



Dallas County
COURT ORDER / BRIEFING
Commissioners Court - Sep 17 2019

☐ Resolution
☐ Solicitation/Contract
☐ Executive Session
☐ Addendum

Dallas County Adoption of Election Voting Tabulation Systems and Services

Briefing Date: Sep 17 2019
Funding Source: 1210
Originating Department: Elections
Prepared by: Robert Heard, Assistant Elections Administrator
Recommended by: Robert Heard, Assistant Elections Administrator

BACKGROUND INFORMATION:

Dallas County issued Request for Proposal for Election Voting Tabulation System and Services, RFP No. 2018-052-6745 on Monday, November 12, 2018. On August 21, 2018 with Court Order 2018-0996, the Dallas County Commissioners Court ("The Court") authorized Dallas County Elections Department, Purchasing Department and the District Attorney's Office - Civil Division to enter into contract negotiations with Election Systems & Software, LLC ("ES&S") for the aforementioned solicitation.

On May 7, 2019, The Court approved the purchase of election voting tabulation systems and services manufactured and provided by ES&S (Court Order 2019-0460). Specifically, Dallas County procured the ES&S ExpressVote Universal Voting System (Ballot Marking Devices), EVS 6.0.2.0, Firmware 2.4.0.0; the ES&S DS200 Digital Precinct Scanner, EVS 6.0.2.0, Firmware 2.17.0.0.; and ES&S' Model DS850 High-Speed Scanner/Tabulator, Version 1, EVS 6.0.2.0., along with the required ancillary parts and services required for this voting tabulation system equipment. This system has been certified by the Texas Secretary of State as of November 11, 2018, and by the United States Election Assistance Commission as of October 4, 2018.

On September 3, 2019, The Texas Secretary of State approved Dallas County's Application to Implement Vote Centers for the November 5, 2019 General/Special & Joint Election. Dallas County Elections Department will use the voting system in all polling places, for Early Voting and on Election Day for all elections, including but not limited to the following:

- I General Elections for state and county officers and any related subsequent runoff elections;
- I Primary Elections and any related subsequent runoff elections;
- I City and School District Joint Elections and any related subsequent runoff elections;
- I Any Special Called Election and any related subsequent runoff elections.

Texas Election Code §123.001 requires that before a Dallas County implements and uses a voting system in elections, The County must officially adopt the system for use in elections. This briefing is to request that the Court officially adopt and order use of the above-described election voting tabulation system.

The following documents are attached to this briefing:

Attachment 1 – Texas Secretary of State Letter Approving Dallas County’s Application to Participate in Countywide Polling Place Program

Attachment 2 - Court Order 2019-0460, Contract for RFP No. 2018-052-6745 for Election Voting Tabulation Systems and Services; and,

Attachment 3 - Letter from Texas Secretary of State Approving and Authorizing contract to purchase Election Voting Tabulation Systems and Services.

OPERATIONAL IMPACT:

N/A

FINANCIAL IMPACT:

N/A

LEGAL IMPACT:

Adoption of the Election Voting Tabulation System will meet the requirements set out in Texas Election Code Section 123.001.

PROJECT SCHEDULE:

Adoption of the Election Voting Tabulation System will be immediate upon approval of the Commissioners Court.

SBE PARTICIPATION:

N/A

ADMINISTRATIVE PLAN COMPLIANCE:

The Court's approval of this request to adopt for use the above described election voting tabulation system in all elections is consistent with Dallas County visions to be a model governmental entity operationally, and its goals for services to be efficiently and effectively delivered in light of changes in technology, the public’s preferences and expectations and the area’s population and economy; and for decisions to be made based on the best and most complete information available, in that is provides sound, financially responsible and accountable governance.

OTHER:

BY THIS ORDER, The Dallas County Commissioners Court should adopt the Election Systems & Software ExpressVote Universal Voting System (Ballot Marking Device), EVS 6.0.2.0, Firmware 2.4.0.0; the ES&S DS200 Digital Precinct Scanner, EVS 6.0.2.0, Firmware 2.17.0.0.; and ES&S’ Model DS850 High-Speed Scanner and Tabulator, Version 1, EVS 6.0.2.0., to use in all Dallas County polling places, and to mark and tabulate in-person ballots, absentee ballots, and provisional ballots for Early Voting and on Election Day for all elections, including but not limited to the following: General Elections for state and county officers and any related subsequent runoff elections; Primary Elections and any related subsequent runoff elections; City and School District Joint Elections and any related subsequent runoff elections; and any Special Called Election and any related subsequent runoff elections.

MOTION:

On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby BY THIS ORDER, The Dallas County Commissioners Court adopts the Election Systems & Software ExpressVote Universal Voting System (Ballot Marking Device), EVS 6.0.2.0, Firmware 2.4.0.0; the ES&S DS200 Digital Precinct Scanner, EVS 6.0.2.0, Firmware 2.17.0.0.; and ES&S' Model DS850 High-Speed Scanner and Tabulator, Version 1, EVS 6.0.2.0., to use in all Dallas County polling places, and to mark and tabulate in-person ballots, absentee ballots, and provisional ballots for Early Voting and on Election Day for all elections, including but not limited to the following: General Elections for state and county officers and any related subsequent runoff elections; Primary Elections and any related subsequent runoff elections; City and School District Joint Elections and any related subsequent runoff elections; and any Special Called Election and any related subsequent runoff elections.

ATTACHMENTS:

[Briefing Attachment 3 - Letter - TX SOS to ToPP Re Written Approval of Voting System Contract](#)
[Briefing Attachment 1 - Vote Centers - Approval Letter to Implement for November 5 2019 G S&Joint Election 20190917](#)
[Briefing Attachemnt 2 - CO Brief and Contract 2019-0460 Procurement of ES&S Election Voting Equipment System](#)

The State of Texas



Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
TTY: 7-1-1
(800) 252-VOTE (8683)

David Whitley
Secretary of State

April 23, 2019

Toni Pippins-Poole
Elections Administrator
Dallas County
2377 North Stemmons Freeway, Suite 820
Dallas, Texas 75207

Dear Ms. Pippins-Poole:

We are in receipt of a copy of the proposed contract between Dallas County and Election Systems & Software ("ES&S"), which you have submitted to the Secretary of State pursuant to Section 123.035 of the Texas Election Code.

The contract indicates the county plans to acquire ES&S's EVS 6020 which includes the DS200 precinct scanner, the DS850 central scanner, and the ExpressVote ballot marking device. This letter will serve as confirmation from our office that this system is currently certified for use in Texas. Enclosed is a copy of the certification order that pertains to this system. We therefore, officially, approve the submitted contract for the purchase of these systems.

Pursuant to state law, this written approval of your voting system contract is required prior to your final execution of the contract, or it will be considered void.

If you need additional information, please contact the Elections Division toll-free at 1-800-252-2216.

Sincerely,

A handwritten signature in black ink, appearing to read "KI", with a long horizontal stroke extending to the right.

Keith Ingram
Director of Elections

Enclosures

KI:CP

The State of Texas



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David Whitley
Secretary of State

REPORT OF REVIEW OF ES&S EVS 6.0.2.0 AND THE EXPRESSVOTE XL

PRELIMINARY STATEMENT

On January 22, 2019, Election Systems & Software (the "Vendor") presented EVS 6.0.2.0 and the ExpressVote XL for examination and certification. The examination was conducted in Austin, Texas. Pursuant to Sections 122.035(a) and (b) of the Texas Election Code, the Secretary of State appointed the following examiners:

1. Mr. Tom Watson, an expert in electronic data communication systems; and
2. Mr. Charles Pinney, an expert in election law and procedure.

Pursuant to Section 122.035(a), the Texas Attorney General appointed the following examiners:

1. Dr. Jim Sneeringer, an expert in electronic data communication systems; and
2. Mr. Ryan Vassar, an employee of the Texas Attorney General.

On January 22, 2019, Mr. Watson, Mr. Pinney, Dr. Sneeringer, and Mr. Vassar were present and witnessed the installation of the EVS 6.0.2.0 software and firmware that the Office of the Texas Secretary of State (the "Office") received directly from the Independent Testing Authority. Mr. Pinney and Ms. Krystine Ramon, a staff attorney with the Office, examined the accessibility components of the ExpressVote XL.

After the accessibility review, the Vendor demonstrated the system and answered questions presented by the examiners. Test ballots were then processed on the ExpressVote XL. The results were accumulated and later verified for accuracy by staff of the Secretary of State.

Examiner reports on the system are attached hereto and incorporated herein by reference.

On March 13, 2019, a public hearing was conducted in which interested persons were given an opportunity to express views for or against certification of the system.

BRIEF DESCRIPTION OF EVS 6.0.2.0 AND THE EXPRESSVOTE XL

The EVS 6.0.2.0 Voting System contains a new hardware component and an updated version of the reporting module in the ElectionWare software in previous versions of EVS that the Secretary of State certified on December 15, 2016, July 28, 2017, and November 15, 2018.

EVS 6.0.2.0 (together with ExpressVote and ExpressTouch) has been evaluated at an accredited independent voting system testing laboratory for conformance to the 2005 Voluntary Voting System Guidelines. It has received Elections Assistance Commission (EAC) # ESSEVS6020 on October 4, 2018.

The components of EVS 6.0.2.0 are as follows:

Component	Version	Description
ExpressVote XL	1.0.0.0	Accessible ballot marker and precinct scanner
ExpressTouch	1.0.0.0	Accessible electronic vote capture and tabulation device
DS200	2.17.0.0	Precinct Scanner and Tabulator
DS450	3.1.0.0	Central Scanner and Tabulator
DS850	3.1.0.0	Central Scanner and Tabulator
ExpressVote HW 1.0	1.5.0.0	Accessible electronic ballot marker
ExpressVote HW 2.1	2.4.0.0	Accessible electronic ballot marker and precinct scanner
ElectionWare	5.0.1.0	Database system that allows jurisdictions to code, lay out ballots, and burn media
ES&S Event Log Service	1.6.0.0	Background function that monitors the functioning of Windows Event Viewer
ExpressVote Previewer 1.0	1.5.0.0	Allows user to preview screen and layout and audio for ExpressVote
ExpressVote Previewer 2.1	2.4.0.0	Allows user to preview screen and layout and audio for ExpressVote
Removable Media Service	1.5.0.0	Supports installation and removal of election and results media

FINDINGS

The following are the findings, based on written evidence submitted by the Vendor in support of its application for certification, oral evidence presented at the examination, and Texas voting system examiner reports.

The EVS 6.0.2.0 Voting System and the ExpressVote XL ballot marking device and precinct scanner meet the standards for certification as prescribed by Section 122.001 of the Texas Election Code. Specifically, the EVS 6.0.2.0 and the ExpressVote XL components, among other things:

1. Preserve the secrecy of the ballot;
2. Are suitable for the purpose for which they are intended;
3. Operate safely, efficiently, and accurately and comply with the voting system standards adopted by the Election Assistance Commission;
4. Are safe from fraudulent or unauthorized manipulation;
5. Permit voting on all offices and measures to be voted on at the election;
6. Prevent counting votes on offices and measures on which the voter is not entitled to vote;
7. Prevent counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevent counting votes for more than the number of candidates for whom the voter is entitled to vote;
8. Prevent counting a vote on the same office or measure more than once;
9. Permit write-in voting;
10. Are capable of permitting straight-party voting; and
11. Are capable of providing records from which the operation of the system may be audited.

CONCLUSION

Accordingly, based upon the foregoing, I hereby certify the EVS 6.0.2.0 Voting System and the ExpressVote XL for use in elections in Texas.

Signed under my hand and seal of office, this 28th day of MARCH, 2019.



JOSE A. ESPARZA
DEPUTY SECRETARY OF STATE

The State of Texas



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Ruth R. Hughs
Secretary of State

September 3, 2019

The Honorable Clay Jenkins
Dallas County Judge
Dallas County Administration Building
411 Elm Street, 2nd Floor
Dallas, Texas 75202

Dear Judge Jenkins:

The Secretary of State accepts Dallas County's application to participate in the countywide precinct polling place program for the November 5, 2019 constitutional amendment election date. Pursuant to Section 43.007 of the Texas Election Code, following the November 2019 constitutional amendment election under the program, Dallas County may apply for "successful" status with the Secretary of State to continue using the countywide polling place program in subsequent elections. Below please find additional information regarding the county's participation in this program for the upcoming election date.

Dallas County has confirmed to our office that it purchased 4,000 Tenex touch pad e-poll book devices in 2019 and that these devices were first used during the May 2019 uniform election and the June 8, 2019 election. The documentation provided by Dallas County reflects that the county deploys MiFi devices from two service carriers; one device from each carrier to deploy with each e-pollbook. In the event service fails from the primary device, the secondary device from another service carrier can be connected immediately. Dallas County also indicated that it recently purchased and began taking delivery of ES&S DS200 Precinct Counters and ExpressVote Ballot Marking Devices. The county confirmed to our office that it presently has sufficient equipment to conduct the November 5, 2019 constitutional amendment election.

In regards to voter accessibility, Dallas County provided that it has a database of approximately 500 bilingual poll workers and that it has also contracted with four temporary employment services companies to help provide bilingual workers for elections. The county confirmed that it will have adequate staffing in place and will use call centers so that in the event all locations are not properly staffed, all voters at all locations can still receive assistance using a call-in number to assist bilingual voters. It is of utmost importance that Dallas County continue to prioritize staffing language interpreters in the areas where they most efficiently meet the needs of your community.

The policy of our office is to permit non-disruptive exit polling within the 100-foot boundaries surrounding each early voting and election day polling place. We note that the early voting clerk or presiding judge at each polling place, as appropriate, must determine that such exit polling does not constitute either (1) "loitering" in violation of Section 61.003(a) of the Texas Election Code or (2) a disruption of order or a contribution to a breach of the peace at the early voting or election day polling place in violation of Section 32.075(a) of the Code, as applicable to early voting under Section 81.002 of the Code.

Please note, counties may not distribute written surveys to voters regarding the county's use of the countywide polling place program inside the polling place or within the 100-foot boundary surrounding each early voting and election day polling place. Further, election workers should not verbally solicit feedback from voters while at the polling place or within the 100-foot boundary regarding the county's use of the program.

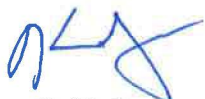
Although changes to voting practices or procedures are no longer required to be submitted to the Department of Justice for preclearance under the federal Voting Rights Act, the county election authority is advised to consult with the County Attorney before changing polling place locations. Pursuant to Section 61.012 of the Texas Election Code, polling places are still required to be in compliance with the Americans with Disabilities Act. County officials must remain diligent to ensure that any changes to county voting practices or procedures are consistent with federal and state law.

The deadline for the elections administrator to submit a report to our office on the November 5, 2019 uniform election is Thursday, December 5, 2019. We ask that your report contain statements and opinions of interested parties, including persons who voted in the election, representatives of minority groups, and organizations concerned with persons with disabilities. Based on past elections, we would suggest that you stay in touch with these groups throughout the election process. While the county has the final word on polling place placement and the administration of the election, it is important that your local groups remain committed and involved in the countywide precinct election. If these groups have been involved in the project through the election period, it should be easier to gather their comments, complaints, and suggestions for your post-election report.

In addition to these statements, we would also request that your post-election report contain comparisons of voting patterns and turnout for the county between the November 5, 2019 uniform election and their two previous years of elections held on the November constitutional amendment election date. An example of a voting pattern would be persons voting at the polling place near their place of employment versus voting at the precinct nearest the voter's residence. Another example would be comparing early voting to election day turnout to review whether the countywide precincts had any effect on the ratio between the two voting periods.

Again, thank you very much for your participation, and we look forward to working with you to make this program a success.

Sincerely,



Keith Ingram
Director of Elections

KI:HM

CC: Ms. Toni Pippins-Poole
Dallas County Elections Administrator
2377 North Stemmons Frwy, Suite 820
Dallas, Texas 75207

**COURT ORDER
2019-0460**



RFP No. 2018-052-6745 Request for Proposal for Election Voting Tabulation Systems and Services - Contract Execution

On a motion made by Commissioner John Wiley Price, District 3, and seconded by Commissioner Dr. Theresa M. Daniel, District 1, the following order was passed and adopted by the Commissioners Court of Dallas County, State of Texas:

BRIEFING DATE: 5/7/2019
FUNDING SOURCE: General Fund

Be it resolved and ordered that the Dallas County Commissioners Court does hereby authorize and approve the attached contract agreement between Dallas County and Election Systems & Software, LLC, in connection with RFP No. 2018-052-6745, Request for Proposal for Election Voting Tabulation Systems and Services, and authorizes the County Judge to execute said contract on behalf of Dallas County effective upon approval of the court order.

Done in open court May 7, 2019, by the following vote:

IN FAVOR: Honorable Clay Lewis Jenkins, County Judge
Commissioner Dr. Theresa M. Daniel, District 1
Commissioner John Wiley Price, District 3
Commissioner Dr. Elba Garcia, District 4
OPPOSED: Commissioner J.J. Koch, District 2
ABSTAINED: None
ABSENT: None

Recommended by: Michael Frosch
Originating Department: Purchasing

COMMISSIONERS COURT BRIEFING



DATE: 5/7/2019

SUBMITTING DEPARTMENT: Purchasing

THROUGH:

SUBJECT: RFP No. 2018-052-6745 Request for Proposal for Election Voting Tabulation Systems and Services - Contract Execution

BACKGROUND:

On August 21, 2018 with Court Order 2018-0996, the Dallas County Commissioners Court authorized Dallas County Elections Department, Purchasing Department and the District Attorney's Office - Civil Division to enter into contract negotiations with Election Systems & Software, LLC for the aforementioned solicitation. Contract negotiations have been ongoing, and all parties have agreed upon a final contract.

The purpose of this briefing is to recommend Dallas County execute the attached contract agreement.

OPERATIONAL IMPACT:

This contract will provide a new voting tabulation system that includes equipment, software, and services. The proposed voting tabulation system meets the standards set forth by Dallas County Elections and the State of Texas. The system also meets the Pre-Election Acceptance and Testing of Voting System requirements set out in Texas Election Code Section 129.

On April 23, 2019, Dallas County Elections received the approval from the State of Texas - Secretary of State, indicating the proposed contract meets all requirements to conform with Section 123.035 of the Texas Election Code. The system being recommended is certified for use within the State of Texas.

The Purchasing Department conducted initial evaluations of all proposals (2) submitted using the following scoring criteria listed in the proposal.

I. Experience and Qualifications	0-25pts
II. Technical/Methodology	0-20pts
III. Voting Equipment Requirement Questionnaire	0-20pts
IV. Cost and Other Fees	0-15pts
V. Financial Stability	0-5pts
VI. SBE Participation Compliance	0-15pts

The evaluation committee consisted members from the following departments: Dallas County Elections, Information Technologies, Office of the County Clerk, Court Administration, the County Auditor, the Office of Budget and Evaluations and the Small Business Enterprise.

RECOMMENDED BY:	Purchasing	PREPARED BY:	Michael Irvin
		APPROVED BY DEPT HEAD:	Michael Frosch

Two responses were received; both firms were brought in for interviews and demonstrations. Based on the evaluation committee scores and evaluation, the scores the committee has recommended Election Systems & Software, LLC.

Election Systems & Software, LLC has also accepted the terms of the contract agreement contingent upon the approval of the court order.

FINANCIAL IMPACT:

General Funds will be used fund this project, the total contract value is \$25,471,813.00. This price includes Software, Annual Software Licenses, Hardware, Professional Services, Training, and Maintenance & Support Fees for Years 1-5, including Onsite support for Two (2) Elections.

LEGAL IMPACT:

Dallas County Elections Department, the Purchasing Department and the District Attorney's Office - Civil Division have reviewed and participated in the contract negotiations. All agree and support approval of the contract to form.

PROJECT SCHEDULE:

This project includes three schedules for delivery to begin with the first delivery NLT June 24, 2019, September 20, 2019, and January 20, 2020 respectively. The initial order will be placed upon approval of the court order.

The initial term of the contract is two (2) years, with three (3) one (1) extension options.

SBE PARTICIPATION:

Elections System & Software (ES&S) is a non-SBE firm. The prime is committed to 1.2% SBE participation and will be utilizing two subcontractors: Hamilton Consulting Group LLC dba HCG Solutions and The Navarro Group.

Hamilton Consulting submitted a Letter of Intent and a Small Business Threshold Affidavit. However their SBE certification expired on November 30, 2018 and there is no documentation verifying they are in the recertification process.

The Navarro Group has submitted a Letter of Intent and a Small Business Threshold Affidavit. They are currently in the process of obtaining their SBE certification from the NCTRCA. The Prime did not provide the documentation demonstrating their good faith efforts to reach the aspirational goal as required in the selection language.

Total SBE Participation = 1.2%

ADMINISTRATIVE PLAN COMPLIANCE:

This RFP supports Vision 1, of the County's Administrative Plan by implementing Standards of Operation, Innovation, and Technology.

RECOMMENDATION:

Authorize and approve the attached contract agreement between Dallas County and Election Systems & Software, LLC, in connection with RFP No. 2018-052-6745, Request for Proposal for the Election Voting Tabulation Systems and Services, and authorizes the County Judge to execute said contract on behalf of Dallas County effective upon approval of the court order.