

10.3. Tender 11/2021 - Bus Shelter & Comms Panel Advertising Tender - Reject & Negotiate

AUTHOR: Robert Esdaile, Engineering Project Manager

ENDORSED BY: Duncan Mitchell, Director Engineering and Property Services

ATTACHMENTS: Nil

PURPOSE:

This report is to provide Council with an analysis and recommendation on the outcome of the reject and negotiate process for Tender 11/2021 for Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).

EXECUTIVE SUMMARY:

Submissions were called for and were received until 3pm, 28 October 2021 for “Best and Final Offers” to undertake Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).

This report was resolved to be deferred by Council at the 21 February, 2022 Council Meeting, whereby Council requested a briefing. A briefing was held on 7 March 2022.

If the Council wishes to discuss the report, the meeting should be closed to the public to do so in accordance with s10A(2) (d) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it and because consideration of the matter in open Council would be, on balance, contrary to the public interest of the Local Government Act (LGA).

FINANCIAL IMPLICATIONS:

Refer to the Confidential Report for this tender.

RECOMMENDATION:

- 1. THAT** Council accept the offer of the highest ranked company following the Reject and Negotiate process that has been undertaken for Tender 11/2021 - Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).
- 2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.
- 3. 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.

4. THAT the Confidential Report relating to matters specified in Section 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

2.2 Vibrant centres, public domain, villages and streetscapes

BACKGROUND

Tenders were called on 8 September 2020 seeking to appoint a suitably qualified Out-of-Home advertising supplier(s) to develop, manage and maintain advertising for the following separable portions of Council assets:

- A. Small Format advertising displays on Bus Shelters and Communication Panels; and
- B. Large Format billboards on the pedestrian footbridge over the Pacific Highway in the North Sydney Centre

Three tenders and three alternate tenders were received, and these were assessed by the tender evaluation panel who recommend to Council to award two separate Contracts.

On 22 February 2021 Council resolved to accept portions of the tenders from;

- A. Small Format (bus shelters and communication panels) – oOh!media, and
- B. Large Format (billboards on footbridge over the Pacific Highway) – JCDecaux.

Council executed a Contract for Separable Portion B - Large Format (billboards on footbridge over the Pacific Highway) with JCDecaux on 30 June 2021.

Subsequent to the resolution of Council on 22 February 2021, numerous meetings and discussions between oOh!media and Council on contract conditions did not result in a Contract for Separable Portion A - Small Format being formed.

In order to finalise this matter, a report was brought to Council on 28 June 2021, whereby Council resolved;

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.*

Accordingly, the Negotiation Panel entered into direct negotiation with JCDecaux Australia Trading Pty Limited, oOh!media Street Furniture Pty Ltd and QMS Media Limited with the aim to enter into a Contract based on the original tender 11/2021 scope of work.

On 21 February 2022 a report was brought to Council recommending the award of the "Small Format" advertising portion of this tender which had been through a "Reject and Negotiate" process.

Council resolved to defer the report to a briefing.

RECOMMENDATION:

1. THAT Council accept the offer of the highest ranked company following the Reject and Negotiate process that has been undertaken for Tender 11/2021 - Advertising on Selected Council Infrastructure - Part A : Small Format (bus shelters and comms panels).
2. THAT the General Manager be authorised to take any necessary action to implement the decision including entering associated contracts.
3. 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.
4. THAT the Confidential Report relating to matters specified in Section 10A(2)(d) be treated as confidential and remain confidential until Council determines otherwise. A Motion was moved by Councillor Beregi and seconded by Councillor Bourke

Council resolved

1. THAT this matter be deferred to provide for a Councillor briefing. The Motion was put and Carried.

A Council briefing was held on 7 March 2022.

REJECT AND NEGOTIATE PROCESS

The methodology adopted to undertake the evaluation of revised offers received through the "Reject and Negotiate" Process was formulated through the development of a Negotiation Strategy and Probity Plan.

The Negotiation Strategy was endorsed by the Negotiation Panel and Council's appointed Probity consultant, Prevention Partners NSW.

A request for “Best and Final Offers” submissions were called for on 14 October 2021 and closed at 3pm on 28 October 2021 via Tenderlink.

Reject & Negotiate Offers Received
JCDecaux Australia Trading Pty Ltd
oOh!media Street Furniture Pty Ltd

The General Manager was given delegation to enter into a Contract for this reject and negotiate process, however acceptance of a contract of this size and nature could not occur during the caretaker period of Council as per the requirements of Local Government Regulation 2021 – REG-393B - “Exercise of Council Functions during caretaken period”.

Due to the value and duration of the Contract, together with the change in Council since the previous resolution, the matter has been referred back to Council for determination.

Information provided by tenderers which is commercial-in-confidence has been protected and will not be disclosed in accordance with section 10A(2)(d) of the *Local Government Act 1993*. A consistent standard for all tenderers has been used in assessing any request for confidentiality by a tenderer.

Application for access to documentation should be through lodgement of a GIPA Public Information application form and payment of prescribed fees.

Project Program

Indicative Start: 1 April 2022

Anticipated Completion: 31 December 2030

Responsible Officer: Robert Esdaile, Engineering Project Manager