



Item No: 5.1

File No: 12.14.1.4

Date: April 2020

Attachment: A

Meeting:	CEO Performance Review Committee
Title:	CEO Performance Review Appointment of Consultant
Responsible Manager:	Mayor, Elizabeth Fricker
Author:	Council Secretariat, Vanessa Davidson
Key Focus Area:	Strategic Community Plan Focus area 3- Transparent and accountable local tier of Government
Key Focus Area:	Financial Guiding Principle 4 – Robust and transparent allocation and prioritisation of resources
Type of Report:	Decision Required

The matter contained in this report may, if the CEO Performance Review Committee so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(d) of the Act being to prejudice the commercial position of the person who supplied the information.

Recommendation Public

Pursuant to s90(3)(d)

Pursuant to section 90(2) of the *Local Government Act 1999* the CEO Performance Review Committee orders that all members of the public, except the Council Secretariat, Vanessa Davidson, be excluded from attendance at the meeting for Agenda Item 5.1 CEO Performance Review - Appointment of Consultant.

The CEO Performance Review Committee is satisfied that:

1. Pursuant to section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information as it contains pricing information relating to a tender process for professional services.
2. Pursuant to section 90(3)(k) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is a tender for the provision of services to the Council and at this time the information relating to the tender process should not be made public.

In addition, the CEO Performance Review Committee has further considered that the information would on balance be contrary to the public interest because the disclosure of this information may result in a competitor receiving the information to the detriment of the proposed provider.

Recommendation (Confidential)

The CEO Performance Review Committee recommends to Council that

1. The current Request for Quote process be abandoned and a new Request for Quote process be undertaken commencing in November 2020.
2. Richard Altman Consulting be appointed to assist the Chief Executive Officer's Performance Review Committee to undertake an annual performance review of the Chief Executive Officer for 2020/ 21 to 2021/ 22.
3. Administration write to Richard Altman and Rebecca Hunt and inform them that in accordance with clause 5.4 of the RFQ process the existing process will be abandoned.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Agenda Item 5.1 CEO Performance Review – Appointment of Consultant in confidence under section 90(2), 90(3)(d) and 90(3)(k) of the *Local Government Act 1999*, the CEO Performance Review Committee, pursuant to section 91(7) of that Act recommends to Council that:

1. The Report, Minutes and Attachment A relevant to this Agenda Item be retained in confidence.
2. The Report, Minutes and Attachment A be released once the matter the matter has been finalised.

That the CEO Performance Review Committee resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* and re-admit the public.

Summary

The Chief Executive Officer's (CEO) Employment Agreement sets out that Council must conduct an annual performance review and that it must be completed by 31 August each year. The CEO Performance Review Committee's Terms of Reference require the Committee to undertake the review, and to recommend to Council the appointment of an independent consultant to assist with the performance review process.

The Administration commenced a Request for Quote process for a suitably qualified consultant on Friday 20 December 2019 and concluded the process at 5pm on 31 January 2020.

At its meeting of 19 February 2020 the CEO Performance Review Committee requested that the Administration conduct two (metropolitan) referee checks on Richard Altman Consulting and McArthur **(CEO14/19-20)** and arrange for the Committee to conduct short interviews with the applicants at the next meeting of the Committee.

Only one referee for each applicant has responded to the request for a referee check at the time of writing this report.

Since that resolution was made the World Health Organisation has declared COVID-19 a pandemic and the Australian Government has restricted the number of people able to attend public gatherings, recommending that meetings not be held unless essential.

The Request for Quote process is able to be abandoned and given the uncertainty of the times it is recommended that the current arrangements for 2019/ 20 be continued pending the return to 'normality' at which time a new RFQ process will be commenced.

Background

The CEO's Employment Agreement sets out in Clause 10 the requirement to conduct an annual performance review.

The CEO Performance Review Committee Terms of Reference, adopted by Council on 20 May 2019, prescribes the role of the Committee to:

- Engage with the Chief Executive Officer in the undertaking of the annual performance review within the parameters of the Employment Agreement, and report the findings to Council. Conduct an informal performance review meeting with the Chief Executive Officer after six months of each review year
- On an annual basis, and in conjunction with the Chief Executive Officer, establish the Key Performance Indicators (KPIs) against which the performance review is to be conducted
- Periodically review with the Chief Executive Officer the Key Performance Indicators, and the Key Result Areas included in the position description against which feedback will be sought during the annual performance review
- On an annual basis make recommendations to Council regarding the remuneration and conditions of employment of the Chief Executive Officer, consistent with the requirements of the Employment Agreement
- **The Committee is to make a recommendation to Council for the appointment of an independent consultant to assist with the Chief Executive Officer's performance review process.**
- Make recommendations to Council as to any proposed changes in remuneration or conditions of employment of the Chief Executive Officer.
- In the event of a vacancy for the position of Chief Executive Officer, the Committee will develop and recommend to Council the necessary steps to fill the vacancy within the requirements of the Local Government Act. The Committee will act as the selection panel and make recommendations to Council on an appointment to the position of Chief Executive Officer.

Richard Altman Consulting has been appointed by the Council, since 2014 to support them through the performance review process.

Council at its ordinary meeting of 20 May 2019 resolved to appoint Richard Altman as the independent consultant for the 2018 / 2019 CEO Performance Review **(CNC357/18-19)**.

As this process is now complete the Committee was required to recommend to an independent consultant to Council to assist with future CEO Performance Reviews.

In accordance with the requirements of Council's Procurement Policy, Administration commenced a request for quote process to seek interest from suitably qualified independent consultants capable of assisting the Committee in undertaking the CEO's Performance Review.

Six (6) companies were selected from the pre-qualified Professional Services Panel and invited to submit quotes these being:

1. AME Recruitment Pty Ltd
2. BRM ADVISORY
3. Maxima Training Group (Aust) Ltd
4. McArthur (SA) Pty Ltd
5. Richard Altman Consulting
6. Wallmans Lawyers

The request for quote process commenced on Friday 20 December 2019 and concluded at 5pm on 31 January 2020.

At the time of closure of the process three responses had been received these being from:

1. AME Recruitment Pty Ltd
2. Richard Altman Consulting
3. McArthur (SA) Pty Ltd.

The completed responses were sent by confidential email to Committee members on 6 February 2020 accompanied by an evaluation spreadsheet that each Committee was requested to complete.

The companies were to be given scores out of 10 for the following criteria based on the information provided in their submitted responses:

1. Cost – value for money
2. Timeframes – evidence of being able to deliver in allocated timeframes
3. Capability - understanding of requirements, knowledge & experience in the industry, infrastructure and other support, staff resources, methodology.
4. Performance - factors to consider: current work, previous work, previous local government experience, mechanisms for monitoring contractual performance, industrial relations, OHS&W, equal opportunity.
5. Quality Systems Deliverables – Quality of work

Committee Members independently completed an evaluation spreadsheet and submitted it to Administration for collation.

At the conclusion of the evaluation process the Committee short-listed two applicants being:

- Richard Altman Consulting
- Rebecca Hunt from McArthur.

At its meeting of 19 February 2020 the Committee requested that the Administration conduct two (metropolitan) referee checks on Richard Altman Consulting and McArthur (**CEO14/19-20**) and arrange for the Committee to conduct short interviews with the applicants at the next meeting of the Committee

Discussion/Issues for Consideration

Richard Altman and Rebecca Hunt were both contacted by the Administration and requested to provide details of two metropolitan Council referees who would be able to attest to their abilities in assisting CEO Performance Review Committees in undertaking a review of the performance of the Chief Executive Officer.

Richard Altman provided the following referees:

- Deputy Mayor Peter Hughes – City of Unley
- Mark Goldstone – CEO City of Adelaide

Rebecca Hunt provided the following referee:

- Mayor Anne Monceaux City of Burnside

On 4 March 2020 Ms Hunt emailed the Administration and advised “*I have chased up Campbelltown however they were notorious for being busy and hard to get hold of. Otherwise I can give you another Mayor – Rural City Murray Bridge*”.

The Administration advised by return email that the Committee particularly wanted to speak with a referee from Campbelltown City Council as they are an Eastern Region Alliance Council.

As of 13 March 2020 Administration has not received a response to this email.

On 6 March 2020 Administration emailed the referees the following questions and requested written responses prior to close of business on **13 March 2020**.

Questions put to Referees

1. Did the consultant meet the agreed time frames for delivery of reports and other documents?
2. Please describe how the consultant related to and interacted with the CEO Performance Review Committee and the Council?
3. Did the consultant use ‘face to face’ communication during the process? If so for what purposes?
4. What part of the process were you most / least satisfied / impressed with?
5. Were there any variances in the costs initially quoted?
6. What was the term of the consultant’s engagement? Would you hire them again?
7. Please describe the quality of the consultant’s work including reports to Council.
8. Is there anything else you feel would be beneficial for the CEO Performance Review Committee to know?

At close of business on 13 March 2020 Administration had received the following completed reference checks:

- Deputy Mayor Peter Hughes JP – City of Unley on behalf of Richard Altman Consulting
- Mayor Anne Monceaux – City of Burnside on behalf of McArthur.

Both Mr Altman and Ms Hunt were sent invitations to meet with the Committee and discuss their proposals.

Since those invitations were issued World Health Organisation has declared COVID-19 a pandemic and the Australian Government has restricted the number of people able to attend public gatherings, recommending that meetings not be held unless essential.

The term of engagement is listed in the ‘Request for Quote’ as Section B – Specifications, which states:

1. Assist the Chief Executive Officer Performance Review Committee to undertake an annual performance review of the Chief Executive Officer in accordance with the CEO Employment Contract & Terms of Reference of the Committee for the 2019/ 2020, 2020/ 2021 and 2021 /2022 financial years.

Further, the ‘Request for Quote’ specifies that:

The Council reserves the right to:

- 5.1 amend, vary, supplement or terminate this RFQ at any time;

- 5.2 accept or reject any Quote, including the lowest price Quote;
- 5.3 negotiate with any service provider on all or any part of the Services to be supplied pursuant to this RFQ;
- 5.4 postpone or abandon this RFQ;
- 5.5 add or remove any Respondent;
- 5.6 accept or reject any Quotes;
- 5.7 accept all or part of any Quote;
- 5.8 negotiate or not negotiate with one or more Respondents;
- 5.9 discontinue negotiations with any Respondent; and
- 5.10 include the Respondents' names in Council reports and make them public. This may include the order of Respondents on the basis of quoted price but without the specific amount quoted.

The CEO Performance Review Committee's Terms of Reference state at clause 2.2 that the independent consultant is required '*on an annual basis, and in conjunction with the Chief Executive Officer, establish the Key Performance Indicators (KPIs) against which the performance review is to be conducted (July of each year).*'

Given the uncertainty of the times in which we are currently living and the need to progress the process for the CEO's Performance Review it is recommended that in accordance with clause 5.4 of the RFQ that the process, as outlined above, be abandoned and that a new RFQ process for an independent consultant to assist the CEO Performance Review Committee will be commenced in November 2020.

As Richard Altman Consulting has previously assisted with the Chief Executive Officer's performance review process it is suggested that he be engaged to undertake the review process for 2020/ 21.

The documentation that Richard Altman Consulting submitted for the RFQ process has been included for the Committee (as a reference tool only) at Attachment A. It is noted that as the fees for service as listed on page 16 of the documentation are below \$25,000 Council is able to directly purchase the services of Richard Altman Consulting in accordance clause 8 with Council's Procurement Policy.

Should Council accept the Committee's recommendation it is proposed to write to Richard Altman and Rebecca Hunt and inform them that in accordance with clause 5.4 of the RFQ process the existing process will be abandoned.

Next Steps

In accordance with clause 2.5 of the CEO Performance Review Committee's Terms of Reference the Committee are required to make a recommendation to Council for the appointment of an independent consultant to assist with the Chief Executive Officer's performance review process.

Attachments

Attachment A	Request for Quote Documentation Supplied by Richard Altman Consulting
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