




BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR

**M E M O R A N D U M**

**TO:** Honorable Bruno A. Barreiro, Chairman  
and Members, Board of County Commissioners

**FROM:** Charles Anderson  
Commission Auditor 

**DATE:** November 1, 2007

**SUBJECT:** **Proposed Contract to Election Systems & Software, Inc. for the Purchase of Optical Scan Voting Equipment [November 6, 2007 BCC Agenda Item No. 8(O)(1)(F)]**

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Pursuant to Board of County Commissioners (BCC) Resolution R-917-07, adopted July 27, 2007, the Office of the Commission Auditor (OCA) observed the series of contract negotiation-related meetings that commenced August 20, 2007, for the County's proposed purchase of Election Systems & Software, Inc. (ES&S) optical scan voting equipment. Resolution R-917-07 included waivers of formal bid procedures, committee review and bid protest procedures and authorized negotiations with ES&S, the vendor of the County's current voting equipment. Pricing for the basic optical scan voting equipment had been pre-negotiated by the State of Florida (State), but the State's agreement did not include maintenance, support and certain other equipment.

County participants in the negotiations included the Department of Procurement Management (DPM) and Elections Department (Elections). The County Attorney's Office (CAO) provided legal sufficiency review and advice for the County's negotiating team. In keeping with Government Auditing Standards for maintenance of independence, OCA auditors' participation was limited to observing negotiations and, when appropriate, asking questions and offering suggestions to clarify contract terms and specifications.

Nothing came to our attention that suggests the negotiations of this proposed contract did not comply with the directions and intent of the BCC in Resolution R-917-07. Although neither Resolution R-917-07 nor 11/6/07 BCC Agenda Item No. 8(O)(1)(F) identify this as a sole source procurement, the bid waiver approved in Resolution R-917-07 was based on explanations by Staff that this was the only vendor who: (a) could readily integrate with the County's other voting system equipment, support, software and training; and (b) could provide the state-certified, multi-language capabilities that the County requires for voting equipment.

Hold-back provisions in the payment schedule in the proposed contract take into account that full satisfaction of the County's requirements for enhanced multi-language and certain other capabilities will require installation of a future, state-certified software modification that ES&S expects to deliver in early 2008.

We did not observe any reason to doubt the normalcy of the negotiations or to doubt adherence to ethical practices in the negotiations. In procurements where competitive bids are waived, good business practices include the use of negotiations to achieve the best available prices, and we did observe that the County was able to negotiate improvements in the vendor's offers for certain items, services and warranties. To our knowledge, no negotiation sessions occurred without the presence of an OCA auditor, and relevant emails were provided for our review.

Negotiations included the following meetings.

Date	Participants/Attendees	Description
8/20/07	DPM, Elections, OCA	Scope, requirements & contract planning
8/24/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
8/31/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
9/5/07	CAO, DPM, Elections, OCA	Scope, requirements, contract, & legal planning
9/10/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
9/13/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
9/24/07	DPM, Elections, OCA	Scope, requirements & contract planning
9/27/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
10/2/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
10/3/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
10/4/07	ES&S, DPM, Elections, OCA	Negotiations & clarifications
10/10/07	ES&S, DPM, Elections, OCA	Price clarifications & legal sufficiency
10/12/07	ES&S, DPM, Elections, OCA	Legal sufficiency
10/15/07	ES&S, DPM, Elections, OCA	Legal sufficiency
10/16/07	ES&S, DPM, OCA	Legal sufficiency

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and Members, Board of County Commissioners  
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c: Honorable Carlos Alvarez, Mayor  
George Burgess, County Manager  
R. A. Cuevas, Jr., County Attorney  
Chris Mazzella, Inspector General  
Alina Hudak, Assistant County Manager  
Lester Sola, Supervisor of Elections  
Miriam Singer, Director, Department of Procurement Management  
Cathy Jackson, Director, Audit and Management Services