



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
HARRISBURG**

Dear Supplier:

You are invited to submit a response to the attached INVITATION FOR BID (IFB). The Department of General Services, acting in partnership with the Department of State, will award contracts to all responsive and responsible bidders to provide Commonwealth certified Voting Machine Systems, Components and related services to County Election Officials in the Commonwealth of Pennsylvania.

The Commonwealth of Pennsylvania is mandated by the Federal Help America Vote Act of 2002 (HAVA) to meet certain requirements in all of its precincts by the May 2006 Primary. Counties within the Commonwealth will be purchasing Voting Machine Systems during the last quarter of 2005. We anticipate the counties will purchase between 13,000 to 22,000 voting machines from September through December 2005. However, there are no purchase guarantees and the counties are under no obligation to use the contracts once awarded.

The purpose of this IFB is to provide purchase options and competitive pricing to County Election Officials throughout the Commonwealth as they purchase new voting systems to meet HAVA requirements beginning with the 2006 Primary Elections. Although pricing will not be a factor of award for this contract, it certainly will be a factor for each County Election Officials' final selection of a supplier and product. Consequently, each bidder needs to present their very best response to this IFB.

Responses must be submitted to the following location no later than 2:00 PM EST July 14, 2005:

**DGS Bureau of Procurement
Bid Room
Room 414 North Office Building
Commonwealth Avenue & North Street
Harrisburg, PA 17125
Or
P.O. Box 1365
Harrisburg, PA 17105-8365**

Questions should be directed via e-mail to Dawn Spero (dspero@state.pa.us) no later than Noon on June 28, 2005.

Sincerely,

Dawn Spero, CPPB



COMMONWEALTH OF PENNSYLVANIA
Department of General Services

COSTARS
INVITATION FOR BIDS
COVER SHEET

Contract No.: COSTARS-10
Short Description of Supply: VOTING SYSTEMS
Bid Mailing Date: June 1, 2005
Bid Opening Date & Time: July 14, 2005, 2:00 P.M.
Bid Opening Room: Room 414 North Office Building, Harrisburg, PA 17125

This Invitation For Bids is comprised of the following documents:

1. COSTARS Bid/Contract, GSPUR-15 COSTARS (04/04/05)
2. Instructions To Bidders for COSTARS Contracts, COSTARS 11 (Rev. 04/04/05)
3. COSTARS Contract Standard Terms and Conditions, COSTARS 12 (Rev. 04/04/05)
4. COSTARS Contract Special Terms and Conditions
5. Exhibit A Commonwealth of Pennsylvania Requirements of Electronic Voting Systems
6. Exhibit B Title III of Help America Vote Act (HAVA)
7. Exhibit C Directive Concerning the Conduct of Electronic Voting System Examination by the Commonwealth of Pennsylvania issued by the Secretary of the Commonwealth with Attachment I: Outline of the Content and Format for a Presentation Affidavit; Attachment II: An Explanation and Selected Examples of "the Pennsylvania Method"; and Attachment III: Indemnification and Warranty.
8. Exhibit D Training Requirements for County Election Officials and Staff
9. Exhibit E Source Code Escrow
10. Bid Item Workbook

Unless included with this Invitation For Bids, these documents are available on-line at www.dgs.state.pa.us or by contacting the Bureau of Procurements' Vendor Service Section (Fax No. 717-787-0725, Telephone No. 717-787-2199 or 4705).

In addition to complying with the bid submission requirements of Section 1 of the Instructions To Bidders for COSTARS Contracts, the bidder is required to submit all other specified documents as stated in this Invitation For Bids. Failure to meet these requirements may be cause for rejection of the bid.

The COSTARS contract(s) resulting from this Invitation For Bids are intended **ONLY** for the use of local public procurement units and state affiliated entities. Commonwealth executive and independent agencies are prohibited from procuring items through COSTARS contracts.

Please note that all bidders must submit with their bid a check or money order in the amount of \$500 payable to "Commonwealth of Pennsylvania" for administrative fees (see #9. Administrative Fees in Instructions to Bidders, page 5).

Return Bid To:
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Exhibit E

SOURCE CODE ESCROW

- A. **Escrow requirement.** As a condition of any Contract resulting from the Invitation for Bids (IFB), the Contractor shall place the source code for all software licensed to Purchasers under the Contract (“Licensed Software”), along with all related materials required for a Purchaser to use the voting machines and related items provided under the Contract (collectively, the “Escrow Package”), into escrow with a selected Escrow Agent acceptable to the Commonwealth, to be specified upon contract award. This Source Code Escrow Package shall include, at minimum:
1. a complete copy, in machine-readable form, of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
 2. a complete copy of any existing design documentation and user documentation, including any updates or revisions as they may become available; and
 3. complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code, including precise identification of all compilers, library packages, and linkers used to generate executable code.
- B. **Escrow agreement.** The Contractor shall execute an escrow agreement with the Commonwealth-approved Escrow Agent no later than 30 days following any contract award pursuant to the IFB. Upon Commonwealth approval, the escrow agreement shall become a part of the final Contract with the Commonwealth.
- C. **Update requirement.** If the Contractor at any time during the term of the Contract provides a maintenance release or upgrade version of the Licensed Software, the Contractor shall within ten days of such maintenance release or upgrade deposit with the Escrow Agent a new Escrow Package for the maintenance release or upgrade. At the same time, the Contractor shall notify the Commonwealth that it has delivered the updated Escrow Package to the Escrow Agent.
- D. **Verification.** In addition to the release events specified in Subsection F. of this Section, the Commonwealth reserves the right, at any time upon written notice to the Contractor and the Escrow Agent, but not more than once a year, to obtain independent verification of the contents of the Escrow Package.
- E. **Escrow Fees.** The Contractor shall be responsible for all fees and expenses in connection with the Source Code Escrow.
- F. **Release Events.** The Commonwealth may direct the Escrow Agent to release the Escrow Package for the benefit of the Commonwealth and all Purchasers if the Contractor:
1. becomes insolvent, makes a general assignment for the benefit of creditors, or is the subject of any proceeding under bankruptcy or insolvency law; or
 2. voluntarily or otherwise discontinues support of the provided products or otherwise fails to fulfill its maintenance obligations and warranties under the Contract.
- G. **License.** Upon any release of the Escrow Package from the Escrow Agent, the Contractor automatically grants the Commonwealth and all Purchasers under the Contract a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create derivative works from the Licensed Software. Any such derivative works shall become the sole property of the Commonwealth.
- H. **Dispute.** – In the event of any Contract dispute, the Escrow Agent shall retain the Escrow Package without liability to any party until such dispute is settled either by mutual agreement or final order of a court of competent jurisdiction.