

## GOULBURN MULWAREE WATER MANAGEMENT STRATEGY

### BUSINESS CASE FOR ENGAGEMENT OF CONSULTANT

#### IWCM – CONCEPT EVALUATION

##### Recommendation for a Directly Negotiated Engagement.

##### **Background...**

1. In accordance with Councils HSP funding agreement IWCM is to be completed before construction commences
2. Recent meetings with the DWE have reinforced some strict requirements resulting in asking the NSW Department of Commerce to prepare a proposal for Part A – Concept Evaluation. The proposal has been lodged and has an upper limit fee of \$80,155. (exc GST)
3. The proposal has been reviewed by DWE staff, and a number of comments from them will be covered in an addendum to the Contract for Engagement of Consultant.
4. The previous consultants doing the work (PB, Urbis and UTS) have briefs that have effectively lapsed for a number of reasons. The Urbis contract has been closed. I have negotiated the finalisation of the PB and UTS briefs by mutual agreement.
5. Commerce has ownership of much of the previous IWCM work through other engagements, being Yield Hydrology and the Pipeline Review. Commerce also has unique experience with IWCM and GMC infrastructure.
6. The consultant, prior to lodging a proposal, was required to review all the previous work, some 20 work packages, to varying extents, to determine the scope of work. This required considerable work which would not be required in commercial considerations for a newly initiated IWCM project.

##### **Justification...**

Due to the extensive and re-iterative process (described above) to attain a proposal for this work, it is most practical to adopt a directly negotiated engagement. This will be the most cost-effective option for Council. Commerce owns the yield model and much of the required demand assessment work, adding to the cost-effectiveness of their bid.

##### **ICAC Guidelines on Direct negotiations**

Justifications for Direct Negotiations. The following dot points provide valid criteria for direct negotiations under the guidelines:

- Well Defined Needs. Commerce are unique in the market with regard to additional hydrology runs as they own the computer model of Council's catchments. Also, they have the very broad range of expertise and disciplines covering IWCM which is necessary for the time line required to meet Commonwealth and State funding requirements.
- Interface with existing studies. There is a need for the newly contracted work to interface with the bulk of work completed over the last two years. Key work has been undertaken by the Department of Commerce and the criteria to interface with existing studies will again be required in the completion of an IWCM Strategy Study which will immediately follow the completion of this IWCM Evaluation Study. This will be a separate but related contract and is a requirement of the Department of Water and Energy.
- Emergency circumstances. There is financial risk with regard to funding deadlines set by our HSP funding partners. Both the Commonwealth and State Government representatives have urged rapid completion of IWCM.
- Risk. The project is subject to inherent risks including drought influences which have already impacted on the scope to complete IWCM cost effectively. The previous contracts have lapsed, creating extenuating circumstances which further justify direct negotiation to eliminate further risk.
- Bidding costs. The high relative value of the bid (\$20,000) compared to the value of the contract (\$80,000) results from the requirement to review the previous two years work to prepare an appropriate bid to complete the IWCM study. This review was comprehensive and estimated to cost \$20,000. The cost to other parties in a multiple bidding process would have greatly exceeded \$20,000 because Commerce had ownership of much of the prior work (hydrology, yield study, pipeline investigation and options review).

### **First Principles**

The first principles as outlined in the ICAC guidelines are addressed as follows:

- a) Obtaining best value for money – this is detailed in bidding costs above.
- b) Providing a fair chance to do business with government – Council goes to the open market in normal circumstances to obtain quotes for work. This project was commenced by three private sector consultants however this contract was terminated and due to the bidding costs involved in going to the open market, this case is developed to go to direct negotiations with Commerce.
- c) Demonstrating Accountability and transparency – the contract requires regular updates to Council and to Department of Water and Energy. Updates will also be provided to Council meetings regarding the progress on the project.
- d) Dealing with Conflicts of interest – Conflict of interest is not appropriate for a small consultancy, nevertheless public sector organisations are governed by codes of conduct requiring declaration of any pecuniary or non-pecuniary conflicts.

### **ICAC Checklist for undertaking direct negotiations**

Responses to the 19 criteria on page 30 in chapter 3 of ICAC guidelines on Direct Negotiations

- a) Direct negotiations have been justified in the reasons above
- b) The project is consistent with Council's overall strategic plan, adopted in the current and previous management plans, re-endorsed by Council resolution (17 March 2009) and urged by State and Federal agencies.
- c) The business case for the project was established in 2006 with the project brief that was signed off by the General Manager and funding has been approved in management plans to date
- d) The proposal to enter into direct negotiations was initiated by the Acting Director of Water Services and discussed with elected Councillors at workshops prior to the case being presented to the General Manager. These workshops were on 3 February 2009 and 25 March 2009.
- e) The decision and reasons to go to direct negotiations are listed in this document and this will be available on Council's website
- f) A cost-benefit analysis is not relevant to a small consulting brief. The impacts of value for money are discussed already in relation to bidding costs.
- g) Conflict of interest process is not appropriate for a small consultancy where the private sector is not involved. Nevertheless public sector organisations are governed by codes of conduct requiring declaration of any pecuniary or non-pecuniary conflicts
- h) The contract is under the Australian Standard for General Conditions for Engagement of Consultants (AS 4122).
- i) External assistance in negotiating the engagement has been by the Department of Water and Energy and probity guidance provided by Probity Associates Pty Ltd.
- j) This document represents the probity plan
- k) The negotiation protocol was a request for a proposal and review and amendment in conjunction with the Department of Water and Energy (the regulator of IWCM). Other aspects of negotiation are in the General Conditions of Contract.
- l) An auditable document trail is established in Dataworks and kept in a hard copy contract file.
- m) In-house and DWE estimates were formed to compare with the bid
- n) The project benchmarks will be project milestones in the contract for the project.
- o) The open book relationship is based on an upper limit fee contract where all expenditure is itemised.
- p) The project will be directed by the Acting Director of Water Services and managed by the Water and Wastewater Engineer and will be overseen by funding partner and regulator, the Department of Water and Energy.
- q) Due to the small size of the project, a steering committee is not required. However a final report will be presented to an open Council meeting, monthly progress reports will be provided to Council.
- r) The project will be closely supervised by the project director and manager with regular reporting required in the contract document.

- s) A post-completion evaluation will be completed by the Department of Water and Energy when determining subsidy and the merit of the work completed.

**Recommendation...**

I recommend that Council engage the NSW Department of Commerce for Part A – Concept Evaluation of the Goulburn Mulwaree Water Management Strategy (IWCM) for an upper limit fee of \$80,155. (exc GST).


(The title of the proposal document is as shown below).

“Goulburn Mulwaree Water Management Strategy  
Proposal for Integrated Water Cycle Management  
Tasks (Fees for Package A)  
Fee Proposal No: WSP09002a  
March 2009”



Greg Finlayson  
Acting Director Water Services

Reviewed report + conc. with recommendation.  
Follows process identified by Probity Assoc PIC + ICAC.  
GOULBURN MULWAREE COUNCIL

  
A/ GENERAL MANAGER

3/4/09