



Interoffice Memorandum

July 11, 2023

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

~~FROM:~~ Carrie Mathes, CFCM, NIGP-CPP, CPPO, C.P.M., Manager II,
Procurement Division

CONTACT: Carrie Mathes, CFCM, NIGP-CPP, CPPO, C.P.M., Manager II,
Procurement Division
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SUBJECT: Approval of Single Source Determination, Supervisor of Elections Voting
Equipment Upgrades

ACTION REQUESTED:

Approval of Single Source Determination, Supervisor of Elections Voting Equipment Upgrades,
with Election Systems & Software, LLC.

PROCUREMENT:

In consideration of the Supervisors of Elections request for FY24 funding to support the acquisition of 380 DS300® poll place scanners and tabulators and eight DS950® high-speed scanners and tabulators, Florida Statutes require the Mayor to certify to the Division of Elections, upon a finding by the Board, that conditions exist to support a single source procurement of the equipment, negating the requirement for a competitive solicitation process.

APPROVALS:

The Procurement Division concurs with this recommendation.

REMARKS:

In conjunction with their fiscal year 2024 budget request, the Orange County Supervisor of Elections has informed the County of their intent to purchase state certified equipment upgrades to replace aging poll place scanners and tabulators and high-speed scanners and tabulators to be used at voting precincts throughout the county.

Procurement staff has performed a comprehensive analysis of the equipment upgrade and confirms that the procurement strategy supports a single source determination.

Per Section 101.294(1), Florida Statutes, no governing body shall purchase or cause to be purchased any voting equipment unless such equipment has been certified for use in this state by the Department of State. On June 2, 2023, the Florida Department of State issued both a Certificate of Conformance and Voting System Certification #230602-ES&S memorandum, certifying Election Systems & Software, LLC's DS300® precinct tabulator and DS950® central high-speed scanner

and tabulator, further stating that “all counties and municipalities in Florida may purchase or use this system.

In addition to the precinct tabulators and high-speed scanners and tabulators, the Supervisor of Elections also utilizes a third component to facilitate the voting process, the ExpressVote interface device, for which no upgrade is currently available. Election Systems & Software, LLC (ES&S) has provided written confirmation that they do not currently have a timeline when another version will be available to the market. All existing equipment utilizes their propriety Electionware software.

On June 30, staff obtained a signed letter from ES&S stating that the DS300® and DS950® are proprietary as well as the associated software and firmware. The letter further confirms that ES&S is the only authorized distributor and seller of the equipment, and they are the sole and exclusive developer and licensor of the proprietary Electionware software. Additionally, no other voting equipment in the marketplace will work in conjunction with the Electionware software.

Based on the documentation provided by the State of Florida and ES&S, the Procurement Division concurs that due to the proprietary software and existing equipment for which no upgrade is available, the acquisition of equipment upgrades of the precinct tabulators and high-speed scanners and tabulators creates a condition that supports the equipment that can only be procured by a single source, ES&S, thereby requiring an exception from the competitive solicitation process.