

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

a38 [EO-CM] EC 2011-006 Supply of Retail Electricity for Large Sites

ORIGIN: Contracts

FILE NO: EC2011-006

SUMMARY OF REPORT:

On 1 February 2011, tenders were invited for the Supply of Retail Electricity for Large Sites (those consuming more than 160MWh per year) with a 3 year operation of contract commencing on 1 July 2011 (or the first meter read after that date) and finishing on 30 June 2014 (or the first meter read after that date).

Three (3) responses were received for EC2011-006 at the close of tenders on 2 March 2011.

This report provides a recommendation on the preferred course of action that will ensure supply of retail electricity to large sites over the next 3 years at the best possible price and terms for Council. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation and Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. A summary of the Selection Criteria is also included in the body of this report. It is recommended that Momentum Energy Pty Ltd be nominated for EC2011-006 Supply of Retail Electricity for Large Sites over a 3 year operation (1 July 2011 to 30 June 2014 or the first meter read after that date).

ATTACHMENT A is **CONFIDENTIAL** in accordance with Section 10a(2)(c) and 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

RECOMMENDATION:

That:

1. **Council awards Contract EC2011-006 for the Supply of Retail Electricity for Large Sites (those consuming more than 160MWh per year) to Momentum Energy Pty Ltd for a three (3) year contract period commencing on 1 July 2011 (or the first meter read after that date) and finishing on 30 June 2014 (or the first meter read after that date).**
2. **Council delegates the General Manager to sign the Contract Acceptance before close of business on 16 March 2011 and the subsequent Retail Electricity Supply Agreement with Momentum Energy Pty Ltd.**
3. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) and 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (c) **information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**
 - (d) **commercial information of a confidential nature that would, if disclosed:**
 - (i) **prejudice the commercial position of the person who supplied it, or**
 - (ii) **confer a commercial advantage on a competitor of the council, or**
 - (iii) **reveal a trade secret**

REPORT:

Tender Background

In November 2009, Council voted on a recommendation to continue utilisation of the NSW Department of Commerce Contract '777' for the supply of retail electricity to large sites (those consuming more than 160MWh per year). This contract was developed by State Procurement on behalf of the State Contracts Control Board.

NSW Government Agencies and other approved entities were invited to utilise and benefit in the bulk purchase arrangement which was developed through a competitive tendering process.

Contract '777' (or Council Contract EC2009-132) is due to expire on 30 June 2011 (or the first meter read after that date). Before the contract expires, it is prudent that Council make arrangements for a renewed contract. To date, there has been no advice or correspondence from the Department of Commerce in regards to a possible extension or new contract arrangement after the expiry of Contract '777'.

The Retail Electricity market is historically at its least volatile during late summer and late winter seasonal periods. These times have been proven to be the best time to negotiate Retail electricity contracts. The timing of tendering for electricity supply is probably the most important aspect of negotiating a good electricity contract and it is not wise to obtain offers near contract expiry due to the restriction in negotiating power.

As an extended Contract '777' or replacement contract has not been offered before this tender was prepared and advertised, Councils Contracts Unit proactively prepared a tender to the open market to ensure the best possible timing to negotiate pricing for the next 3 financial years.

Tender EC2011-006 was invited by open tender in accordance with the requirements of the Local Government (General) Regulations 2005 and was advertised on 1 February 2011 in The Sydney Morning Herald.

Tenders Received

Tender Submissions closed at 4:00pm (local time) on 2 March 2011 in the Tender Box located in the foyer at the Tweed Shire Council Civic and Cultural Centre, Murwillumbah NSW 2484. A total of 3 responses were recorded for EC2011-006 at the Tender Box opening:

- TRUenergy Pty Ltd (Energy Australia)
- Momentum Energy Pty Ltd
- AGL Energy Limited

Tender Evaluation

The tender evaluation was based on the following evaluation criteria which was determined prior to the issuing of the Tender:

Criterion	Weighting %
Conformity of Offer	10
RESA Pricing (Lump Sum Comparison)	80
Time Performance	10
Total	100

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of Council Contracts Engineers.

The general terms of reference for the Assessment Panel were as follows:

- Assess the tenders submitted in accordance with the specified criteria;
- Undertake an individual initial assessment of the tender price and non-price data;
- Review any written responses;
- Identify and seek further clarifications (as required) from the tenders and review any qualifications and departures; and
- Score all responses against the specified price and non-price assessment criteria and agreed assessment criteria weightings.
- Assess the rates offered for EC2011-006 against the rates offered in the existing contract EC2009-132 (for cost increase calculations only).

A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(c) and 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

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 - (iii) reveal a trade secret

Tender Recommendation

Based on the Tender Evaluation Report, it is recommended that:

1. Momentum Energy Pty Ltd be nominated for contract EC2011-006 Supply of Retail Electricity for Large Sites (those consuming more than 160MWh per year) with a 3 year operation of contract commencing on 1 July 2011 (or the first meter read after that date) and finishing on 30 June 2014 (or the first meter read after that date) at the Schedule of Rates offered (estimated budget cost is \$4,800,000.00 excluding GST for 3 years).
2. Council delegates the General Manager to sign the Contract Acceptance before close of business on 16 March 2011 and the subsequent Retail Electricity Supply Agreement with Momentum Energy Pty Ltd.

Details of Momentum Energy Pty Ltd relative competitiveness is shown in the Tender Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Probity

This tender process is in accordance with Section 55 of the Local Government Act 1993, Part 7 (Tendering) of the NSW Local Government (General) Regulation 2005 and Council's Procurement Policy. It is considered that the tendering process has adequately addressed the five fundamentals of probity:

- Best value for money
- Impartiality
- Dealing with conflicts of interest
- Accountability and transparency
- Confidentiality

Funding

Funding for Contract EC2011-006 - Supply of Electricity to Large Sites will be provided from within the 2011/2012, 2012/2013 and 2013/2014 Operating Expenses Budget managed within each responsible division.

POLICY IMPLICATIONS:

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. **CONFIDENTIAL ATTACHMENT A** – Tender Evaluation Report (ECM 30086785)
 2. **CONFIDENTIAL ATTACHMENT** - Evaluation Spreadsheet (ECM 29890792)
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