

11 December 2018

Auditor-General's report to parliament

Unsolicited proposal process for the lease of Ausgrid

In October 2016, the NSW Government accepted an unsolicited proposal from IFM Investors and AustralianSuper to lease 50.4 per cent of Ausgrid for 99 years. The deal followed the Federal Government's rejection of two bids from foreign investors, for national security reasons.

A performance audit of the lease of Ausgrid has found shortcomings in the unsolicited proposal process. Releasing the audit findings today, the Auditor-General for New South Wales, Margaret Crawford said 'this transaction involved a \$20 billion asset owned by the people of NSW. As such, it warranted strict adherence to established guidelines.'

The audit identified three main areas of concern with the process:

- **Uniqueness** – The evidence and arguments that convinced the government of the unique benefits of the proposal and the unique ability of the proponent to deliver the proposal were not compelling. The evidence did not show beyond doubt that no other proponent could have put in a viable bid or that there was no other way to conclude the lease transaction. It is also not appropriate to determine that an unsolicited proposal is unique because it delivers an earlier outcome than possible through a tender process.
- **Negotiation Process** – The government began price negotiations earlier than recommended by the 2014 Unsolicited Proposals Guide (the Guide). It also disclosed what an acceptable price would be early in negotiation, reducing the likelihood of achieving a substantially higher price. There was also no documented reserve price or negotiation strategy. That said, the government obtained assurance that the proposal delivered value for money.
- **Governance** – While the committee appointed by the government to oversee the unsolicited proposal was suitable, separation between the negotiation, assessment and review processes was not fully maintained. Also, the government could not provide minutes of two critical meetings where price was discussed with the proponent.

'Uniqueness is a threshold issue. No matter how good a deal seems, to proceed without competition, there must be no doubt that both the proposal and proponent are unique. The standard of proof must be high and competition must prevail in all but the rarest of circumstances', concluded the Auditor-General.

Further information

A full copy of the report is on the Audit Office website.
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