

FORM APPROVED COUNTY COUNSEL
 BY: *Robert M. Pepper, Jr.* 8/27/07
 DATE

135



**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Election Ad Hoc Committee

SUBMITTAL DATE:
 August 22, 2007

SUBJECT: Recommendations for Complying with Secretary of State's August 3rd Directives and Implementation of the Election Review Committee's Recommendations

RECOMMENDED MOTION: That the Board of Supervisors: 1) authorize the Purchasing Agent to sign the attached Letter of Intent to purchase six Sequoia Optech 400C central ballot counter units; 2) authorize the Purchasing Agent to execute an Agreement with Sequoia Voting Systems for the purchase of six Sequoia Optech 400C central ballot counters based on the competitive bid process conducted in April 2007; and 3) direct the Purchasing Department on behalf of the Registrar of Voters to release a request for proposals for precinct optical scanners.

BACKGROUND: On December 12, 2006, Board of Supervisors' Chairman Bob Buster directed the formation an ad hoc Blue Ribbon Election Review Committee (ERC) to review issues encountered during the conduct of the November 2006 General Election. Five distinguished county residents were appointed to the ERC. They issued an interim report to the Board on April 24th and a final report and recommendations on July 17th. Among the issues reviewed were the delayed post-election results updates resulting from an influx of Election Day absentee ballots dropped off at polling places and the 4 to 6 hour cessation of all election processes to generate an update from the County's paper/absentee ballot counting system.

- continued -

[Handwritten Signature]

John Tavaglione
 Chairman

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 700,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 700,000	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	07/08

SOURCE OF FUNDS: Budget Savings Retention Program (BSRP)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer L. Sargent*
 Jennifer L. Sargent

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent
- Dep't Recomm.:
- Per Exec. Ofc.:

80 PM 1:08
 RECEIVED RIVERSIDE COUNTY

Prev. Agn. Ref.: 3.25 of 7/17/07
 3.11 of 4/24/07
 District: ALL
 Agenda Number:

3.55

The County's DFM Mark-A-Vote ballot counting system has served the County well for more than 20 years. The ERC noted that the ROV was planning to upgrade the system. In March 2007, the Purchasing Department issued a request for proposals on behalf of the Registrar of Voters for a replacement paper/absentee ballot counting system. Two proposals were received: Sequoia Voting System's 400C central count units and Election Systems and Software's (ES&S) Model 650 central count units. Sequoia Voting System was the successful bidder.

The ERC also recommended that the County transition away from its 100% DRE touch screen based polling place voting system to a hybrid voting system where voters can additionally mark their preferences on paper ballots counted by optical scanners at the precinct as soon as practical. The recommendation was subject to the Secretary of State's top-to-bottom review of voting systems that may affect the options available to the county.

Based on the Secretary of State's top-to-bottom review, she announced the decertification and simultaneous recertification of the three voting systems tested (Sequoia, Hart InterCivic, and Diebold) with conditions. Sequoia's use conditions include the limitation of one DRE touch screen per polling place for use by disabled voters. All other polling place voters will be offered a paper ballot. The upgrade of the County's current paper/absentee ballot counting system is now even more critical for the timely processing and updating of election results with the volume of paper ballots that will be cast at the polls in February 2008.

While the ERC recommended precinct optical scanners for polling places that scan the voter's selections on to a results cartridge and provides the voter feedback regarding ballot marking errors, a request for proposals (RFP) has not been issued for this equipment. Moreover, on August 15, 2007, the Secretary of State sent a letter to the U.S. Elections Assistance Commission (EAC) seeking an opinion with regards to her office providing additional federal Help America Vote Act (HAVA) funds to counties to comply with her directives. If granted, counties will be required to enter into a contract with the Secretary of State for use of the funds and prior purchases may not be eligible for reimbursement. In the meantime, the Purchasing Department and Registrar of Voters can solicit formal proposals from vendors for the provision of precinct optical scanners.

The Registrar of Voters has recommended that the County maintain its inventory of DRE touch screen voting units as Sequoia Voting Systems seeks certification that eliminates the limitation on the number of touch screen units at a polling place. If such certification is received, the County would be in a position to offer voters "paper or plastic" at the polls.

The Registrar of Voters' report to the Ad Hoc Committee is attached for further information.



Purchasing & Material Services Department

Robert Howdyshell
Director

August 28, 2007

Ms. Sheree Noell
Western Regional Manager
Sequoia Voting Systems
902 Cambridge
Exeter, CA 93221

RE: Letter of Intent to Purchase Optech 400C Central Ballot Counters

Dear Ms. Noell:

The County of Riverside intends to purchase six Sequoia Optech 400C Central Ballot Counters for initial use in the November 6, 2007 UDEL Election for absentee ballots and paper ballots requested at the polls. This intent is conditioned upon the quoted price of \$80,000 per unit quoted in your proposal to the County. A formal contract will be executed by the Purchasing Agent within 30 days of the signing of this letter.

Sincerely,

Robert Howdyshell
Director
Purchasing and Material Services Department

FORM APPROVED COUNTY COUNSEL
BY: Robert M. Pepper, Jr. 8/27/07
ROBERT M. PEPPER, JR. DATE

**OPTIONS TO COMPLY WITH SECRETARY OF STATE'S
DE-CERTIFICATION AND SIMULTANEOUS RE-CERTIFICATION
OF THE COUNTY'S ELECTRONIC VOTING SYSTEM AND
THE ELECTION REVIEW COMMITTEE'S RECOMMENDATIONS**

Submitted to

The Election Ad-Hoc Committee

By the Registrar of Voters

August 21, 2007

Introduction

On August 7th, the Election ad hoc committee met to discuss the implementation of the Election Review Committee's (ERC) recommendations and future compliance with the Secretary of State's decertification and simultaneous recertification of the County's electronic voting system with conditions. The Registrar of Voters presented the ad hoc committee with two hybrid options and a third option representing a continuation of the county's current blended system (see Attachment A) based on the ERC's recommendations. The advantages and disadvantages of each option were discussed.

Election Review Committee Recommendations

On December 12, 2006, Board of Supervisors' Chairman Bob Buster directed the formation an ad hoc Blue Ribbon Election Review Committee (ERC) to review issues encountered during the conduct of the November 2006 General Election. Five distinguished county residents were appointed to the ERC. They issued an interim report to the Board on April 24th and a final report and recommendations on July 17th.

The ERC recommended "that the Board of Supervisors approve a transition away from the current voting system as soon as practical and move to a hybrid voting system consisting of:

- (1) paper ballots counted by precinct-based optical scanners for ballots cast at the polling locations;
- (2) centrally located high-speed scanner(s) for counting absentee ballots and any ballots that haven't been counted at polling locations; and
- (3) adequate touch-screen units(s) at each polling location to provide access for disabled voters in compliance with federal law."

A "hybrid" voting system is a combination of components from the same manufacturer or voting system vendor. Voting systems are federally tested and qualified as a single system; and subsequently, state certified as a voting system.

The ERC dedicated a substantial portion of their report to the hybrid voting system as a proposed alternative to the County's current touch-screen system. They cited two factors that potentially make this a propitious time for the Board to consider a change to a hybrid system:

- (1) the county was already exploring the purchase of an updated absentee system; and
- (2) the county already owns the touch screen units that would be used in polling places to comply with federal Help America Vote Act (HAVA) accessibility requirements.

They further stated that the above factors should minimize the capital outlay necessary to transition to a hybrid system.

Alameda County

The ERC specifically encouraged the Board to look at Alameda County's hybrid system. Alameda County uses one Sequoia Edge II DRE touch screen unit per polling place to comply with federal HAVA requirements for disabled voters; one Sequoia Optech Insight optical scanner per polling place to read and record voter marks on Optech paper ballots; and four Sequoia Optech 400C units to rapidly count absentee ballots at their central counting location.

Optech Insight Precinct Optical Scanners

The Optech Insight precinct optical scanners read and record voter marks on ballots using an optical scan tabulator. The Insight alerts the voter to ballot marking errors at the polling location (e.g., voting for too many selections or too few selections in a contest) and provides the voter the opportunity to make corrections before casting the ballot. This is known as "second chance" voting in accordance with federal HAVA regulations. The vote recorded on the Insight memory card can be transmitted from a remote transmission site or taken directly to the central counting location.

Sequoia is contractually obligated to develop Instant Runoff Voting (IRV), also known as Rank Choice Voting (RCV), for the County of Alameda. The current version of the Optech Insight software submitted for federal qualification will capture the cast vote record of each ballot on the precinct scanners to facilitate IRV. The cast vote record provides the position of selections marked by the voter on the ballot. The cast vote record can be used to conduct a manual recount.

Optech 400C Central Ballot Counters

The Sequoia Optech 400C is a high capacity scanner used to rapidly count ballots at a central counting location. Results from the 400C units are moved to the tally server by physically removing a memory cartridge from the scanner and inserting it into the tally server. The 400C reads and captures an image of the four voter tracks on the ballot that can be viewed on the 400C display screen to look for voter marking errors. The 400C units produce a cast vote record resulting in a digital file of each ballot scanned. Election result updates can be produced as often as desired.

Secretary of State's August 3rd Directives

On August 3rd, the Secretary of State decertified and simultaneously recertified Sequoia's voting system with a number of conditions that must be met for counties to use the specified equipment in the February 2008 Presidential Primary Election and beyond. Among the most significant to the conduct of elections in Riverside County is the limit of one electronic voting unit per polling place on Election Day to serve voters with disabilities. All other polling place voters will be provided a paper ballot.

While the Secretary's directives are in line with the ERC's recommendations, the timeline for the complying with the directives is significantly compressed. Any new equipment to meet the directives must be in house and revised policies and procedures developed at least 60 days prior (November 2007) to the Primary Election to effectively plan the election, order paper ballots and supplies (e.g., voting booths, etc.), and train staff and poll workers. One of the successes of Riverside County's elections has been the quality of training of our poll workers. Poll workers are the backbone of any election and the electorate deserves well-trained poll workers who are knowledgeable in carrying out their duties.

Riverside County's Voting Systems

DFM Mark-A-Vote

From 1985 to 2000, the county's voters used DFM Mark-A-Vote ballots (a paper-based system) to record their selections at the polling place and when voting absentee. Upon implementation of electronic voting in the county in 2000, polling places were paperless until 2004. In 2004, Secretary of State Shelley required paper ballots to be available at polling places upon request. Since that time, DFM Mark-A-Vote ballots have been available at the polls and provided to voters upon request.

The DFM Mark-A-Vote system was developed prior to federal or state certification criteria and testing and as a result has never been federally qualified or state certified. Secretaries of State have "grandfathered" the system for use in California. Most recently, Secretary of State Debra Bowen specifically waived the DFM system from inclusion in her top to bottom review of voting systems. Four California counties use the DFM system: Lake, Madera, and Sonoma as their primary voting system (collectively representing about 317,000 registered voters) and Riverside for absentee voters, mail ballot precincts, and paper ballots requested at the polls (estimated at 300,000 registered voters).

The County currently has 16 working DFM ballot card readers. DFM no longer supports the hardware and software support is extremely limited. Replacement parts for the ballot card readers are fabricated or taken from out-of-service units. In November 2006, the county experienced delayed post-election updates resulting from an influx of absentee ballots deposited in polling place ballot

boxes. A cessation of election processes is required to generate an update of election results.

Sequoia Voting System

Since November 2000, the county voters have cast their ballots on Sequoia Edge Direct Record Electronic (DRE) touch screen voting units in polling places and paper ballots have been available upon request since November 2004. A state-mandated requirement added a voter verifiable paper audit trail to each DRE in 2006. In addition to the voting system hardware, the County uses Sequoia's WinEDS election management software program to develop the electronic ballots for each touch screen, as well as tally results and generate summary reports that are transmitted electronically to the Secretary of State throughout Election Night and distributed to candidates and the media. In addition, the WinEDS program generates the state-mandated Statement of Vote for each election that details all votes cast by precinct and method (absentee or polling place) for each contest.

The Sequoia voting system was last federally qualified on October 16, 2006 and received state certification with conditions on March 20, 2006. On August 3, 2007, the Secretary of State announced her decisions for voting systems certification as a result of her recent top to bottom review. The Sequoia voting system was decertified and simultaneously recertified for use with conditions. The most significant condition is the limitation of one DRE per polling place for use by disabled voters and the provision of paper ballots for all other voters.

The County currently owns 3,700 Sequoia Edge II DRE voting units and 4,440 VeriVote printers. Sequoia is in ongoing discussions with the Secretary of State to determine the required changes needed to obtain certification of the Edge DRE units for full deployment and use in polling places.

Replacement of the County's Paper/Absentee System

In the FY 2006/07 Third Quarter Budget Report, the Board was apprised that the Purchasing Department had completed the bidding process for a replacement absentee voting system. The estimated cost of a new system is estimated at \$700,000. At that time the Registrar of Voters budget appropriations were increased to accommodate the purchase.

Two vendors, Sequoia Voting Systems and Election Systems & Software (ES&S), submitted proposals for a replacement absentee system. A requirement of the proposals was to demonstrate how the proposed absentee voting system would be integrated into the WinEDS environment to produce a single report for all voters and enable the county to comply with state mandated reporting requirements. The combining of different voting systems, or "blending," requires at a minimum an Administrative Approval from the Secretary of State and in some instances certification of the blended system. ES&S did not demonstrate an interface with the WinEDS software. ES&S submitted their system

components too late for the Secretary of State's top-to-bottom review and their certification was rescinded on August 3rd.

Sequoia proposed the Optech 400C, a high capacity scanner used to rapidly count ballots at the central counting location, a replacement for the county's existing absentee system. Results from the 400C units are moved to the WinEDS tally server by physically removing a memory cartridge from the scanner and inserting it into the tally server. The 400C reads and captures an image of the four voter tracks on the ballot that can be viewed on the 400C display screen to look for voter marking errors. The 400C units produce a cast vote record resulting in a digital file of each ballot scanned. Election result updates can be produced as often as desired.

Currently, the U.S. Election Assistance Commissions (EAC) is circulating a draft of the 2007 Voluntary Voting System Guidelines (VVSG). As presently drafted, central count paper scanners manufactured by all voting system vendors may require hardware and software reengineering to comply. The requirements are expected to be reduced through further reviews. While the guidelines are voluntary, new systems submitted for federal qualification would be tested to the 2007 standards beginning in 2010.

Sequoia has stated that they can deliver six Optech 400C units to the county in late September 2007 which would allow the Registrar to use the units and new ballot type for the November 6, 2007 UDEL election. Use of the units in November would permit staff to become familiar with new procedures and the operation of the units and introduce poll workers to the new ballots for polling place requests.

Polling Place Ballots

DFM Mark-A-Vote

DFM Mark-A-Vote ballots can be used at the polls with the following considerations in mind:

- 1) Voters will not be alerted to ballot marking errors
- 2) Results will not be tallied at the precinct, therefore eliminating the posting of precinct results
- 3) Remote counting of eastern county ballots will be not be possible
- 4) Election Night results will be delayed
- 5) Post-election results updates may be slowed by required manual audit
- 6) Vendor no longer supports hardware
- 7) Vendor software support is questionable

Optech Ballots

Optech ballots are paper ballots read by Sequoia's Optech 400C. These ballots can be provided at the polls and transported back to the Registrar of Voters office for central counting. Considerations 1 – 4 above also apply to Optech ballots.

Precinct Optically Scanned Ballots

Optech ballots can be scanned at the precinct by an Optech Insight Precinct Optical Scanner. This option eliminates all considerations outlined above. Please see discussion under Alameda County for description of the Insight.

Other Alternatives

Blended Voting Systems

A "blended" voting system is any combination of voting system components from more than one vendor. Blended systems require a Secretary of State Administrative Approval, in addition to each individual system's certification, for use in California elections. The county's current use of Sequoia DRE touch screens in polling places and DFM Mark-A-Vote for absentee ballots is a blended system.

Diebold Election Systems and Hart InterCivic were both decertified and simultaneously recertified with conditions by the Secretary of State on August 3rd. Subject to administrative approval by the Secretary of State, components of these systems can be combined with the county's existing voting system to create a blended system. A demonstrated interface with the county's WinEDS election management software would be required or the WinEDS software replaced by the other system's election management software.

Diebold Election Systems

Diebold's central count unit for paper is the Central Digital Scanner (CDS). It is a mark sense device that reads and tallies voters' selections on the ballot. The AccuVote OS is Diebold's precinct optical scanner and like the CDS, is a mark sense device. A new version of CDS currently being reviewed for federal qualification will capture a full digital image of the ballot on the central scanner. Likewise, a new version of the AccuVote OS is also currently in federal qualification testing. The new version will capture a digital image of the vote cast record or target.

Hart InterCivic

The Ballot Now is Hart InterCivics digital-scan paper ballot system for central counting. Ballot Now creates an electronic cast vote record reflecting the positions marked on the ballot and adds the votes to the tally. An electronic image of each ballot is also created and can be stored to create a duplicate record of the ballot.

Hart's eScan precinct digital scanner captures the ballots' cast vote record in digital format. The eScan is yet to be used in a large jurisdiction.

Recommendations

The Board of Supervisors appointed distinguished group civic minded individuals to review issues encountered in the conduct of the November 2006 General Election. The ERC unanimously recommended moving as quickly as possible to a hybrid voting system whereby able-bodied voters mark their preferences on paper ballots which are counted by precinct optical scanners. Subsequently, the Secretary of State issued directives limiting one DRE touch screen voting unit per polling place for disabled voters' use and paper ballots for all other voters effective for the February 2008 Presidential Primary Election.




The following recommendations for consideration by the Election Ad Hoc Committee comply with the Secretary of State's directives and implement the ERC's unanimous recommendations.

Recommendation 1: Replace the DFM Mark-A-Vote paper/absentee system with the Sequoia 400C central count system selected as a result of a competitive bid process conducted by the Purchasing Department in April 2007 for implementation in the November 2007 UDEL election for absentee ballots and to supplement DREs at the polls with paper ballots as requested by voters and use in the February 2008 Presidential Primary Election to comply with the Secretary of State's directives.

Recommendation 2: Conduct a competitive bid for precinct optical scan units for placement at polling places beginning with the Direct Primary Election in June 2008.

Recommendation 3: Maintain the current Sequoia Edge DRE voting unit inventory for future deployment to polling places and/or use in early voting venues if certification and conditions permit.

Recommendation 4: If future certifications permit full deployment of DREs to polling places, continue the use of paper ballots scanned by precinct optical scanners augmented by a complement of DREs resulting in a voting system that offers voters a choice--"paper or plastic."

Option 1	Option 2	Option 3
 <p>400C Central Count + Precinct Optical Scan</p> <p>Accessible DRE</p>	 <p>400C Central Count + Accessible DRE</p>	 <p>Mark-A-Vote Central Count + Accessible DRE</p>
<p><u>ADVANTAGES</u></p> <ul style="list-style-type: none"> • Integrated system • Facilitates timely Election Night results • Vote data on precinct optical scan cartridges can be remotely transmitted to central counting facility • Provides redundancy of ballot data in precinct • Alerts voters to ballot marking errors in precinct • Provides accessible DRE • Provides for timely post-election result updates • Provides for posting results at precincts <p><u>DISADVANTAGES</u></p> <ul style="list-style-type: none"> • Costs: 400C \$700,000; Precinct Scanners \$5m • Conditionally certified 	<p><u>ADVANTAGES</u></p> <ul style="list-style-type: none"> • Integrated System • Less costly than Option 1 • Provides timely post-election result updates • Provides accessible DRE • Competitive bid process complete <p><u>DISADVANTAGES</u></p> <ul style="list-style-type: none"> • Eliminates remote transmission of vote data on Election Night • No alert for voter errors • Likely delay of Election Night results • No redundancy of ballots before they reach central counting facility • Does not provide for posting results at precincts • Conditionally Certified 	<p><u>ADVANTAGES</u></p> <ul style="list-style-type: none"> • Voter familiarity used by AV/PAV at polls prior to 2000 and since 2004, upon request • Minimal capital outlay in changing election environment • Provides for accessible DRE • Mark-A-Vote is a "Grandfathered" system <p><u>DISADVANTAGES</u></p> <ul style="list-style-type: none"> • Eliminates remote transmission of vote data on Election Night • Post-election results updates are slowed by required manual audit • No alert for voter errors • Vendor no longer supports hardware; software support is questionable • Replacement parts are fabricated or taken from out-of-service units • Does not provide for posting results at precincts • DRE conditionally certified