

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## AGENDA ITEM SUMMARY

Meeting Date: August 14, 2018      ☒ Consent      ☐ Regular  
☐ Ordinance      ☐ Public Hearing

**Department: Administration**

**Submitted For: Supervisor of Elections**

## I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to:

**A) ratify** the Mayor's signature of approval for the Elections Security Grant under the Help America Vote Act for \$909,513.26. The funds provided under this agreement shall be used for advance payment for allowable expenses to enhance elections security for the 2018 Primary and General Elections.

**B) authorize** the County Administrator or designee to execute the grant award and amendments and to submit electronic reports after approval of legal sufficiency by the County Attorney's Office and within budget allocations.

**Summary:** This agreement is between the State of Florida, Department of State, Division of Elections, an agency of the State of Florida and the Supervisor of Elections for Palm Beach County. Palm Beach County has been given \$909,513.26 of the \$15,450,000 allocated to the State of Florida. The funds will be used to strengthen the implementation of cybersecurity for election systems and other election enhancements. **No local match is required for this grant.** Countywide (DN)

**Background and Justification (or Policy Issues):** In agreement with the Omnibus Appropriations Act of 2018 enacted on March 23, 2018, \$380 million in grants were allocated to States to improve the administration of elections for Federal office, including technology enhancements and election security improvements. Of the \$19,187,003 given to the State of Florida, the Florida Legislative Budget Commission has authorized the Department of State to distribute among Florida's 67 county Supervisor of Elections a sum total of \$15,450,000 in non-recurring funds for use in the 2018 Primary and General Elections.

**Attachments:**

- ## 1. Memorandum of Agreement for Elections Security Grant under the Help America Vote Act

Recommended by: N/A  
Department Director \_\_\_\_\_ Date \_\_\_\_\_

Approved By: \_\_\_\_\_ Assistant County Administrator Date: 8/10/14

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures					
Operating Costs	\$909,513				
External Revenues	(\$909,513)				
Program Income(County)					
In-Kind Match(County					
NET FISCAL IMPACT	\$0				
#ADDITIONAL FTE					
POSITIONS (CUMULATIVE					

Is Item Included in Current Budget? Yes X No  
Does this item include the use of federal funds? Yes No X

Budget Account No:  
Fund 0001 Agency 180 Organization 1109 Object 9021

B. Recommended Sources of Funds/Summary of Fiscal Impact:

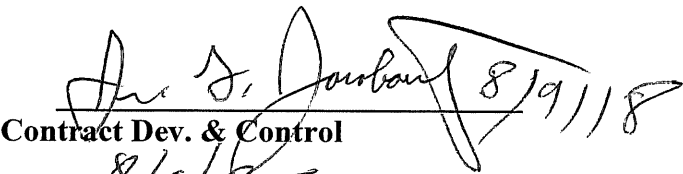
C. Departmental Fiscal Review:

\_\_\_\_\_

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

  
ASD OFMB  
8/2

  
Contract Dev. & Control  
8/9/18 TW

B. Legal Sufficiency

  
8/9/18  
Assistant County Attorney

C. Other Department Review

\_\_\_\_\_  
Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

**MEMORANDUM OF AGREEMENT**  
**FOR ELECTIONS SECURITY GRANT UNDER THE HELP AMERICA VOTE ACT**

This agreement is between the State of Florida, Department of State, Division of Elections ("Department"), an agency of the State of Florida, and Susan Bucher, Supervisor of Elections for Palm Beach County, Florida). This agreement governs the receipt and use of federal funds as specified herein.

**I. Governing Law**

Pursuant to the Omnibus Appropriations Act of 2018 enacted on March 23, 2018, \$380 million in grants were allocated to States to improve the administration of elections for Federal office, including to enhance technology and make certain election security improvements. Through a formula described in Sections 101 and 1043 of the Help America Vote Act (HAVA) of 2002 (Public Law 107-252), Florida was allocated \$19,187,003. The State's non-federal match requirement for this award is \$959,350 (5% of the Federal funds) to be satisfied over a two-year period.

Of the \$19,187,003 distributed to the State of Florida, the Florida Legislative Budget Committee has authorized the Department of State ("Department" hereinafter) to distribute among Florida's 67 county Supervisors of Elections ("Sub-recipients" hereinafter) a sum total of fifteen million, four hundred and fifty thousand dollars and no cents (\$15,450,000) in non-recurring funds for use in the 2018 Primary and General Elections. This authorization is made pursuant to section 251 of the Help America Vote Act of 2002 (HAVA) and the Catalog of Federal Domestic Assistance (CFDA) 90.401 ("Help America Vote Act Requirements Payments").

**II. Scope of Work, Deliverables, Restrictions**

**A. Scope of Work**

Funds provided under this agreement shall be used for advance payment for allowable expenses to enhance elections security for the 2018 Primary and General Elections. Those allowable expenses and the timeline by when requests must be submitted and funds must be spent are described below in greater detail in the table in subsection B.

**B. Deliverables, Minimum Levels of Service, and Financial Consequences**

Deliverables (Option 1 and/or 2)	Minimum Level of Service	Financial Consequences
1. Federal Election Administration Activities - The purchase of services and/or products that do the following for the 2018 Primary and/or General Elections: <ul style="list-style-type: none"><li>Strengthen the implementation of cybersecurity for election systems</li><li>Enhance election</li></ul>	Sub-recipient has from June 20, 2018 through July 18, 2018 to submit an application for these grants using the DOS Online Grants program.  At the time of grant application, Sub-recipient shall provide a detailed description of the services and/or products to be provided, received and/or used for the 2018 Primary Election and/or General Election.	An initial application for funds not requested by July 18, 2018, are forfeited to the Department.  Any funds, including interests accrued, remaining after November 6, 2018, or not otherwise

<p>technology</p> <ul style="list-style-type: none"> <li>• Facilitate cybersecurity training for local election officials</li> <li>• Implement established cybersecurity best practices for election systems</li> <li>• Continue election administration activities including, but not limited to, voter education, poll worker training, and standardizing elections results reporting</li> </ul>	<p>No later than November 6, 2018, General Election Day, Sub-recipient shall have expended and/or encumbered for services and/or products to be used or implemented.</p> <p>Sub-recipient shall submit a final expenditure report due no later than December 15, 2018, that also includes documentation evidencing the services and/or products purchased, used and/or implemented for the 2018 Primary and/or General Election.</p>	<p>encumbered for services and/or products received or provided on or before November 6, 2018, must be returned to the Department, no later than December 15, 2018.</p> <p>Any funds determined not to be expended in accordance with this agreement shall be forfeited and returned to the Department, within 30 days after the date of written notice.</p>
<p>2. Voting Systems Assistance</p> <ul style="list-style-type: none"> <li>- The purchase of services and/or products that do the following for the 2018 Primary and General Elections:</li> <li>• Upgrade election-related computer systems to address cyber vulnerabilities</li> </ul>	<p>Sub-recipient has between June 20, 2018 and July 18, 2018 to submit an application for these grants using the DOS Online Grants program.</p> <p>At the time of grant application, Sub-recipient shall provide a detailed description of the services and/or products to provided, received and/or used for the 2018 Primary Election and/or General Election.</p> <p>No later than November 6, 2018, General Election Day, Sub-recipient shall have expended and/or encumbered for services and/or products to be used or implemented.</p> <p>Sub-recipient shall submit a final expenditure report due no later than December 15, 2018, that also includes documentation evidencing the services and/or products purchased, used and/or implemented for the 2018 Primary and/or General Election.</p>	<p>An initial application for funds not requested by July 18, 2018, are forfeited to the Department.</p> <p>Any funds, including interests accrued, remaining after November 6, 2018, or not otherwise encumbered for services and/or products received or provided on or before November 6, 2018, must be returned to the Department, no later than December 15, 2018.</p> <p>Any funds determined not to be expended in accordance with this agreement shall be forfeited and returned to the Department, within 30 days after the date of written notice.</p>

### C. Request and Disbursement Process

The Department shall distribute to each eligible Sub-recipient upon request and submission of a completed grant application a minimum payment amount of fifty thousand dollars (\$50,000) plus a proportional amount based on the 2010 Census voting age population. The amount per county is based on the aggregated remaining amount of the total grant for the 67 Sub-recipients divided by the total number of voting age population for the State in the most recent decennial and then multiplied by the respective county's voting age population. The amount that each eligible Sub-recipient may receive is set forth in **Attachment A**.

In order to receive funds, the Sub-recipient shall submit a complete grant application between June 20, 2018 and July 18, 2018, using the Department of State's Online Grants Program at <http://www.dosgrants.com>. The application must contain a description of the plan to be implemented.

Additionally, before the Sub-recipient may receive funds, the Sub-recipient must submit the following:

1. A completed ED Form GCAS-009 (6/88), entitled "*Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions*", and attached hereto as **Attachment B**. [Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35, prohibits the disbursement of federal funds to the intended recipient of such funds or to any sub-recipient thereunder unless such recipient and each sub-recipient, if any, certify that they are not excluded or disqualified from receiving federal funds by any federal department or agency.]
2. A completed "Certificate of Equipment for Casting and Counting Ballots" (DS-DE 135, Effective 8/16), attached hereto as **Attachment C**. This is required if the request, in part or in full, is to use HAVA funds for the purpose of purchasing emerging or enhancing software and hardware technology.

### D. Final Expenditure Report

The Sub-recipient must provide a final expenditure report including supporting documentation evidencing allowable expenses no later than November 30, 2018. Supporting documentation shall include invoices, canceled checks, purchase orders, vendor contracts, and other records that detail the services or products provided and the costs of such services and/or products. Failure to submit the report may result in immediate forfeiture of all funds, including any interest accrued. Any funds determined not to be expended in accordance with this agreement shall be forfeited and returned, including any interest earned, to the Department within 30 days of written notice.

### E. Restrictions

Sub-recipient shall not use any funds received hereunder to support lobbying activities to influence proposed or pending federal or state legislation or appropriations, but this does not affect the right of the Sub-recipient, or that of any other organization to petition Congress, or any other level of Government, through the use of other resources.

If the Sub-recipient expends any funds on expenses that are not allowable, the Sub-recipient must reimburse immediately the Department the funds, not otherwise expended for allowable costs, including any interest earned during the term of this agreement.

If the Sub-recipient receives advanced funds, the Sub-recipient must establish and maintain these public funds in an interest bearing account in a "qualified public depository" as defined by section 280.02(26),

Florida Statutes. The Sub-recipient must segregate the funds in a separate account established to hold only such funds. Sub-recipient must comply with the applicable requirements of chapter 280, including but not limited to:

- The execution and retention in your official records of a Public Deposit Identification and Acknowledgement Form.
- The submission each year by November 30<sup>th</sup> of a Public Depositor Annual Report to the Chief Financial Officer (DFS-J1-1009).

For more information refer to the Department of Financial Services Collateral Management for Governmental Units webpage or contact the Program Administrator at 850-413-3167.

### III. Payments

The Sub-recipient is encouraged to use electronic funds transfer (EFT) to receive payment as an alternative to receipt of payment by warrant. All Sub-recipients wishing to receive funds through electronic funds transfer must submit a Direct Deposit Authorization form to the Florida Department of Financial Services. If EFT has already been set up for your organization, you do not need to submit another authorization form unless you have changed bank accounts.

### IV. Monitoring, Audits, and Audit Reporting

The administration of resources awarded to the Sub-recipient, as indicated on **Attachment D- Exhibit 1**, may be subject to monitoring, audits and reporting requirements herein.

#### A. Monitoring

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, and Section 215.97, F.S., (see Part B "Audits") monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. (see **Attachment D**) By entering into this agreement, the Sub-recipient agrees to comply and cooperate with any monitoring procedures/processes the Department deems appropriate.

#### B. Audits

##### 1. Federally Funded Audits (OMB Circular A-133, as revised in supplemental 2017.)

In the event that the Sub-recipient expends \$750,000 or more in Federal awards in its fiscal year, the Sub-recipient is **required** to have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards expended in its fiscal year, the Sub-recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit conducted by the Auditor General must satisfy the requirements of Subpart E of OMB Circular A-133, as revised. In connection with the audit requirements the Sub-recipient shall fulfill the responsibilities of an auditee as provided in Subpart C of OMB Circular A-133, as revised.

If the Sub-recipient expends less than \$750,000 in Federal awards in its fiscal year, an audit is **not required**. The Sub-recipient, however, must make records available for review or audit upon request by appropriate officials of U.S. Election Assistance Commission, the Department, and the General Accounting Office (GAO). If the Sub-recipient elects to have an audit conducted in accordance with the

provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (i.e., resources obtained from other than Federal entities).

2. *Other audits*

The Department may conduct a limited scope audit of federal funds as defined by OMB Circular A-133 (as revised) or other financial analysis or review of federal funds as permitted by federal law. In the event the Department determines that a limited scope audit or other type of audit of the Sub-recipient is appropriate, the Sub-recipient agrees to comply with any additional instructions provided by Department staff to the Sub-recipient regarding such audit. If the Department determines that federal funds received under this Agreement were used for any unauthorized purpose or that the Sub-recipient did not comply with this agreement or state or federal requirements for receipt, expenditure, or accounting, the Sub-recipient must return or repay these federal funds in an amount sufficient to ensure or obtain compliance, including expenses for any corrective or remedial action.

The Sub-recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department of State, Chief Financial Officer (CFO) or Auditor General.

*Additional guidance to state and federal monitoring and auditing requirements may be found at <http://www.edc.gov>.*

C. **Audit Reporting**

Copies of financial reporting packages as described in Subpart C- Auditees, section \_\_\_\_ .320(c), OMB A-133 (as revised) for audits conducted by or on behalf of the Sub-recipient pursuant to Section IV.B.1 of this agreement, shall be submitted as required by sections .320(d) of such circular to:

<i>Department of State</i>	<i>Department of State</i>	<i>Auditor General's Office</i>	<i>Federal Audit Clearinghouse</i>
<i>Division of Elections</i>	<i>Office of Inspector General</i>	<i>Claude Pepper Bldg.</i>	<i>Bureau of the Census</i>
<i>R.A. Gray Bldg., Ste 316</i>	<i>R.A. Gray Bldg., Rm. 406</i>	<i>111 West Madison St.</i>	<i>1201 East 10<sup>th</sup> St.</i>
<i>500 S. Bronough St.</i>	<i>500 S. Bronough Street</i>	<i>Tallahassee, FL</i>	<i>Jeffersonville, IN</i>
<i>Tallahassee, FL</i>	<i>Tallahassee, FL</i>	<i>32399-1450</i>	<i>47130</i>
<i>32399-0250</i>	<i>32399-0250</i>		

Any reports, management letter, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely and in accordance with OMB Circular A-133, the Florida Statutes, and/or Chapter 10.550 (local governmental entities) of the Rules of the Auditor General, whichever is applicable . The correspondence accompanying the financial reporting package forwarded to the Department must include the date the Sub-recipient received the reporting package.

V. **Record Retention**

The Sub-recipient shall keep and maintain accurate and detailed records sufficient to demonstrate its compliance with the terms of this agreement. The Sub-recipient shall retain these records for five fiscal years in accordance with the guidelines of the Department of Financial Services and the Office of the Auditor General, or three years after the date an audit report is issued, whichever is later. The Sub-recipient shall allow the Department or its designee, CFO, or Auditor General access to such records, including access to the audit working papers upon request.

VI. **Entirety of the Agreement**

All terms and conditions of this agreement are fully set forth in this document and its attachments and shall be governed by the laws of the State of Florida regardless of any conflict of laws provisions. In any

proceeding or action brought under this section, the parties agree that the prevailing party will be entitled to its reasonable attorney's fees from the other party. The parties agree that proper venue will be in Leon County, Florida. This agreement is effective as of the date it is fully executed.

IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their undersigned officials as duly authorized.

By County Supervisor of Elections/Sub-recipient

Signature: Susan Bucher  
Name and Title: Susan Bucher  
Supervisor of Elections

Address: 240 S. Military Trail  
West Palm Beach, FL 33415

County FEID No. 74-3196272

Witness: [Signature]  
Date: 07/12/18

By Department of State, Division of Elections

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_

Address: R.A. Gray Building  
500 S. Bronough Street, Ste. 316  
Tallahassee, Florida 32399

Witness: \_\_\_\_\_  
Date: \_\_\_\_\_

**ATTACHMENT B  
MOA 2018-2019-001**

**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Susan Bucher  
Susan Bucher, Palm Beach County Supervisor of Elections  
Name and Title of Authorized Representative

Susan Bucher  
Signature  
7/17/18  
Date

**ATTACHMENT C**  
**MOA 2018-2019-001**

**Certificate of Equipment for Casting and Counting Ballots**

We, Susan Bucher, Supervisor of Elections and  
Melissa McKinley Chairperson of Board of County Commissioners, of  
Palm Beach County, Florida, do hereby certify that prior to the receipt and use of funds for the  
purchase of State-approved or certified (whichever is applicable) emerging or enhancing  
software or hardware technology, the county has purchased and made available sufficient  
equipment for casting and counting ballots to meet the needs of the county electors for the  
next regularly scheduled general election. If the Florida Department of State determines that  
there is insufficient equipment for casting and counting ballots for the next regularly scheduled  
general election as herein certified, we shall return the HAVA funds that were used to purchase  
other emerging or enhancing software and hardware technology to the State.

Susan Bucher  
Supervisor of Elections

Melissa McKinley  
Chairman, Board of County Commissioners

7/17/18  
Date

7/17/18  
Date