
Contract for the provision of electricity for Rous County Council operations

Responsible Officer: Group Manager Operations (Adam Nesbitt)

Recommendation

That Council:

- a) Note the proposed engagement of Regional Procurement and EnergyAction to undertake, on Rous' behalf, a reverse auction for electricity (contestable sites only).
- b) Note that a contract for purchase or sale at public auction is exempt from the tendering requirements under the *Local Government Act 1993* and that the General Manager has the delegated authority to execute the contract.

Background

Rous County Council (Rous) has a Retail Electricity Agreement with Shell Energy Retail Pty Ltd (Shell Energy) for the supply of electricity to 12 sites, buildings and installations across Rous' operational area. These 12 sites are known as Contestable Sites, as they consume more than 100 Megawatt Hours (MWH) per annum. Sites consuming less than 100 MWH per annum are considered Non-Contestable and are billed differently.

The contract with Shell Energy expires on 31 December 2022.

Rous has previously engaged Regional Procurement, a specialist local government procurement advisory consultancy, to manage the execution of the electricity supply contract. Rous is proposing to again engage Regional Procurement, who partner with EnergyAction, to undertake a reverse auction on Rous' behalf to obtain prices for the supply of electricity to meet Rous' needs. A reverse auction means that instead of the purchaser (Rous) bidding to buy something, the suppliers (licensed electricity retailers) bid to sell something to Rous.

EnergyAction has developed the Australian Energy Exchange which allows licensed energy retailers to competitively bid against one another to supply an organisation's energy. During the reverse auction, all bids are visible to all bidders. Rous pays a small fee (\$495) to EnergyAction to undertake the reverse auction.

At the end of the reverse auction, Rous will have three working days to work with Regional Procurement to assess the reverse auction bids and then execute a contract with the successful licensed energy retailer. Once the contract is executed, Rous' relationship is with the licensed energy retailer, and the arrangements with Regional Procurement and EnergyAction cease.

The short time frame to execute the contract is due to the volatile nature of the electricity market. However, once the contract is executed, the prices are fixed for the two-year period.

The new contract will not affect Rous' install renewable energy at any of our sites or our attempts to reduce our consumption through other means, such as the use of more energy efficient equipment.

Finance

Rous' consumption of electricity across the 12 sites during the last 12 months (1 March 2021 to 28 February 2022) was approximately 5.5 Gigawatt Hours (GWH). The actual expenditure for this period was \$1.118 million. The draft 2022/23 Budget has allowed \$1.335 million for electricity consumption across the 12 sites.

Legal

In 2010, Hunter Councils Inc. sought the opinion of the Department of Local Government and Sparke Helmore Lawyers as to whether a reverse auction was considered a public auction under section 55(3)(f) of the *Local Government Act 1993*. Their advice was that the procurement of the supply of electrical energy by reverse auction conforms with the requirements of section 55(3)(f) of the *Local Government Act 1993* and is exempt from the tendering provisions of the Act.

The proposed procurement is consistent with Rous 'Procurement' policy.

Consultation

Not applicable.

Conclusion

A procurement process is required shortly to obtain prices and enter into a new contract for the supply of electricity to 12 of Rous' sites. The new contract is to be in place well before the current contract expires on 31 December 2022.

Rous is proposing to engage Regional Procurement and EnergyAction to undertake a publicly advertised, reverse auction to obtain prices for the supply of electricity for a 24 or 36 month period from 1 January 2023.

Based on previous legal advice, the reverse auction process is exempt from the tendering provisions of the *Local Government Act 1993* and therefore the General Manager has the delegated authority to execute the contract for the provision of electricity for Rous operations.