

State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: February 2, 2012

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Bloom)
Office of the General Counsel (Miller)

Handwritten initials: B, G, CM, A.M.C., and others.

RE: Docket No. 110013-TP – Request for submission of proposals for relay service, beginning in June 2012, for the deaf, hard of hearing, deaf/blind, or speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

AGENDA: 02/14/12 – Regular Agenda – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: Current contract with Sprint expires May 31, 2012.

SPECIAL INSTRUCTIONS: Please place at the beginning of the agenda or at a time certain to reduce interpreter costs.

FILE NAME AND LOCATION: S:\PSC\RAD\WP\110013.RCM.02.14.12.DOC

Case Background

The Telecommunications Access System Act of 1991 (TASA), Chapter 427, Part II, Florida Statutes, charges the Commission with the responsibility of selecting a relay provider and overseeing the administration of the system.

The Commission currently contracts with Sprint Communications Company, L.P. (Sprint) for the provision of relay service. The contract with Sprint is scheduled to expire on May 31, 2012.

DOCUMENT NUMBER-DATE

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The bidding process essentially has proceeded in two phases. The first phase began in April 2011 with the approval by the Commission of a request for proposals (RFP) soliciting bids for Telecommunications Relay Service (TRS) and Captioned Telephone (CapTel) service. Three bidders submitted proposals: AT&T Corp. (AT&T), Hamilton Telecommunications Company d/b/a Hamilton Telecommunications (Hamilton) and Sprint Communications Company, L.P. (Sprint). At the September 20, 2011 Commission Conference, the Commission rejected all bids and directed staff to initiate a second round of bids. This recommendation addresses the results from the second solicitation of bid proposals for TRS and CapTel service.

Notice was published October 14, 2011, for a bidder's workshop, which was conducted October 25, 2011, during which staff discussed changes to the second RFP with potential bidders. Three days later (October 28, 2011) staff met with the TASA Advisory Committee to discuss proposed revisions to the RFP.

Staff filed its recommendation for a new RFP November 9, 2011, which was addressed by the Commission at its November 22, 2011 Commission Conference. The Commission adopted a number of changes to the draft RFP, which are discussed in Issue 1.

An FAW notice was published December 9, 2011, to request bids/request for proposals for relay service with a deadline of December 22, 2011, at 3:00 p.m.

Three proposals were received by the posted deadline from AT&T, Hamilton, and Sprint.

A six-member proposal review committee (PRC) was established, five of whose members are Commission staff and one member is from the TASA Advisory Committee. None of the current PRC evaluators were involved in the previous evaluation of bids rejected by the Commission September 20, 2011. In addition, two members of the Commission's Office of Auditing and Performance Analysis reviewed the bid security and financial information submitted by the three bidders. A sixth staff member was selected by the Director of Regulatory Analysis to serve as the PRC Chairman. To remain independent, the PRC Chairman did not participate in the scoring of the financial or technical proposals. As is the case with other members of the proposal review committee, the current PRC Chairman was not involved in the previous evaluation of bids. The role of the PRC Chairman was to coordinate and oversee the procurement process, to gather materials from references specified by the bidders, to interface with the bidders regarding clarifications and questions about their proposals, and to tabulate scores to identify the winning bidder.

The PRC Chairman contacted the bidders' references identified in the proposals. After gathering responses from the reference checks, the information was supplied to the PRC evaluators. Evaluation of the proposals began with a pass/fail evaluation of 30 quasi-technical (non-financial) and two financial aspects of the proposals. This was followed by assignment of numerical scores of 36 technical aspects of the proposals. Consistent with the Commission's decision at the November 22, 2011 Commission Conference, the technical evaluations made up 50 percent of the total score, while price proposals – which were not scored by the PRC evaluators – accounted for 50 percent of the overall scores. The price proposals were submitted

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in sealed envelopes separate from the companies' technical proposals and were opened January 24, 2012, in the Commission Clerk's office following completion of the technical scoring.

This recommendation addresses which provider the Commission should select as the relay services provider. The Commission has jurisdiction pursuant to Section 427.704, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission select AT&T as the relay service provider and direct the Commission's Executive Director or designee to: (1) issue the attached letter of intent, Attachment A; (2) provide notice on the Department of Management Services' Vendor Bidding System of the Commission's decision to award a three-year contract to AT&T to be the provider of the statewide telecommunications relay service in Florida; and (3) finalize and sign a contract with AT&T to provide the Florida Relay Service?

Recommendation: Yes, based on the RFP evaluation process, the Commission should select AT&T as the relay service provider and direct the Commission's Executive Director or designee to: (1) issue the attached letter of intent, Attachment A; (2) provide notice on the Department of Management Services' Vendor Bidding System of the Commission's decision to award a three-year contract to AT&T to be the provider of the statewide telecommunications relay service in Florida; and (3) finalize and sign a contract with AT&T to provide the Florida Relay Service. (Bloom)

Staff Analysis: The RFP encompassed the factors set out in Section 427.704(3)(a), Florida Statutes, as to how the provider of the telecommunications relay service should be selected by the Commission. Section E. of the RFP, entitled "The Evaluation Method to be Used and Filing Checklist," provides specific instructions and guidelines for the evaluation of bidders' proposals. In accordance with the instructions, each bidder's weighted percentage score for its technical proposal and for its price proposal were added together and the bidder with the highest total was recommended by the PRC to the Commission. Section E. also provides that the Commission reserves the right to reject the PRC's recommendation and reject all bids.

Evaluation of Bids

At the November 22, 2011 Commission Conference the Commission revised the RFP to include an additional option for bidders and approved changes to the way bids were scored:

- Bidders were given the option of locating a call center in Florida. Inclusion of a call center was given a value of 100 points, roughly 3.2 percent of the total of 3,125 technical points available. Points were to be awarded on an "all-or-nothing" basis, with 100 points awarded for any bidder locating a call center in Florida. Partial points were not available.
- Bidders opting to locate a call center in Florida were required to route 75 percent of Florida-generated traffic through the Florida call center, except when emergency conditions exist at the Florida center, with traffic volumes reported to the Commission on a quarterly basis.
- Scoring weight of bid proposals was changed to 50 percent technical and 50 percent price, replacing the previous 60 percent technical, 40 percent price.

- In order to have its price proposal considered, a bidder’s technical score had to exceed 75 percent of the total technical points available to attain a quality of service categorized in the RFP as “excellent.”

The Commission also changed provisions relating to bond requirements, liquated damage provisions, and the process for notifying bidders of minor defects in any bids submitted.

At the December 22, 2011, deadline, three bidders timely submitted proposals: AT&T, Hamilton, and Sprint.

Each PRC evaluator received specific forms on which to record their evaluations. The forms included an affidavit that each evaluator signed agreeing with the conflict of interest requirement in Section 427.704(3)(c), Florida Statutes. Also, each page of the forms included a place for the evaluator to indicate the date the evaluation was performed and a signature line, and a place to score the points or pass/fail, whichever was appropriate for the item under evaluation.

The RFP specifically provides that the Commission reserves the right to waive a minor irregularity in a proposal. No minor irregularities were identified in the bid proposals.

As noted previously, the evaluation process has four components. The bidder’s bond security deposit and financial information was assessed on a pass/fail basis by the Office of Auditing and Performance. All three bidders passed the bid security and financial information checklist items of the RFP. This was the extent of the auditing office’s involvement with the evaluation process.

Simultaneous to the evaluation of bid security and financial statements, PRC evaluators compared the first 30 RFP checklist items with the proposals submitted by the bidders. Most of the first 30 items are not of a complex technical nature, are evaluated on a pass/fail basis, and require only a signature of acceptance from the bidder. This is done to reduce the amount of paperwork for bidders and subjective evaluation of bids.

Once it was established that all three bidders met the bid security and financial criteria, and that each had successfully negotiated the initial checklist items in the RFP, the PRC began the process of evaluating the remaining 36 checklist items, scoring based on the number of points per item. At the conclusion of this phase of the evaluation process, total scores for all three bidders were compiled prior to opening price proposals. Each of the three bidders exceeded the threshold of 75 percent of available technical points, as noted below.

Bidder	Total Technical Points Available: 18,750	Percentage of Total Available Technical Points Earned
AT&T	17869.0	95.3%
Hamilton	17145.5	91.4%
Sprint	17806.0	95.0%

The final aspect of the evaluation process is the opening of previously sealed price proposals submitted by each bidder. Price proposals were opened January 24, 2012, according to the terms of the RFP. Each bidder submitted a per-minute price for basic relay service and a separate price for provision of CapTel service. As specified in Section E of the RFP, the weighting of the price proposals would account for 50 percent of each bidder's overall score. Weighting of the price proposals between basic relay and CapTel was based on historical minutes reported by the current provider from October 2010 through September 2011, which was included in Section E of the RFP. Based on historical minutes, basic relay service accounted for 53.4 percent of total minutes, with CapTel accounting for the remaining 44.6 percent of total minutes. Reducing these percentages in half to account for the 50 percent weight given to price proposals resulted in a multiplier of 26.7 percent for basic relay and a multiplier 23.3 percent for CapTel. The per-minute prices from the three bidders are listed below.

Bidder	Basic relay	CapTel
Current contract price	\$0.89	\$1.54
AT&T	\$0.76	\$1.47
Hamilton	\$0.76	\$1.595
Sprint	\$0.75	\$1.54

Staff notes that the bid from Hamilton offered two pricing options for CapTel service. For what it labeled Option 1, Hamilton offered a rate of \$1.54 per-minute, which did not include provisions for liquidated damages, with an additional \$0.025 per-minute to establish and maintain a Florida database of call set-up and handling preferences for CapTel customers.

For what it labeled Option 2, Hamilton's per-minute rate for CapTel calls including contractual provisions for liquidated damages was \$1.57, which does not include the \$0.025 per-minute charge for establishing a CapTel database. Because the RFP provides for liquidated damages in the event of failure to perform (RFP Section B-56) and requires the successful bidder to establish and maintain a database of call set-up and handling preferences for CapTel customers (RFP Section B -11(p)), staff used Hamilton's Option 2 per-minute rate with the added \$0.025 charge for establishing and maintaining the requisite database.

Based on the price proposals submitted, the per-minute price for basic relay service reflected minimal variation among bidders - \$0.76 for Hamilton and AT&T, versus \$0.75 for Sprint. However, the per-minute price for CapTel service submitted by AT&T was lower than the bids submitted by Hamilton and Sprint.

In its price proposal for CapTel service, Sprint provided an optional reduced rate of \$1.52 per-minute once traffic volume reaches 300,000 minutes in a month. Staff notes, however, actual use of CapTel services from October 2010 through September 2011 averaged 186,297 minutes per month, exceeding 200,000 minutes of use only twice in the 12-month period. Because historical usage does not support the application of a \$1.52 per-minute rate, staff opted to use Sprint's rate of \$1.54 per minute for CapTel service.

Of the three bidders, only AT&T opted to locate a call center in Florida. In its bid proposal, AT&T wrote, "As stated in our initial response to your RFP, AT&T remains committed to bringing jobs and a TRS call center to the State of Florida. However, due to the now compressed timeline from contract award date of February 2, 2012 to contract start up June 1, 2012, AT&T will begin service by processing calls through our existing call centers and will commit to having a new AT&T Florida TRS Call Center fully operational within six months of contract award." Additionally, AT&T's bid confirmed it would route a "minimum" of 75 percent of TRS relay traffic through its Florida call center and will report its traffic volumes quarterly.

Conclusion

The bid submitted by AT&T received the highest technical scores. AT&T's price proposal offered a per-minute price for basic relay service comparable to those submitted by Hamilton and Sprint. However, AT&T's price for CapTel service is substantially lower than the price offered by either Hamilton or Sprint. Given the combination of the highest technical score and the lowest overall per-minute cost for service, staff recommends a letter of intent be issued to all bidders stating the Commission's intent to award the contract of Provider of Florida Telecommunications Relay System to AT&T.

FINALIZATION OF THE CONTRACT

Should the Commission approve staff's recommendation, the Commission will post on the Department of Management Services' Vendor Bidding System the notice of its decision. Persons will have 72 hours after the posting of the notice to protest the decision. In addition, the attached letter of intent (Attachment A) to contract with AT&T for relay service will be sent by facsimile and certified mail to the three bidders. If no protest is filed in accordance with Section 120.57(3), Florida Statutes, using the electronic posting as the start date, staff should be directed to work with AT&T to finalize contract language and incorporate AT&T's response to the RFP as the contract. The contract is to be signed by an authorized AT&T representative, and the Commission's Executive Director or designee. Two originals would be signed so each party has an original signed contract.

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Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open for the life of the contract. (Miller)

Staff Analysis: This docket will be used to address all matters related to the relay service throughout the life of the contract. Therefore, this docket should remain open for the life of the contract.

February XX, 2012

DELIVERED VIA FAX AND
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

(ADDRESSEE)

Dear (addressee):

It is the intent of the Florida Public Service Commission to award a three year contract as provider of the statewide telecommunications relay system in Florida to AT&T. Please accept our sincere appreciation for participating in the RFP process.

You are reminded that pursuant to Section 120.57(3), Florida Statutes, any party choosing to file a protest of the Commission's intent to award the contract to AT&T must do so within 72 hours after the decision is posted on the Department of Management Services' Vendor Bidding System and shall file a formal written protest within ten days after filing the initial protest. Such formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a protest within the presubscribed time shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

All documents should be filed in Docket No. 110013-TP and addressed to Ann Cole, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Cindy Miller.

Sincerely,

Executive Director or Designee