WEST VIRGINIA CODE: §3-4A-7

§3-4A-7. Bids and contracts for vote recording devices; false swearing or failure to disclose facts.

Contracts for the purchase or lease of vote recording devices shall be based on competitive bids. The county court shall solicit sealed bids by sending requests by mail to all known manufacturers and suppliers of vote recording devices which have been previously approved by the state election commission as hereinafter provided. The award of contracts of purchase or lease shall be based on the quality, cost, specifications and suitability of the particular vote recording device, technical services to be provided by the manufacturer, and the cost and availability of automatic tabulating equipment suitable for use in connection with said vote recording devices and the ballot cards used therewith.

No bid shall be accepted by the county court unless accompanied by a contract which shall provide that in the event the bid is accepted the party or parties making the sale or lease shall:

(1) Guarantee in writing to keep the vote recording devices in good working order for five years without additional cost to the county court.

(2) Warrant to defend and indemnify the county court against any claim for patent infringement, and in case any vote recording device or devices shall be held to be an infringement of a valid patent, to obtain a license for the use of such patent on the vote recording devices sold or leased to the county court or to modify the devices so that the offending infringement is removed without altering the efficiency or statutory requirements of the devices; all at the sole cost and expense of the supplier of the vote recording devices.

(3) Provide a bond with good corporate surety duly qualified to do business in West Virginia, conditioned upon the due performance of said guaranty and said warranty, in a penal sum to be fixed by the county court.

No bid shall be accepted by the county court unless the party or parties submitting the bid shall file with the bid an affidavit:

(1) Disclosing the name and address of, and the amount of any contribution paid or to be paid to, any individual, partnership, corporation or association hired regularly and specially for the purpose, or party for the purpose, of attempting to influence directly or indirectly the purchase or lease of the vote recording devices represented by the bid.

(2) Declaring that no individual, partnership, corporation or association not disclosed in said affidavit shall thereafter be regularly or specially hired and no contribution shall thereafter be paid for the purpose or partly for the purpose of attempting to influence directly or indirectly the purchase or lease of the vote recording devices represented by the bid.

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For the purpose of this affidavit, the word "contribution" shall mean payment, distribution, loan, advance, deposit, gift of money, property, benefit or other consideration, or any agreement providing for a payment, distribution, loan, advance, deposit, or gift by money, property, benefit, or other consideration at any future time.

Any person who shall knowingly or wilfully make any false or fraudulent statement, or who shall knowingly or wilfully fail to disclose any material fact in the affidavit required by this section shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than $1,000 nor more than $5,000 or imprisonment in the state penitentiary for not less than one year nor more than three years, or both, in the discretion of the court.

In construing this section, the term "person" shall include an individual, partnership, committee, association, and any other organization or group of persons.

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