

On Monday, August 12th we received a letter from the City Solicitor, which includes communication from the City's Procurement Department, regarding the electronic voting system. Those letters have been made public by posting on our website. As the Solicitor explains, the City has determined that our voting system vendor, ES&S, as well as the other finalist Dominion Voting, failed to disclose their consultants and their consultants' political contributions in violation of Chapter 17-1400 of The Philadelphia Code. The Solicitor has determined that under the Philadelphia Code, this means that the contract with ES&S is "voidable." Since the Election Code provides that the Board of Elections is responsible for the ultimate determination of what systems can be used for elections in Philadelphia, the final decision on whether to void the contract or, maintain it, rests with the Board.

Neither I nor Judge Furlong were involved in the Procurement Department's selection process nor were we involved in the determination by the Board of Elections on February 20, 2019, that the ES&S system was appropriate. But we have been serving on the Board of Elections since that time and have been apprised that ES&S' work with the Board of Elections on implementing the new voting system for the City of Philadelphia has been satisfactory. They have delivered equipment on tight deadlines and Saturday, we are expected to receive the last shipment of voting equipment. At that time, all 3750 ExpressVote XLs will be in Philadelphia. I understand from the Board of Elections' staff that ES&S staff has been onsite to assist us in handling this project. In addition, our internal network for receiving election night results from around the City in a quick and accurate manner is installed and ready for a test run next week. ES&S has also been engaged with our electronic poll book vendor to ensure smooth interaction between the two products. Furthermore, as of today our staff has conducted over 200 demonstrations of the new voting system and over 2,500 poll workers have undergone training. Reports from voters and poll workers have been overwhelmingly positive.

In her letter, the Procurement Commissioner details the time, effort, and expenditures the City has incurred to date in implementing the ES&S system. Those are relevant considerations, but my focus as Chair of the Board of Elections is on ensuring that Philadelphians are able to exercise their right to vote. The successful implementation of a new voting system with a voter verifiable paper ballot as required by Governor Tom Wolf is of utmost importance at this time. In my opinion, the continued implementation of ES&S' voting system and the use of the ES&S system for elections in Philadelphia is the right decision for Philadelphia's voters. I do not believe that this process should be overturned or restarted because of the issues that have been placed before the Board of Elections today. ES&S has agreed to a significant penalty of 10% of the value of the contract as negotiated by the Law Department, or about \$2.9 million to be paid by ES&S to the City.

I have also received a letter from the City Controller regarding the Controller Office's ongoing investigation of the City's procurement processes. I have considered the information in that letter and have also considered all the remarks that have been presented to the Board this morning. I also believe that we should resolve this issue in an expeditious fashion in order to provide clarity to the voters of Philadelphia on what equipment they will be using in November.

Therefore, I make a motion with regards to the letter from City Solicitor Marcel Pratt dated August 12, 2019 and pursuant to 17-1402 of the Philadelphia Code that the City of Philadelphia maintain Contract Number 196400 with Election Systems & Software, LLC, that the implementation of the ES&S voting system for elections in Philadelphia should continue, and that the ES&S voting system be used for elections in Philadelphia.