

W. C. B. I.

Memorandum Date: June 9, 2010

Order Date: June 23, 2010

TO: Board of County Commissioners

DEPARTMENT: County Counsel

PRESENTED BY: Cheryl Betschart, Lane County Clerk

AGENDA ITEM TITLE: ORDER 10-_____ /IN THE MATTER OF AMENDING CHAPTER 20 OF THE LANE MANUAL TO REVISE ELECTION SUPPLIES AND SERVICES EXEMPTIONS (LM 20.170)

I. MOTION

Move approval of the Order.

II. AGENDA ITEM SUMMARY

The Board is being asked to amend Lane Manual 20.17 to exempt ballot counting equipment and software from competitive bidding or quote requirements.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

In 1998, this section was amended to its current verbiage, removing references to polling place signs, sample ballot pages, and labeling of ballot cards since they were no longer applicable with the statewide change to vote-by-mail elections.

B. Policy Issues

C. Board Goals

D. Financial and/or Resource Considerations

Allowing an exemption to the purchase of the ballot counting equipment and software will allow Elections to go directly to the two vendors certified by the State.

E. Analysis

In Oregon, there are only two ballot counting systems that are currently still in business and certified by the State. They are Hart Intercivic and Election System (ES&S).

Of the 36 counties in Oregon, two have the Hart system, and 32 have ES&S, and one county is in the process of purchasing a new ballot counting system. (Marion County recently sent out an RFP and received bids from only these two vendors.)

Lane County has the Sequoia ballot counting system, which is not going to be supported by that vendor after 2012. Sequoia has informed us that they do not intend to become certified in Oregon due to the high certification cost. It is also not cost effective for them to support only one Oregon customer.

Completing the normal RFP process for election equipment is very time consuming and will not meet the established timeline for replacing the current ballot counting machines and software. Lane County needs a new ballot counting system in place no later than February 1, 2011. This is so the new system can be tested and operational for the next scheduled countywide election in May 2011. (It would not be possible to purchase a new ballot counting system for utilization in the General 2010.)

The ballot counting equipment and software is a specialty item that must meet specific state guidelines and certification requirements for processing ballots. Due to the technical complexity of the equipment and software, there are only a limited number of vendors which meet that requirement and certification. The need to act quickly and to be able to rely on the most dependable vendor is critical. Thus, the purchase of the equipment and software does not lend itself to a competitive process.

The risk of the ballot counting machines failing has increased since the May 18, 2010 Primary election.

Problems experienced with the current ballot counting system which constitute an immediate change.

May 2008 – loss of connectivity to the tabulating console resulting in a restart of the counting machines.

May 2010 – failure of 3 out of 4 ballot counting machines. (The fifth ballot counting machine was not used for this election because it could not pass the required ballot testing. Four counting machines should have been sufficient with the expected voter turnout for this type of election.)

F. Alternatives/Options

Option 1 is to approve the Order
Option 2 is to amend the Order
Option 3 is to not approve the Order

IV. RECOMMENDATION

Approve Option 1 as recommended.

This is being recommended by County Counsel and the Lane County Clerk. This recommendation is being made so that Elections can proceed as quickly as possible with the replacement of the current ballot counting system and software to insure accurate counting for future elections.

V. TIMING/IMPLEMENTATION

This action allows Elections to go directly to the state certified vendors. The sooner we can select a vendor and award a contract, the sooner the ballot counting system can be replaced thus minimizing the complete collapse of the counting machines during an election.

Our goal is to have a contract with a new vendor in place by February 1, 2011 so that the new counting system can be used for a full countywide election in May 2011. This is the only scheduled countywide election in 2011.

VI. FOLLOW-UP

Following committee scoring of vendor responses, a contract will be signed by the vendor and delivered to the County Administration for execution.

VII. ATTACHMENTS

Lane Manual 20.170 Election Supplies and Services

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AMENDING CHAPTER 20
OF THE LANE MANUAL TO REVISE ELECTION
SUPPLIES AND SERVICES EXEMPTIONS (LM
20.170)

The Board of County Commissioners of Lane County orders as follows:

Lane Manual Chapter 20 is hereby amended by deleting, substituting, and adding the following section:

DELETE THIS SECTION

20.170
as located on page 20-8
(a total of 1 page)

INSERT THIS SECTION

20.170
as located on page 20-8
(a total of 1 page)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to revise election supplies and services exemptions (LM 20.170).

Effective the _____ day of June 2010.

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 6-10-10 Lane County



OFFICE OF LEGAL COUNSEL

acquisition of goods or services or personal services that use source selection methods substantially equivalent to those set forth in ORS 279B.055 or ORS 279B.060.

(5) Any protest of the procurement process, the contents of the solicitation document or the proposed award or award of a proposed contract through cooperative purchase, shall be in accordance with ORS 279B.400 through ORS 279B.425 unless the administering agency is not subject to the Oregon statutes; then in such case, the bidder or proposer shall make the protest in accordance with the processes and procedures established by the administering contracting agency. Any other protest related to a cooperative procurement, or disputes related to a contract arising out of a cooperative procurement shall be made and resolved as set forth in ORS 279A.225. *(Revised by Order No. 98-12-2-1, Effective 12.2.98; 05-2-16-8, 2.28.05; 08-2-13-1, 2.13.08)*

EXEMPTIONS AND AUTHORIZATIONS BY TOPIC

20.155 Advertising Contracts.

The County may purchase advertising without competitive bidding or quotes. This includes, but is not limited to, space for advertising and legal notices in newspapers and other publications, and radio and television spots. *(Revised by Order No. 98-12-2-1, Effective 12.2.98)*

20.160 Construction Manager/General Contractor.

The County may use a request-for-proposal procedure for the selection of construction manager/general contractor firms (CM/GC) who will be required to establish guaranteed maximum prices for constructing public improvements, subject to the following conditions:

(1) Contractual requirements are stated clearly in the solicitation document. The contract shall describe the methods by which the CM/GC shall competitively select other contractors and subcontractors to perform the work of the improvement. Further, the contract shall describe the methods by which the CM/GC and its affiliated or subsidiary entities, if any, may compete to perform the work of the improvement; such methods shall include, at a minimum, public opening of sealed bids at a pre-announced time and place.

(2) Evaluation criteria to be applied in selecting the CM/GC firm are stated clearly in the solicitation document. Criteria used to identify the CM/GC firm which best meets the public contracting needs may include, but are not limited to, cost, quality, experience relevant to the improvement to be constructed, and time required to commence and complete the improvement. *(Revised by Order No. 98-12-2-1, Effective 12.2.98)*

20.165 Copyrighted Materials.

The County may contract for the purchase of copyrighted materials without competitive bidding or quotes if there is only one known supplier. *(Revised by Order No. 98-12-2-1, Effective 12.2.98)*

20.170 Election Supplies and Services.

The County is exempt from competitive bidding or quote requirements for the printing of official ballots, including sample and test ballots, ballot envelopes, ballot counting equipment and software, and drop site signs. *(Revised by Order No. 98-12-2-1, Effective 12.2.98; 04-6-30-12, 6.30.04)*

At right margin indicates changes

Bold indicates material being added

~~Strikethrough~~ indicates material being deleted

**LEGISLATIVE
FORMAT**

20.155

Lane Manual

20.170

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