



15 July 2021

Our Ref: ESR004

The Assistant Director: Competition Exemptions
Australian Competition & Consumer Commission
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Application for Interim Authorisation: Western Australia Local Government Association (WALGA)

In response to clarification requested by the Competition Exemptions Branch of the Australian Competition & Consumer Commission.

Rationale for WALGA's plans to negotiate an initial three year contract term prior to entering into a longer term contract.

WALGA is facilitating the development of a three-year (3) agreement in order to aggregate spend and align Local Government contract terms for the future development of a long-term Power Purchase Agreement (PPA). Many WALGA Members have adopted, or are in the process of adopting, renewable energy policies aspiring to net zero targets between 2026 and 2050. The WALGA buying group created for the first three years of this project will position WALGA Members to work collaboratively and collectively to construct and/or secure affordable long-term renewable energy for the sector.

Using a staged approach, WALGA is looking to develop a long-term partner, or consortium of partners, to provide energy and sustainability solutions for the Local Government Sector. Many of the Local Governments participating in the proposed market process have a strong desire to procure renewable energy, however they are limited by capacity and the structure of current options being offered at an individual level in the market. Additionally, the current level of commitment to renewable energy varies across the WALGA Membership. The three-year initial arrangement will provide time to review and structure appropriate procurement models for the medium and long-term supply of renewables to the Western Australian Local Government Sector.

In WALGA's view, current Large-scale Generation Certificate (LGC) prices are not commercially viable for Sector-wide adoption. WALGA intends that the initial three-year arrangement will provide price transparency to the proposed purchasing group and Local Government sector. Renewable energy is an emerging market in Western Australia and consequently, the adoption of LGC procurement alongside conventional energy contracts is not common for the Sector. WALGA proposes to engage the market through its initial Tender which will incorporate within its scope an initial contract alongside the ability to then negotiate a PPA which will be directly tied to Western Australian renewable energy sources. The proposed initial three-year arrangement will provide price transparency to the proposed Purchasing Group and Local Government sector.

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Many of the planned renewable energy infrastructure projects within Western Australia are either under development or yet to commence, however as this capacity is streamed into the grid, the supply options and competitiveness of the market will be greatly enhanced. Greater clarity on the PPA options available for WALGA Members will evolve during the initial three year term of the Energy Group supply contract.

The Purchasing Group will be positioned to utilise lessons learnt from the first contract period in conjunction with aligned expiries of energy supply contracts to request a solution best fit to the sectors renewable needs. WALGA anticipates that a second term PPA contract period spanning a five to ten year term is an optimum solution, however WALGA proposes not to restrict any arrangement to a particular supply period until the secondary market process is run. As technologies evolve and the Western Australian Energy Market (WEM) continues to change, the benefits of a longer-term Contract may be overtaken by more favourable options. WALGA proposes an undetermined contract length within the exemption timelines in order to allow for flexibility to adapt to these market changes.

WALGA intends to run an open market process for generation supply and initial term award through the most suitable retailer or retailers for contract and service administration, as determined by the Tender. The procurement process proposed for the long-term arrangement will also be informed by the Tender outcome and sits within the steps outlined in the proposed conduct seeking interim exemption.

Clarification of the proposed conduct that WALGA is seeking interim authorisation for.

WALGA is seeking interim authorisation to cover the Tender process, recommending the Tender award, and obtaining confirmation from WALGA Members in the Purchasing Group on their decision to proceed to Contract. WALGA has proposed only to enter into agreements subject to authorisation of the substantial application. The procurement steps can be summarised as following:

1. Declarations of Conflict & Interest obtained from Evaluation Panel
2. Tender released to invitees
3. Supplier Briefing
4. Tender Closure
5. Evaluation of RFT submissions
6. Recommendation Report complete
7. Steering Group Endorsement
8. WALGA award of Tender
9. Member governance approval for entry into initial Contract term

The awarded supplier or suppliers will be required to directly execute supply agreements with participating WALGA Members who have elected to accept the negotiated offer.

Yours faithfully,

Toby Costanzo
Contract Manager, Management