



CITY OF PHILADELPHIA

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Interim Procurement Commissioner

The Honorable Rebecca Rhynhart
City Controller
1230 Municipal Services Building
1401 John F. Kennedy Boulevard
Philadelphia, PA 19102

February 28, 2019

Re: City of Philadelphia Election Systems
Request for Proposals (“RFP”)
Opportunity Number: B1903107

Dear Controller Rhynhart:

Thank you for the interest and concern that you have shown regarding the selection of a new election system for the City of Philadelphia (the “City”). The City’s Procurement Department, its leadership, its staff, and its partners in the Mayor’s Office, the Chief Administrative Office, the Office of Innovation and Technology, and the Office of Economic Opportunity are wholeheartedly committed to procuring the best possible voting system available today. To date, the Procurement Department and its partners have engaged in a rigorous process, which will ensure that the City has a system which: meets the requirements of our commonwealth and federal governments, satisfies the needs of the City Commissioners, and, most importantly, protects the cornerstone of our electoral process, the vote of our citizens.

The timeline for the contracting and implementation of the new election system is set by the City Commissioners but dictated by the gubernatorial mandate that new machines should be soundly in place for the 2020 elections, or risk decertification of Philadelphia’s voting results. Any perceived haste on the part of the City is being exercised to achieve that goal. However, the City is firmly committed to ensuring that the speed of the process does not come at the expense of due diligence. Prior to issuing the RFP for election systems, City staff spent several months conducting research, which included engaging in a thorough review of commonwealth and federal voting system requirements and documentation, conducting a survey of the requirements from other locales, sending experts in election systems from the City Commissioners and experts

in technology from the Office of Innovation and Technology to a government sponsored security symposium on election integrity, observing elections in other municipalities, and issuing a [Request for Information \(“RFI”\)](#) in June of 2018, so that the City could learn what other information might be available *before* setting about the task of drafting an RFP to select a system.

After this intensive due diligence process, the City drafted an open and unbiased invitation to system vendors, allowing everyone interested in the opportunity to present their products to the City’s experts for evaluation. The RFP and its resulting selection process strictly followed the City’s procurement requirements as described in the [Home Rule Charter, Sec. 8-200](#); the [Philadelphia Code, Chapter 17-1400](#); and the Procurement Department Regulations Governing the Purchase of Goods and Non-professional Services Other Than by Awarding of Contracts to the Lowest Responsible Bidder (the “[Best Value Regulations](#)”). Each of these laws and regulations are publicly available and their internet locations hyperlinked to this document.

The [RFP](#) was publicly posted in November of 2018 on the City’s website, PHLContracts, where anyone with interest could examine it. Pursuant to the Best Value Regulations, the RFP included the proposal scoring criteria and the weights for each criterion, to ensure potential applicants, and the public, were aware of the selection committee’s core considerations when reviewing proposals. Open and advertised pre-proposal meetings were held in early December, where questions were entertained. Written inquiries were publicly collected through PHLContracts, answers were publicly posted by mid-December, and the bidding process concluded at the end of December.

The RFP resulted in multiple proposals for both voting machines and electronic poll books. The Procurement Department empaneled a selection committee that included representatives from the City Commissioners, the Mayor’s Office, City Council, the Office of Innovation and Technology, and the Office of Economic Opportunity to evaluate the proposals. The names of the individuals participating on the selection committee were not made public, to protect them from untoward influence and solicitation. Including representatives from such a wide range of offices ensures that no single City officer or office could unduly influence the process. Further, all selection committee members were required to maintain confidentiality throughout the process as well as be free of conflicts of interest and, had to certify as such by signing a Confidentiality and Conflict of Interest Statement prior to reviewing proposals. Although the Pennsylvania Election Code vests the City Commissioners with the authority to ultimately select voting machines, the opinions of all selection committee members and the offices they represent were expressed and considered.

Furthermore, as part of its evaluation process, the selection committee: brought the most qualified vendors in to present their systems on multiple occasions; debated the benefits of various election systems; and, as stewards of the public’s trust and funds, negotiated with the vendors to obtain the best possible services and price for the City’s citizens, under the most favorable terms. Upon completion of the rigorous examination conducted by the selection committee, qualified vendors, who also had to qualify for commonwealth and federal certification, were presented to the City Commissioners to make their selection during a public hearing. Additionally, as required by the Best Value Regulations, the City conducted a thorough review regarding the selected proposers’ eligibility to be awarded a City Contract under the City’s anti-pay-to-play laws found in Chapter 17-1400 of the Philadelphia Code.

Throughout this process the City has made a concerted effort to protect the public's interests. It has performed as much of the selection process as possible publicly and it has uniformly complied with the laws and regulations applicable to City procurement as described above. The City has kept internal any confidential negotiation or pre-decisional debate held during the selection process only to preserve the relative bargaining position of the City as it negotiates with multiple vendors who could leverage inside information to their advantage during the negotiation process. Moreover, when the negotiations have concluded, the results of that process will become public through a public notice of intent to contract ("Notice"). As required by the Best Value Regulations and the Philadelphia Code, the Notice will be publicly posted before any contract is executed and will contain the following information: the name of the proposed contract recipient, the reason for the selection of that recipient, including the recipient's evaluation score, the names of all other proposers to the RFP, the final price(s) offered in the proposed contract, and the proposed recipient's commitments to subcontractor and workforce diversity. Then, after the contract is executed, so that the vendor is locked-in and the public's interests are further protected, the City will publish the executed contract on the City's PHLContracts website. Additionally, the proposals of *all* vendors, regardless of whether they were awarded a contract, will be made publicly available pursuant to Pennsylvania's Right to Know Law and Chapter 17-1400 of the Philadelphia Code.

In closing, know that the Procurement Department shares your concern over the propriety of this process and the public's faith in it. That is why every effort has been made to ensure this process followed all applicable laws and regulations, and why the laws and regulations for Best Value procurements were written to ensure that as much information as possible can be shared when the negotiations are completed. We are committed to doing that as soon as reasonably possible.

Sincerely,



M. Nesmith-Joyner
Interim Commissioner

cc: Commissioner Al Schmidt, Vice Chair
Commissioner Anthony Clark
Christine Derenick-Lopez, Chief Administrative Officer
Mark Wheeler, Chief Information Officer
Marcel Pratt, City Solicitor
Lisa Deeley, Chairwoman, City Commissioner