

RFP – Legal Services for Auckland Transport

Executive Summary

The purpose of the Request for Proposal (RFP) for legal services was to invite suitably experienced legal service providers to submit a proposal to provide legal services to Auckland Transport (AT). The outcome sought is to identify one or more firms to provide the best solution for Auckland Transport.

The RFP responses allow AT to evaluate each provider regarding price and non-price attributes (e.g. including experience, skills, track record, policies, procedures, conflict of interest, client management approach and overall delivery).

Nine of the primary legal services providers were invited to submit a proposal (by Wednesday 15 December 2010) and with the exception of Chapman Tripp who declined, the submitters and a summary of their responses, are listed below.

Response Summary

DLA Philips Fox (DLA)

DLA has advised Manukau City Council on all infrastructure and transport related legal issues from 1997 to 31 October 2010. It established and advised ARTNL. It has assisted GWRC with respect to the purchase of EMUs and is lead provider of legal services to Wellington City Council and Hutt City Council.

DLA could provide support (and fresh thinking) via its Australian office, in particular through (AU based) partners Alex Guy, John Gallagher and Stephen Webb (clients include Vic Roads, Queensland Department of Main Roads).

A concern may be DLA's ability to deliver on larger AT projects (with tight timeframes) with circa 85 professional staff. DLA's response was light on how it would work effectively with AT and limited overview re the main issues it thinks AT would face.

Of the firms which responded, DLA's partner pricing is in the mid/lower range. It is offering AT a circa 20% reduction on partner retail rates (retail rates for other lawyer categories were not provided).

Client Relationship Manager: Martin Wiseman (Chair & Partner, Corporate and Commercial)

Simpson Grierson (SG)

SG is a member of Auckland Council panel of advisers. It has advised NZTA, ATA (principal adviser), Toll and local authorities – Auckland City Council, North Shore City Council, Rodney District Council and Franklin District Council.

SG's response provided a comprehensive overview of the key issues that will face AT. It appears to have the most experience across the (previous) Auckland local authorities which arguably encourages timely and broad stakeholder considered advice.

It has put forward a very focused and very experienced team.

A key strength could be its banking and finance expertise, previously acting for Auckland City Council re all its funding facilities. Its size (306 professional staff) will encourage timely delivery of projects.

Consideration needs to be given to the practicality/occurrence of SG being conflicted as a member of the Auckland Council panel of advisers, and its ability to prioritise and progress AT's initiatives.

SG's pricing is the second highest with Bell Gully (only Russell McVeagh higher). On average it is offering a 24% reduction on retail rates to AT.

Client Relationship Managers: Kevin Jaffe (Chair and Partner in the Corporate Group) & Gerald Lanning (Partner – Local Government and Environment Group)

Buddle Findlay (BF)

BF states that it has been a '*significant*' provider of legal services to Auckland City Council since 2002. It has provided advice to CCOs and is a current is a member of the NZTA panel of advisers.

In addition to its increasing experience in the transport sector, a key strength will be the more 'personal' approach BF are known for in the market allowing it to work effectively with clients. NZTA have commented how well BF works with other NZTA panel members. BF specifically names AT people that it has worked with in the proposal.

A concern might be the depth of expertise in specific service areas AT requires, albeit it has 207 professional staff.

BF's rates are in the mid-range of the respondents. It is offering the largest discount (relative to retail rates) of the respondents, at 28%.

Client Relationship Managers : David Thomson (Partner - Corporate and Commercial) & Sasha Judd (Partner - Corporate and Commercial)

Russell McVeagh (RMcV)

Historically RMcV has not acted for local authorities or Auckland Council. It has advised NZTA predecessor organisations.

The response includes a comprehensive overview of the key issues that will face AT and some proactivity re suggested approach in addressing the issues.

Key strengths will be its public sector experience and its offshore PPP experience (Aus and UK). In addition Partner Jeff Morrison has advised ATA and KiwiRail extensively. It has put forward a focused and experienced team (231 professional staff).

RMcV advises a number of the larger major contractors (Fletcher, Downers).

Consideration needs to be given to the practicality/occurrence of RMcV being conflicted as adviser to KiwiRail.

RMcV's response was not as professionally presented as perhaps the others but this could be due to the fact that it had less time to prepare (as not initially invited as perception still not working for local authorities). The response content was of a high standard.

RMcV's retail pricing is the highest (5% above SG). With only a circa 10% reduction retail rate being offered to AT, it's pricing (after discounting) is circa 15% above SG and Bell Gully.

Client Relationship Managers : Jeff Morrison (Partner - Property and Commercial) & Derek Nolan (Partner – Resource Management and Environmental)

Bell Gully (BG)

BG has acted for ARTA since its establishment, ARC and ARTNL. It previously acted for Toll Rail. This experience would enable BG to provide effective and timely advice moving forward.

BG has put forward a focused team that has significant experience and depth in the key service areas (227 professional staff).

A concise and professional response although did not include an overview re the key issues facing AT. Its response focused on where BG had 'delivered value' on various projects. The response did not appear to contain the same level of effort/detail as some of the others, perhaps relying on the fact that AT is reasonably familiar with its service offering.

The response included suggestions as to KPIs for measuring its performance.

BG's pricing is second highest (with SG) offering AT on average an 18% discount.

Relationship Partner : Tom Bennett (Partner – Land Transport, Corporate & Commercial, Local Government). Second Relationship Partner: James Gibson (Corporate & Commercial)

Minter Ellison Rudd Watts (MERW)

MERW appears to have less history in working with Auckland Council, local authorities and associated entities, relative to other respondents.

Mark Stuart (Partner) has significant experience in rail and David Gilbert acts for GWRC re KiwiRail EMUs.

MERW have named Carl Rowling (independent firm) as a consultant in its proposal. Carl was previously General Counsel at Auckland CC, which could be an advantage.

With offices in Australia, UK and Asia, AT may be able tap into MERW's international expertise and fresh thinking.

Quite a personal response which read well. Use of case studies to support value add and delivery effectiveness.

Query whether have the depth of expertise in the key service areas (170 professional staff).

Mid to lower range pricing and are offering on average 13% discount to AT.

Client Relationship Managers : Andrew Montheigh (Partner - Property and Local Government) & David Gilbert (Partner – Property Law/Procurement and Tendering).

Brookfields (BS)

BS have a partnering alliance with KS re NZTA panel of advisers. It has acted for Manukau City Council and ARC previously and is on Auckland Council panel of advisers.

It provided a very personal/tailored response, specifically referring to key AT staff and comprehensive overview of the issues facing AT. Strengths would include local government and public law specialties.

Slightly more innovative ideas to adding value (five hours free partner time per month re planning) and have suggested various KPIs to measure their performance.

Major contractor client – Beca.

BS has the lowest retail rates (of all respondents) and is offering a further 9% average discount to AT. In addition it will offer a 50% discount on all land transport advice for the first six months of the arrangement.

A concern would be their capacity to deliver (41 professional staff), such that if shortlisted, perhaps should be 'in partnership/alliance' with another shortlisted provider.

Client Relationship Managers: Andrew Green (Partner - Local Government/Public) & Melinda Dickey (Partner – Resource Management and Environmental).

Kensington Swan

KS were 'major' legal service providers to Waitakere City Council, ARC and Rodney District Council. It is on the NZTA panel of advisers and has advised some CCOs. It advises a number of the larger major contractors (Downers, Leighton).

Its strengths would be transport sector experience and Paul Buetow's experience in construction, infrastructure (joint author of the New Zealand Council for Infrastructure (NZCID) report on infrastructure development (2006, updated 2010)) and advocacy areas.

The response included an extensive summary of the issues. KS provided a focused response with a summary of projects with commentary of the value it added to each project. Quite a personal response referring to various AT team members and provided suggestions as to KPI measure of their performance.

Mid-range (of respondents) retail pricing and are offering on average a 16% discount to AT.

Client Relationship Partner: David Shillson (Partner - Corporate and Commercial), supported by Paul Buetow Dickey (Partner – Business Director – Advocacy, Lead – Infrastructure Team)

Recommendation

- i. The Chair and Chief Executive of Auckland Transport to conduct a final review of the responses and prepare a short list by 22 December 2010.
- ii. In the week commencing 17 January 2011, shortlisted candidates will be invited to present to the Chair and Chief Executive.
- iii. Successful providers will be notified by 28 January 2011 and an agreement for services finalised shortly thereafter.

<p>RECOMMENDED by</p>	<p>David Warburton Chief Executive</p>	
<p>APPROVED FOR SUBMISSION by</p>	<p>David Warburton Chief Executive</p>	