

GREATER LONDON AUTHORITY

Request for Greater London Returning Officer (GLRO) Decision – GLRO 20-02

Title: GLA Elections 2020 – Proposed E-Counting Procurement

Executive Summary:

In order to ensure robust and timely preparation and planning for the 2020 (and potentially 2024) London Mayoral and Assembly elections, approval is sought from the GLRO to commence procurement activity to source e-counting supplies and services.

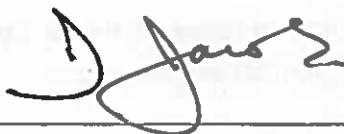
Decision:

That the GLRO approves the commencement of a procurement exercise for systems and services required for the electronic counting of votes cast in the 2020 (and at the option of the GLRO 2024) GLA elections.

Greater London Returning Officer

The above request has my approval.

Signature



Date

26/01/2018

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE GLRO

Decision Required – Supporting Report

1. Introduction and Background

- 1.1 All previous Mayoral and Assembly elections have used electronic-counting (“e-counting”), given its unique size (2.6 million votes were cast in 2016). Following the 2016 election, London Elects, the Electoral Commission, the Association of Electoral Administrators (AEA) London Branch and the London Assembly's Election Review Panel have all carried out reviews of the conduct of the election.
- 1.2 In September 2017, London Elects carried out a consultation exercise in which we asked for views on the count method to be used for the 2020 GLA Elections from the key stakeholders. A clear majority of stakeholders were in favour of continuing with e-counting.
- 1.3 Some responders suggested that a manual count could be delivered if necessary, but most considered that the risks and pressure on resources of a manual count were too high; and that a move to manual counting now would be a backwards step. Responders did, however, stress the importance of using an e-count provider with a proven track record that could deliver a quality-assured solution which met greater expectations around transparency.
- 1.4 In addition to the consultation exercise, London Elects also carried out soft market testing and supplier engagement activity to establish the market of e-count providers and the potential cost of a procurement. There appears to be a market of potential suppliers who understand the requirements of the 2020 Elections and can demonstrate the relevant experience with estimated costs within London Elects' broad expectations.
- 1.5 In light of the above, it is recommended that the GLA begin procurement for an e-counting contract for the 2020 Mayor of London and London Assembly Election; with the caveat that, should no tender prove satisfactory in terms of quality and/or affordability, a contract will not be awarded and consideration will be given to counting manually.
- 1.6 Given the timescales of the bidding process, and the need to develop the e-counting solution working closely with the supplier, including regular, frequent and repeated testing, it is necessary to begin procurement as soon as possible.
- 1.7 A contract notice advertising and setting out the details of the contracting opportunity will be published in the Official Journal of the European Union (“OJEU”).
- 1.8 The GLRO will be briefed throughout the procurement exercise and following the receipt and evaluation of tenders his approval of any proposed award of contract will be sought.
- 1.9 It is likely that the unit cost of e-counting the Mayor and Assembly elections could be reduced by contracting for more than a single event and, so the proposal is to seek tenders for two sets of elections (2020 and 2024) subject to conditions which include a break clause, the application in 2024 of lessons learned from 2020 and the incorporation of any revised statutory provisions coming into force between the two elections.
- 1.10 Should no tender prove satisfactory either quality-wise or price-wise, there will be no commitment to

award a contract, and consideration will be given to counting manually.

2. Issues for Consideration

a) Impact Assessments and Consultation

- 2.1 The equalities implications of the proposed contract will be addressed in the specification through the design of the ballot papers (on which the GLRO has previously consulted the RNIB) and the accessibility of adjudication and progress screens to be used at the counts. This will help address the Authority's duties under the public-sector equality duty set out in the Equality Act 2010.
- 2.2 Sustainability will be addressed in the specification through the design of the single-use ballot boxes and the requirement for GLRO approval of the transport plan for the delivery of the ballot papers and ballot boxes.
- 2.3 Contractors will be required to comply with all appropriate health and safety regulations in force at the site where their activity is undertaken, whether in the UK or overseas.
- 2.4 All appropriate stakeholders (including the government, Electoral Commission, London Boroughs and political parties) were consulted on the count method decision, and boroughs will be involved in the procurement process and management of the e-count contract.
- 2.5 Constituency and Borough Returning Officers, together with the London Branch of the Association of Electoral Administrators, have expressed their support for the continuation of e-counting at GLA Elections.
- 2.6 Recommendations from the London Assembly include using random manual sampling to enhance transparency and confidence in the e-counting process. London Elects has committed to looking into this further, including issues such as the scale of a sample, and the implications on resources.
- 2.7 A further recommendation is that technical expertise is made available to the GLRO, independent of the supplier of the system, to provide an assurance role on the GLRO's behalf. This recommendation has been agreed and London Elects will consider how to build this into the procurement process and what form it might take.

b) Risk

- 2.8 E-counting has been used at all GLA elections to date.
- 2.9 The GLRO has pursued a programme of continuous improvement in the management of the elections generally, and specific attention has been paid to the application of lessons learned in successive e-counting projects, both for the GLA and elsewhere in the UK.
- 2.10 Given e-counting has been used at all GLA elections to date, it can be argued that the risks are known and measures can be put in place to mitigate for those risks. Nevertheless, there are particular risks associated with e-counting, such as lack of transparency, the potential for system failures and errors,

and the potential for security of the e-count technology to be breached, all of which could result in reputational damage and legal challenge.

- 2.11 While a combined 2020 London and UK Parliamentary General Election is no longer likely following last year's 'snap' General Election; 2020 planning will include contingency for this scenario.
- 2.12 In addition, the Conservative Party manifesto in 2017 made a commitment to extend the first past the post system (FPTP) to police and crime commissioner and mayoral elections. However, a change to FPTP for the London elections would require primary legislation, and the proposal did not feature in the June 2017 Queen's Speech which sets out the legislative programme until spring 2019. Even were it to be part of the Government's plans in 2019, it would likely prove too late to be in place for the 2020 poll.
- 2.13 Risks will be identified and mitigated through the working groups, by supplier and stakeholder engagement, and by ensuring procurement takes place early therefore allowing maximum time for partnership working and repeated testing of the system.

c) **Lessons Learnt From 2016**

- 2.14 A key concern for 2020 is to avoid a repeat of the issue which delayed declaration of the Mayoral result in 2016. The delay was caused by an error in the e-counting software code used to consolidate the results. On the night, it meant that the raw count data had to be interrogated and a manual calculation of the results carried out, double checked and confirmed. This delayed the announcement of the results outside the planned 10-hour count time.
- 2.15 London Elects will take all steps necessary to ensure that quality assurance and repeated testing are paramount in any future e-count contract.

3. Financial Comments

- 3.1 The GLRO is being asked to approve an e-counting procurement exercise. The GLRO is not at this stage being asked to approve expenditure on e-counting services (for which a further decision will be required). As such, there are no direct financial implications arising from this decision. If, however, external services or other expenditure is required to support the procurement and contracting exercise, then approval will be required via a separate decision form.
- 3.2 It is anticipated any future expenditure will be contained within the elections budget. For reference, the e-counting award in 2012 amounted to £4.1m and in 2016 to £3.4m (a discounted rate, as it was the second election of a two-term contract). The overall cost of the election was £18.7m in 2012 and £18.2m in 2016.

4. Legal Comments

- 4.1 By section 29 Greater London Authority Act 1999 the Greater London Returning Officer ("GLRO") is the person appointed as the proper officer for the purposes of section 35(2C) Representation of the People Act 1983 ("RotPA") (returning officer at elections of Mayor and London members). The

Mayor and Assembly have made the Head of Paid Service the GLRO as part of his terms and conditions of employment.

- 4.2 The GLRO is the returning officer for the Mayoral and London Member elections, and constituency returning officers are the returning officers for the election of a Constituency Member of the Assembly. The Authority must, under section 36(4B) of RotPA, pay for all expenditure properly incurred by a returning officer in relation to the holding of an Authority election, in so far as it does not, in cases where there is a scale fixed by the Authority, exceed that scale.
- 4.3 The Authority's scheme of delegation (recorded in the document "Mayoral Decision-Making in the GLA") enables the GLRO to incur expenditure for the purposes of the preparation or conduct of any anticipated election as he considers necessary or expedient for that purpose. He is also able to authorise entry into contracts, licences or other instruments, in connection with an anticipated election in accordance with the Authority's Contracts and Funding Code and Financial Regulations.
- 4.4 Officers must ensure that:
- the systems, supplies and services required are procured by Transport for London Commercial who will determine the detail of the procurement strategy to be adopted in accordance with the Authority's Contracts and Funding Code;
 - the GLRO's approval of the proposed award of any contract is obtained before such award; and
 - appropriate contract documentation is put in place and executed by the successful bidder(s) and the Authority before the commencement of the contract.

5. Background/supporting papers: None

Public access to information

Although the GLRO is not subject to the Freedom of Information Act 2000 (FOI Act), the information in this form will be disclosed upon request and may be made available to the Mayor of London and the London Assembly. Any facts and advice that should not be made available upon request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where immediate release would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? NO

If yes, for what reason:

Until what date:

Is there a part 2 form - NO

OFFICER APPROVAL:

	Tick to indicate approval ✓
Deputy GLRO Alex Conway has reviewed the request and is satisfied that: <ul style="list-style-type: none">• The details are correct• The equalities issues/impact have been considered• Freedom of Information, Data Protection and other information access issues have been considered and the information contained in Part 1 of this form is suitable for publication• Where release of Part 1 has been deferred I confirm that the reason given and the date stated for release are appropriate.	✓

Executive Director, Resources

I have been consulted about the proposal and confirm that Financial and Legal advice have been taken into account in the preparation of this report.

Signature

Date

24.07.18

TOM MIDDLETON on BEHALF OF MARTIN CLARKE