

City of New Orleans Advanced Broadband and Smart City Systems Procurement Investigation

Investigative Status Report (Updated)



Presented to the New Orleans City Council President



December 2022

-Updated February 2023-



DeLuca
Advisory & Consulting Services LLC

 **Triangle**
INVESTIGATIONS



Disclaimer

Disclaimer. This updated Investigative Status Report is the result of an investigation of the City of New Orleans (“NOLA” or “City”) Advanced Broadband and Smart City Systems, RFP No. 1193 (Request for Proposal) Procurement, ordered by the NOLA City Council. Our Preliminary Investigative Status Report was provided to the NOLA City Council in December 2022 providing our investigative findings and recommendations as of that time. In February 2023, the NOLA City Council chose to conclude the investigation. This Investigative Status Report includes updated information since the Preliminary Investigative Status Report and provides the NOLA City Council with recommended resulting actions based on our investigative findings, and provides additional recommended steps if they determine to resume the investigation.



Key Individuals/Firms

Burciaga, George - CEO, Managing Partner, Ignite Cities (now Elevate Cities)

Cox, Joshua – Former, NOLA, Senior Advisor & Director of Strategic Initiatives, for Mayor Cantrell

Davis, Clifton- NOLA, Chief of Staff and Executive Counsel to Mayor Cantrell

LaGrue, Kimberly – NOLA, Chief Information Officer, Director of Information Technology & Innovation (“ITI”)

Meyer, Julien - NOLA, Chief Procurement Officer

Rhodes, Jonathan – Former, NOLA, Director, Mayor’s Office of Utilities, co-owner of Verge Internet

Walton, Arthur - NOLA, Director, Intergovernmental Relations

White, Norman – NOLA, Chief Financial Officer

Wisbey, Jonathan – Former, NOLA, Chief Technology Officer

Wolff, Christopher - NOLA, Network Technology Specialist, ITI, co-owner of Verge Internet

Foresite Group Report, dated 5/10/19, prepared for NOLA titled, City of New Orleans’ Institutional Fiber Network

Cox Communications– NOLA RFP Proposer

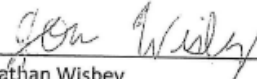
S+C NOLA Team- comprised of Qualcomm, JLC Infrastructure, Jacobs Engineering – NOLA RFP Proposer




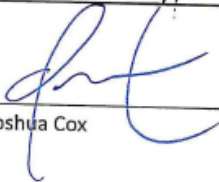
RFP Selection Committee Members & Scores

RFP Evaluation Committee Meeting
 Advanced Broadband and Smart City Systems
 RFP No. 1193
 6/30/2021

RESPONDENTS	Jonathan Wisbey	Norman White	Joshua Cox	Kim LaGrue	Christopher Wolff	TOTAL	RANK
Smart+Connected NOLA	93	95	97	89	84	458	1
Cox Louisiana Telcom, LLC dba Cox Business	66	90	79	36	47	318	2
Foresite Group LLC	40	79	69	42	45	275	3
Wi-Fiber LLC	46	71	67	48	36	268	4
Urban Innovative Partners, LLC	32	67	56	46	16	217	5


 Jonathan Wisbey


 Norman White


 Joshua Cox


 Kim LaGrue


 Christopher Wolff



Scope of Investigation



Questions posed by NOLA City Council President Moreno during the 10/5/2022 meeting.

1. Is there evidence that the NOLA Smart City procurement was rigged or steered to a particular bidder?

2. Did City employees benefit – financially or through a business relationship – from one bidder winning?

3. Did the Mayor or her employees benefit financially or through a business relationship – from one bidder winning?

4. What if anything did/does Ignite Cities (now ELEVATE Cities) stand to gain? What role did they play?

5. Did anyone perjure themselves?

Additional questions/scope added by NOLA City Council President.

6. Did the Smart City procurement follow established policies and procedures?

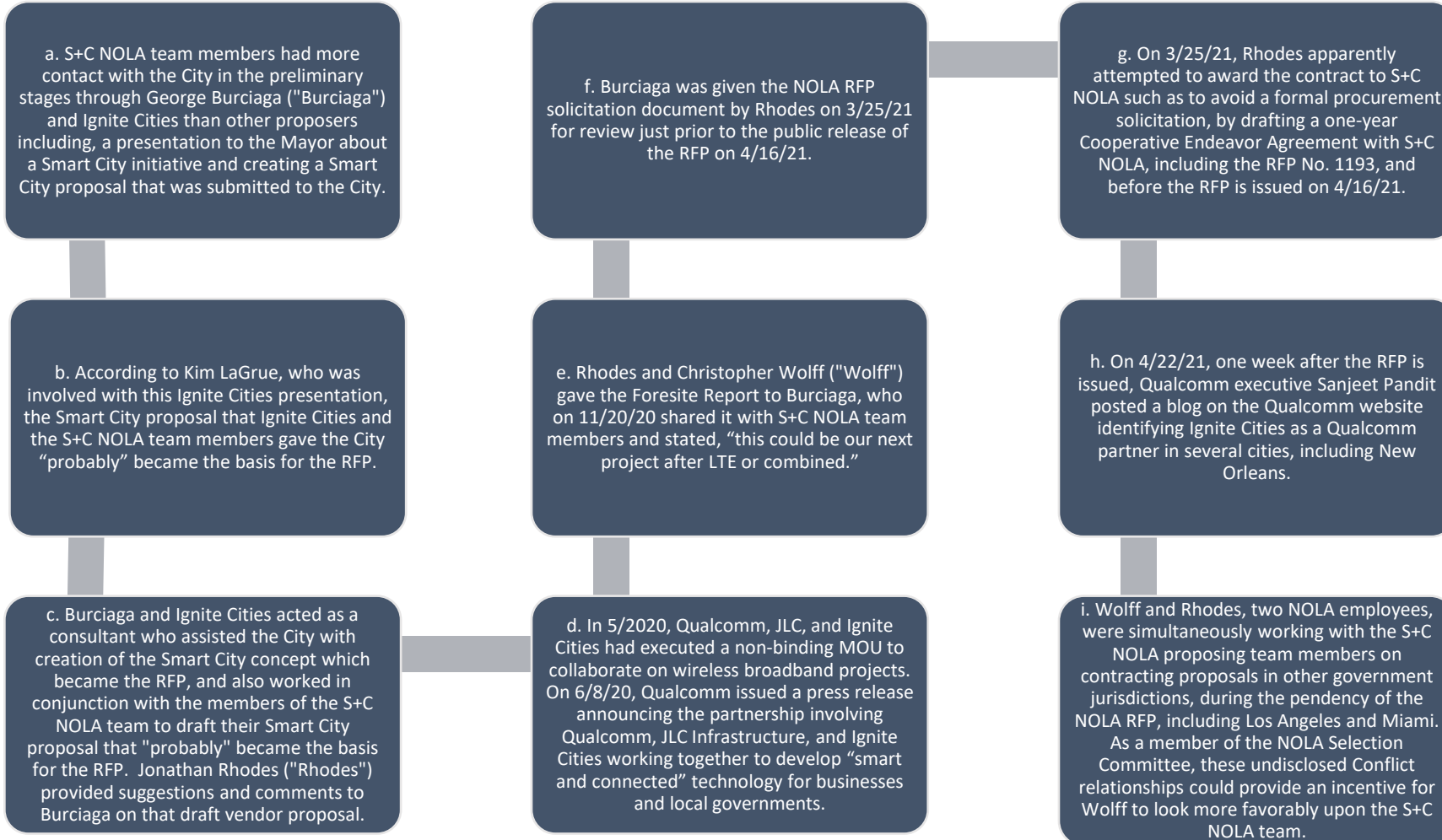
7. Provide recommendations for improvement to the procurement process.

8. Does it make sense to re-issue the RFP as currently written and structured?



1. Is there evidence that the NOLA Smart City RFP was rigged or steered to a particular bidder?

A bid protest filed by Cox Communications, and information from that protest, was a strong factor in the City Council initiating an investigation. The Investigation has revealed evidence which indicates that the S+C NOLA team had an apparent unfair advantage over the other proposers due to the following factors:



2. Did City employees benefit – financially or through a business relationship – from one bidder winning?

The investigation revealed that Rhodes and Wolff were involved with procurement proposals in other cities with members of the winning S+C NOLA team, at the very same time they were involved in the NOLA RFP, and with Wolff on the Selection Committee.

These Conflict relationships were not disclosed.

It is unknown at this time what, if any, benefits were received due to S+C NOLA winning the NOLA RFP. However, at a minimum it created an appearance of impropriety in that they had the potential to benefit from these relationships.

3. Did the Mayor or her employees benefit – financially or through a business relationship – from one bidder winning?

The investigation has not developed evidence that City employees directly benefitted.

4. What if anything did/does Ignite Cities (now ELEVATE Cities) stand to gain? What role did they play?

a. Ignite Cities was involved from the inception of the NOLA Smart City concept.

b. Utilizing their role as “consultant” to the Mayor, Ignite Cities facilitated an introduction between the S+C NOLA team members and the Mayor.

c. Assisting S+C NOLA team members with the proposal for Public WiFi and Smart Lighting, which eventually evolves into the Smart City RFP.

d. It is unknown at this time whether Ignite Cities received any monetary benefit from their involvement assisting the S+C NOLA team.

e. Qualcomm reported to NOLA, upon inquiry, that Ignite Cities was a contracted consultant to Qualcomm for Smart City services. This created a situation where Ignite Cities could potentially benefit if S+C NOLA was awarded the contract.

5. Did anyone perjure themselves?

Rhodes was the only individual to have testified under oath. Rhodes testified before the NOLA City Council on April 27, 2022.

Rhodes was not truthful in his responses regarding Verge Internet’s, Wolff’s and his involvement in preparing a proposal with members of the S+C NOLA Team for a Miami Smart City solicitation in May 2021.

Rhodes minimized his involvement, and gave less than fully accurate responses, when questioned about his private business contact with Burciaga, the Los Angeles proposal preparation, and his subpoena compliance/document production.



6. Did Smart City Procurement follow established policies and procedures?

NOLA Mayoral Executive Order LC 20-01 contains a number of provisions that were possibly violated during the RFP process:

1. Page 1, Para 2, This section may be impacted in that the NOLA Smart City RFP was not conducted in a manner that was apparently “honest, fair, transparent, just” in that Ignite Cities and the S+C NOLA team had access to information and NOLA officials that other proposers did not.
2. Page 1, Para 3, The NOLA Smart City RFP process did not apparently “ensure the fair and equitable treatment” of the other proposers, as indicated in item #1 above.
3. Page 1, Para 5, The NOLA Smart City RFP was not conducted in a manner that would apparently “increase(s) the public confidence in the City’s procurement procedures” and did not provide “safeguards for the maintenance of a procurement system of quality and integrity.” Christopher Wolff was not “independent” because he was conducting business with the S+C NOLA team members while he was simultaneously scoring the proposers. Kimberly LaGrue admitted she was not “objective” due to her professed, unfavorable views about Cox Communications.
4. Page 7, Para 2, The NOLA RFP Selection Committee did not conduct an apparently “independent, objective evaluation” of the proposers. See items #1 & #3 above.

NOLA Bureau of Purchasing, Federal Grant Procurement Procedures, May 16, 2022:

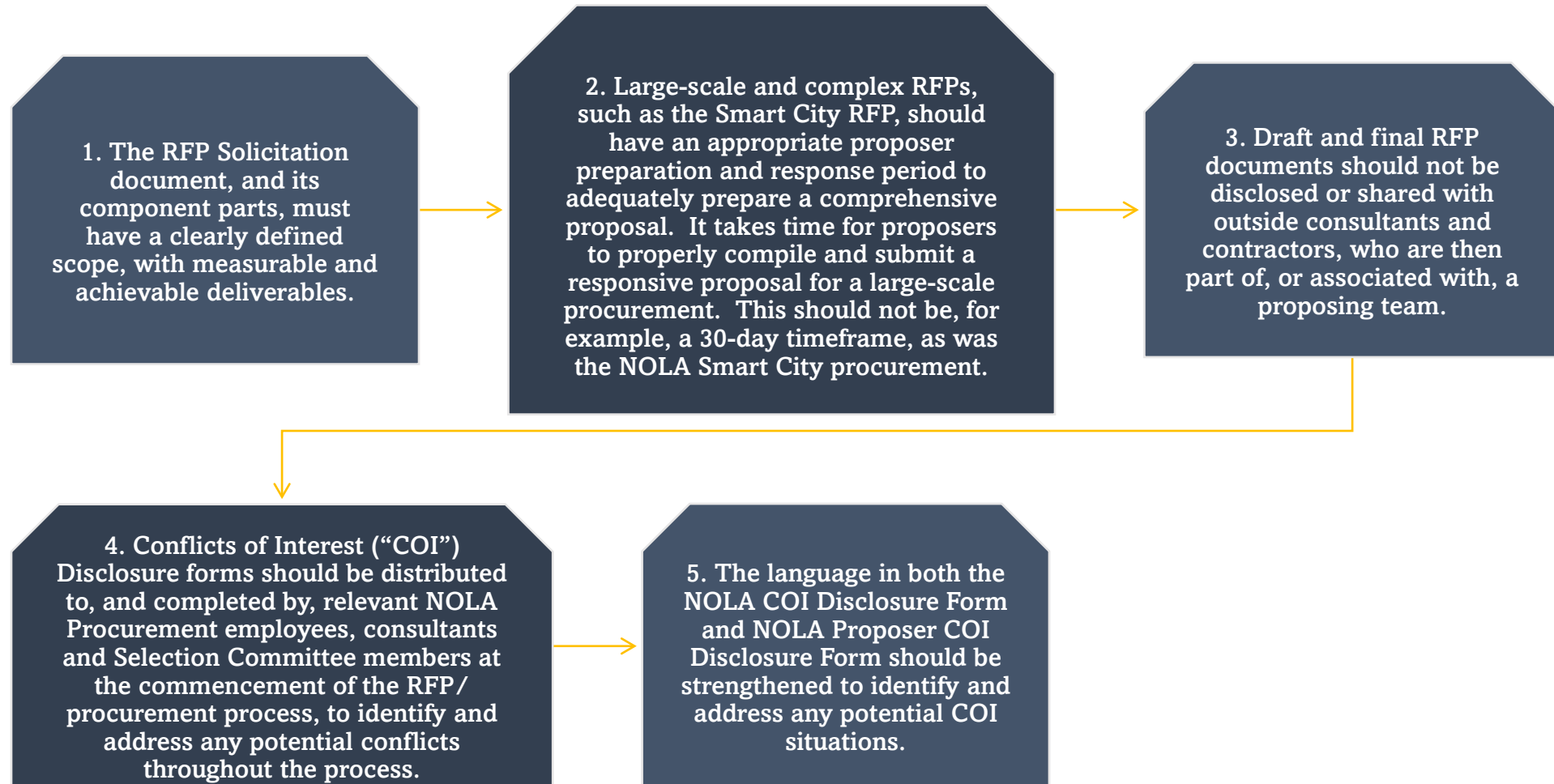
1. Page 18, Item 10, The Procedures state that, “Prior to the Selection Committee’s review, all Selection Committee members must complete a Conflict of Interest (“COI”) form attesting that they do not possess a conflict of interest with any of the respondents.” This section was apparently not complied with during the NOLA Smart City RFP. The COI forms were completed and submitted by the Selection Committee members at the end of the review process and right before the scoring. Further, Christopher Wolff did not disclose on his COI form that he was conducting separate private business with the members of the S+C NOLA Team while he was serving on the Selection Committee.





7a. Provide recommendations for improvement to procurement process: Steps 1-5

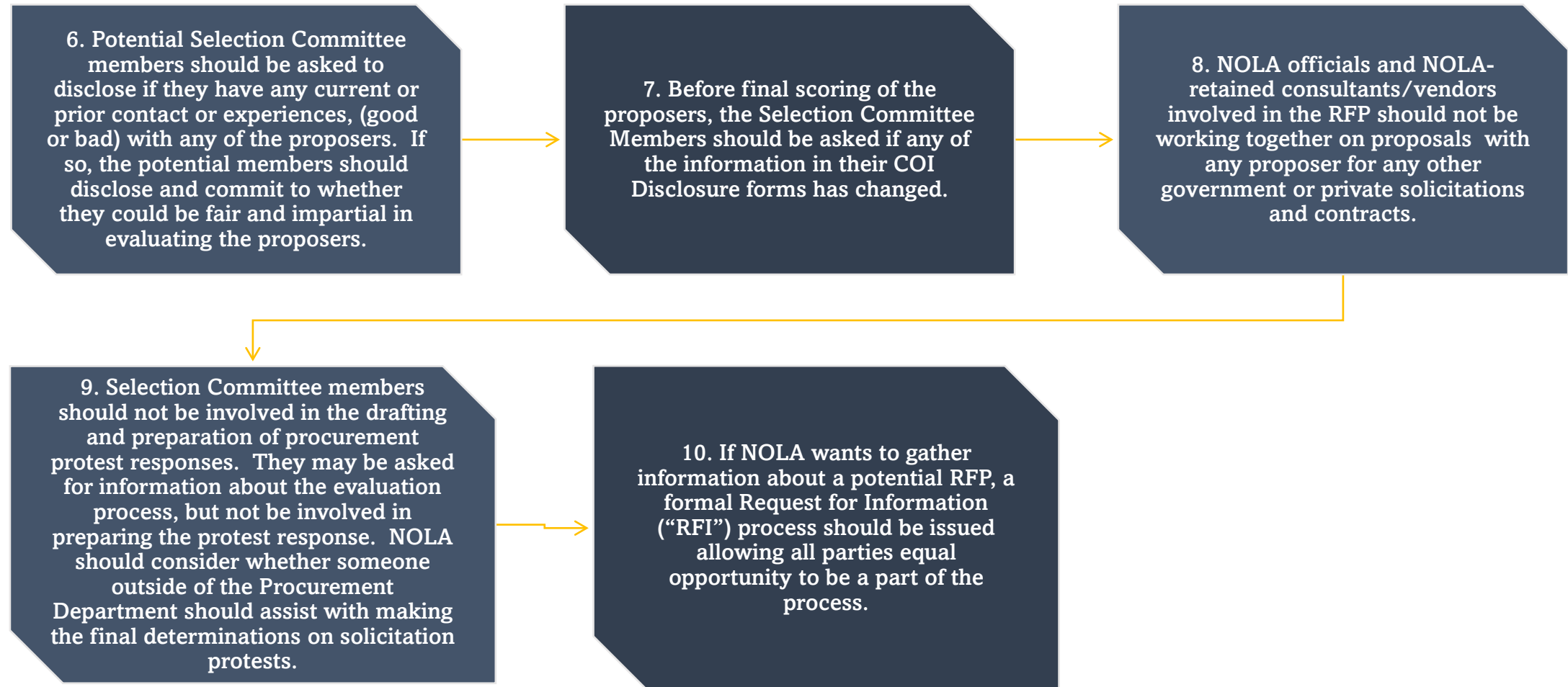
The following are the observations/recommendations resulting from the DeLuca Advisory – Triangle Investigations investigation of the NOLA Advanced Broadband and Smart City Systems RFP solicitation.





7b. Provide recommendations for improvement to procurement process: Steps 6-10

The following are the observations/recommendations resulting from the DeLuca Advisory – Triangle Investigations investigation of the NOLA Advanced Broadband and Smart City Systems RFP solicitation.



8. Does it make sense to re-issue the RFP as currently written and structured?

Based on the investigative findings, and a review and evaluation of NOLA's Advanced Broadband and Smart City Systems RFP, it appears that the NOLA Smart City RFP should not be re-issued as currently written and structured. The investigation has revealed several factors for reevaluating and creating a new solicitation process. Here are some key factors:

1. The investigative findings have identified a number of apparent ethical and conflict of interest violations and instances whereby there may have been, at a minimum, an appearance of impropriety. Therefore, it is recommended that NOLA create a more transparent and ethical procurement process, with proper guidance and oversight.
2. The Foresite Report ("Report") is a good benchmark from which NOLA can reevaluate its Smart City policy and process. The Report gave several examples from other cities and counties. NOLA should retain the services of a consulting firm to update the Report. With this new report, NOLA should engage in a government-to-government dialogue with other cities and counties to leverage their lessons-learned.
3. Because the procurement has both technical (5G) and complex Public Private Partnership (P3) elements to it, NOLA should consider retaining the services of a consultant with 5G expertise, and an independent firm to analyze complex financial P3 elements. Naturally, these firms should be precluded from participating in teaming with and/or association with firms choosing to bid for the resulting RFP solicitation.
4. Adoption of 5G services is continuing to evolve and NOLA should fully examine current 5G deployments, pilots and future use cases before re-issuing a new RFP. There are new benefits of 5G deployments which the previous RFP did not fully explore. NOLA should consider incorporating how new 5G capabilities and technologies are being deployed, so that NOLA is at the forefront of current 5G deployment.
5. There are now significant amounts of federal funding dedicated to broadband, to closing the digital divide, and to 5G services. NOLA should consider these funding streams.



Possible Code of Ethics Violations

NOLA Code of Ordinances, Chapter 2, Article VII, Section 2-768. This section states that, “The code of ethics is established to remind each public official and employee that individually and collectively, public officials and employees must adhere to high ethical standards not simply to avoid sanctions or criticism, but because it is the right thing to do.” This section was apparently not complied with by NOLA employees, Wolff and Rhodes, during the NOLA Smart City Procurement and RFP (the “Procurement”). Wolff and Rhodes each apparently engaged in conduct in connection with the Procurement that was not of a “high ethical standard.” Specifically, Wolff was conducting private business with the S+C NOLA team members while he was simultaneously scoring the proposers, including S+C NOLA. Further, Wolff did not disclose on his Procurement COI disclosure form that he was conducting private business with the members of the S+C NOLA Team while he was simultaneously serving on the Selection Committee. Likewise, Rhodes was apparently deeply involved in the Procurement, and improperly shared the draft RFP solicitation document with Burciaga of Ignite Cities before the public release of the RFP document despite knowing that Burciaga had a business relationship with S+C NOLA Team members. This was at the same time that Rhodes was conducting private business with Burciaga, Ignite Cities, and the members of the S+C NOLA Team.



Possible Code of Ethics Violations

NOLA Code of Ordinances, Chapter 2, Article VII, Sec. 2-691.
Financial statements: Penalty. This section states that whoever, “knowingly and willfully fails to disclose or to accurately disclose any information required by this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00.”

The investigation included an analysis of Rhodes’ NOLA Financial Disclosure (“FD”) Forms for the Years 2019 through 2022. Since Rhodes’ and Wolff’s private company, Verge Internet, was incorporated on 8/13/20, Rhodes was required to list Verge Internet on his 2021 and 2022 FD forms. However, Rhodes failed to disclose Verge Internet on his 2021 FD forms. He also failed to disclose his crypto currency business, COMN Coin.

Wolff was not required to file FD forms.



Possible Code of Ethics Violations

Chapter 15, Code of Governmental Ethics: Sec. 1101, Declaration of Policy. This Section states that, “It is essential to the proper operation of democratic government that elected officials and public employees be independent and impartial,” and that there be “...public confidence in the integrity of government.” “The attainment of one or more of these ends is impaired when a conflict exists between the private interests of an elected official or a public employee and his duties as such.”

This section was apparently not complied with by NOLA employees, Wolff and Rhodes, during the Procurement. Wolff and Rhodes each apparently engaged in conduct in connection with the Procurement that was not “independent and impartial.” Specifically, Wolff was conducting private business with the S+C NOLA team members while he was simultaneously scoring the proposers, including S+C NOLA. Further, Wolff did not disclose on his Procurement COI disclosure form that he was conducting private business with the members of the S+C NOLA Team while he was simultaneously serving on the Procurement Scoring Committee. Rhodes, likewise, was apparently deeply involved in the Procurement, and improperly shared the draft RFP solicitation document with George Burciaga of Ignite Cities before the public release of the RFP document despite knowing that Burciaga had a business relationship with S+C NOLA Team members. This was at the same time that Rhodes was conducting private business with Burciaga, Ignite Cities, and the members of the S+C NOLA Team. Wolff’s and Rhodes’ conduct does not foster, “public confidence in the integrity of government,” and created a conflict between their private interests and their public duties.



Investigative Tasks Performed

Documents Reviewed

The following is a listing of the main categories of records that we have obtained and reviewed, to date:

- NOLA Council 4/27/22 Hearing, with Rhodes' testimony, video & transcript
- Council President Moreno's records, including preliminary timeline
- Council subpoenas, response, and compliance records
- RFP process records from multiple sources and individuals including Scoring Committee scoring sheets and COI Disclosure Forms
- RFP protest records
- NOLA employees' emails, text messages, and calendars
- NOLA employees' financial disclosure forms
- NOLA employees' personnel information
- Media reports and articles of pertinent current events
- Smart City related reports

Witnesses Interviewed

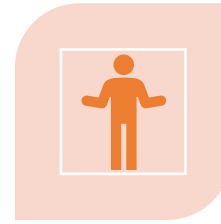
- Clifton Davis, Chief of Staff/Executive Counsel to Mayor
- Liana Elliot, former Director of Policy and Government Operations
- Kim LaGrue, Chief Information Officer & Director of ITI
- Julien Meyer, Chief Procurement Officer
- Shaun Randolph, former Director of Forward Together New Orleans
- Arthur Walton, Director of Intergovernmental Relations
- Kai Wells, Assistant Purchasing Administrator
- Norman White, Chief Financial Officer
- Jonathan Wisbey, former Chief Technology Officer
- Christopher Wolff, Network Technology Specialist

Investigative Timeline

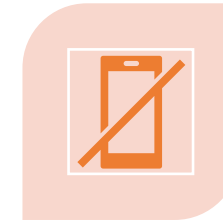
As one of the primary steps of the Investigation, we created an Investigative Timeline to document and track all the pertinent events & communications that occurred during the NOLA RFP Procurement. This also had the effect of documenting various individuals' involvement.

Recommended Future Investigative Steps

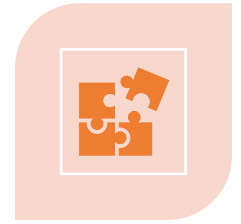
In February 2023, the NOLA City Council chose to conclude the investigation. These recommended future investigative steps can be taken by the NOLA City Council should they choose to further pursue this investigation.



ADDITIONAL WITNESSES TO BE INTERVIEWED & FOLLOW UP INTERVIEWS TO CORROBORATE POSSIBLE FINDINGS



ATTEMPT TO RECONTACT BURCIAGA AND RHODES WHO, TO DATE, HAVE NOT RESPONDED TO SEVERAL REQUESTS FOR INTERVIEWS



INTERVIEW COX COMMUNICATIONS AND OTHER LOSING RFP PROPOSERS



PURSUE NON-COMPLIANCE WITH CITY COUNCIL SUBPOENAS



PENDING ISSUANCE OF ADDITIONAL SUBPOENAS



REVIEW RECENTLY RECEIVED NOLA EMPLOYEES ELECTRONIC DATA FILES



Recommended Resulting Actions for NOLA

Based on the investigative findings, it is recommended that NOLA consider taking the following actions:

Referrals to the New Orleans Ethics Review Board and Louisiana Board of Ethics regarding possible violations by Rhodes and Wolff; and consideration of administrative disciplinary action for NOLA employees.

Referral of Investigative Status Report to the NOLA OIG.

Review the responsibility of Ignite Cities as a vendor/consultant prior to conducting any future NOLA business.

Review and consider implementing the recommendations pertaining to the procurement process.

Review and consider the recommendations pertaining to the creation and issuance of a new NOLA Smart Cities RFP.

