



Board of County Commissioners – Clerk Report

Meeting Date: April 19, 2022

Presenter: Maureen Murphy

Submitting Dept: Clerk

Subject: Interagency Agreement with SOS

Statement / Purpose: To enter into an agreement with the State of Wyoming, Office of the Secretary of State regarding the State's EPollbook module.

Background / Description (Pros & Cons): This agreement sets forth the responsibilities of the County and the State regarding the acceptable use of the State's Electronic Pollbook (EPB) module of the Wyoming Voter Registration and Election Management System (WyoReg). This agreement will be in effect thru December 31, 2022.

Stakeholder Analysis & Involvement:

Fiscal Impact: N/A

Legal Review: Gingery reviewed and approved.

Staff Input / Recommendation: Approval of agreement.

Attachments: The Interagency Agreement between the State of Wyoming, Office of the Secretary of State and Teton County Clerk's Office.

Suggested Motion: I move to approve the agreement between Teton County and The State of Wyoming, Office of the Secretary of State.

**INTERAGENCY AGREEMENT BETWEEN
THE STATE OF WYOMING, OFFICE OF THE SECRETARY OF STATE
AND
TETON COUNTY CLERK'S OFFICE**

1. **Parties.** The parties to this Interagency Agreement (Agreement) are the State of Wyoming, Office of the Secretary of State (State), whose address is: Herschler Building East, 122 W. 25th Street, Suites 100 and 101, Cheyenne, WY 82002, and the Teton County Clerk's Office (County), whose address is: 200 South Willow Street, P.O. Box 1727, Jackson, WY 83001.
2. **Purpose of Agreement.** The purpose of this Agreement is to set forth the responsibilities of the County regarding the acceptable use of the State's Electronic Pollbook (EPB) module of the Wyoming Voter Registration and Election Management System (WyoReg).
3. **Term of Agreement.** This Agreement is effective when all parties have executed it (Effective Date) and shall remain in full force and effect until December 31, 2022.
4. **Payment.** No payment shall be made to either party by the other party under this Agreement.
5. **Responsibilities of State.** The State shall have the following responsibilities during the term of this Agreement:
 - A. The State will continue to pay for the hosting, operational support, help desk and ongoing maintenance of the EPB module.
 - B. The State shall provide one (1) onsite EPB subject matter expert in each county utilizing the EPB module for the 2022 Primary Election and 2022 General Election.
6. **Responsibilities of County.** The County shall have the following responsibilities during the term of this Agreement:
 - A. The County agrees that any County-owned computer that accesses the sandbox or production EPB module, shall:
 - (i) Be password protected;
 - (ii) Utilize the lock-out screen and require re-authentication after fifteen (15) minutes of inactivity;
 - (iii) Not have a web camera or, if a web camera is present, the drivers shall be removed and/or the device disabled;

- (iv) Have installed on it a managed end-point protection system;
- (v) Have Bluetooth disabled;
- (vi) Prior to election day usage, be updated with the most current operating system and browser updates as provided by the computer manufacturer. If updates are released seven (7) days or less prior to an election, it is at the discretion of the County as to whether or not those specific updates are applied to computers accessing EPB.
- (vii) Not have Remote Desktop Protocol (RDP) enabled, or other remote desktop software installed;
- (viii) Not have SQL Server Management Studio (SSMS), or similar application, installed unless requested by the State or its designee for the purpose of EPB support. Any requested installation of SSMS or similar application is required to be uninstalled immediately following support issue resolution; and
- (ix) Have a physical and/or technical control to prevent unauthorized access placed on each computer port not necessary to access and utilize the EPB module. The control shall be one that can easily be identified as having been broken or compromised. If applicable, the control number(s) shall be logged to the chain of custody log.

B. On each EPB computer, the County shall ensure:

- (i) One of the following:
 - (a) If the Internet connection is hard wired, that wireless connectivity is disabled; or
 - (b) If wireless connectivity is required, the WiFi connection must be a known, secure wireless connection. Accessing EPB on an unsecure, public WiFi is not permitted.
- (ii) That all proprietary software provided by the computer manufacturer (e.g. HP, Dell, etc.) has been removed from the device. Examples include Dell Management Software, HP Security Manager, etc.
- (iii) That Internet access is prohibited except for downloading and/or updating the EPB client and other required EPB hardware or software components; and

- (iv) That no email client or web-based email system is accessible.
- C. The County shall not permit a County-owned computer to access the EPB module without ensuring the requirements in Section 6.A. and 6.B. have been met.
- D. The County shall designate an employee that will verify, by no later than August 1, 2022, that the requirements of Section 6.A. and 6.B. have been met, and will communicate that verification, in writing, to the Administration Division Director of the Secretary of State's Office.
- E. If a computer is used for a purpose other than EPB and is then returned for EPB use, that computer shall be re-imaged with a fresh installation of the operating system prior to its next EPB use. All provisions of Section 6.A. and 6.B. must then be met including subsequent verification to the State.
- F. The County shall maintain an equipment chain of custody log documenting secure county office storage and transportation of each hardware item used to access the EPB module or used in conjunction with the EPB module.
 - (i) At a minimum, each log shall include:
 - (a) Computer name or item description (e.g. HP LaserJet M454, Dymo 450, etc.);
 - (b) Control or serial number;
 - (c) Departure location;
 - (d) Date/time removed;
 - (e) Printed name of individual taking possession of equipment;
 - (f) Signature of individual taking possession of equipment;
 - (g) Receiving location/destination;
 - (h) Date/time received;
 - (i) Printed name of individual receiving equipment; and
 - (j) Signature of individual receiving equipment.
 - (ii) The log shall be completed for each item of equipment to track the custody and location of the equipment from the time the equipment leaves the secure

county office storage until it is returned to the secure county office storage. This includes removal of equipment from storage for maintenance/patch purposes.

- (iii)** Following the closing of the polls on election night, computers used for accessing EPB shall be secured with a physical and/or technical control to prevent unauthorized access that is placed on each device in a location such that it is easily identifiable as to when the seal has been broken or compromised. If applicable, the control number shall be logged to the chain of custody log.
- (iv)** The equipment chain of custody log shall be retained for two (2) years following the last EPB-related use of the hardware.

G. The County shall maintain a maintenance/patch log for each computer and printer being used to access the EPB module.

- (i)** At a minimum, each log shall include:
 - (a)** Header information containing key demographics about the computer or printer such as manufacturer, model, serial number, date of purchase, operating system and version, computer name, etc.
 - (b)** A main section for the recording of maintenance activity which includes the following:
 - (1)** Date of maintenance;
 - (2)** Maintenance description;
 - (3)** Who the maintenance was performed by;
 - (4)** If applicable:
 - (A)** Who the maintenance was validated by;
 - (B)** The date of validation; and
 - (5)** Comments/Remarks.
- (ii)** Following each maintenance/patch effort, devices used for EPB shall be secured with a physical and/or technical control to prevent unauthorized access that is placed on each device in a location such that it is easily

identifiable as to when the control has been broken or compromised. If applicable, the control number shall be logged to the chain of custody log.

- (iii) The maintenance/patch log shall be retained for two (2) years following the last EPB-related use of the computer and printer.
- H. The County shall maintain an access log for each computer being used to access the EPB module.
 - (i) At a minimum, each log shall include:
 - (a) Header information containing key demographics about the computer such as manufacturer, model, serial number, computer name, etc.
 - (b) A main section for the recording of activity which includes the following:
 - (1) Date and time of access;
 - (2) Printed full name of the user;
 - (3) Signature of the user; and
 - (4) User account being utilized; and
 - (5) Purpose of user access.
 - (ii) The user access log shall be retained for two (2) years following the last EPB-related use of the computer.
- I. Within two (2) weeks following election day, the County shall remove the election data from each computer used to access the EPB module. The County shall verify that the data has been removed from all computers and will communicate, in writing, that verification to the Election Director of the Secretary of State's Office.
- J. By December 1, 2022, copies of the equipment chain of custody log, the maintenance/patch log and the user access log shall be provided via email to the Election Director of the Secretary of State's Office.

7. **General Provisions.**

- A. Amendments.** Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed by all parties to this Agreement.
- B. Applicable Law, Rules of Construction, and Venue.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming, without regard to conflicts of law principles. The terms “hereof,” “hereunder,” “herein,” and words of similar import, are intended to refer to this Agreement as a whole and not to any particular provision or part. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties. The venue shall be the First Judicial District, Laramie County, Wyoming.
- C. Assignment Prohibited.** No party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Agreement.
- D. Entirety of Agreement.** This Agreement, consisting of eight (8) pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and Agreements, whether written or oral.
- E. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.
- F. Indemnification.** Each party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other.
- G. Notices.** All notices arising out of, or from the provisions of this Agreement shall be in writing and given to the parties at the addresses provided under this Agreement, either by regular mail or delivery in person.
- H. Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

- I. Sovereign Immunity.** Pursuant to Wyo. Stat. § 1-39-104(a), the State of Wyoming and State expressly reserve sovereign immunity by entering into this Agreement and the County expressly reserves governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereign or governmental entities pursuant to Wyo. Stat. § 1-39-101, *et seq.*, and all other applicable law. The parties acknowledge that the State of Wyoming has sovereign immunity and only the Wyoming Legislature has the power to waive sovereign immunity. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.
- J. Termination of Agreement.** This Agreement may be terminated, without cause, by either party upon thirty (30) days written notice. This Agreement may be terminated immediately for cause if either party fails to perform in accordance with the terms of this Agreement.
- K. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
- L. Time is of the Essence.** Time is of the essence in all provisions of the Agreement.
- M. Titles Not Controlling.** Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.
- N. Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.
- O. Counterparts.** This Agreement may be executed in counterparts. Each counterpart, when executed and delivered, shall be deemed an original and all counterparts together shall constitute one and the same Agreement.

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8. **Signatures.** By signing this Agreement, the parties certify that they have read and understood it, that they agree to be bound by the terms of the Agreement, and that they have the authority to sign it.

The Effective Date of this Agreement is the date of the signature last affixed to this page.

**AGENCY:
THE STATE OF WYOMING, OFFICE OF THE SECRETARY OF STATE**

Karen Wheeler, Deputy Secretary of State

Date

**COUNTY:
TETON COUNTY CLERK'S OFFICE**

Maureen Murphy, Teton County Clerk

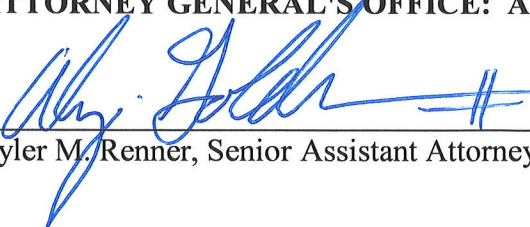
Date

TETON COUNTY COMMISSIONERS

Natalie Macker, Chairwoman, Teton County Commissioners

Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM

For:  # 220196

Tyler M. Renner, Senior Assistant Attorney General

Date 4/5/22