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Memorandum Date: October 23, 2007  
Board Order Date: November 7, 2007

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**TO:** Board of County Commissioners  
**DEPARTMENT:** CAO/Economic Development Standing Committee  
**PRESENTED BY:** Mike McKenzie-Bahr, Community and Economic  
Development Coordinator

**AGENDA ITEM TITLE:** ORDER/IN THE MATTER OF AWARDING CONTRACTS  
FOR STRATEGIC INVESTMENT PROJECTS SELECTED THROUGH THE 2007  
ECONOMIC DEVELOPMENT RFP INITIAL PROPOSAL CYCLE AND AUTHORIZING  
THE COUNTY ADMINSTRATOR TO SIGN PROJECT CONTRACTS

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**I. MOTION**

It is moved that we find that the EDSC scored all projects fairly and in an unbiased manner, that we award contracts to the following projects, and authorize the county administrator to sign project contracts. The projects to be funded and the amount of funding for each are as follows:

Genesis Juice – Toby's Family Foods: \$42,000  
Oregon Track Club for the Eugene 08 Festival: \$50,000.

**II. AGENDA ITEM SUMMARY**

The Lane County Economic Development Standing Committee (EDSC) has completed reviewing and ranking proposals received in the 2007-08 Economic Development Request For Proposal Initial Proposal Cycle.

The EDSC has made the following recommendations regarding the spending of video lottery funds:

- 1) Allocate \$42,000 from FY07-08 economic development strategic investment funds to Genesis Juice – Toby's Family Foods, for the creation of 5 new jobs
- 2) Allocate \$50,000 from Strategic Opportunity Reserve funds to the Oregon Track Club for the Eugene 08 Festival.

The total amount of video lottery funds recommended for award is \$92,000.

The total amount of video lottery funding currently available is \$1,400,000, comprised of \$200,000 in the strategic investment fund and \$1,200,000 in the strategic opportunity reserve fund. (These totals reflect a \$291,000 unallocated carry over to the Strategic Opportunity Reserve as part of the budget changes recommended in Supplemental 1 to be acted on by the Board on Dec 12, 2007).

Under the Initial Proposal Cycle RFP rules, the strategic investment funds are initially allocated in the following categories of development in these amounts: Business Development, \$100,000; Workforce Development, \$100,000. In addition, the strategic opportunity reserve account funds may be awarded at anytime in fiscal year 2007-08. Funds in the strategic opportunity reserve account, and any strategic investment funds not awarded in the initial proposal cycle, may be awarded in the upcoming Open Proposal Cycle, if the Board so wishes. (The Open Proposal Cycle will begin once the awarding of funds is completed in this cycle).

If the Board approves the projects as recommended by the EDSC, \$50,000 will have to be moved by Board Order from the Strategic Opportunity Reserve Fund (General Expense Operational Contingency) to the Strategic Investment Fund (Agency Payments) within the Special Revenue Fund Operational Contingency budget line so that the expenditure can be made. (This is standard procedure each time strategic opportunity reserve fund dollars are allocated).

This agenda item also includes a protest filed by two of the project applicants not recommended for funding. The Board of Commissioners is asked to make a determination on that protest prior to any funding recommendations.

### **III. BACKGROUND/IMPLICATIONS OF ACTION**

#### **A. Board Action and Other History**

Each year, the Board of Commissioners makes video lottery funds available through the Strategic Investment fund for job creation and work force development projects.

On July 12, 2007, the Economic Development Standing Committee to the Board of Commissioners released a request for proposals (RFP) to implement the Economic Development Strategic Investment Program, as described in Lane Manual Chapter 4.110(2).

The RFP includes instructions on how the money is to be used, how to prepare a project application, how project applications will be scored and how to file a protest to the RFP procedures.

Outreach was undertaken to notify local businesses and organizations about the available funding. Outreach included direct contact to more than 50 local organizations, press releases that generated at least two newspaper stories, information on the county web site and notices in the Register Guard. Ten people attended an information session held in August at the County Public Service Building.

The county received 10 project proposals requesting a total of \$776,555.

The projects proposals were reviewed by the EDSC, leading to two projects receiving funding recommendations: Genesis Juice – Toby's Family Foods: \$42,000 and Oregon Track Club for the Eugene 08 Festival: \$50,000.

The Committee further recommended that the BCC appropriate the \$50,000 for the Oregon Track Club / Eugene 08 Festival from the Strategic Opportunity Reserve Fund as a grant, not as part of the Economic Development Strategic Investment Program. That means, if that recommendation is approved by the Board of Commissioners, the funds will NOT be tied to either job creation or work force training, giving the Track Club much more flexibility about how they use the funds.

Such a grant appears to be meet the video lottery allocation guidelines under Lane Manual 4.100: Video Lottery Allocation Policy. "Outcomes may also include community development investments in infrastructure, commercial and business parks, other public/private partnerships, organization capacity development, and strategies that leverage funds and resources to accomplish the following: (1) Business Development. Programs that encourage business growth and investment that create new employment opportunities, attract and expand business, increase tourism, and facilitate start-up and emerging businesses."

The other issue to be considered is that under the Video Lottery RFP rules, there is a protest procedure that is available to applicants that did not get funded. Two applicants, VersaLogic Corporation and the Eugene Area Chamber of Commerce, have filed protests. Both protests question the consistency of the committee scoring and request further consideration of the their proposals. (The RFP score sheet is attached).

These protests are further considered in the Analysis section of this memo.

## **B. Policy Issues**

The Board has the following policy issues to consider:

- 1) Where all of the projects scored fairly and in an unbiased manner? And if not, should just the two projects that protested, or should all projects, be reconsidered?
- 2) Should all of the projects be funded as recommended by the EDSC?
- 3) Should the Oregon Track Club / Eugene 08 Festival be funded as a grant from the Strategic Opportunity Reserve Fund?

**C. Board Goals**

The awarding of video lottery funds for job creation and training meet the Board's goal to "Work for a strong regional economy to expand the number of family-wage jobs available in Lane County."

**D. Financial and/or Resource Considerations**

The total amount of video lottery funding currently available is \$1,400,000, comprised of \$200,000 in the strategic investment fund and \$1,200,000 in the strategic opportunity reserve fund.

If the Board of Commissioners choose to fund the projects in this agenda item, as recommended by the EDSC, it would leave \$158,000 in the strategic investment fund and \$1,150,000 in the strategic opportunity reserve fund.

**E. Analysis**

This section is divided into two categories: 1) Protest of the Evaluation Committee Recommendation and 2) Project Analysis.

**Protest of the Evaluation Committee Recommendation**

A protest has been filed by two of the applicants who did not receive a recommendation for funding. Attachment D is the protest letter from VersaLogic Corporation and the Eugene Area Chamber of Commerce protest letter is Attachment E. The RFP stated that unsuccessful proposers had up to 5 days after the notice of the evaluation committee's decision was sent, to file a protest. The notice was sent on October 15. The two protests were timely filed. (The Chamber filed the protest within the five days but requested additional information from the County that took two days to get to them. Because the delay was on the part of County staff, the Chamber was allowed to incorporate that information into a new letter dated the Monday following the Friday deadline).

The grounds for a protest of an evaluation committee's recommendation include any one or more of the following pursuant to Lane Manual 21.107(14):

1. Different criteria were used to evaluate different proposals.
2. The evaluation committee unfairly applied the evaluation criteria to a proposal.
3. A member or members of the evaluation committee had a relationship with a proposer that represented a conflict of interest.
4. The criteria used to evaluate the proposals did not pertain to the services or products requested.
5. A member or members of the evaluation committee demonstrated bias toward a proposal or a proposer.
6. The County abused its discretion in rejecting the protestor's proposal as nonresponsive.
7. The evaluation of the proposals is otherwise in violation of any applicable provisions of ORS 279A.

The department which issued the RFP shall present the issues orally or in writing at a public meeting. The appellant shall then have 10 minutes to specifically address the protest criteria. The recommended proposer shall have a total of 10 minutes to respond, if they wish. Any decision to overturn the recommendation needs to be based on a finding that at least one of these criteria occurred to the substantial prejudice of the protestor. The protestor must be eligible and next in line to be awarded the contract if the protest was successful. The Board is to state the conclusions reached and reasons either in writing or on the record in a public meeting. LM 21.107(14)(f).

The County Community & Economic Development Coordinator was the staff person involved with all aspects of the RFP application and review process. Staff's summary and comments of the issues are as follows. (Excerpts from the protest letters are in italics).

Issue1: Consistency of scoring and application criteria

*VersaLogic: "[Project] was ranked above the required 80% by 4 of the 5 committee members...different criteria was used to evaluate the proposals and that the evaluation committee unfairly applied the evaluation criteria to all proposals... It is apparent that one member of the committee was not in alignment with the remainder of the scoring committee."*

*Eugene Chamber: "Four of the five scores were consistent in their scoring. There is an inconsistency in the fifth score which may reflect that different criteria may have been used to evaluate the proposal"*

Staff response: It is true that four of the scorers ranked each of these projects higher than the fifth scorer. However it is the combination of the five committee members' scores that determines if a project meets the 80% threshold to be considered for funding as per the Video Lottery guidelines. In addition, the

scores from that one committee member are uniformly lower for all of the projects scored.

As a reminder, the RFP also states: "An 80% or higher score does not assure a project will be recommended or funded."

#### Issue 2: Committee did not discuss their scoring

*VersaLogic: "By not meeting together as a group to discuss the scoring, the committee did not complete their due diligence. It is apparent that bypassing this crucial component of the scoring process has had a negative impact on all of the applications submitted, with the exception of one."*

Staff response: The process as per the RFP has two steps: "Individual committee members' scores will be totaled and then averaged for each rating criterion. Proposals receiving at least 80% of the 130 points available (80% = 104 points) will be considered for final rating and ranking by the committee...In order to complete the final rating and ranking, the committee may call applicants for interviews to clarify the written proposals, seek additional written information or ask follow-up questions."

In the initial step, each committee members' scores were totaled and then averaged. This step was different that in past years, as committee members did submit their scores at different times, however the rules do not state that committee members must be together when the scores are presented. After the individual committee members separately score, the committee does the final rating & ranking for any proposal which receives at least an 80% score.

However, the completion of final rating and ranking was not done this year as only one project received met the 80% threshold. The committee decided via e-mail to recommend that one project for funding.

#### Issue 3: Whether the Chamber is an eligible applicant

*Eugene Chamber: The chamber has been informed that they can re-apply for funding."*

Staff Response: True. However, the RFP states: "No current grantee with an open Video Lottery grant is eligible for additional Economic Development Grant funding from either Video Lottery Allocation for the same project in which they are currently funded."

The Chamber currently has a current contract with the County for Economic Development Grant funding. The project submitted by the Chamber is an extension of the same project for which they are currently funded. The Chamber was made aware of the above rule during the RFP process when the County Community & Economic Development Coordinator met with the Chamber economic development committee.

Issue 4: Scorer did not read application but took part in discussion

*Eugene Chamber: "Commissioner Dwyer acknowledged that he had not read the proposal during the same meeting, prior to making judgments reflecting a bias about the proposal."*

Staff response: Commissioner Dwyer's comments did reflect familiarity with the proposal as the Chamber had submitted the same proposal in previous years. The statements by Commissioner Dwyer did not impact the scores of the other committee members as they turned in their scores at the meeting and did not change them. Commissioner Dwyer submitted his project scores the following day.

#### Analysis of Recommended Project

The County received a lot of good project applications. Some clearly met the goals of the funds better as evidenced by the scorers' recommendations.

The EDSC scored the projects in nine different categories:

- 1) Addresses Lane County Strategic Plan economic development goals (30points)
- 2) Increases work readiness (15 points)
- 3) Readiness to proceed (15 points)
- 4) Opportunities for future development (15 points)
- 5) Leverage of other funds (15 points)
- 6) Partnerships (10 points)
- 7) Budget presentation (10 points)
- 8) Audit and accounting adequacy (10 points)
- 9) Promotes sustainable use of resources and energy (10 points)

Proposals were rated and ranked against other proposals submitted in the same category. A project had to receive at least 104 points (80% of the 130 points possible) to be considered for a funding recommendation.

Only one project met the 104 points/ 80% threshold: Genesis Juice – Toby's Family Foods

Proposal Title / Organization	Amount Recommended for funding	POINTS	Job Impact
Genesis Juice – Toby's Family Foods	\$42,000	104	5

Toby's Family Foods purchased Genesis Juice following its closure. The opportunity presented by this project is to reestablish Genesis Juice as a popular and productive brand in Oregon, the Pacific Northwest and Northern California.

Toby's Family Foods, LLC has been in the organic and natural foods business in Lane County for more than twenty-five years. Toby's spreads and salad dressings are sold throughout the Pacific Northwest and California. The Genesis Juice Project is a perfect fit because of Toby's manufacturing know-how, its existing distribution system and the cordial relationships that are already in place with the retail outlets and category buyers. Genesis is a logical product line extension.

The re-emergence of Genesis Juice will create long-term benefits for the local economy. One significant outcome will be the creation of five new permanent jobs in the organic foods industry, an industry that promotes sustainable business practices. Employment opportunities will be created in the areas of production, transportation, and general office.

#### **F. Alternatives/Options**

The Board may:

- 1) Approve ORDER awarding grants as recommended by the EDSC, or
- 2) Determine to award only some grants, at either reduced or full funding levels  
or
- 3) Decide not to award strategic economic development funds at this time.
- 4) Deny the protests, or
- 5) Uphold the protests and request EDSC review some or all of the projects again.

#### **IV. TIMING/IMPLEMENTATION**

Upon Board approval of funding for projects, staff will work with project applicants to get contracts in place. Once prepared, contracts will be sent through County Counsel review process and prepared for signing by the County Administrator.



## **V. RECOMMENDATION**

The EDSC recommends awarding funding to two projects.

## **VI. FOLLOW-UP**

Staff will keep the EDSC updated on all project elements. Any issues needing Board attention will be brought to the Board in a timely manner.

## **VII. ATTACHMENTS**

A: Board Order

B: "Evaluation and project Award Process" and "Evaluation Criteria for the Proposal and Budget Narratives" from the Lane County 2006-07 Economic Development Request For Proposal

C: EDSC RFP Scores

D: Protest letter from VersaLogic Corporation

E: Protest letter from Eugene Area Chamber of Commerce

F: Protest procedure from the RFP

Note: The full RFP, announcement publication notice, the EDSC Final RFP Rating and Ranking score sheet and the ten (10) applications received in the Initial Proposal Cycle are in a binder available from the Board Secretary.

**IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON**

**ORDER NO.                                ) ORDER/IN THE MATTER OF AWARDING  
    ) CONTRACTS FOR STRATEGIC INVESTMENT  
    ) PROJECTS SELECTED THROUGH THE 2007  
    ECONOMIC DEVELOPMENT RFP INITIAL  
    PROPOSAL CYCLE AND AUTHORIZING THE  
    COUNTY ADMINSTRATOR TO SIGN PROJECT  
    CONTRACTS.**

WHEREAS, the Lane County Board of Commissioners established a policy for distributing video lottery economic development funds that is adopted in Lane Manual Chapter 4, and

WHEREAS, the Lane County Board of Commissioners authorized release of a request for proposals (RFP) for the Economic Development Strategic Investment Program, and

WHEREAS, the Economic Development Standing Committee has completed rating and ranking of proposals received in accordance with the RFP, and

WHEREAS, the Lane County Board of Commissioners has reviewed the ranked list of projects and determined those that are in the public interest to fund, now, therefore,

IT IS HEREBY ORDERED the Lane County Board of Commissioners reviewed protests filed by VersaLogic Corporation and the Eugene Area Chamber of Commerce and found the protests to be without merit, and it is

FURTHER ORDERED that the following Lane County Strategic Investment Projects are awarded in the amounts indicated:

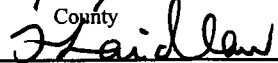
Genesis Juice – Toby's Family Foods: \$42,000  
Oregon Track Club for the Eugene 08 Festival: \$50,000.

FURTHER ORDERED that \$50,000 is moved from the Strategic Opportunity Reserve Fund (General Expense Operational Contingency) to the Strategic Investment Fund (Agency Payments) within the Special Revenue Fund to be used for funding the above projects, and

FURTHER ORDERED that the County Administrator is authorized to sign the contracts authorized under this Order.

Signed this 7th day of November, 2007.

APPROVED AS TO FORM  
Date 10/31/07 Lane

County  
  
OFFICE OF LEGAL COUNSEL

\_\_\_\_\_  
Faye Stewart, Chair  
Lane County Board of Commissioners

**Economic Development Strategic Investment Program  
Evaluation and Project Award Process**

**Initial Proposal Cycle.** Each proposal will be reviewed by the Lane County Economic Development Standing Committee (EDSC). Proposals will be initially rated and ranked against other proposals submitted in the same category based on the scoring criteria detailed below. Individual committee members' scores will be totaled and then averaged for each rating criterion. Proposals receiving at least 80% of the 130 points available (80% = 104 points) will be considered for final rating and ranking by the committee. An 80% or higher score does not assure a project will be recommended or funded. The committee will use its good faith judgment and discretion based on the criteria described in this RFP.

In order to complete the final rating and ranking, the committee may call applicants for interviews to clarify the written proposals, seek additional written information or ask follow-up questions.

The EDSC will make funding recommendations to the Board of County Commissioners in accordance with the Estimated Schedule of RFP Activities. The committee will specify an allocation for each project that is recommended for award. Applicants may not receive all funds requested and the EDSC may choose not to recommend any awards.

Funding recommendations will be reviewed by the Lane Economic Committee and then forwarded with comments to the Board of County Commissioners. The initial proposal cycle under this RFP is complete when the County Commissioners award projects or close the cycle as per the estimated schedule.

Awards will be made to those proposals that best meet the requirements set forth in this RFP and that most benefit Lane County residents. Lane County reserves the right to waive minor irregularities and may reject any proposal not in compliance with all prescribed public procedures and requirements, and may reject for good cause any or all proposals upon a finding that it is in the public interest to do so. Lane County also reserves the right to negotiate the scope of work based on any additional clarification or follow-up responses and on the proposed budget as it is affected by negotiating the scope of work. If a proposal is submitted for professional services, the contract form (Attachment E) may be modified to appropriately reflect the applicant's labor standards requirements.

**Open Proposal Cycle.** Any eligible applicant may apply in the Open Proposal Cycle. Participation in the Initial Proposal Cycle is not a prerequisite. Consideration, rating and ranking of Open Proposal Cycle projects will begin after the Initial Proposal Cycle is complete, as shown in the Estimated Schedule of RFP Activities. Lane County reserves the right to reevaluate, rate, and re-rank proposals from the initial proposal cycle and receive new proposals during the fiscal year 2007-08 Open Proposal Cycle.

### **Evaluation Criteria for the Proposal and Budget Narratives**

Proposals will be evaluated on the information presented in all sections of the proposal. They will be rated and ranked on how well they meet the following program scoring criteria.

1) Addresses Lane County Strategic Plan economic development goals (30 points) – Measures the degree to which the project will:

- Improve Lane County's net job growth, per capita income, wages, and employment factors;
- Target the following Lane County Cluster industries: Natural Resources; Recreation vehicles and sporting equipment; Life Technologies, Customer Contact Center;
- Connect and link rural areas of the County with Eugene and Springfield to meet economic development goals.

2) Increases work readiness (15 points) – Measures the degree to which the capacities of workers will be enhanced and improved to work in the changing economy.

3) Readiness to proceed (15 points) – Evaluates if the project is ready to begin immediately upon award of County funding.

4) Opportunities for future development (15 points) – Evaluates the degree to which the results of the program will promote future development of industrial, commercial, and residential facilities, expands global economic opportunities, produces local products or services, increases the tax base and reduces future financial responsibilities of government. Evaluates what funding of this project will do for community in the long term.

5) Leverage of other funds (15 points) – Measures the commitment of other agencies and organizations to work toward the project goals by the degree to which they are willing to commit funds and other resources to the project.

6) Partnerships (10 points) – Evaluates how public or private sector organizations are working in partnership to develop new and innovative ways of accomplishing economic development goals, and the relevance of the proposal to a strategic plan or regional economic development goal to create or retain jobs. Community outreach and public information activities aspect of the project will also be evaluated.

7) Budget presentation (10 points) – Evaluates how the budget and budget narrative thoroughly discuss the project costs and shows the budget is reasonable and consistent with the proposal as a whole. Demonstrate the need for the funding: will this project happen with this funding? Does a lack of funding jeopardize the project?

8) Audit and accounting adequacy (10 points) – Measures the extent to which the applicant accounts for project funds separately from other programs, minimizes overhead costs, and provides a clear method of reporting project expenses and related results.

9) Promotes sustainable use of resources and energy (10 points) – Develops employment in industries using renewable resources and energy, and/or emphasizes reduced carbon production and more efficient use of resources through energy efficiency and renewable energy, conservation, recycling, green building, organic and natural foods, natural commercial and consumer products, sustainable transportation or other programs that produce measurable results.

### **Budget Evaluation**

In addition to the over all rating criteria described above, the committee will apply the following factors when evaluating the budget proposal and narrative describing the budget.

- ✓ Expenses are reasonable, necessary and reflect current cost trends to complete the proposed scope of work.
- ✓ Expenditures are clearly described , reflect all project activities, and relate directly to project activities, outputs and outcomes.
- ✓ Expenditures described in the budget narrative clarify the budget figures.

## EDSC RFP Scores

Proposal Title / Organization	Amount Requested	Reviewer	Total	Percentage	Ranking
			130	80	
Entrepreneurial League System for Cottage Grove – Lane MicroBusiness	\$148,000	Stewart	96		
		Mackey	86		
		Forster	99		
		Dwyer	n/a		
		Spickard	40		
		Total	321	61.54%	
		Average	80		
Fast-Track Automotive Program – Lane Community College Foundation	\$72,000	Stewart	80		
		Mackey	105		
		Forster	99		
		Dwyer	n/a		
		Spickard	118		
		Total	402	77.31%	
		Average	101		
Genesis Juice – Toby's Family Foods	\$42,000	Stewart	101		
		Mackey	83		
		Forster	105		
		Dwyer	113		
		Spickard	118		
		Total	520	80.00%	
		Average	104		
Business Retention, Expansion, Development Programs – Eugene Chamber	\$33,600	Stewart	108		
		Mackey	98		
		Forster	105		
		Dwyer	39		
		Spickard	105		
		Total	455	70.00%	
		Average	91		
VersaLogic Corporation Employee Enrichment Program – VersaLogic	\$170,795	Stewart	111		
		Mackey	99		
		Forster	101		
		Dwyer	52		
		Spickard	112		
		Total	475	73.08%	
		Average	95		
Invitrogen Research Leadership Skills – Molecular Probes Inc.	\$37,000	Stewart	77		
		Mackey	84		
		Forster	87		
		Dwyer	0		
		Spickard	10		
		Total	258	49.62%	
		Average	64.5		
Oregon Crafted Guided Tours – Oregon Crafted	\$22,420	Stewart	86		
		Mackey	96		
		Forster	93		
		Dwyer	n/a		
		Spickard	25		
		Total	300	57.69%	
		Average	75		
Resource Renewal Project – NextStep Recycling	\$85,740	Stewart	66		
		Mackey	125		
		Forster	n/a		
		Dwyer	90		
		Spickard	108		
		Total	389	74.81%	
		Average	97		
Video Game Software Job Recruitment and Creation Project –Buzz Monkey	\$15,000	Stewart	75		
		Mackey	58		
		Forster	30		
		Dwyer	n/a		
		Spickard	0		
		Total	163	41.79%	
		Average	54		
Total Funds Requested		\$	776,555		

October 18, 2007

Lane County Administration Department  
125 E. 8th Ave.  
Eugene, OR 97401

Attention: Mike McKenzie-Bahr  
Community and Economic Development Coordinator

Re: PROTEST of Economic Development Proposal decision

Dear Mr. McKenzie-Bahr,

This letter is to formally protest and appeal the Economic Development Standing Committees' recommendation to not award funding to VersaLogic Corporation during the Initial Proposal Cycle.

Our submitted project 'VersaLogic Corporation Employee Enrichment Project' was ranked above the required 80% by 4 of the 5 committee members. This leads us to believe that different criteria was used to evaluate the proposals and that the evaluation committee unfairly applied the evaluation criteria to all proposals.

Upon reviewing the available public record of the committees' scores, it is apparent that one member of the committee was not in alignment with the remainder of the scoring committee. By not meeting together as a group to discuss the scoring, the committee did not complete their due diligence. It is apparent that bypassing this crucial component of the scoring process has had a negative impact on all of the applications submitted, with the exception of one.

We are requesting that all proposals be evaluated fairly and consistently.

The goal of this process should not be who is funded or not, but to create and retain jobs in Lane County. Our project will accomplish both.

Thank you for your time.

Sincerely,



Julie Tovsen, SPHR  
Human Resources Manager  
VersaLogic Corporation

October 22, 2007



**Eugene Area  
Chamber of  
Commerce**

Lane County Administration  
125 E. 8<sup>th</sup> Ave.  
Eugene, OR 97401

Dear Mr. McKenzie-Bahr and Lane County Economic Standing Committee,

This letter is to serve as notice (following verbal notice previously submitted) of our desire to protest the decision by the Economic Development Standing Committee (EDSC) to prohibit a project of the Eugene Area Chamber of Commerce from being considered to receive funding the Strategic Investment Fund Initial Cycle.

It is our understanding that the Eugene Area Chamber of Commerce proposal for Business Retention Expansion programs had met the requirement of 80% of the total points available in the initial review by four members of the EDSC. This met the requirement to be considered for funding. Therefore, our protest is based upon the following:

- Four of the five scores were consistent in their scoring. There is an inconsistency in the fifth score which may reflect that different criteria may have been used to evaluate the proposal.
- EDSC Standing Committee member, Commissioner Dwyer stating on record that the applicant felt entitled to the funding referencing the fact that the chamber has been successful in receiving funding in prior years. The chamber has submitted an application no different than any other applicant. The chamber had been informed that they can re-apply for funding (the chamber has fulfilled all prior contracts).
- EDSC Standing Committee member, Commissioner Dwyer acknowledged that he had not read the proposal during the same meeting (September 27) prior to making judgments reflecting a bias about the proposal.

As the scoring would otherwise have met the thresh hold for further evaluation we would like to ask for further consideration. We believe information that may respond to questions the committee members may have will be helpful to their ability to further evaluate the proposal.

Respectfully submitted,

Dave Hauser, President.  
Eugene Area Chamber of Commerce

1401 Willamette Street  
P.O. Box 1107  
Eugene OR 97440-1107  
TEL: 541.484.1314  
FAX: 541.484.4942



## **Economic Development Strategic Investment Program Protest Procedures**

### **1. Commenting on or Protesting Process or Specifications**

Proposers may protest the competitive selection process or provisions in this solicitation document including terms or composition of the selection committee pursuant to LM 21.105(6). Proposers may comment on, or object to any of the specifications of this RFP document, including but not limited to composition of the selection committee, which they believe limit competition or any contract terms with which they disagree.

Comments must be in writing and submitted to the Lane County Administration Department, Community and Economic Development Program, 125 E. 8th Ave., Eugene, OR 97401, Attention: Mike McKenzie-Bahr, Community and Economic Development Coordinator, no later than September 1, 2007 at noon. Protests should be clearly marked "Solicitation or Contract Provision Protest" and include identification of the RFP involved in the protest. Comments will be reviewed by the department staff. If the comments are determined to be valid by the department, an addendum to the RFP will be issued to all applicants.

### **2. Protesting the Evaluation Committee Recommendation**

**Initial Proposal Cycle.** Proposers may protest the intent to award/evaluation committee's recommendation pursuant to Lane Manual 21.107 (14). Any applicant who is not recommended by the Economic Development Standing Committee for contract award in the Initial Proposal Cycle may appeal the committee's recommendation in the following manner. The protest must be made in writing and submitted to the Lane County Administration Department, 125 E. 8th Ave., Eugene, OR 97401, Attention: Mike McKenzie-Bahr, Community and Economic Development Coordinator, no later than 5 days after notice of recommendations are sent to applicants. Protest should be clearly marked "Protest" and include identification of the RFP involved. Any protest that does not comply with the applicable procedures may be rejected.

**Open Proposal Cycle.** Any applicant who is not recommended by the Economic Development Standing Committee for contract award in the Open Proposal Cycle (beginning about 11/08/07 and ending 04/15/08 at 2 p.m.) may protest the committee's recommendation in the following manner. The protest process is the same as the above for the Initial Proposal Cycle, except the date to appeal by is based on 5 days from the date notice is sent to all applicants of the recommendation to award a project in the Open Proposal Cycle. Protests should be clearly marked "Protest of Recommendation to Award" and include identification of the RFP involved in the protest.

In the Initial Proposal Cycle and the Open Proposal Cycle, the protest must clearly state the grounds for protest and describe the conditions which, in the applicant's view, resulted in their proposal not being recommended for award. Among the grounds for protest are:

- (i) Different criteria were used to evaluate different proposals.
- (ii) The evaluation committee unfairly applied the evaluation criteria to a proposal.

- (iii) A member or members of the evaluation committee had a relationship with a proposer that represented a conflict of interest.
- (iv) The criteria used to evaluate the proposals did not pertain to the services or products requested.
- (v) A member or members of the evaluation committee demonstrated bias toward a proposal or a proposer.
- (vi) The County abused its discretion in rejecting the protestor's proposal as nonresponsive.
- (vii) The evaluation of the proposals is otherwise in violation of any application provisions of ORS 279A.

Upon receiving a protest, the department will notify the applicant(s) who was recommended for contract award and the evaluation committee. That applicant and the evaluation committee may respond in writing to the appeal up to 12:00 noon on the seventh (7<sup>th</sup>) regular working day after the department received the appeal.

The department will present the issues of the evaluation committee's recommendation and the protest to the Board of County Commissioners or the county administrator who will carefully evaluate all appeals before making a decision and will state the conclusion reached and the reason in writing.