

31 May 2018

David Jones  
General Manager, Adjudication  
Merger and Authorisation Review Division  
Australian Competition & Consumer Commission

**Via email:** [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au); **CC:** [john.rouw@acc.gov.au](mailto:john.rouw@acc.gov.au); [tessa.cramond@acc.gov.au](mailto:tessa.cramond@acc.gov.au)

Dear Mr. Jones,

### **RESPONSE TO ACCC INFORMATION REQUEST DATED 25 MAY 2018**

Council Solutions notes the request for information requested by the ACCC regarding AA1000414 dated 25 May 2018.

Council Solutions is happy to provide the following information.

#### **Publishing the Requests for Tender**

*Council Solutions has stated, at page 11 of its response to submissions from interested parties 18 May 2018, that it had advised all market participants that it would release all Requests for Tender (RFTs) relating to all its waste service streams at the same time (and not, for example, sequentially).*

- 1. Please confirm whether Council Solutions plans to release all the RFTs on the same date and explain the reasons for this.*

Council Solutions confirms the intention is to release all the RFTs at the same time, however this may be subject to change based on the status of the authorisation applications AA1000414, AA1000419 and AA1000420. Depending on the time gap between the Final Determination for each (and, assuming in each case, a positive Draft Determination is given along with Interim Authorisation), it may be that the RFT for the Processing Service Streams and/or the RFT for the Ancillary Service Streams are released shortly after the Waste Collection Services RFT. However, it is the intent of the Participating Councils to release all RFTs as soon as possible following a positive determination for the following reasons :

- It will allow sufficient time for the evaluation of tenders, awarding of contracts and start up activities for transition into service provision to the Participating Councils from May 2020;
- By having the RFTs in the market at the same time, a potential supplier who may be able to respond to more than one RFT will have a full understanding of the waste opportunity available and respond to each RFT accordingly. Understanding the full requirement may allow for innovative tender submissions that drive additional diversion or environmental outcomes; and

- Considering the tenders for each RFT and for all service streams concurrently will also allow the Participating Councils to ensure the best outcomes and value is achieved across all streams.

As identified by Council Solutions, there are some potential suppliers who provide services across more than one RFT, such as:

- Cleanaway, who may provide 3-Bin System Collection, Residual Processing, Bulk Bin Collection and/or Hard Waste Collection;
- Adelaide Resource Recovery, who may provide Residual Processing, Organic Processing, Bulk Bin Collection and/or Street Litter Collection.

### **Single supplier**

*Council Solutions has stated, at page 11 of its response to submissions from interested parties 18 May 2018, that the Participating Councils will not appoint a single supplier to provide all service streams across the three RFTs.*

2. *Please elaborate on this statement. For example:*
  - a. *Is Council Solutions ruling out appointing one supplier covering all service streams (collection, processing and ancillary) even if that supplier offered the best tender of the separate RFT processes for each stream?*
  - b. *Might the Participating Councils appoint a single supplier for all service streams except, for instance, one ancillary service?*
  - c. *What is Council Solutions' and the Participating Councils' reasoning for the approach it is taking and will this be a formal requirement of the tender process?*

As per the Existing and Potential Supplier lists provided at Annexure 2 of each of the applications for authorisation (AA1000414, AA1000419 and AA1000420), there is currently no potential supplier in the market capable of providing each of the seven Service Streams across the three RFTs. Whilst some may be able to provide, for example, 3-Bin System Collection and some or all Ancillary Service Streams (with or without sub-contract arrangements), there are no potential suppliers identified who could also provide all Processing Service Streams without sub-contractor arrangements. Within the Processing Service Streams, each existing supplier listed currently provides services to the Greater Adelaide Region Councils directly as well as through sub-contract arrangements and there are no current or potential suppliers identified who provide Processing of both Recyclables and Organics.

Council Solutions cannot prevent any organisation from tendering and, naturally, will encourage every supplier that has the appropriate capacity and capability to perform the services to submit a tender. However, our market research has shown the possibility of a single provider offering all seven service streams and also delivering the best outcomes and value across all seven service streams is small enough for Council Solutions to rule it out as an outcome.

The conditions of tender will make it clear within each discrete RFT how contracts will be awarded, namely:

- RFT 1 (AA1000414) Waste Collection Services: a sole supplier will be awarded a contract to service all Participating Councils.
- RFT 2 (AA1000419) Processing Service Streams:
  - a sole supplier will be awarded a contract to service all Participating Councils for Residual Processing;
  - up to two suppliers may be appointed for each of the Recyclables Processing and Organics Processing Service Streams.
- RFT 3 (AA1000420) Ancillary Service Streams:
  - for the Bulk Bin Collection and Hard Waste Collection Service Streams, each Service Stream will award a sole supplier to service all Participating Councils;
  - up to two suppliers may be appointed for Street Litter Collection.

The conditions of tender in each RFT will require the tender submission to be capable of acceptance on a standalone basis. Where there is more than one Service Stream, the conditions of tender will require each Service Stream tendered for to also be capable of acceptance on a standalone basis.

Each RFT will acknowledge the existence of the other RFTs and the potential a supplier may wish to submit separate tender responses across more than one RFT, however they will each also state the maximum number of Service Streams that will be awarded to any single supplier will be six.

As a result, should, for example, an identified 3-Bin System potential supplier elect to submit a tender for Recyclables Processing (sub-contracting this service), this tender is required to be capable of acceptance on its own (regardless of whether the potential supplier wins the RFT for Waste Collection Services). Furthermore, under this scenario it is likely the nominated recyclables processing sub-contractor would also look to respond directly to RFT 2 to ensure maximum opportunity to win a contract. Without pre-empting the procurement outcome, Council Solutions considers it unlikely a sub-contract arrangement under these circumstances (that is, as a separately acceptable offer) would offer better outcomes and value than the direct tender offering by the recyclables processor.

Please do not hesitate to contact me if there are any queries regarding this.

Kind Regards,



Contract Management Officer  
Council Solutions