

CONTRACT ADMINISTRATION BOARD MEETING



Honorable Daniel P. McCoy, *County Executive*
Honorable Thomas G. Clingan, *County Clerk*
Honorable Shawn M. Morse, *Chairman, County Legislature*

Tuesday, October 9, 2012 | CEO Conference Room, 112 State Street, Suite 200 | 1:00 PM

Members Present: Daniel McCoy, *County Executive*
Thomas Clingan, *County Clerk*
Shawn M. Morse, *Chairman County Legislature*

Others Present: Matt Clyne, *Board of Elections*
Rachel Bledi, *Board of Elections*
Karen Storm, *Purchasing*
Thomas Marcelle, *Law*
Eugenia Condon, *Law*
Adam Giangreco, *Law*
Steve D. Rahmas, *Law*
Paula Ragaini, *Minority Office*
Tom Scarff, *County Executive*
Scott Siegel, *County Executive*
Chandra Williams, *County Executive*
Ashley Smith, *Management & Budget*
Dave Friedfel, *Management & Budget*
Cillian Flavin, *County Executive/Management & Budget*
Sarah Cantwell, *Management & Budget*
Members of the Public

Meeting commenced at 1:08 PM.

TYPE: NEW
Contract Number: 944
Requesting Department: A1450 - Board of Elections
Vendor: Phoenix Graphics
Scope of Services: Absentee ballots for the general election 11/6/2012 (sole source). Absentee ballots and affidavit ballots.
Term: General Election 11/6/2012
Amount: \$ 28,909.00

Mr. Clyne explains that they have two contracts. One for absentee ballots and the other relates scanners. For the absentee ballots ES&S has the contract and is sole source. Mr. Clingan asks if the board members have any questions. No questions. Mr. Clingan motions to approve contract, Mr. Morse seconds the motion.

Contract approved unanimously.

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<u>TYPE:</u>	NEW
<u>Contract Number:</u>	950
<u>Requesting Department:</u>	A1450 - Board of Elections
<u>Vendor:</u>	Fort Orange Press
<u>Scope of Services</u>	Printing of General Election Ballots and Test Ballots for DS200 (machine ballots) and Wall Hangings (sample ballots)
<u>Term:</u>	General Election 11/6/2012
<u>Amount:</u>	\$ 78,249.00

Mr. Clyne explains that this is for the General Election ballots and is the subject of some controversy. It had appeared that ES&S was the low bidder but there was a question about the test ballots that were included in the bid. The bid was reissued and Fort Orange came in as the low bidder. Mr. Clingan asks if the BoE is recommending this contract go through. Mr. Clyne and Ms. Bledi state yes. Mr. Clingan notes that we have interested parties in the meeting that would like to speak on the contract before the vote is taken. Mr. Robert Koegel, who represents ES&S/Phoenix Graphics, states that Fort Orange, does not meet the material requirements. He questions why they would get the bid. He states that ES&S is the only responsible low bidder that responded. Letters were sent to General Services with questions on this issue, no response was received. They have filed a motion 78 lawsuit. He feels it would be illegal for Fort Orange to receive this bid.

Next to speak is Judd Ryan a sales manager at ES&S. He states that the three main bid specs that were requested are not met by Fort Orange; they being: 1-experience- 5years, 2yrs with DS200. 2- DS200 on facility floor- for testing ballots. 3- Software ability to make last minute edits. He adds that he believes that these specs can only be met by ES&S. Mr. Marcelle asks if these are the only companies that can provide these specs? Mr. Ryan replies that based on the specs, yes.

Mr. Marcelle requests a specific response as to why Fort Orange cannot produce these specs. Mr. Ryan explains the first issue is that Fort Orange does not meet the experience requirements and that Fort Orange has not produced ballots in New York. Fort Orange does not produce DS200 ballots. The next issue is DS200 on the floor which is used for the Diagnostic Program for Optical Scan of the ballots (the ballot testing). This is a utility that ES&S has created and they have not shared with any other company. If the code channels or timing marks are off the scan will not be read. Mr. Marcelle asks where in the RFB it states that the DS200 must be on the floor? There was a letter to the Purchasing Department sent in September regarding this issue. Mr. Marcelle produces the letter. The last spec noted in the software to do the testing of the ballots. Mr. Marcelle asks how they know that Fort Orange cannot provide this service. ES&S has not provided the software for anyone to do the testing. It is not for sale. Mr. Marcelle asks if the BoE has this software capability? Mr. Ryan responds no. Mr. Marcelle then asks if Fort Orange can purchase this software and Mr. Ryan responded no.

Mr. Clingan asks if anyone has any questions on the information provided. No questions. He then notes that they will go in to executive session to discuss the decision as it is under a legal discrepancy.

Mr. Clingan moves to go into Executive Session. Mr. Morse seconds the motion. The motion is unanimously passed. All visitors leave the room.

Mr. Clingan moves to exit Executive session Mr. Morse seconds the motion. The motion is unanimously passed. Executive session is closed. All visitors return to the room.

Mr. Clingan asks if there are any questions. No questions. Mr. Clingan states that "based on all the circumstances, all the correspondence and the recommendation of the Albany County Board of Elections, the Board finds that the lowest responsible bidder is Fort Orange Press and they meet all material aspects of the RFB therefore," Mr. Clingan motions to approve contract, Mr. Morse seconds the motion.

Contract approved unanimously.

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Meeting adjourned at 1:34PM.