reject all tenders for small format advertising and enter into direct negotiations with all parties who submitted a tender.

FINANCIAL IMPLICATIONS:

The financial implications of this tender were reported to Council at the 22 February 2021 meeting. The financial implications of going through a Reject and Negotiate process for this part of the 11/2021 Tender – “Small Format Advertising” are minor in nature and only involve staff costs and associated overheads.

RECOMMENDATION:

- 1. THAT** Council rejects all the submitted tenders for Tender 11/2021 for Advertising on Selected Council Infrastructure – Part A : Small Format (bus shelters and comms panels) for the reasons set out in this report.
- 2. THAT** Council resolves to enter into direct negotiation with all parties who submitted a tender for Tender 11/2021 for Advertising on Selected Council Infrastructure – Part A : Small Format (bus shelters and comms panels).
- 3. THAT** Council not invite fresh tenders to be submitted for the reasons set out in this report and because it is considered that re-tendering will not attract additional suitable service providers over and above those who have submitted a tender.

4. THAT authority be delegated to the General Manager or delegate to negotiate with the three tenderers and enter into a contract for Advertising on Selected Council Infrastructure – Part A : Small Format (bus shelters and comms panels).

5. THAT once the direct negotiations are finalised, information relating to the successful service provider be published in Council’s Register of Contracts as required by Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts with Private Sector.

BACKGROUND

On 22 February 2021, Council resolved the following for Tender 11/2021 for Advertising on Selected Council Infrastructure – Part A: Small Format (bus shelters and comms panels) being:

- 1. THAT Council accept the tender of oOh!media Street Furniture Pty Ltd for Tender 11/2021 for Advertising on Selected Council Infrastructure – Part A :Small Format (bus shelters and comms panels).*
- 2. THAT Council accept the tender of JCDecaux Australia Trading Pty Ltd for Tender 11/2021 for Advertising on Selected Council Infrastructure – Part B: Large Format (Billboard)*
- 3. THAT the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.*
- 4. THAT, once Council has executed the Contract, information relating to the successful tender be published in Council’s Register of Contracts as required by Government Information (Public Access) Act 2009 - Part 3 Division 5 - Government Contracts With Private Sector.*
- 5. THAT the Confidential Report relating to matters specified in Section 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.*

DETAIL

Despite numerous meetings and discussions, oOh!media and Council have been unable to mutually agree on contractual terms regarding “Exclusivity” and “Pandemic” related clauses for this tender and a Contract cannot be executed for the small format (bus shelter and comms panels) advertising assets.

In order to finalise this matter, it was agreed by both parties that Council would reject all tenders for small format advertising and enter into direct negotiations with all parties who submitted a tender.

In accordance with Section 178 of the Local Government (General) Regulations 2005, Council must detail the following:

- (a) the reasons for declining to invite fresh tenders or applications
- (b) the reasons for determining to enter into negotiations with the person or persons

The calling of fresh tenders is not considered necessary as the Out-of-Home advertising market has a limited number of suppliers following recent company mergers (the majority who have already submitted tenders for this Tender) and re-tendering will not attract additional suitable suppliers over and above those who have submitted a tender.

It is considered that Conditions of Contract can be resolved through negotiation and Council is satisfied that a review of pricing already provided will ensure competitive pricing.

All Contract clauses have been agreed to between JCDecaux and Council for the large format advertising assets and the Contract is expected to commence by 1 July 2021.

PROBITY

Council has engaged the services of a Probity specialist to oversee the Reject and Negotiate process to minimise the risk of potential liability that might otherwise arise out of process by ensuring the following probity principles are observed:

- maintaining security and confidentiality
- managing conflicts of interest
- accountability
- communication, fairness and impartiality
- obtaining value for money and
- transparency