

# Anne Dalton & Associates

[anne@daltonandassoc.com](mailto:anne@daltonandassoc.com)

M: 0417417647

50/120 Collins Street Melbourne

Postal Address: P O Box 318

East Melbourne 3002

ABN 87 097 262 596

1 February 2017

Mr Rohan Prathapasinghe

Project Manager

City of Whitehorse

By email

Dear Mr Prathapasinghe

## **Probity Adviser's Report- Harrow Street Carpark Project RFT Process**

The purpose of this Probity Report is to provide an overview of the probity tasks we have undertaken as Probity Adviser for the above processes and to give our findings and comments in relation to each process (including the forensic basis for those matters).

By way of summary, on the basis of the material detailed below, it is our overall assessment that all probity requirements have been met in respect of these processes.

.

## **1 Background**

1.1 Anne Dalton (and this firm) was engaged to provide probity practitioner services to this process in August 2016. We have previously provided a Report on the EOI phase of the process (20 October 2016). This Report covers the period of the RFT process through to the recommendation as to preferred contractor.

## **2 Overview of the RFT process**

2.1 The Project is for the procurement of Architectural Services for a new carpark on Council land at Harrow Street, Box Hill. Selection of consultants for the provision of architectural and associated design services for the project has been structured as a two stage, competitively tested, open market process. The second stage involved the receipt of tenders from the short listed tenderers to undertake the full suite of architectural design services and culminates with the recommendation as to a preferred contractor.

2.2 The main steps of the RFT process have included:

- The RFT was released to the 3 shortlisted tenderers on 4 November 2016;
- The RFT closed on 24 November 2016;
- three responses were received prior to the closing of the tender box;
- The Evaluation Panel, met on 30 November 2016 and responses were evaluated, scored and ranked against the evaluation criteria and methodology (as set out in the RFT and the RFT Evaluation and Probity Plans);
- Interviews took place with the 2 Highest ranked Tenderers on 5 December 2016 and clarifications were subsequently sought;
- The evaluation panel met on 30 January to consider all the material, including the clarification answers; and
- the Report of the Evaluation Panel (together with the scoring matrix and other documents) (provided to us on 30 January and 1 February 2017) recommends that MGS be the preferred tenderer.

### 3 Probity principles

3.1 The overall focus of the probity tasks undertaken was to ensure that the process was undertaken in an accountable and transparent manner and in particular that the following objectives were present:

- Fairness and impartiality;
- Use of competitive process;
- Consistency and objectivity;
- Security and confidentiality of information; and
- Identification and resolution of conflicts of interest.

3.2 Additionally, we reviewed the process to assess adherence to the Council's Procurement Policy and the relevant provisions of *the Local Government Act 1989* (Vic) as to conduct requirements of Council staff (section 95) and section 208A with respect to the value for money requirements of the "best value principles".

### 4 Probity tasks undertaken

4.1 Throughout the RFT process, we undertook a range of probity tasks as required by our engagement. In particular, we undertook the following tasks:

- (a) Review of the draft RFT documents and the draft Evaluation Plan;
- (b) Review of conflict declarations;
- (c) Consideration of the security and confidentiality procedures put in place with respect to the RFT responses;

- (d) Attendance and observation at the evaluation meeting on 30 November 2016, the presentations by the 2 top ranked short listed tenderers on 5<sup>th</sup> December and Evaluation panel meeting on 30 January 2017;
- (e) Review of the clarifications sought of tenderers following those presentations;
- (f) Review of Evaluation Panel Report (and matrix and conflict declarations) including with respect to the recommendation as to preferred tenderer; and
- (g) provision of this Probity Report.

## 5 Objectives and Conclusions in relation to each task

5.1 The above tasks were undertaken with the following objectives and we came to the following conclusions in respect of each of them:

- 5.1.1 In relation to the *review of all relevant RFT documents* the **objective** was to review whether the RFT documents and the Evaluation and Probity Plans were all in accordance with the published documents and the relevant probity principles.

### Conclusion

Based on our review of documents, we were satisfied that the RFT documents were all in accordance with the relevant probity principles.

- 5.1.2 In relation to the *consideration of the security and confidentiality procedures put in place with respect to the RFT responses*, the **objective** was to ensure adherence to the key probity principles (as above) with respect to a process being in place to protect confidential information, in order to protect the integrity of the process and give proponents the confidence to do business with government. These procedures are for receiving and managing confidential information.

### Conclusion

We were satisfied that the processes put in place with respect to the management of confidentiality and security were appropriate and consistent with the key probity principles. We were not made aware of any breaches of confidential information occurring during the process.

- 5.1.3 In relation to *attendances and observations at the evaluation meetings and tenderer presentations* the **objective** was to assess

adherence to the probity principles including as contained in the published documentation and the evaluation documentation.

#### Conclusion

Based on our attendances and our review of the Evaluation Report, we were not made aware of any instances in which the processes described in the published documents (including the probity principles) were not adhered to in the process.

We note that conflicts of interest declarations were made by the tender evaluation panel and are recorded on file. We were not made aware of any breaches of confidentiality.

- 5.1.4 In relation to the review of the Evaluation Panel Report the **objective** was to ensure that the recommendations were consistent with the evaluation results. This in turn was relevant to adhering to the key probity principles, including those of fairness and impartiality, accountability and transparency.

#### Conclusion

Based on our review of the evaluation documentation, we are satisfied that it is all consistent with the key probity principles and the evaluation results. The Evaluation Panel Report is a comprehensive document which sets out and articulates the evaluation process. It provides a good level of detail to support the evaluation recommendation.

- 5.1.5 In relation to the *provision of this Probity Report* the **objective** was to confirm that the recommendations in the Evaluation Panel Report and the conduct of the process generally were consistent with the key probity principles and the relevant documentation.

#### Conclusion

Based on our attendance and review, the recommendation in the Evaluation Panel Report and the conduct of the process generally were consistent with the key probity principles and the relevant documentation.

## **6 Findings and comments**

6.1 As indicated above, our role has been to:

- Review documentation and process undertaken in the RFT process;

- Provide advice in respect of those processes; and
- Assess adherence to published and documented procedures.

6.2 On the basis of all of the above matters it is our overall assessment that all probity requirements have been met, and that we have not been made aware of any probity issues which remain outstanding or unresolved that have the potential to undermine the integrity of the process. Nothing has come to our attention to indicate that the probity requirements of the Local Government Act 1989 (Vic) and relevant Council policies and procedures (all as described in paragraph 3.2 above) have not been met.

## 7 Conclusion

- 7.1 We are satisfied that, on the basis of the tasks we undertook, the process was conducted in accordance with all relevant probity requirements and any probity matters that we were made aware of which arose throughout the process was addressed in an appropriate manner and was properly documented.
- 7.2 From a probity perspective, we have no outstanding concerns with the conduct of this process.

We would be pleased to discuss any issue arising from this report, if required.

Yours faithfully



Anne Dalton

Probity Practitioner

**Anne Dalton & Associates**

[anne@daltonandassoc.com](mailto:anne@daltonandassoc.com)

**0417417647**