

**DETERMINATION AND FINDINGS  
FOR A  
SOLE SOURCE PROCUREMENT**

**Contract No:** DCPO-2011-C-0263 & DCPO-2012-C-0074

**Caption:** Implementation of Rebanding of Public Safety Radio Equipment, including Project Management and Planning

**Proposed Contractor:** Televate, LLC  
7700 Leesburg Pike, Suite 270  
Falls Church, VA 22043

Teltronic  
7051 Muirkirk Meadows Drive  
Beltsville, MD 20705

**Program Agency:** Office of Unified Communications

**FINDINGS**

**1. Authorization:**

D.C. Official Code § 2-354.04

**2. Minimum Need:**

OUC has a minimum need to contract with these two vendors, Televate and Teltronic, to complete execution of the implementation phase of the 800 MHz reconfiguration program as provided in Schedule B, Statement of Work, of the FRA between the District and Nextel. The FRA SOW contemplates the following unperformed categories of work, mainly by the District's proposed vendors, to meet OUC's minimum needs to implement a successful emergency radio system reconfiguration program: (a) reconfiguration of Infrastructure equipment, including central and repeater sites; (b) Project management and supervision of the installation and testing of new VRS units exchanged for existing units; (c) system verification, including participating in Motorola led benchmark testing, acceptance testing and system coverage testing, all according to plans prepared in the PFA phase of the project; (d) testing for verification of clearing by the District radio system of former District-occupied frequencies; (e) subscriber template development and modification (second touch); (f) Project Management and Coordination of second touch reprogramming to remove from Subscriber equipment capability to operate on former District frequencies; (g) project management and planning for District rebanding and NCR

interoperability coordination; (h) system engineering in support of the rebanding activities; and (g) Coordinating the licensing with the FCC of the new frequencies.

The FRA and the vendor contracts originally contained a base schedule of 108 days for all of the FRA work. However, as provided in the FRA, with FCC approval, the original FRA schedule was extended, thus far, to June 14, 2013, and the District and its vendors may be entitled to adjustments of the schedules and payment from Nextel for additional costs resulting from the extension(s). The final completion date for the District, and NCR, rebanding schedule was dictated by the results of studies by the NCR Lead Agency. These NCR studies produced a Master Schedule that was intended to optimize the rebanding schedules of the NCR jurisdictions, including the District, so as to preserve interoperability among NCR jurisdictions while the rebanding is progressing. This was in accordance with the FCC Order and the D.C.–Nextel Frequency Reconfiguration Agreement, which provide that any changes to the *minimum needs* stated in the FRA SOW and/or changes to the District’s rebanding schedule must be approved in writing by the FCC’s Transition Administrator before incorporation in the FRA and in the District’s 800 MHz program vendor contracts.

Accordingly, the District requires contractors that (1) have extensive experience with the District’s emergency radio system; (2) have participated in the 800 MHz Rebanding Program from the beginning; and (3) previously have programmed the District’s Fire and EMS radios and are a Motorola-certified provider of such services.

The period of performance of the proposed contract will be for one year from the date of award.

**3. Estimated Reasonable Price:**

The estimated fair and reasonable not-to-exceed cost for the minimum needs for unperformed rebanding program work to be met by Televate is \$26,422.61; and by Teltronic is \$144,132.00, for a total of \$170,554.61. All of this amount plus additional amounts paid or to be paid directly to the District (for FRA work by District employees) and to Motorola for its rebanding work constitutes the current total not-to-exceed Nextel-funded FRA amount, for performed and to-be-performed work, of \$2,043,877.44. In accordance with the Frequency Reconfiguration Agreement that was approved by the FCC and executed by the District and Nextel as of January 3, 2008, as amended, Nextel is to pay for the above vendor work and all other FCC-approved rebanding implementation work.

In Schedule C of the Frequency Reconfiguration Agreement and in two amendments to the Agreement, as required by the FCC Order, the Director, OUC certified all of the above costs, including the costs of work to be performed by the three vendors, Motorola, Televate and Teltronic, and related work to be performed by District employees, as the minimum necessary to support the implementation-phase planning activities and to provide a rebanded radio system that is operationally comparable to

the radio system currently in use by the District. In Schedule C, the Director also certified that these costs are comparable to costs previously charged by the vendors for similar work. In the FRA SOW, Schedule C, the costs are set out by specific activity by vendor. These FRA costs may be increased only through a change order mechanism included in the FRA and approved by the FCC's Transition Administrator.

**4. Facts Which Justify Sole Source Procurement:**

D.C. Official Code § 2-354.04 (b) permits procurement contracts to be awarded through noncompetitive negotiations when there is only one source for the required service. *See also* 27 DCMR § 1702.1.

If the District changes vendors now, through its own fault or choice, the FCC most likely would decline to approve any increase in costs, over and above the funding provided in the FRA, of using new vendors in lieu of Televate or Teltronic. Pursuant to the FCC *Order*, the District would then be required to complete the program and bear all additional costs of doing so.

These two proposed District FRA-implementation vendors satisfy the District's requirements for sole source procurements for the following reasons:

**Televate, LLC**

The OUC proposes that Televate, LLC ("Televate") will provide the rebanding program management services and will work with District personnel to perform testing to confirm the adequacy of the rebanding work by the other vendors. Televate is uniquely qualified to meet the District's minimum needs, as identified in the FRA Statement of Work, given its prior extensive experience with the District's emergency radio system and its participation in the 800 MHz rebanding program from the inception of the program. Further, Televate has performed in this capacity for the first half of the work required by the FRA.

Televate has participated extensively in all aspects of the 800 MHz rebanding program from its inception. Televate has filed comments to the FCC on behalf of its many public safety customers, including the District, in order to help shape the rebanding regulations to the benefit of public safety licensees. Televate has studied and commented on all primary rebanding documents published by Nextel and the NCR Coalition of 800 MHz users and others involved in the formulation of the rebanding program. Televate is working with other local governments similarly affected by the FCC's *Order* and has an extensive, professionally-experienced, rebanding management practice.

Televate has extensive technical and historical program knowledge of all aspects of the District's public safety 800 MHz radio operations. This knowledge is based upon five

years of direct services to the OUC, MPD, FEMS, EMS, EMA, DDOT, DPW and other operational and end-user agencies of the District's radio system. Televate has gained experience and insight by providing to the District, through OUC, radio engineering, technical program management, and radio network professionals in related disciplines, all during the course of the District's public safety radio network design, construction, implementation, and optimization and now in the day-to-day operation of the District's critical radio communications networks.

Through OCP, the District engaged Televate as the District's project management vendor for the PFA (planning) phase of the 800 MHz Rebanding Project and, in OUC's opinion, Televate performed this function with distinction. The D.C.-Televate planning agreement, now completed, was District Task Order No. POTO-2006-T-0028. Under the PFA, Televate took the lead in negotiations with Nextel and with Motorola with respect to the scope of rebanding work and pricing of that work. Pursuant to the FRA requirements, Televate has performed similar functions with similar distinction under Contract No. DCTO-2008-C-0208, as well as after the District allowed it to expire.

Therefore, most importantly, by contracting with Televate for the remaining segments of the implementation services phase of rebanding, the District will provide continuity of program management to the 800 MHz Rebanding Program. This continuity is necessary and not available from any other source, particularly without time-consuming and costly re-learning of the operational and FCC-program aspects of the rebanding. The FCC and Nextel likely would reject the predictably-large additional costs of substituting a new 800 MHz program management as unreasonable and in excess of the FCC's minimum-necessary standards for the program and thus the District likely would have to fund the additional program management costs.

### **Teltronic**

The OUC proposes that Teltronic will reprogram (reband) the District's 2,869 mobile and portable subscriber radios. The subscriber radios to be reprogrammed are used by the FEMS Department as well as twenty-one other District agencies and are manufactured by Motorola. Teltronic is the only contractor previously to have programmed the FEMS Department radios and is a Motorola-certified provider of such services. Teltronic also previously has programmed the majority of subscriber radios for other District agencies and has performed in an exemplary manner, under Contract No. DCTO-2008-C-0271 and after its expiration, the *first touch* reprogramming under the FRA requirements.

The OUC and, prior to the creation of the OUC, the Fire Department and Emergency Management Agency (now FEMS), used Teltronic exclusively to program the District's 800 MHz radios. As a result, Teltronic has the knowledge and experience with the District's radios and has proved to be reliable and timely in its work. In addition, Teltronic already has the current radio communication *maps* that must be programmed into the radios and, before OUC commenced direct negotiations with

Teltronic, was designated by Motorola, in FRA SOW negotiations with the District and other NCR jurisdictions, as Motorola's subcontractor for 800 MHz program subscriber rebanding.

Through its 800 MHz Transition Administrator, the FCC required that the District complete negotiations in late 2007 and immediately execute the FRA agreement with Nextel, which, since then, has provided the District funding for the rebanding program and will continue to pay the District's three vendors. Therefore, because of the timing of this requirement and circumstances related in this section of the D&F, OUC did not conduct a market survey for the subscriber radio rebanding services. In order for the District to meet the FCC mandate to complete negotiations with Nextel, the District had to have selected its rebanding vendors, including Teltronic, and substantially completed negotiations with those vendors by about November 30, 2007. Under the FCC's 800 MHz rebanding program, since about August, 2006, OUC negotiated with Motorola Inc., the provider of the radios, for all 800 MHz rebanding services. In the course of extended and intense negotiations with Motorola, OUC was convinced that Motorola would not offer a reasonable price for these services. Further, Nextel rejected the Motorola-proposed costs as far exceeding the minimum necessary costs for the services and the District could muster no evidence that this was not so because the lowest Motorola-offered price was about 75% higher than the projected price from Teltronic, the recommended source. OUC therefore removed the rebanding of mobile radios from Motorola's scope of work and settled on the here-recommended vendor as the only available reasonably-priced source.

The OUC is not willing to take the risk of having a different vendor program the radios that are used in life saving operations and Teltronic is the sole Motorola-certified 800 MHz radio service provider in the local area. Mistakes in programming cannot be tolerated in the FEMS Department and could lead to fatalities. As a result, the OUC proposes Teltronic as the vendor for subscriber radio reprogramming uniquely situated to comply with the FCC-mandated 800MHz reconfiguration and its schedule without risk to the continued and reliable operation of the system. The choice of this contractor, which is the original programmer of the radios, to continue to reprogram all the 800MHz subscriber radios, is in the best interest of the District. This action will minimize the risk of failure in life saving situations.

### **Conclusions**

Given the strict and imminent deadlines imposed by this FCC-mandated reconfiguration process and reflected in the NCR Master Schedule, the Office of Unified Communications has reasonably concluded that Televate and Teltronic, together, have the ability to meet these minimum needs. On the above bases, in June, 2008, we requested and the Chief Procurement Officer approved a Class D&F for Sole Source Procurements from these vendors, which performed part of the work and are needed to complete the rebanding program. The choice of any other vendors or combination of vendors to perform these continuing services would significantly affect the reliability and availability of the network since other vendors will have

limited experience and knowledge of the proprietary nature of the District's public safety radio communication equipment.

Further, use of any other vendors would put the District at risk of bearing any additional costs over and above the costs included in the FCC-approved D.C.–Nextel FRA. Because public safety is at stake, OUC believes that it would not be prudent to risk a reduction in network reliability and availability by contracting with other less-qualified vendors for this procurement. The operational risks involved to first responders in the line of duty and their reliance on the network for radio communications compels the need to procure these services from Teltronic and Televate.

**5. Certification by the Agency Head:**

I hereby certify that the above findings are correct and complete.

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Cathy L. Lanier  
Chief of Police  
Metropolitan Police Department

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Date

**6. Certification of Findings by Contracting Officer:**

I have reviewed the above findings and certify that they are sufficient to justify the use of the sole source method of procurement under the cited authority. I recommend that the Chief Procurement Officer approve the use of the sole source procurement method for this proposed contract. This requirement was posted on the OCP website for Notice to Intent to Award Sole Source Contracts for ten (10) days. However, no response was received from the vendors.

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Priscilla Mack  
IT Commodity Group  
Contracting Officer

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Date

## **DETERMINATION**

Based on the above findings and in accordance with the cited authority, I hereby determine that it is not feasible or practical to invoke the competitive bidding process under Section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6-85; D.C. Official Code § 2-303.03). Accordingly, I determine that the District is justified in using the sole source method of procurement.

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James Staton  
Chief Procurement Officer  
Office of Contracting and Procurement

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Date