

STRATEGY AND POLICY REVIEW COMMITTEE
2 FEBRUARY 2009 **GOVERNANCE AND COMPLIANCE**

A11 **BUILDING MAINTENANCE CONTRACTS**
1251 TO 1255 SUMMARY REPORT

LOCATION/ADDRESS:

EXECUTIVE DIRECTOR: **DAVID YEOUART, EXECUTIVE**
DIRECTOR COMMUNITY ASSETS AND
SERVICES

PREPARED BY: **DAVID YEOUART**

FILE NO.: **14/01/1251 TO 1255**

ATTACHMENTS: **NIL.**

1. PURPOSE

- The report presents the process, to date, in the tendering of a selection of building maintenance services, including plumbing and gas services (Contract #1251); specialist cleaning services (Contract #1252); painting services (Contract #1253); carpentry/handyman services (Contract #1254) and floor covering services (Contract #1255).

2. RECOMMENDATION

- That the Strategy and Policy Review Committee recommend that Council resolve to:-
 - note the report on the tender process, to date, for the new building maintenance service contracts, covering plumbing and gas services; specialist cleaning services; painting services; carpentry/handyman services and floor covering services.
 - note that a confidential evaluation report and final recommendations of the Tender Evaluation Panel (TEP), regarding contracts #1251; #1252; #1253; #1254 and #1255 will be provided to the Ordinary Council Meeting, 23 February 2009.

3. BACKGROUND AND CONTEXT

- In October 2007 Council tendered, considered and awarded a number of building maintenance contracts covering the above services. The contracts followed an exhaustive tender process conducted by Council.
- During 2008, the process of awarding some contracts was questioned, arising out of a perceived conflict of interest on the part of a member of the TEP. It arose out of an alleged relationship between the TEP member and a contractor. Legal advice was sought and no new work was allocated to the contractor in question, during the second half of 2008.

- This, in effect, left Council short of resources and made it desirable to tender five (5) contracts to both replace this missing resource and to supplement existing resources.

The existing contracts (#1004; #1007; #1009; #1010 and #1012) for the services remain in operation and will run concurrently with any new contracts.

- Some of the contracted services (specialist cleaning services (Contract #1252) and floor covering services (Contract #1255) involve a single service provider, while the others consist of a panel of contractors, whereby work is assigned on a quotation and/or asset basis.

- The following text was inserted in the new contracts to clarify the matter to tenderers:

“The services which are the subject of this Tender are the subject of an existing contract (**[insert name and number of existing contract – eg Contract No. 1010 (Carpentry & Handyman Services)]**). That contract ('the existing contract') remains on foot.

A supplier engaged under the existing contract has been told that it will not be allocated any new work under the existing contract. Effectively, then, its services have been 'suspended', because of suggestions that the process leading to its engagement under the existing contract was tainted. It has been told that no new work will be allocated to it under the existing contract until an investigation into that process is complete.

That supplier will be free to submit a tender response for this Tender. So too will anyone interested in providing **[insert description of services – eg Carpentry & Handyman Services]** to Council. It is a genuine tender open to all. No preference will be given to the supplier described above or, for that matter, to any other tenderer.

If any tender is accepted, a new contract will come into being ('the new contract'). The new contract will co-exist with the existing contract. Accordingly, Council will be free to decide between suppliers under the existing contract and suppliers under the new contract for the provision of **[insert description of services – eg Carpentry & Handyman Services]**.”

- Tender specifications were prepared for plumbing and gas services, specialist cleaning services, painting services, carpentry/handyman services and floor covering services on a similar basis to the “existing contracts” i.e. with some minor changes (following governance and operational review)
- The call for tenders is consistent with City of Port Phillip tender guidelines and the following timelines applied:-

Sep to Oct 2008	Legal advice sought and form of new specifications finalised
22 October 2008	Specifications completed
1 November 2008	Tenders advertised
1 to 10 November	Registration of interest period

11 November	Issue of tender documents to all registrants
14 November	Compulsory tender information session
28 November	Tenders for all five contracts close
29 Nov – 30 Jan 2009	Evaluation of tender submissions including referee checks and interviews
2 February 2009	Process report to Strategy and Policy Committee Meeting
23 February 2009	Final recommendations to Ordinary Council Meeting

- The TEP consisted of:-
 - David Yeouart - Executive Director Community Assets and Services
 - Jim Maclean - Building Maintenance Coordinator
 - Peter Graf - PMR Services Technical Consultant
 - Terry Makings – Governance Consultant
- The TEP adopted the following evaluation criteria:
 - experience and demonstrated ability
 - systems and processes of business management
 - price.

In addition, each tender evaluation included a series of assessment areas including financial viability, relevant insurances, corporate management and technical backup, personnel skills and qualifications, OH&S and industrial relations, risk management, infrastructure and quality systems.

4. CONSULTATION AND STAKEHOLDERS

- Legal advice was sought from Council's Solicitors with respect to the "suspension" of a contractor, the explanatory notes in the new documentation and the best process to move forward.
- Council's Governance Unit was consulted in respect to the processes to follow, having regard to the unusual nature of the situation.
- Both the legal advice and the internal consultation, suggested tendering the services and running the new contracts concurrently with existing contracts, was an option available to Council.

5. DISCUSSION

5.1 OPTIONS

- The application of the evaluation criteria by the TEP will result in recommendations to Council, which will provide the best value for money outcomes and adequate resources to perform the services.
- Given the nature of the history to these services, legal advice has determined that public tender was the best option.

5.2 POLICY IMPLICATIONS

- Each of these contracts will assist in ensuring Council buildings are well maintained.
- Council is obliged by the requirements of the Occupational Health and Safety Act 2004 to provide safe work places.
- Council, as a building owner and custodian has a duty to protect and manage its assets.

5.3 FINANCE / RESOURCE IMPLICATIONS

- The contracts will be formed on a “schedule of rates” basis and expenditure provided from the allocation for building maintenance.
- It is expected that, tenders will deliver similar value for money outcomes to the current contractors and thus, be within current budgetary constraints. Current staff resources required to manage all building maintenance contract will remain unchanged.

5.4 LEGAL & RISK IMPLICATIONS

The tenders have been advertised and evaluated according to Council’s tendering guidelines and processes.

- With the ‘suspension’ of an existing contractor, there presented a risk of under-servicing the building maintenance area.
- The advertising for additional service providers has reduced this risk.

Having considered the circumstances which developed, following the “suspension” of one of the existing contractors, increasing the number of suppliers, on a panel basis, is the recommended approach.

5.5 SUSTAINABILITY ASSESSMENT

SOCIAL EQUITY

- To building a just, resilient, healthy and inclusive city, with equitable access to responsive and relevant services and resources.
- In a social equity context, the contracts are designed to ensure each Council facility is appropriately maintained and the services being provided from each able to be provided safely for all occupiers and users.
- In practice, well maintained buildings assist in the delivery of excellent services.

ECONOMIC VIABILITY

- To promote effective stewardship of the Council's assets and promote economic development within Port Phillip that also supports the Council's social, cultural and environmental goals.
- The maintenance of all Council facilities ensures the preservation of the assets and the optimization of demand for use of these buildings.

ENVIRONMENTAL RESPONSIBILITY

- To foster a liveable and attractive urban environment that uses fewer finite resources.
- Each of the tenders is specifically evaluated on their environmental systems and practices and preference is awarded to those whose systems and practices are in line with Council's Towards Zero policy.

CULTURAL VITALITY

- To foster conditions that allow communities within Port Phillip to express experience and enjoy diversity of values, beliefs and aspirations.
- Having a wide range of Council facilities, well maintained and available for community access is seen as an important ingredient of ensuring cultural vitality in the City of Port Phillip.

6. FURTHER PROCESSES

6.1 TIMELINE

- The TEP will present its recommendations to the Ordinary Council meeting on 23 February 2009.

6.2 COMMUNICATION

- The tender evaluation process is carried out in confidence.
- Following the results of the tender process, tenderers will be invited to attend an individual feedback session, if requested. This would focus upon their tender submission, interviews (where requested) and Council's scoring system.