Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 8(O)(1)(D)
07-24-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-917-07

RESOLUTION WAIVING FORMAL BID PROCEDURES, COMMITTEE REVIEW AND BID PROTEST PROCEDURES FOR THE PURCHASE OF OPTICAL SCAN EQUIPMENT, AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO NEGOTIATE WITH VENDORS WHO ARE CERTIFIED BY THE STATE OF FLORIDA TO PROVIDE SUCH EQUIPMENT

WHEREAS, this Board desires to accomplish the purpose outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds that it is in the best interest of the County to waive formal bid procedures and bid protest procedures pursuant to Section 4.03 of the Home Rule Charter and Sections 2-8.1 and 2-8.4 of the Code of Miami-Dade County by two-thirds (2/3) vote of the Board members present; directs the County Mayor or his designee to negotiate with the current vendor for the purchase of optical scan voting equipment in the presence of a representative of the Commission Auditor's Office; and authorizes a recommendation for the purchase of such optical scan voting equipment to be presented directly to the Board upon the completion of these negotiations.

The foregoing resolution was offered by Commissioner Natacha Seijas, who moved its adoption. The motion was seconded by Commissioner Rebeca Sosa and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman nay
Barbara J. Jordan, Vice-Chairwoman aye

Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	nay	Sally A. Heyman	absent
Joe A. Martinez	absent	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 26 day of July, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. OR

Oren Rosenthal

Memorandum

MIAMI-DADE COUNTY

Date: July 24, 2007

Amended
Agenda Item No. 8(O)(1)(D)

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

From: George M. Burgess
County Manager

Subject: Resolution Waiving Formal Bid Procedures and Bid Protest Procedures for the Purchase of Optical Scan Voting Equipment, and Authorizing Negotiation with Vendors who are Certified by the State of Florida R-917-07

On July 11, 2007, the Governmental Operations and Environment (GOE) Committee rejected the request to authorize the award of certain contracts during the Board recess in August for the Elections Department. Instead, the Committee approved a motion directing the County Manager to 1) present a request waiving formal bidding procedures, 2) initiate negotiations with all vendors certified to provide elections equipment by the state, 3) recommend waiver of bid protest procedures and 4) approve waiver of committee review of the award recommendation. This amended item incorporates this direction, clarifies language related to timeframes, and provides updated information from the Secretary of State.

Recommendation

The recommendation presented to the GOE Committee on July 11, 2007 was to modify the current, competitively bid agreement with Elections Systems and Software, Inc. (ES&S). That recommendation was based on the most cost effective and operationally efficient manner to provide the required equipment by integrating the County's current system with optical scan equipment from the original equipment manufacturer, ES&S. The County has invested almost $30 million in equipment, training, and services in the current system. This investment continues to provide significant value in our ability to manage elections and meet the needs of our voters. The GOE Committee rejected that recommendation. Therefore, consistent with GOE Committee action, it is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing waiver of formal bid procedures, and the bid protest process, for the purchase of a new voting system from a new vendor or optical scan equipment from the current vendor. This also authorizes the County Manager to negotiate with vendors who are certified by the State of Florida to provide such equipment, and authorizes the award recommendation to be presented directly to the Board. The three solicitations that were a part of the original item – lithographic printing press, high speed digital printers, and voting booths – are proceeding through the normal competitive process. Each has been advertised and the award recommendations will be presented directly to the Board on September 4, 2007 as directed by the GOE Committee.

Due to the operational needs of the Elections Department in preparing for the 2008 election cycle, this item is time sensitive. The Supervisor of Elections and I continue to recommend utilizing the optical scan equipment in as many elections in 2008 prior to the General Election scheduled in August 2008. Our experience in managing elections has shown that a significant amount of lead time is necessary to convert to a new voting system. In 2002, the Elections Department converted from punch cards to touchscreen equipment. This conversion was made in seven months and proved disastrous. As of today, there are only ten months remaining to implement the conversion to optical scanning. Again, the most prudent course of action is to allow as much time as possible to prepare and implement the new voting equipment.

Background

The recent passage of HB 537 requires that Miami-Dade County begin using paper based voting equipment by August 2008. As reported to the Board, the County was led to believe that the state would purchase the new equipment on behalf of the County. Subsequently, the state advised they would issue

grants for the funding rather than purchase the equipment for the counties. Based on this information and in the interest of full disclosure, my original recommendation to the Committee was supported by analysis of the schedule required for lead times, installation, testing, training and outreach. In the May 2005 market analysis distributed to the Board, vendors cautioned against compressed delivery schedules. Vendors stated that a nine month lead time is necessary for the delivery of voting equipment, not including the additional time required for training and implementation.

As directed by the Committee, the Elections Department is developing a scope of work outlining the required equipment and services. A negotiations team will evaluate the responses and negotiate the overall best value for the County. In accordance with the Committee's direction and in the best interest of the County, the process shall consider:

- Overall purchase price
- Future operating costs associated with the system(s)
- Ease of Use - for the voting public, poll workers, and County staff
- Projected life of the product and maintenance requirements including long-term maintenance costs
- Capability to produce ballots and the equipment's capacity to directly interface with the voter in English, Spanish and Creole, as required by County Code
- Certification of the system(s) by the State of Florida Division of Elections

The technical requirements of this purchase will include either a modification of the existing voting system to integrate optical scanners, or the purchase of a complete replacement of electronic voting system. A complete replacement of the system would include:

- new ADA-compliant touchscreens
- central and precinct optical scanners
- high speed printers
- new servers
- software solutions
- facility modifications to run a parallel tabulation room
- and other peripheral equipment

An evaluation method will be developed based on State of Florida voting system standards and performance requirements of the Elections Department. A negotiations team will be appointed and the Commission Auditor or designee will be present to observe the negotiations, as required by the Committee. Once the scope is finalized, the scope of the Invitation to Negotiate will be presented to the Review Committee for consideration of Small Business Enterprise measures. Any measures applied by the Review Committee will be included in the recommendation to award the contract. The recommendation for award will be presented directly to the full Board as soon as the negotiations are completed and a contract is executed.

Board approval of the Committee's action will delay the schedule for award by three to four months. The replacement of the entire electronic voting system may add an additional 12 to 18 months to the implementation process. The time constraints imposed by the state to convert from a touchscreen to an optical scan system have compelled the majority of counties – including Broward and Palm Beach – to amend their existing contracts with current vendors for the additional equipment. Attached is a letter from the Secretary of State expressing the intent of the legislation and highlighting the state's assumption that counties would remain with their current vendors.

Fiscal Impact/Funding Source

The cost to upgrade the current system to integrate with optical scanners is estimated to be $10 million. Based on the number of precincts and early voting locations, Miami-Dade County will receive approximately $5 million from the state for the purchase of the required optical scan voting equipment and Ballot-on-Demand system. As reported to the Board at the June 26, 2007 meeting, the state is not funding

the entire cost of the conversion. Additional costs associated with support equipment and supplies will be the responsibility of the County, with an estimated fiscal impact to the Elections Department of up to $7.5 million, as stated in the attached May 31st report. Funding for this purchase is included in the proposed FY 2007-2008 capital budget of the Elections Department. This estimate was based on continuing our contractual relationship with ES&S for the optical scan equipment.

The cost of replacing the existing system with an entirely new system is anticipated to substantially exceed this amount. The Department of Procurement Management has attempted to conduct updated market research to identify these costs, however the industry has not responded to recent requests for information. Any deviation from the original recommendation will require additional, unbudgeted funding for the equipment, hardware, potential facility modifications, and a substantial and time intensive training investment for pollworkers, staff, and voters countywide.

Scope
The scope of the proposed resolution is countywide in nature.

Track Record/Monitor
This contract will be monitored by the Elections Department.

I share the Committee's concerns, and believe strongly in the strength of competition and the value it brings to the County. In this instance, consistent with the intent of the state mandate, and in the County's best interest, I urge the Board to consider the original recommendation to waive competitive bidding and allow modification to the existing contract.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: July 24, 2007

FROM: R.A. Cuevas, Jr. Acting County Attorney

SUBJECT: Amended Agenda Item No. 8(O)(1)(D)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

✓ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

FLORIDA DEPARTMENT *of* STATE

CHARLIE CRIST
Governor

KURT S. BROWNING
Secretary of State

The Honorable Lester Sola
Miami-Dade Supervisor of Elections
2700 NW 87th Avenue
Miami, Florida

Dear Supervisor Sola:

This letter is in response to your request for information regarding implementation of House Bill 537 which was passed during the 2007 Legislative session and signed by the Governor in May. This legislation requires counties to use marksense ballots for precinct and early voting sites. It also provides a requirement that counties provide for a touchscreen system at each precinct and early voting site for voters with disabilities. The requirement to accommodate persons with disabilities is also required by federal law.

The original funding scheme and the ensuing funding agreements were based on the assumption that counties would stay with their current voting systems vendors. This assumption was made for a variety of reasons, to include familiarity with software, and the expense of completely changing out a system. In addition to ballot on demand equipment, the funding provided by the State will cover only the cost of one optical scan unit for each precinct and early voting site. Voting system equipment is vendor specific and counties must use a vendor's entire system. In order to change vendors, the county would have to purchase not only the optical scan systems, but also the additional touchscreens that are required as well as the election management system and any equipment needed for absentee and early voting. This did not seem reasonable to expect counties to implement, nor cost effective for the state.

Currently, we are planning on having the voting systems presently undergoing testing certified by mid-September. The certification process will occur simultaneously with funding agreements being signed. The goal is to have these systems ordered and the equipment in the county by February 1, 2008 with the systems being implemented by July 1, 2008 as required by law. Please keep in mind these are target dates and we are hopeful and working towards reaching these goals earlier than above.

I hope this letter answers your inquiry. Please feel free to contact the Division of Elections if you have any further questions.

Sincerely,

Kurt S. Browning

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6500 • Facsimile: (850) 245-6125
www.dos.state.fl.us

Memorandum

MIAMI-DADE COUNTY

Date: May 31, 2007

To: Honorable Carlos Alvarez, Mayor
Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Report Regarding the Passage of House Bill 537 Relating to Elections Laws

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Attached is a memorandum from Supervisor of Elections, Lester Sola, regarding the recent passage of House Bill 537 relating to elections laws, and its affect on Miami-Dade County. A more detailed update will be provided at the Government Operations and Environment committee on June 12, 2007.

Essentially, this legislation creates the following changes in the way all counties in Florida handle elections:

- Effective July 1, 2008 all voting in the State of Florida shall be by paper ballot. Miami-Dade County will begin to utilize optical scan technology as of the August 26, 2008 Primary Election.
- The dates of Florida's Primary Elections have been changed. The Presidential Preference Primary will now occur on the last Tuesday in January; for 2008, that means the Primary will be held on January 29th.
- Absentee ballots may be opened six days prior to the election, rather than four, allowing more time for canvassing.
- The candidate qualification period is moved up by three weeks for some elected offices.
- Supervisors of Election are authorized to use "ballot-on-demand" technology during Early Voting. This allows pollworkers to print ballots specific to the voter instead of printing a large number of ballots of each type at each location.

Lester and his staff have followed this legislation carefully and are preparing the department for implementation of these changes. I will continue to keep you apprised of additional information as it becomes available from the State. If you require additional information at this time, please contact me directly at 305-375-1880 or Lester Sola at 305-499-8509.

Attachment

c: Denis Morales, Chief of Staff, Office of the Mayor
Alina Tejeda Hudak, Assistant County Manager
Lester Sola, Supervisor of Elections

Memorandum

MIAMI-DADE COUNTY

Date: May 29, 2007

To: George M. Burgess
County Manager

From: Lester Sola
Supervisor of Elections

Subject: Report Regarding the Passage of House Bill 537 Relating to Elections Laws

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There was much debate throughout the 2007 Legislative Session regarding how Supervisors of Elections throughout the state should conduct future elections. The deliberation ended on May 3, 2007 when legislators approved House Bill (HB) 537, and Governor Crist signed into state law on May 21, 2007.

While there are many changes that will need to be addressed, two are of significant importance to the Miami-Dade County Elections Department at this stage. The first is the mandate to convert to "mark sense" voting equipment; and the second relates to the new dates for when Primary Elections will now be held.

Effective July 1, 2008, all voting in the State of Florida shall be by "mark sense" ballot, which is defined as a ballot that results in a paper record. As a result, Miami-Dade County will begin to utilize optical scan technology as of the August 26, 2008 Miami-Dade County Primary Election. This system requires voters to bubble in the circle next to their selection on a paper ballot comparable to the absentee ballot. The voter will then bring the paper ballot to the optical scan unit and insert it into the reader. The reader scans the ballot and electronically captures and tabulates the votes. During auditing, and in the case of a recount, the paper ballots may be manually counted. This technology will be used for both Early Voting and on Election Day. However, per the Help America Vote Act (HAVA) and the Americans with Disabilities Act (ADA) requirements, a minimum number of touch screen voting machines (iVotronics) will still be placed at each voting location. Persons with disabilities will have the option to continue using the iVotronics, which meet ADA accessibility requirements, or take advantage of the optical scan equipment.

I have been in support of the conversion to optical scan technology throughout my tenure as Supervisor of Elections, consistent with voters who have expressed the desire for a paper record of their votes. Optical scan technology provides such a record, which I believe will undoubtedly increase voter confidence. A Voter Satisfaction Survey conducted by the Metropolitan Center at Florida International University in May 2006 showed that 69% of the voters surveyed would like to have a paper record of their votes. Due to this significant number and the cost effectiveness of implementing this system, I believe this conversion to optical scan technology is a step in the right direction.

However, as I have stated many times in the past, <u>the optical scan units must be able to interface with voters in English, Spanish, and Creole.</u> I will continue to advocate to the Secretary of State and our vendor, Elections Systems & Software (ES&S), the need for optical scan units to have trilingual capability. It is extremely important for voters to continue voting in their preferred language - granting them the same comfort and ease to which they are accustomed. The units currently certified for use within the State of Florida display messages to the voters in English only. ES&S has communicated that a new optical scan model with trilingual capability is currently being developed and will likely be submitted for state certification later this year. My hope is that

equipment have been satisfied. The County currently has an outstanding balance of approximately $15 million on our current voting system. It is estimated that the value of our current voting equipment is limited. Nonetheless, all proceeds from a sale will be used to reduce our outstanding debt. The Board of County Commissioners may choose to opt out of this by filing a notice to that effect with the Department of State no later than June 30, 2007. It is my recommendation that we do not opt out of this proposal since the County's financial exposure would be increased.

The dates assigned to Primary Elections have also been changed. The Presidential Preference Primary will now occur on the last Tuesday in January, meaning the upcoming Presidential Preference Primary will take place on January 29, 2008. This will require the Elections Department to begin gearing up for this countywide election with an expected 30-40% voter turnout in late fall 2007, of which our current system will still be utilized. Throughout this conversion, please keep in mind the reliability and accuracy of our current system was never questioned. This conversion is simply a result of voter perception and an effort to increase voter confidence. Many checks and balances have been implemented for the testing, deployment, and auditing of the electronic voting equipment. Please be assured that the accuracy and integrity of the current system is unparalleled, and as we continue to utilize this equipment, every vote cast is accurately captured and tabulated.

Optical scan technology will be implemented by the Miami-Dade County Primary Election on August 26, 2008. All future Primary Elections will occur 10 weeks prior to the General Election in order to avoid having elections on the Tuesday following the Labor Day Holiday.

In addition, the new law also permits that absentee ballots may be canvassed six days prior to the election rather than four, allowing Supervisors of Elections more time to open absentee ballots. This is of particular benefit to Miami-Dade County considering that 10-20% of registered voters are expected to vote absentee for the 2008 Presidential Election and its ever-growing popularity. The new law also moves up the candidate qualification period by three weeks for state, multi-county district, county, district, and special district offices, with the exception of judicial offices, federal offices, and the offices of state attorney and public defender. We will work with municipalities that currently share election dates to modify their qualifying dates to mirror those of the state. Doing so will provide us with significantly more lead time in programming elections and printing ballots.

The Elections Department will proceed with the procurement, testing, and training necessary to convert to the new equipment effective July 1, 2008. I will continue to keep you apprised as to the implementation of these changes. The Elections Management Team is approaching the conversion to optical scan technology with great attention to detail and utmost care to ensure a smooth transition, implementation of effective checks and balances as currently employed, and to continue to strengthen voter confidence in the electoral process.

C: Alina T. Hudak, Assistant County Manager

this model (DS 200) will be available for use during the Primary Election scheduled for August 2008.

HB 537 also authorizes Supervisors of Elections to employ "ballot-on-demand" technology during Early Voting. Ballot-on-demand allows pollworkers to print a voter-specific ballot for each voter once he/she has been checked in at the Early Voting site, thereby eliminating the need to print a larger number of ballots than needed. While this technology seems to have promise, my Office will continue to monitor the development and usage of this technology to determine if implementation for the 2008 Presidential Election is in the County's best interest. There is currently only one county within the State that utilized ballot-on-demand as a test. I would like to see more widespread testing before recommending its use in Miami-Dade County.

The state has allocated $27.8 million to fund the conversion to optical scan for the 15 counties that currently use electronic voting equipment. Based on the number of Early Voting locations and precincts we have, Miami-Dade County should receive $4 to $5 million in equipment from the state. It is important to note that this is only an estimate based on preliminary discussions with state officials. More reliable figures will be known once the funding formula is established. The funding level approved by the Legislature will provide for a defined number of units at each Early Voting site and one unit per precinct. It is still undetermined whether the State will procure the equipment on behalf of the counties or if the Florida Division of Elections will establish a state contract for the counties to access.

The County will still be required to buy additional equipment, paper ballots, and other supplies. Since the state is not funding the entire cost of the conversion, the fiscal impact to Miami-Dade County is anticipated to be between $6 and $7.5 million for the initial cost of implementation. I recommend the County lobby the State during the 2008 Legislative Session to provide additional financial support to meet this mandate using HAVA monies currently held in reserve, and to which I feel all 15 counties are entitled.

The Department of Procurement Management has conducted two market analyses regarding the feasibility of purchasing optical scan voting equipment. The resultant research concluded that while there is an initial cost, this technology would realize significant savings over time. Based on the latest analysis of the marketplace, it is estimated that converting to optical scan voting equipment would result in a cost reduction of approximately $800,000 per Gubernatorial Election and approximately $2 million per Presidential Election. Additional savings would be realized for other countywide elections. These savings will increase over time since initial expenses for conversion will impact these savings. Long term savings will eventually offset the cost of conversion to optical scan equipment.

At this juncture, and in consultation with the Office of Strategic Business Management, it is difficult to surmise the exact cost savings to the County since the State of Florida has not yet finalized the funding formula that will be used to distribute equipment to the counties. With more information on the funding structure, I will be in a better position to report the true fiscal impact to the County. I will report back to you with details once this information is obtained.

As a condition of the State purchase of optical scan and ballot-on-demand equipment, Miami-Dade County must authorize the Secretary of State to negotiate the purchase of new equipment on the County's behalf. In addition, the County must give authorization to the Secretary of State to sell, exchange, or dispose of existing touch screen voting equipment and designate the Secretary of State as the authorized recipient of all proceeds realized from the sale, exchange, or other disposition of the equipment, after obligations or indebtedness associated with the voting