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

FROM: County Executive Office

SUBMITTAL DATE:
February 26, 2009

SUBJECT: Operational Review of Ballot Handling Processes

RECOMMENDED MOTION: That the Board of Supervisors

- 1) Receive and file the attached report, and
- 2) Direct the Registrar of Voters to submit a follow-up report within 180 days, and
- 3) Amend the contract with Best, Best and Krieger to a maximum of \$315,000, and
- 4) Approve and direct the Auditor-Controller to make the budget adjustments listed on Schedule A.

BACKGROUND: On October 7, 2008, the legal firm of Best, Best & Krieger was contracted to perform an operational review of the Registrar of Voters' ballot handling process. The \$165,000 contract required that the work be completed by March 1, 2009, and it was.

The final report has 7 chapters and includes 36 recommendations. The Registrar of Voters should be allowed an opportunity to comment on the costs and benefits of implementing these recommendations, as indicated by motion #2, above.

(cont.)


 Kathryn Field, Deputy County Executive Officer

FINANCIAL DATA

Current F.Y. Total Cost:	\$315,000	In Current Year Budget:	no
Current F.Y. Net County Cost:	\$315,000	Budget Adjustment:	yes
Annual Net County Cost:	\$ 0	For Fiscal Year:	2008-09

SOURCE OF FUNDS: General Fund Contingency

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input checked="" type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

BY: 
 Gary M. Christmas

Dep't Recomm.: Consent Policy

Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 3.53 of 10-7-08

District: all

Agenda Number:

16.3

FORM APPROVED COUNTY COUNSEL

BY:  ROBERT M. PEPPER, JR. DATE

FISCAL PROCEDURES APPROVED
ROBERT E. BYRD, AUDITOR-CONTROLLER
2/26/09

BY:  SUSANA GARCIA-BOCANEGRA
Departmental Concurrence

A representative of the local election monitoring group, SAVE R VOTE, was given unprecedented access to the project team and its activities. Best, Best & Krieger allowed this person onsite to meaningfully observe the operational review process. In addition, SAVE R VOTE provided regular input to team members and numerous documents for review.

Involving SAVE R VOTE in the review process required hours of additional work and document analysis that was not considered in the original scope of work. As a result, the cost of the audit significantly exceeded the original contract. Twenty-two partners and associates with Best, Best & Krieger contributed over 1,500 hours to this project. In addition, two subcontractors (an accounting firm and a private investigator) were part of the project team. It is expected that the depth of this effort and its involvement of a citizen monitor will increase confidence in the Audit Report findings.

Schedule A

Decrease Appropriations:
10000-1109000000-581000

Appropriations for Contingency

\$315,000

Increase Appropriations:
10000-1102900000-525020

Legal Services

\$315,000

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY

Background

On September 16, 2008, the Riverside County Board of Supervisors (the "Board") voted to engage a consultant to address the "Operational, Security and Accountability Review of the November 4, 2008 Riverside County Election and Ballot Process" ("Election Operational Review"). Executive Officer Bill Luna (the "CEO") was directed to identify a firm to analyze the November 4, 2008 consolidated General Election and prepare a report on the "process, including recommendations for improvements." The CEO's assessment included the important consideration that the election audit team would have time to make field observations during the processes of distributing ballots, voting equipment, and the training of poll workers.

The CEO recommended the Board hire the firm of Best Best & Krieger LLP ("BB&K") and its Public Policy & Ethics Compliance Group led by former Riverside County District Attorney Grover Trask. However, Tom Courbat, Executive Director from the election integrity group SAVE R VOTE ("SRV"), and several others raised concerns over the potential appointment of Mr. Trask because of his position as District Attorney for 24 years as well as his law firm's prior work for the County.

The Board's agenda item 3.53 concerning the appointment of a consultant was continued to October 7, 2008, at the suggestion of Supervisor Jeff Stone, in order for Mr. Trask and Mr. Courbat to meet and discuss the potential framework of the operational review of the Riverside County Register of Voters (the "ROV"). During a series of discussions between the Board and SRV, it was agreed that Mr. Courbat would act as an *"independent reviewer to the Registrar of Voters' operational review."* The transparency agreement included full and meaningful observations during the election process including *"continuous input and suggestions to the operations review through direct communication with the members of the team."* (See attached letter of agreement Exhibit A.) On October 7, 2008, the Board voted unanimously (5-0) to initiate an operational review of ROV's election process for the November 4, 2008, Consolidated General Election hiring BB&K's Public Policy & Ethics Compliance Group headed by Grover Trask.

This would be the first time in California that a "watchdog" election integrity group would be allowed on-going access and review to the consultant audit team's work and observations of County ROV's election process operations live and in real time. This review also included extensive comment to the final draft report.

The Board's decision to approve this election operational process review came on the heels of a September 16, 2008, report to the Board authored by SRV Executive Director, Tom Courbat. His report titled "Broken Links" detailed observations during the June 2008 Primary Election. The "Broken Links" report

identified possible operational, chain of custody, security, and transparency election process problems including "(1) *inadequate security for the ballots, voting machines and memory cards, often in apparent violation of election code [sic], certification requirements and ROV policy;*" and "(2) *a lack of accountability all along the chain of custody of these essential election materials is again often in apparent violation of the election law, certification requirements and ROV policy.*"

The SRV 2008 report followed other past reports including the Board's 2006 Election Review Committee (the "ERC"). This ad hoc "Blue-Ribbon" panel consisted of five community leaders and was created in the "wake of complaints about the conduct of the November 2006 elections, ... to study "problems arising from the recent elections." One of the ERC's 17 recommendations was for the Board to consider hiring a consultant to review the ROV's security procedures. During this period the Secretary of State was also testing the electronic voting systems used in Riverside County and other counties throughout California. These touch screen voting systems are known as "Direct Record Electronic" voting systems or ("DREs"). (See Exhibit B for chronology of the DRE use in Riverside County.)

Scope of Review and Action Plan

In initiating this November 4, 2008, operational election process review, the Election Operational Review Team's ("Audit Team") overarching goal was focused on the accountability and security of ballots and equipment used in the election. This goal also included review and compliance with election laws, Secretary of State's voting system re-approval conditions and internal policies and procedures. Finally the overall operational review included providing recommendations for improvement whenever possible. A detailed overview of the full scope of review is outlined in Chapter 1.

The plan of action consisted of two primary components: (1) security and chain of custody concerns and (2) operational and compliance with existing state and federal law.

The Audit Team

In order to carry out the expansive review of the County's complex election operational process, BB&K enlisted a 36-member multi-purpose team of experts and support staff. The Audit Team consisted of professionals from three core areas of expertise: (1) **Security** composed of highly experienced former law enforcement investigators; (2) **Auditing** composed of a team of experienced CPA's including a former FBI agent; and (3) **Legal** composed of a number of attorneys and paralegals focused on the election law compliance and operational process requirements.

Over a four month period team members worked together day and night developing and carrying out the plan of action following the scope of work as directed by the Board and the CEO. (See attached list of team participants Exhibit C).

The plan included "boots on the ground" observational reviews of pre-election preparation, Election Day and post-election activities, including the security and transport of voting machines and equipment, and every stage of the election process. In addition, a random review and observation of 10% of all precincts covering all five Supervisorial Districts on the day of the election was initiated. Finally, a plan of action was developed to conduct review and observations during the semi-canvass and the post-election canvass activities.

Using our "boots on the ground" methodology described in detail in each chapter, the Audit Team expended over 2,000 "man hours" researching, observing, documenting, and analyzing the election process. How did the ROV actually conduct its operations to ensure the security and chain of custody of ballots and election equipment? What is the transparency level of the election processes, and did the canvassing verifiability and accountability of the election meet minimum compliance requirements? The Audit Team's review process included observing and reviewing countless activities occurring at interim storage warehouses, poll worker trainings, polling locations, regional collection centers, the central tabulator located on the ROV headquarters, as well as the headquarter operations on election night and finally the post-election mandated events.

Interview Process

To enhance the plan of action and to establish potentially *best practice(s)*, the Audit Team conducted numerous interviews with various stakeholders. This process included evaluating the ROV's most recent policies and procedures and improvements, including those implemented as a result of the reviews and findings by the 2006 ERC, SRV and citizen observer Greg Taber's election review reports. In addition, the Audit Team researched potential *best practices* and interviewed staff from the Secretary of State's office, as well as Orange County election officials who were identified by SRV Executive Director Courbat as one of the few California ROV Departments he was aware to be worthy of review.

Registrar of Voter's (ROV)

Under the leadership of Barbara Dunmore, the Riverside County ROV's ("ROV") is responsible for coordinating all elections in Riverside County, including the most recent November 4, 2008, Consolidated General Election. With a full-time staff of only 35, the ROV plans, organizes and conducts all the primary, general and special elections that take place throughout the year for the County. For the 2008 Consolidated General Election, the ROV had to recruit, train and supervise over 4,000 volunteers to assist the ROV staff during this election process.

As certified on December 2, 2008, the ROV managed an unprecedented demand on election resources involving a number of federal, state, and local contests. Altogether, this Consolidated General Election involved more than 5 federal contests, 8 state legislative contests and 12 statewide propositions, 34 municipal elections, and 4 measures, 23 school district elections and 2 bond

measures, 5 college district elections, and 22 special district elections. From the perspective of the voter voting by paper ballot, this election cycle was captured in two size (9.75" x 17") double-sided card ballots.

In order to conduct the Consolidated General Election, the ROV had to establish 721 polling locations in the State's fourth largest county. Riverside County is geographically massive. Nearly 200 miles wide it comprises over 7,200 square miles. At the same time, the County is the fourth most populous county with a population of more than 2 million residents. The population of Riverside County is larger than 15 states. With only 35 full-time employees, the ROV operates under intense election cycle pressure-deadlines with integrity and heroic dedication from top-to-bottom.

The ROV's mission is to ensure that the County's electoral process will be conducted professionally, consistently demonstrating neutrality and non-partisan decision-making, based upon a thorough knowledge of and compliance with all election laws by administering them timely, responsively and with integrity on behalf of County's residents. The 2008/2009 fiscal budget is \$8,881,510 expenditures and revenues of \$5,466,677.

Based upon interviews and a review of past performance reports, the ROV has been tasked by the Board to find more effective ways to provide services that encourage all eligible residents to exercise their right to vote; to conduct elections in a fair, accurate and efficient manner; to maintain a continuous professional level of service to the public; and to develop new techniques to improve outreach services, which acknowledge the increasing diversity of the County.

According to the ROV's internal election management system, preparations for the November 4, 2008, Consolidated General Election began on January 9, 2008. This was 300 days before Election Day. Preparations around the vote-by-mail ballots began on May 8, 2008, which was 180 days in advance of November 4th. Internal projections for the number of voters estimated an 80% registered voter turnout rate. For an in-depth understanding of the multitude of tasks involved in preparing for the 2008 Consolidated General Election, please see Appendix A.

The complexities of the November 4, 2008 election documented in this report are aptly described by the National Association of Election Officials Executive Director Doug Lewis appearing before the U.S. House Judiciary Committee. He made these testimonial observations about the upcoming election throughout the country: *"the complexities of [the election process] simply means that we will have an honest election and a fair election, not a perfect election... It is equivalent to ordering several divisions of several armies into the field all at once with part-time officers who have each received an average of two hours training and expecting it to come off flawlessly.... The logistics of election day alone would strain most large businesses, let alone smaller ones. And all of this is accomplished with an average of one full-time election employee serving 6,241 voters on one day.... What other endeavor in society, government or business, has such a ratio?"*

Key Findings:

The Audit Team found:

- The ROV and its thousands of volunteers conducted an unprecedented election in terms of turnout. Volunteers were found to be well trained for the most part.
- Congestion, limited resources, and human error accounted for the vast majority of problems that were observed. The ROV and its army of volunteers were in general compliance with all applicable laws and procedures.
- The ROV's chain of custody process has improved in recent years in part due to the contributions of SRV and the 2006 ERC. The key area of focus involving the chain of custody is to strengthen its tamper detection and secondary control processes.
- No evidence of tampering, misconduct or fraud upon the part of ROV staff or volunteer poll workers was found during the opening of the polls to the closing of the polls.
- No evidence of tampering, misconduct or fraud upon the part of ROV staff or volunteer or temporary workers was found during the transport of ballots and election materials to the regional collection centers.
- No evidence of tampering, misconduct or fraud on the part of ROV staff or its volunteers during the transport of ballots and election materials to the regional collection centers and to the ROV office.
- Security seals were not properly documented as part of the ROV chain of custody process for all components of the voting process. (See Secretary of State Condition No. 27.)
- The ROV's primary current tamper controls have a number of weaknesses that need to be improved, primarily involving the lack of accountability logs to track all equipment and election materials during the chain of custody process that arrive with a broken seal or some other irregularity.
- A lack of secondary control policies that address the proper treatment of all machines and materials received with a broken seal, tampered with, or suspected of tampering.
- On Election Day, some poll workers were unable to contact the ROV via its phone system in their efforts to assist voters to locate their proper polling locations.

- The reconciliation process required after the polls close at the polling site was extremely difficult for poll workers to accomplish.
- The temporary citizen observation assigned areas did exceed legible viewing distance in a number of particular processes including the closing of the polls, the central tabulator process and parts of the canvassing process.
- A number of polling places were inadequate in design, size, or accessibility.
- The ROV did not complete the 100% Manual Tally of Electronic Ballots prior to certifying the election on December 2, 2008; and, instead, completed it on February 2, 2009.
- ROV's overall election and ballot processes generally meet the compliance requirements of the federal and state election laws based upon the Audit Team's observations. However, some ballot statements and certificate of completion forms observed contained poll worker errors.
- The ROV is in general compliance with most of the Secretary of State's 41 touch-screen electronic voting system re-approval conditions based upon the Audit Team's observations. However, 8 conditions were incomplete and require further review by the ROV and Secretary of State.

Summary of Chapters 1-7.

CHAPTER 1: APPLICABLE ELECTION LAWS, RULES AND POLICIES

Chapter 1 provides a summary of the major federal and state laws that apply to the November 4, 2008 Consolidated General Election. This chapter provides a summary of the report's conclusions as to the ROV's compliance with the Secretary of State's decertification and recertification conditions, the Sequoia Use Procedures, and the ROV's Departmental Policies and Procedures.

Legal and Operational Compliance Matrix. The Audit Team found that the ROV is generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures. Areas of needed improvement are set out in the chapter and recommendations.

Secretary of State Debra Bowen's 2007 recertification of the Sequoia direct recording electronic (DRE) voting machines and the optical scan system required the ROV to follow 41 specified security and auditing conditions. There needs to be additional steps taken by ROV to improve the level of compliance regarding certain conditions as set forth in Chapter 1.

CHAPTER 2: SYNTHESIS OF KEY PAST REPORTS

Chapter 2 provides a summary of the audit conducted by the 2006 ERC created by the Board and the observations made by SRV in their 2008 "Broken Links" report. This chapter provides a summary of the Audit Team's observations as to the implementation of past recommendations in these reports and potential *best practices* found in reviewing material and interviewing stakeholders. The Audit Team focused on five primary areas described within the Scope of Work: (1) Legal and Operational Compliance; (2) Chain of Custody; (3) Primary Tamper Controls; (4) Secondary Controls; and (5) Transparency/Accessibility.

1. Legal and Operational Compliance. The Audit Team found that the ROV has implemented a number of recommendations from past reports, including the ERC and several of the SRV audit reports. The Audit Team observed that ROV staff has expended a significant amount of staff time and resources addressing concerns raised by SRV. During the audit process, Team members observed on-going tension between ROV and SRV.

2. Chain of Custody. The Audit Team observed that the "Broken Links" report by SRV Executive Director Courbat has made major contributions towards identifying areas of concerns, particularly with security and chain of custody issues. The 2007 "Blue Ribbon" ERC report which broadly reviewed the November 2006 Election also makes significant contributions by providing guidance to the ROV. As a result of these reports improvements were made to the chain of custody of the election process before the November 4, 2008 election as evidenced in the findings in Chapter 2. The Audit Team also has provided specific chain of custody recommendations.

3. Primary Tamper Controls. The Audit Team's review of these past reports found no actual evidence of tampering, fraud or misconduct. Instead, the Audit Team found gaps in the ROV's tamper detection process.

4. Secondary Controls. The Audit Team observed that the ROV and SRV place a different level of probability on the potential risk for tampering or falsifying of election results. It should be said that over these past three years, these opinions have come closer together rather than farther apart. The Audit Team found a lack of secondary control policies regarding the treatment at all stages of delivery and transfer involving machines and materials received with a broken seal, tampered with or suspected of tampering.

5. Transparency/Accessibility. The Audit Team found that ROV Barbara Dunmore, her staff, and SRV Executive Director Tom Courbat provided tremendous assistance and information used in the preparation of this report. Both parties continually made themselves available to any questions or concerns raised by the Audit Team. The Audit Team found a commitment to improving the County's election process from both parties.

CHAPTER 3: PRE-ELECTION CHAIN OF CUSTODY

Chapter 3 provides a summary of observations that occurred at three early voting mall locations, the ROV warehouse, two interim storage facilities, and the 721 polling place locations. The Audit Team reviewed legal compliance, chain of custody, tamper controls, secondary controls, and transparency during this process. During this phase of the observations, the Audit Team observed storage of the electronic voting components at the early voting locations, the storage of the same at the ROV's warehouse and subsequent transfer to transportation companies and finally, to the polling locations. The Audit Team focused on five areas defined by the Scope of Work: (1) Legal and Operational Compliance; (2) Chain of Custody; (3) Primary Tamper Controls; (4) Secondary Controls; and (5) Transparency /Accessibility.

1. Legal and Operational Compliance. The Audit Team found that the ROV is generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures.

2. Chain of Custody. The Audit Team found from its field observations that the ROV and its contracted transportation companies handling the transportation of the ballots and poll location volunteers generally preserved the chain of custody for the DRE electronic voting components. However, the Audit Team found that the ROV could improve its documentation of certain aspects of the chain-of-custody process. The Audit Team concluded that the true critical stage in the tamper control process was actually during the set-up process for the opening of the polls. For example, while the transportation company drivers and poll location volunteers generally preserved the chain of custody, there was insufficient documentation of serialized tamper evident seals on accountability logs.

3. Primary Tamper Controls. The Audit Team found that the ROV could improve its tamper controls. While the Audit Team believes that the current system in place is sufficient to protect the integrity of the voting system, the Audit Team believes that many of the electronic voting components were stored in plain view and vulnerable to unauthorized access. In this regard the Audit Team believes the ROV could improve its primary tamper controls for the electronic voting system components. For example, the Audit Team found that the ROV does not currently track unused security seals from prior elections. The current weakness in this particular chain-of-custody control is that it fails to detect whether someone has improperly replaced one of the many tamper-evident seals prior to the election. The faulty assumption is that as long as the seal is not broken, then someone has not replaced the seal on the voting system component.

4. Secondary Controls. The Audit Team found that the ROV could improve its secondary controls including the development of Departmental Policies and Procedures for dealing with paper ballots after there is evidence of broken seals or other *indicia* of accidental, unintentional or suspected tampering.

As a *best practice*, the Audit Team found that the ROV has an established Departmental Policy and Procedure for dealing with tampering or suspected tampering at early voting locations and provides training to elections officers on notifying the ROV immediately if there is evidence of tampering. This *best practice* should be extended from the delivery of the electronic voting system components to interim storage and polling locations prior to the election.

5. Transparency/Accessibility. The Audit Team found that the ROV promoted transparency during the pre-election process and accommodated the Audit Team's requests to make observations during this period.

CHAPTER 4: ELECTION DAY FROM OPENING TO CLOSING OF POLLING PLACES
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Chapter 4 summarizes the observations made on the Election Day at 72 polls (10%) in all five supervisorial districts before the opening of the polls to the closing of the polls. The purpose of the Audit Team observations was to identify potential areas for improvement at the polls. The Audit Team focused on five primary areas defined by the Scope of Work: (1) Legal and Operational Compliance; (2) Chain of Custody; (3) Primary Tamper Controls; (4) Secondary Controls; and (5) Transparency/Accessibility.

1. Legal and Operational Compliance. The Audit Team found that the election process on Election Day was generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures. There was no evidence of any effort to tamper with the election systems or misconduct on the part of poll workers or ROV staff. Congestion, limited resources and human error seemed to account for the vast majority of problems that were observed.

Poll worker volunteers were generally very friendly and hardworking putting forth countless hours on the actual day of election. The work of these volunteers is recognized by the Audit Team as a major contribution to the success of the election. As indicated earlier, human error is part of the election process. However, errors did occur involving counting and reconciliation in some instances at observed polling places including properly filling out the ballot statements and certificate of completion forms required by law. In terms of legal compliance matters the Audit Team found the reconciliation process was very difficult for many poll workers to complete and often served as a tremendous source of frustration.

The Audit Team found also that the use of a poll worker located at front entrance of polling locations was very useful providing directions to would-be voters. However, in some instances, the Audit Team found that better oral instructions should have been used to instruct voters arriving at the polling locations. Many voters who arrived at the wrong initial polling location had difficulty obtaining assistance which could result in an over-reliance on using provisional ballots.

2. Chain of Custody. The Audit Team found no major problems in the chain of custody pertaining to ballots and the electronic voting system components from the opening of the polling locations to the closing of the polling locations.

3. Primary Tamper Primary Controls. The Audit Team found no evidence of tampering, misconduct or fraud by poll workers or ROV staff during its observation of the polling places. However, it was difficult to differentiate between spoiled provisional and spoiled regular ballots because the ballot envelopes were not distinguishable.

4. Secondary Controls. A memorandum from the Secretary of State dated September 24, 2008, requires that election officials develop alternative procedures, to be approved by the Secretary of State, that provide a voter the option of casting a ballot immediately in the event a polling location runs out of ballots. The ROV has an alternative procedure which consists of providing copies of the sample ballot pages.

Additionally, when the ROV is informed that a polling place is running low on ballots staff at headquarters immediately check their in-house supply, called counter ballots. These are ballots issued over the counter to voters coming into the ROV to vote. Depending on the available quantity the ROV has for the ballot type needed, staff may dispatch counter ballots to the polling place for use. If sufficient counter ballots are not available, the ROV will photocopy their ballot template and send the copies to the polling place for use by voters. Photocopies are subsequently duplicated after the election onto official ballots for counting. Distance of the polling place from the ROV office may not make it feasible to courier counter ballots or photocopied ballots, as they would not make it to the polling place before ballots run out and/or within the two hour state time limit. In such instances, ROV would send the ballot template file to a city clerk and request that they make copies of the ballot. A range inspector would be notified to pick up the copies and deliver them to the appropriate polling place.

When a voting unit fails or malfunctions, poll workers are instructed to call the ROV technical support desk. If the unit is not working, technical support will send out a replacement unit and bring the non-working unit back for analysis. If a poll worker plugged the unit in the prior night to a dead outlet and the battery is now drained, the unit would merely require a live power source. If a unit failed, the ROV would perform a thorough analysis and follow the Secretary of State Condition No. 28.

Poll workers can also remedy malfunctions over the phone with technical support. An example is the touch-screen not responding or the wrong selection is marked when touched. This would require the unit to be recalibrated and technical support can walk the poll worker through how to recalibrate the unit and refer them to the appropriate pages in the poll worker handbook for instructions. These secondary controls are considered to be good practices.

5. Transparency/Accessibility. The Audit Team found that observers will need to be provided better access if they are to view certain activities with any clarity. For example, many observers were often located too far away in order to view the placement of security seals. However, there were limitations identified as to quality of observations achievable and balancing security concerns of interference with poll workers election duties.

CHAPTER 5: REGIONAL COLLECTION CENTERS

Chapter 5 summarizes the observations during the collection center phase of the observations, six members of the Audit Team reviewed processes and procedures at three collection centers located in Western Riverside County. More specifically, the focus of this observation was on legal compliance, chain of custody, tamper controls, secondary controls and the opportunities that the ROV had afforded individuals to observe the elections process defined by the Scope of Work. The collection center staff was charged with receiving voted ballot cartons and red transport bags and scanning one of these items with bar scanner equipment. Staff was also responsible for verifying precinct numbers on the voted ballot cartons and red transport bags and determining whether security seals had been broken.

The Audit Team focused on five primary areas defined by the Scope of the Work: (1) legal and operational compliance; (2) chain of custody; (3) primary tamper controls; (4) secondary controls; and (3) temporary/accessibility

1. Legal and Operational Compliance. The Audit Team found that the ROV is generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures. Collection center operations were well supervised and collection center volunteers were well trained.

2. Chain of Custody. The Audit Team found that the ROV could improve its documentation of certain aspects of the chain of custody process. For example, a form documenting the transfer of custody of paper ballots from polling locations to collection center volunteers needs to be improved. In addition, the Audit Team observed and documented compliance with chain of custody and security requirements for the transportation of elections materials from the collection centers to the ROV office.

3. Primary Tamper Controls. The Audit Team found no evidence of tampering, misconduct or fraud by that of poll workers or ROV staff during its observation of the regional collection centers. Collection center volunteers were not instructed to document the occurrence of broken seals. All ballot cartons were sealed with tamper evident security tape upon receipt at collection centers.

4. Secondary Controls. The Audit Team found the need for improvement in the ROV's secondary controls. For example, the ROV could improve its

secondary controls as the collection centers did not know how to respond to a broken seal as no written policies or forms are presently provided.

5. Transparency/Accessibility. The Audit Team found that the transport of ballots and election materials to the regional collection center process is generally transparent.

CHAPTER 6: DELIVERY OF ELECTION MATERIALS TO ROV OFFICE

Chapter 6 involves the observations made by the Audit Team on Election Night at the ROV office upon delivery of the election materials from the regional collection centers to the ROV office for processing. The objective was to evaluate processes and procedures for security, safety or chain of custody issues. The Audit Team focused on five primary areas defined by the Scope of Work: (1) Legal and Operational Compliance; (2) Chain of Custody; (3) Primary Tamper Controls; (4) Secondary Controls and (5) Transparency/Accessibility.

1. Legal and Operational Compliance. The Audit Team found that the delivery of election materials to the ROV was generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures.

The Audit Team found that this process was well run and the crews did a good job. However, the physical drop-off and receipt of the election materials to the ROV office may be made more safe and efficient. Improvements could be made in the areas of (a) outside lighting, (b) the use of security personnel, (c) the use of a parking lot attendant to direct traffic, and (d) the use of safety vests.

2. Chain of Custody. The Audit Team found that the ROV failed to completely document the receipt of all election materials. For example, the red transport bags were not being logged-in upon arrival to the ROV office. This area could be improved by documenting the receipt of the red transport bags by scanning the barcodes as it does with the voted ballot boxes.

3. Primary Tamper Controls. The Audit Team found that the ROV used seals as a means of detecting tampering. The Audit Team observed more than one ballot box and more than one transport bag arrive with broken seals. The Audit Team found that the ROV did not make use of any logs to document those ballot boxes or transport bags that arrived with a broken seal.

A best practice to consider by the ROV is using a log to keep track of those ballot boxes and red transport bags that arrive with a broken seal and having them documented in an accountability log upon arrival.

4. Secondary Controls. Pursuant to Elec. Code section 15302, subd. (a) and ROV Policy Section F-1, those materials that appear to need special attention (i.e. a seal is broken) should be brought to the attention of the Registrar for special

handling. On-site Team members did not observe those ballot boxes with broken seals being set aside for special handling or brought to the attention of the Registrar. This is an area that requires further review by the ROV.

5. Transparency/Accessibility. The Audit team observed and documented compliance with paper ballot processing on the Optec 400-C relying on a checklist. The Team also observed and documented compliance with results cartridges processing relying on a checklist. The ROV provided the public with an appropriate viewing mechanism to monitor display information evident of real-time processing.

Ballot and results cartridges vote information is updated to the database for tabulation results. This is known as the central tabulator processing. This network is closed-off from external networks and wireless connectivity is disabled. Final voting results for the County are provided by the central tabulator processing. The Audit Team found that the ability of observers to make observations during this process could be improved. The central tabulator processing server monitor was facing inwards in the tally room for security purposes dealing with root directory and other visible information seen on the monitor to protect security protocols of the tabulator process. Visual observations of the monitor was difficult for the Audit Team because it was difficult to observe processes within a legible distance from an open door 30 feet away from the monitor. Additionally, once red transport bags were handed over the counter in the lobby for processing, the Audit Team could no longer view the process; until some later time when the Audit Team was permitted access to that area.

CHAPTER 7: POST-ELECTION CANVASSING

Chapter 7 is a discussion of the observations made by the Audit Team at the ROV office post election night related to the official canvass and tallying of votes. The review included the following areas: 100% tally of electronic ballots, duplicating paper ballots, random selection of 1% of precincts for manual tally, 1% manual tally for Optech paper ballots, index roster review and ballot reconciliation. The Audit Team focused on five primary areas defined by the Scope of Work: (1) Legal and Operational Compliance; (2) Chain of Custody; (3) Primary Tamper Controls; (4) Secondary Controls; and (5) Transparency/Accessibility.

1. Legal and Operational Compliance. The ROV certified the County's vote totals as "full, true and correct" on December 2, 2008 pursuant to the rule that county elections officials must complete the official canvass no later than the 28th day after the election and submit a certified statement of the results of the election to the Secretary of State by the 35th day after the election. However, the ROV did not complete the manual tally verifying all ballots cast on touch-screen voting machines. This was due in part to the large number of DRE votes cast due to the ROV's early voting efforts and the mandatory Secretary of State requirement that there shall be a manual tally of each VVPAT paper print-out of the touch screen ballot cast.

The hand count of the ballots cast on the touch-screen voting machines was not actually completed until February 2, 2009. The Secretary of State's office has reported (to the newspaper) that is not supposed to happen, even if it is not likely to change the outcome of any race. While the law does not specify that the DRE manual tally must be completed within a specified period, there needs to be improvement in this area, and to assure voter confidence in the certification of the vote totals, that the process is done in a timely manner and includes all of the touch-screen ballots cast as verified by the hand-count. There also needs to be more transparency with the public when the DRE manual tally goes beyond the official canvass period and to the reasons why.

However, the ROV is in compliance with ROV Policy section F-18 and the Secretary of State recertification of the Sequoia voting system requiring a 100% public manual tally of the electronic votes on Edge voting units.

2. Chain of Custody. The Audit Team found no problems with chain of custody during canvassing at the ROV.

3. Primary Tamper Controls. The Audit Team found that tamper preventive measures should be instituted. For example, the Audit Team observed that the tally room door was not secured and was left open throughout its observation. Further, those individuals accessing the tally room were not wearing identification badges.

4. Secondary Controls. The Audit Team was not able to observe those steps (if any) followed in the event a seal was broken on a box or bag.

5. Transparency/Accessibility. The Audit Team found that the ROV staff was accommodating and friendly to observers. However, observers will need to be provided better access if they are to view certain activities within a legible distance. The specific reconciliation processes, and other canvassing, processes cannot be determined without a forensic audit.

FINDINGS

The findings are listed in the order presented in the text of the review.

EXECUTIVE SUMMARY

	AUDIT TEAM MAKES THE FOLLOWING FINDINGS THAT:	Type
1	ROV and its thousands of volunteers conducted an unprecedented election in terms of turnout. Volunteers were found to be well trained for the most part.	Legal and Operational Compliance
2	Congestion, limited resources, and human error accounted for most of the problems that occurred on Election Day. Based on our observations, the ROV and its army of volunteers were generally in compliance with applicable laws and procedures.	Legal and Operational Compliance
3	ROV's chain of custody process has improved in recent years thanks to the contributions of SRV and the 2006 ERC. The key lessons applicable today include the need to strengthen the ROV's tamper detection and secondary control processes.	Chain of Custody
4	No evidence of tampering, misconduct or fraud upon the part of ROV staff or volunteer poll workers was found during the opening of the polls to the closing of the polls.	Primary Tamper Controls
5	No evidence of tampering, misconduct or fraud upon the part of ROV staff or volunteer or temporary workers was found during the transport of ballots and election materials to the regional collection centers.	Primary Tamper Controls
6	No evidence of tampering, misconduct or fraud upon the part of ROV staff or volunteer or temporary workers was found during the transport of ballots and election materials from the regional collection centers to the ROV office.	Primary Tamper Controls
7	Security seals were not properly documented as part of the ROV chain of custody process for all components of the voting process. (See Secretary of State Cond. No. 27.)	Primary Tamper Controls

	AUDIT TEAM MAKES THE FOLLOWING FINDINGS THAT:	Type
8	ROV's current primary tamper controls has a number of weaknesses that need to be improved; primarily involving the lack of accountability logs to track all equipment and election materials during the chain of custody process that arrive with a broken seal or some other irregularity.	Primary Tamper Controls
9	A lack of secondary control policies that address the proper treatment of all machines and materials received with a broken seal, tampered with, or suspected of tampering.	Secondary Controls
10	On election day, some poll workers were unable to contact the ROV via its phone system in their efforts to assist voters locate their proper polling locations.	Legal and Operational Compliance
11	The reconciliation process required after the polls close at the polling site was difficult for poll workers to accomplish.	Legal and Operational Compliance
12	The temporary citizen observation assigned areas did exceed a legible viewing distance in a number of particular processes including the closing of the polls, the central tabulator process and parts of the canvassing process.	Transparency and Accessibility
13	A number of polling places were inadequate in design, size or accessibility.	Legal and Operational Compliance
14	ROV did not complete the 100% Manual Tally of Electronic Ballots prior to certifying the election on December 2, 2008; and, instead, completed it on February 2, 2009.	Legal and Operational Compliance

	AUDIT TEAM MAKES THE FOLLOWING FINDINGS THAT:	Type
15	ROV requested reimbursement for \$409,373 from Sequoia Voting Systems to conduct the 100% manual tally for the November 4, 2008 election. This reimbursement request is pursuant to Secretary of State's October 25, 2007 Recertification Condition No. 19 setting forth that "[a]ny post-election auditing requirements imposed as a condition of this certification shall be paid for by the vendor. Elections officials are required to conduct the audits and the vendor is required to reimburse the jurisdiction."	Legal and Operational Compliance
16	ROV's overall election and ballot processes generally meet the compliance requirements of federal and state elections laws based on the Audit Team's observations. However, some Ballot Statement and Certification of Completion forms observed by the Audit Team contained poll worker errors.	Legal and Operational Compliance
17	ROV is in general compliance with almost all of the Secretary of State's 41 touch-screen electronic voting system re-approval conditions based on the Audit Team's observations. However, 8 conditions were incomplete and require further review by the ROV and Secretary of State.	Legal and Operational Compliance

CHAPTER 1: APPLICABLE ELECTION LAWS, RULES AND POLICIES

Chapter 1	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	ROV is generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures. With only 35 full-time employees, the ROV operates very efficiently and its staff operates from top-to-bottom with integrity.	Legal and Operational Compliance
2	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 12. Partial. The hard casing does not cover all ports. Some ports are vulnerable to unauthorized access.	Legal and Operational Compliance
3	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 14. Partial. Observation space was provided, however, it was difficult to see all areas in need of observation.	Transparency and Accessibility
4	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 15. Unknown. Verification that vote tabulations posted at all polling locations would require a forensic audit.	Legal and Operational Compliance
5	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 19. No. The ROV has requested reimbursement for \$409,373 from Sequoia Voting Systems to conduct the 100% manual tally for the November 4, 2008 election.	Legal and Operational Compliance
6	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 21. Partial. The results were certified on December 2, 2008; however, the final 100% manual tally of all DRE ballots were not completed until February 2, 2009.	Legal and Operational Compliance

Chapter 1	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
7	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 24. Partial. The observation access was often inadequate for what would be considered a legible distance for an observer to made an observation.	Legal and Operational Compliance
8	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 27. Partial. ROV needs to develop secondary controls on election day to address voting equipment that has seals that have been broken, been tampered with, or where there is expected tampering. The Audit Team is not aware of any log that reports the number of missing results cartridges at the end of election night and the amount of time to locate any missing results cartridges, if any.	Legal and Operational Compliance
9	Touch-Screen Electronic Voting System Secretary of State CONDITION No. 28. Unknown. The Audit Team is not aware of any log kept or any voting device that experienced a fatal error.	Legal and Operational Compliance
10	MANUAL SECTION No. F. The results were certified on December 2, 2008; however, the final hand counts of the 100% public manual tally of all DRE ballots were not completed until February 2, 2009.	Legal and Operational Compliance

CHAPTER 2: SYNTHESIS OF KEY PAST REPORTS

Chapter 2	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	ROV has implemented a number of recommendations from past reports, including the ERC and several of the SRV audit reports. The Audit Team observed that ROV staff has expended a significant amount of resources in staff time and resources addressing concerns raised by SRV. Both the ROV and SRV may be better served by having a more friendly working relationship.	Legal and Operational Compliance
2	SRV has made major contributions towards identifying areas of concerns, particularly in the areas of security and chain of custody that should be recognized.	Chain of Custody
3	No actual evidence of tampering, fraud or misconduct found in past reports. Instead, the Audit Team found that the SRV has identified important gaps in the ROV's tamper detection and secondary control systems.	Primary Tamper Controls
4	Both ROV and SRV place a different level of probability on the potential risk for tampering or falsifying of election results. Over the past three years, these opinions have come closer together rather than farther apart.	Tamper Detection Process
5	ROV lacks sufficient written secondary control policies regarding the treatment of all machines and election materials received with a broken seal, evidence of it being tampered with or suspected of tampering.	Secondary Controls
6	Both the ROV and SRV provided tremendous assistance and information used in the preparation of this report. Both parties continually made themselves available to any questions or concerns raised by the Audit Team. The Audit Team found a commitment to improving the County's election process from both parties.	Transparency and Accessibility

CHAPTER 3: PRE-ELECTION CHAIN OF CUSTODY

Chapter 3	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	ROV is generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures.	Legal and Operational Compliance
2	Contracted transport companies and poll location volunteers generally preserved the chain of custody for electronic voting components, but the Audit Team found insufficient documentation of serialized tamper-evident seals on accountability logs. However the Audit Team found that the ROV could improve its documentation of certain aspects of the chain-of-custody process.	Chain of Custody
3	Transportation companies were often forced to return voting system components to interim storage facilities because they were unable to make contact with their point of contact at precinct locations.	Chain of Custody
4	Evidence of broken seals are potential indications of accidental, unintentional or suspected tampering.	Secondary Controls
5	ROV does not currently track unused security seals from prior elections which fails to detect whether someone has improperly replaced one of the many tamper evident seals prior to the election. The faulty assumption is that as long as the seal is not broken, then someone has not replaced the seal on the voting system component.	Primary Tamper Controls
6	No Departmental Policies or Procedures exist for dealing with paper ballots after there is evidence of broken seals, tampering or suspected tampering. As a <i>best practice</i> , the ROV has an established Departmental Policy and Procedure for dealing with tampering or suspected tampering at early voting locations and provides training to elections officers on notifying the ROV immediately if there is evidence of tampering, but does not have similar guidance if tampering or suspected tampering is found	Secondary Controls

Chapter 3	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
	during the delivery of the electronic voting system components to interim storage and polling locations prior to the election.	
7	ROV promoted transparency during the pre-election process and accommodated the Audit Team's requests to make observations during this period.	Transparency and Accessibility

**CHAPTER 4: ELECTION DAY FROM OPENING TO CLOSING
OF POLLING PLACES**

Chapter 4	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	Election processes on election day was generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures.	Legal and Operational Compliance
2	Poll workers were very friendly and hardworking. These volunteers put forth countless hours on the actual day of election that needs to be recognized as a major contribution to the success of the election.	Legal and Operational Compliance
3	Use of a poll worker located at front entrance of polling locations was very useful for direction purposes. However, better oral instructions at the entrance may be useful in instructing voters to their proper precincts.	Legal and Operational Compliance
4	A number of polling places were inadequate in design, size or accessibility.	Legal and Operational Compliance
5	The ballot statements and certificate of completion reconciliation process was difficult for many poll workers to complete and often served as a tremendous source of frustration and errors.	Legal and Operational Compliance
6	Many voters who arrived at the wrong initial polling location have difficulty obtaining assistance which could result in an over-reliance on using provisional ballots.	Legal and Operational Compliance
7	Money paid as an incentive for volunteers to bring their own cell phones and laptops to be used to help voters find correct polling places was not very effective.	Legal and Operational Compliance

Chapter 4	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
8	Some instances of electioneering. Election signs were the most problematic issue in terms of distance from polling location.	Legal and Operational Compliance
9	General public was unaware of the voter assistance rules related to completing ballots.	Legal and Operational Compliance
10	ROV does not currently evaluate the performance of poll workers.	Legal and Operational Compliance
11	ROV does not have a system for tracking voter complaints or requests for assistance.	Legal and Operational Compliance
12	Some poll workers were unable to contact the ROV via its phone system in their efforts to assist voters locate their proper polling locations.	Legal and Operational Compliance
13	No major problems in the chain of custody processes involving ballots and the electronic voting system component from the opening of the polling locations to the closing of the polling locations.	Chain of Custody
14	No evidence of tampering, misconduct or fraud by poll workers or ROV staff during its observation of the polling locations.	Primary Tamper Controls
15	It was difficult to differentiate between spoiled provisional and spoiled regular ballots because the ballot envelopes were not distinguishable.	Primary Tamper Controls

Chapter 4	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
16	Observers will need to be provided better access if they are to view certain activities within a legible distance.	Transparency and Accessibility

CHAPTER 5: REGIONAL COLLECTION CENTER

Chapter 5	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	ROV is generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures.	Legal and Operational Compliance
2	Collection center operations were well supervised and that collection center volunteers were well trained.	Legal and Operational Compliance
3	ROV could improve its documentation of certain aspects of the chain of custody process. For example, the barscan process only recognizes that a particular precinct has arrived.	Chain of Custody
4	No evidence of tampering, misconduct or fraud upon the part of ROV staff or volunteer or temporary workers was found during the transport of ballots and election materials to the regional collection centers.	Primary Tamper Controls
5	Collection center volunteers were not instructed to document the occurrence of broken seals.	Primary Tamper Controls

Chapter 5	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
6	ROV could improve its secondary controls for the collection center volunteers who did not no know how to respond to a broken seal as no written policies or forms are presently provided.	Secondary Controls
7	ROV promoted transparency during the transport of ballots and election materials to the regional collection center and accommodated the Audit Team's requests to make observations during this period.	Transparency and Accessibility

CHAPTER 6: DELIVERY OF ELECTION MATERIALS TO ROV

Chapter 6	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	Delivery of election materials to the ROV was generally compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures.	Legal and Operational Compliance
2	The volunteers at the loading docks appeared to be well trained. However, the drop-off and receipt of the election materials to the ROV office could be made more efficient.	Legal and Operational Compliance
3	ROV warehouse and receiving area could be made more safe for ROV staff and volunteers.	Legal and Operational Compliance
4	ROV could improve clear lines of authority during the massive efforts to accept all the election materials.	Legal and Operational Compliance

Chapter 6	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
5	ROV <u>did not</u> document the receipt of all election materials. The Audit Team found that the red transport bags were not being logged in upon arrival to the ROV office.	Chain of Custody
6	No evidence of tampering, misconduct or fraud by volunteers or staff was found at the ROV office, during the Audit Team's observation of the ROV office intake processes.	Chain of Custody
7	The ROV used seals as a means of detecting tampering. More than one ballot box and more than one transport bag arrived with broken seals. The ROV did not make use of any logs to document those ballot boxes or transport bags that arrived with a broken seal.	Primary Tamper Controls
8	The ROV could improve its secondary controls. Pursuant to Elec. Code section 15302(a) and ROV Policies and Procedures Section F-1, those materials that appear to need special attention (i.e. a seal is broken) should be brought to the attention of the Registrar for special handling. During the time it was observing, the Audit Team did not observe that those ballot boxes with broken seals were being set aside for special handling or brought to the attention of the Registrar.	Primary Tamper Controls
9	Better tamper controls and preventive measures should be instituted. For example, the Audit Team observed that the tally room door was not secured and was left open throughout its observation. Also, individuals accessing the tally room were not wearing identification badges ¹ .	Secondary Controls

¹ The ROV has reported that members of the public wishing to gain access, not to the tally room, but to the back office area of the ROV office where some of the canvassing processes took place, were required to wear an identification badge so that the ROV staff could identify them as observers.

Chapter 6	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
10	With respect to secondary controls in place to protect the integrity of the election process in the event a possibility of tampering was identified, the Audit Team did not observe that there were steps followed in the event a seal was broken on a box or bag.	Transparency and Accessibility
11	Overall, the ability of observers to make observations during this process was sufficient. However, once red transport bags were handed over the counter in the lobby for processing, the Audit Team could no longer view the process until some later time when the Audit Team was permitted access to that area.	Transparency and Accessibility
12	The ROV staff was accommodating and friendly to observers. The lengths taken by the ROV to accommodate observers and provide transparency to the processes, generally followed the letter of the law. That said, the Audit Team found that certain processes were not easy to observe from the observation area. For example, the Audit Team found that the WinETP server monitor was not viewable to the naked-eye among observers. Additionally, because the observation area was staged such a distance from those persons handling the ballots, it was difficult to observe clearly what they were doing.	Transparency and Accessibility

CHAPTER 7: POST-ELECTION CANVASSING

Chapter 7	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
1	ROV did not complete the 100% Manual Tally of Electronic Ballots prior to certifying the election on December 2, 2008; and, instead, completed it on February 2, 2009 due to the large number of electronic ballots.	Legal and Operational Compliance
2	ROV did seek reimbursement for the November 4, 2008 election pursuant to Secretary of State Recertification Condition No. 19 setting forth that "Any post-election auditing requirements imposed as a condition of this certification shall be paid for by the vendor. Elections officials are required to conduct the audits and the vendor is required to reimburse the jurisdiction."	Legal and Operational Compliance
3	The ROV was compliant with federal and state law, Secretary of State Conditions, Sequoia Use Procedures and ROV Departmental Policies and Procedures related to (a) Processing and Counting Vote-by-Mail Ballots; (b) Duplicating Paper Ballots ² (c) Processing and Counting Provisional Ballots; (d) Roster Audit (e) One-percent Manual Tally; (f) Ten-percent Manual Tally for Close Contests.	Legal and Operational Compliance
4	No problems with chain of custody during the canvassing process at the ROV.	Chain of Custody
5	No evidence of tampering, misconduct or fraud by ROV staff during the canvassing process.	Primary Tamper Controls
6	Observers will need to be provided better access if they are to view certain activities within a legible distance.	Transparency

² ROV's administrative procedures were used in lieu of a log due to the volume of duplication.

Chapter 7	AUDIT TEAM MAKES THE FOLLOWING FINDINGS:	Type
7	With respect to transparency of the ballot reconciliation process and other canvassing processes, the specific adequacy of the procedures cannot be determined without a forensic audit. The Audit Team did not conduct a forensic audit.	Transparency and Accessibility

RECOMMENDATIONS

The recommendations are listed in the order presented in the text of the review. They have been prioritized as follows:

Priority 1 These recommendations are more serious in nature and are required for conformance with applicable laws and policies. They should be implemented before the next regularly scheduled election. Priority 1 recommendations are marked with "P1."

Priority 2 These recommendations should be examined and/or implemented as soon as practicable. Priority 2 recommendations are marked with "P2."

CHAPTER 3: PRE ELECTION CHAIN OF CUSTODY				
Overall No.	No. in this Chapter	AUDIT TEAM RECOMMENDS THE FOLLOWING	Type	Priority Level
1	1	Oath of office be administered to facility managers/owners of polling places in order to ensure that they understand the magnitude of their responsibilities.	Legal and Operational	P2
2	2	ROV revise existing accountability logs or create new ones that identify specific serial numbers assigned to various electronic voting system components.	Chain of Custody	P1

CHAPTER 3: PRE ELECTION CHAIN OF CUSTODY

Overall No.	No. in this Chapter	AUDIT TEAM RECOMMENDS THE FOLLOWING	Type	Priority Level
3	3	ROV develop a procedure or system to notify the recipients of voting system components prior to delivery by the transport company. The transport company could assign exact times or a window of time in which recipients could expect delivery. A day before delivery, the transport company could have an automated system contact recipients reminding them of their assigned delivery time or window and provide a phone number should recipients be unavailable to receive voting system components.	Chain of Custody	P1
4	4	ROV develop a more secure method of transporting voting system components. While the Edge voting units are self-contained in a hard plastic portable case and secured with a yellow strap, the strap merely detects tampering but does not really prevent tampering. We were pleased with how the Orange County Registrar of Voters transported voting system components in steel cages containing combination locks. A similar system would further guard against unauthorized access to voting system components. This is especially crucial if voting system components are stored in secured locations in plain view.	Primary Tamper Controls	P1

CHAPTER 3: PRE ELECTION CHAIN OF CUSTODY

Overall No.	No. in this Chapter	AUDIT TEAM RECOMMENDS THE FOLLOWING	Type	Priority Level
5	5	ROV increase its efforts to locate locked storage locations outside of plain view for all voting system components. While many of the precinct locations are secured, storing voting system components in plain view increases the chances of unauthorized access.	Primary Tamper Controls	P1
6	6	ROV revise existing accountability logs or create new ones that identify specific serial numbers assigned to various voting system components. For example, the Orange County Registrar of Voters identifies eight different serial numbers on its JBC Chain of Custody Log and requires that an inspector and clerk initial that all of the serial numbers identified are intact.	Primary Tamper Controls	P1
7	7	Seals should bear some sequential numbering or barcodes so they can not be used in subsequent elections. This would require the logging of the series of numbered seals used each election. For example, if in the June, 2008 election seal numbers 4000 to 9000 were either used or not returned to the ROV, then for the next election, seal numbers 9001 to a previously designated ending seal number would be issued.	Primary Tamper Controls	P1

CHAPTER 3: PRE ELECTION CHAIN OF CUSTODY

Overall No.	No. in this Chapter	AUDIT TEAM RECOMMENDS THE FOLLOWING	Type	Priority Level
8	8	<p>The following additional measures be added to improve existing tamper controls for polling locations:</p> <ul style="list-style-type: none"> • When possible, utilizing locked storage within polling locations; • Limiting and logging access to electronic voting system components to ROV staff, volunteers, agents; 	Primary Tamper Controls	P1
9	9	<p>The following additional measures be added to improve existing tamper controls for interim storage locations:</p> <ul style="list-style-type: none"> • Use accountability log with signature verification of those who enter and exit storage rooms or some type of magnetic card reader program; • When possible, utilizing alarm systems and interior and exterior surveillance. 	Primary Tamper Controls	P1

CHAPTER 3: PRE ELECTION CHAIN OF CUSTODY

Overall No.	No. in this Chapter	AUDIT TEAM RECOMMENDS THE FOLLOWING	Type	Priority Level
10	10	ROV develop a written policy requiring that ROV staff train inspectors on the need for immediate notification should a seal break prior to the opening of the polls, or if there exists evidence of tampering, or any suspicion of tampering, of any paper ballot box after the box has been sealed with the paper ballot inventory standard seal prior to the opening of the polls.	Secondary Control	P1
11	11	ROV develop a secondary control policy to address circumstances where the ballots arrive during the set up for the opening of the polls with a broken seal or where there has been evidence of or a report of some tampering, or some form of misconduct or fraud.	Secondary Control	P1
12	12	ROV develop a written policy requiring that ROV staff train transport company drivers on the need for immediate notification to the ROV should they detect evidence of tampering, or any suspicion of tampering, of any voting system component during any phase of delivery and transfer.	Secondary Control	P1
13	13	ROV should develop a Departmental Policy and Procedure which instructs ROV staff to take very specific actions upon knowledge of tampering or suspected tampering.	Secondary Control	P1

CHAPTER 4: ELECTION DAY: FROM OPENING TO THE CLOSING OF THE POLLING LOCATIONS

Overall No.	No. in this Chapter	AUDIT TEAM RECOMMENDS THE FOLLOWING	Type	Priority Level
14	1	Election Officer training courses put more emphasis on providing voter assistance.	Legal and Operational	P2
15	2	ROV should continue to emphasize its public outreach and education efforts.	Legal and Operational	P2
16	3	More interactive or hands-on training be incorporated into existing training efforts with an emphasis on reconciliation and voter assistance.	Legal and Operational	P1
17	4	ROV should make its training handbooks more user friendly.	Legal and Operational	P2
18	5	ROV should continue to take steps towards making the closing reconciliation process more simplified.	Legal and Operational	P1
19	6	ROV should provide more effective voter assistance through some type of automated services and/or retain additional phone bank operators to field incoming inquiries regarding voter information/registration.	Legal and Operational	P1

CHAPTER 4: ELECTION DAY: FROM OPENING TO THE CLOSING OF THE POLLING LOCATIONS

20	7	ROV should continue its diligent efforts to educate volunteer poll workers on the importance of prohibiting electioneering near and adjacent to polling locations.	Legal and Operational	P2
21	8	ROV should adopt a process for identifying performance levels of poll workers.	Legal and Operational	P2
22	9	ROV should adopt a system of tracking and monitoring voter complaints.	Legal and Operational	P2
23	10	Incentive monies should be redirected to improving knowledge retention by the poll workers.	Legal and Operational	P2
24	11	ROV should use different colored envelopes for spoiled provisional ballots and spoiled regular ballots or to identify another process to keep these ballots separate during the closing process.	Primary Tamper Controls	P1

CHAPTER 5: REGIONAL COLLECTION CENTERS

Overall No.	No. in this Chapter	Recommendation	Type	Priority Level
25	1	ROV utilize a form documenting the transfer of custody of paper ballots and results cartridges from polling locations to collection center volunteers. The ROV has previously used a signature verified form that documented this transfer which it should consider using again.	Chain of Custody	P1
26	2	ROV develop an accountability log to document broken seals.	Primary Tamper Controls	P1
27	3	ROV provide instructions for documenting and handling ballot boxes with broken seals.	Secondary Control	P1

CHAPTER 6: DELIVERY TO ROV OFFICE AND SEMI-CANVASSING

Overall No.	No. in this Chapter	Recommendation	Type	Priority Level
28	1	The drop off and receipt of the elections materials to the ROV Office be made more safe and efficient. Safety improvements could include improving the areas of (1) outside lighting, (2) the use of security personnel, (3) the use of a parking lot attendant to direct traffic, and (4) the use of safety vests.	Legal and Operational	P2
29	2	ROV consider placing those working in a supervisory capacity in some type of special vest or identification to improve the lines of authority during the massive effort to accept all the election materials.	Legal and Operational	P2
30	3	ROV document the receipt of the red transport bags by scanning the barcodes as it does with the voted ballot boxes or some other effective process.	Chain of Custody	P1
31	4	ROV keep track of those ballot boxes and red transport bags that arrive with a broken seal in an accountability log.	Primary Tamper Controls	P1

CHAPTER 6: DELIVERY TO ROV OFFICE AND SEMI-CANVASSING

Overall No.	No. in this Chapter	Recommendation	Type	Priority Level
32	5	Ballot boxes with broken seals receive a secondary control handling process after they are brought to the attention of ROV staff.	Secondary Control	P1
33	6	The bottom half of the tally room door should remain closed, access to the room should be limited, and all designated personnel with authorized access be required to display identification badges.	Primary Tamper Controls	P1
34	7	ROV collaborate with appropriate County IT resources to develop a public viewing mechanism of the WinEDS server monitor while ensuring its security. To that end, ROV could position an additional display monitor or monitors in a manner that allows the observers to read the contents displayed on the vote tabulating computer or device while also observing the vote tabulating computer or device and any person or persons operating the vote tabulating computer or device.	Transparency and Accessibility	P1

CHAPTER 7: OBSERVATIONS OF POST ELECTION CANVASSING

Overall No.	No. in this Chapter	Recommendation	Type	Priority Level
35	1	ROV should seek reimbursement from the vendor of the Sequoia voting system for the costs associated with post election auditing required as a condition of recertification. For example, the 100% Manual Tally of electronic ballots may be deemed a post-election audit imposed as a condition of certification.	Legal and Operational	P1
36	2	With respect to observation areas, the ROV should permit the area to go around the perimeter of the activity so that all the tables can be viewed from a legible distance; provided such an area does not interfere with the ability of the workers to perform their tasks.	Transparency and Accessibility	P1

Overarching Conclusion

Based upon the observations performed within the Scope of Work, it is the Audit Team's conclusion that the procedures followed by the ROV office for the ballot handling activities were generally consistent with the County's internal departmental policies and procedures, the applicable state and federal laws, and electronic voting system recertification conditions.

However, 8 conditions require further review by the ROV and Secretary of State to assure appropriate compliance. The ROV implemented and checked many controls and safeguards between the June 2008 election and the November 2008 Consolidated General Election resulting in an overall improvement to the operational, security and ballot handling processes. However, as noted in our findings and recommendations, there are necessary improvements and *best practices* that should be instituted before the next regularly scheduled election to enhance the security, accountability and transparency of the ROV Department and the overall election process. While a number of the recommendations will require no infusion of additional resources, some of the recommendations will require resource priorities developed in conjunction with the Board, the CEO and the ROV.

Administering any election in Riverside County is a massive undertaking; but the November 2008 Consolidated General Election presented several new challenges in light of the record turnout of registered voters. Extraordinary preparations and work by Registrar of Voters Barbara Dunmore, her staff, election integrity groups, political parties, citizen observers and Riverside voters have made the November 2008 election both honest and fair.

The task of conducting an election is comprised of a number of ongoing processes involving an enormity of duties, challenges, personalities, and variables that must come together in a near perfect configuration so Election Day unfolds without a hitch. The microscopic examination of the ROV's election work on the November 2008 Consolidated General Election found that there can always be improvement in a dynamic and ever changing election process. There will always be a better way to improve the election process for all concerned.

The Registrar of Voters, Barbara Dunmore, and the ROV staff should be congratulated for their great success in coordinating and overseeing the manpower necessary to pull off such a feat. Over 4000 volunteers had to be recruited, trained, deployed, and supervised at every phase of the election process. Even with the inevitable human error, the identified gaps and areas for improvement, the ROV demonstrated adept skills, perseverance and competency in coordinating the complexities of the November 2008 election.

The ROV is in a mode of continual improvement over lessons learned from past elections. The ROV continues to improve and develop better ways for succeeding elections.

Our findings and recommendations are submitted to the Riverside County Board of Supervisors, the County Executive Offices, and the ROV in furthering its stated mission and overarching goals of security, accountability and transparent elections. Developing best practices and finding better ways to protect and secure the people's will at the polls an ever constant challenge. The election process is the foundation of democracy in America. In 2008 as we celebrate Abraham Lincoln's 200 year birthday let us never forget his words at Gettysburg:

"... that government of the people, by the people, for the people shall not perish from the earth:

We are hopeful that recommended improvements in this report can only help to improve the security, the accountability and the integrity of the election and ballot process and enhance the voting confidence of the voters of Riverside County.

AUDIT TEAM LEADERS

Grover Trask
Parissh Knox
Rashaan Tilford
Carrie Raven
Dianna Valdez
Ernie Cooper
Robert Guerrero

ACKNOWLEDGEMENTS

We gratefully acknowledge the cooperation and assistance of Registrar of Voters, Barbara Dunmore, and her professional and dedicated staff even though they were in the midst of the largest turn-out in the history of the County and were also required to provide important assistance to the Audit Team's requests and efforts in our four month Election Operational Review.

The magnitude of the effort required to conduct the November 4, 2008 Presidential Election in Riverside was enormous. Consider these overwhelming numbers that surpass the voting population of 15 states. The efforts of the Audit Team were enhanced not only by significant input from Barbara Dunmore and others from the ROV staff, but also by comments and significant contributions from Tom Courbat and his dedicated volunteer members who also participated in their election integrity pursuit.

- There are 1,284,401 Riverside voting age citizens who are 18 years or older.
- There are 838,716 registered voters in Riverside County.
- There were 657,005 actual votes in the November 4, 2008 election.
- There are 721 polling locations.
- There were over 4,326 poll workers in the November 4, 2008 election.
- There are 35 full-time ROV staff members.

Key Limitations:

1. The Audit Team did not have the resources to complete a forensic audit. Instead, the audit given was observational in nature and included a review of applicable laws and procedures.
2. The Audit Team was requested to begin this audit only 28 days before the election.
3. The Audit Team was unable to view the pre-election logic and accuracy tests as these tests were conducted before the start of the audit.
4. The Audit Team did not address the vote-by-mail process as these ballots had already been mailed to voters. In fact, ROV preparations for the November 4, 2008 Consolidated General Election first began over 300 days before Election Day.
5. The Audit Team did not observe the storage and security of paper ballots at the homes of precinct inspectors.

6. The Audit Team did not observe the compiling of the Roster Indexes and the voter registration list for this election.

ACKNOWLEDGEMENT

REGISTRAR OF VOTERS

Audit Team Liaisons

Registrar of Voters

Barbara Dunmore,

**Ballot Development
1% and 100% Manual Audits**

Doug Kinzle

VBM / Counter / Provisional Ballots

Rebecca Martine

**Ballot Counting
Warehouse Operations (Electronic Voting Equip. & Storage)**

Brian Foss

**Collection Centers
Information Technology Security**

Wayne Beckham

**Polling Place Operations
Early Voting Malls/ROVER**

Sue Martine

SRV Executive Director

Tom Courbat

Citizen Observer

Greg Taber

Riverside County

Deputy County Executive Officer Kathryn Field

EXHIBIT "A"

SAVE R VOTE, under the direction of the Executive Director, Tom Courbat, will act as an independent reviewer to the Registrar of Voters' operational review. The review of the Registrar of Voters will examine accountability and security of ballots and equipment used in elections, among other factors defined by the scope of work adopted by the Board of Supervisors.

Transparency of the review process will allow Mr. Courbat or his designees ongoing access to the consultant team's review of the Registrar of Voters' department. This includes the onsite ability to observe all documents and activities of the consultants' work with the department. The consultant will regularly inform Mr. Courbat reasonably in advance of the dates and times the team will conduct interviews with management, operational review onsite interviews, forensic audit activities and any other review activities with the Registrar of Voters' staff as outlined in the scope of work adopted by the Board of Supervisors.

The role of SAVE R VOTE will be to *fully and meaningfully observe* and not actively *participate (contribute)* during interviews or other inquiries, or interfere in any manner with regards to the consultant team's inquiries of the Registrar of Voters or her staff.

SAVE R VOTE shall have the opportunity to provide continuous input and suggestions to the operations review through direct communication with the members of the team.

SAVE R VOTE may prepare an "Independent Reviewer" section in the final report from BB&K, or may choose to issue a stand-alone Independent Reviewer report.

Grover Trask Consultant to ROV Project
Tom Courbat Executive Director SRV
10-3-08




10/7/08

10/7/08

EXHIBIT "A"

EXHIBIT "B"

Brief Chronology of Direct Record Electronic (DRE) Touch Screen Voting in Riverside County

- September 1998:** The Board of Supervisors approved a recommendation by Supervisors Tom Mullen and Jim Venable to establish a Voting Technology Task Force.
- November 1998:** Two Direct Record Electronic (DRE) voting units are used for survey purposes in precincts in both the Coachella Valley and Sun City elections. The DRE units are equipped with a mock ballot and survey questions for the public to answer. The report states that over 95% of the public surveyed found the units easy to use and indicated a desire to have them pursued for use in Riverside County.
- April 1999:** A DRE unit was displayed at the Orange Blossom Festival in the City of Riverside. Again, more than 95% of the public surveyed found the units easy to use and indicated a desire to have them pursued for use in Riverside County.
- June 1999:** Electronic Voting Task Force submits report to the Board of Supervisors recommending authorization to proceed with a Request for Proposals (RPF) for a Direct Record Electronic (DRE) touch-screen voting system. The Board authorizes a Request for Proposals.
- August 1999:** A pilot municipal election, utilizing touch screen voting equipment, was conducted in the City of San Jacinto.
- September 1999:** The Board authorized the Registrar to use touch screen voting equipment, manufactured by Sequoia Pacific Voting Equipment, Inc., in both the November 1999 and March 2000 elections for the early voting period and to negotiate a contract for county-wide implementation in the November 7, 2000 Presidential General Election.
- March 2000:** The Board approves a contract between the County and Sequoia for acquisition of an electronic touch screen voting systems in the amount of \$13.8 million.
- November 2000:** Riverside County is the first county in the nation to offer DRE touch-screen voting on a county-wide basis; moreover, a Presidential General Election. Early voting is offered at 4 regional malls using touch-screens.

EXHIBIT "B"

- March 2004:** Riverside County conducts its 29th successful election using DRE touch-screen voting units.
- April 2004:** Secretary of State Kevin Shelley decertifies DRE touch-screen voting in California.
- May 2004:** Riverside County joined with disabled voters and disability organizations to sue the Secretary of State in federal court to challenge the ban imposed on electronic voting in the November election.
- July 2004:** Secretary of State Kevin Shelley recertifies the use of Sequoia DRE touch-screen voting for use in Riverside County subject to specified terms and conditions.
- January 2005:** The ROV's requests authorization to upgrade the county's DRE touch-screen voting system inventory (from Edge I to Edge II) in response to a new state mandate that requires all DREs to be equipped with a voter verified paper audit trail (VVPAT) for elections conducted after January 1, 2006. The Board approves the purchase for \$14.1 million.
- March 2006:** Secretary of State Bruce McPherson approves the use of Sequoia's DRE & optical scan voting systems in California subject to specified terms and conditions.
- June 2006:** DRE touch-screen units equipped with VVPAT are used in the Gubernatorial Statewide Primary Election in Riverside
- July 2007:** The Board's ad hoc citizen Election Review Committee recommends that the county transitions away from current touch-screen voting DREs with no paper audit trail and move to a hybrid touch-screen voting system subject to the SOS certification and review process..
- August 2007:** Secretary of State Debra Bowen decertifies and limits the use of electronic touch-screen voting systems in California effective February 5, 2008.
- October 2007:** The Board approves the purchase of six 400C optical scanners from Sequoia Voting Systems to replace the County's outdated Mark-A-Vote paper ballot system.
- November 2007:** The ROV's conducts its 40th successful election using DRE touch-screen voting units as the primary mode of voting at polling places.

EXHIBIT "B"

- February 2008:** In accordance with limitations set by Secretary of State Debra Bowen, one (1) DRE touch-screen voting unit is available at each polling place precinct. The primary mode of voting is paper ballots. Early voting at regional malls is not offered in response to the requirement that a second tally of ballots cast on DREs be conducted by hand using the WPAT.
- June 2008:** In accordance with limitations set by Secretary of State Debra Bowen, one (1) DRE touch-screen voting unit is available at each polling place precinct. The primary mode of voting is paper ballots. Early voting at regional malls is not offered in response to the requirement that a second tally of ballots cast on DREs be conducted by hand using the WPAT.
- November 2008:** The ROV's offers early voting on DRE touch-screens at 3 regional malls, the votemobile, and the ROV office. Over 70,000 ballots are cast electronically in this Presidential General Election. The second manual tally of the electronic ballots surpasses the certification deadline and concludes on February 2, 2009.

EXHIBIT "B"

EXHIBIT "C"

ACKNOWLEDGEMENT

ROV AUDIT TEAM

Name	Title	Location
Brammer, Brady	Clerk	BBK Riverside
Brown, John	Atty	BBK Ontario
Carvalho, Sonia R.	Atty	BBK Irvine
Collins, Kevin	Atty	BBK Sacramento
Gore, Patice	Clerk	BBK Ontario
Hahn, Joseph	Atty	BBK Indian Wells
Hermanowicz, Rebecca	Clerk	BBK Ontario
Kleinberg, Sarah	Atty	BBK Irvine
Knox, Parissh	Atty	BBK Ontario
Meier, Laura	Atty	BBK Irvine
Moody, Renee	Para	BBK Ontario
Raven, Carrie	Atty	BBK Ontario
Shalhoub, Stacy	Clerk	BBK Indian Wells
Steele, Krysten	Para	BBK Ontario
Stubbs, Nancy	Para	BBK Ontario
Tilford, Rahsaan	Atty	BBK Ontario
Trask, Grover	Atty	BBK Riverside
Trembley, Jill	Clerk	BBK Indian Wells
Valdez, Dianna	Para	BBK Riverside
Wilkes, Cyrus	Clerk	BBK Irvine
Atkins, Bert	PI	Confidential Investigative Services
Burns, Millie	PI	Confidential Investigative Services

EXHIBIT "C"

Guerrero, Bob	PI	Confidential Investigative Services
Harding, Pete	PI	Confidential Investigative Services
Mackey, Linda	PI	Confidential Investigative Services
Mackey, Ron	PI	Confidential Investigative Services
Moylan, Gene	PI	Confidential Investigative Services
Prather, Judy	PI	Confidential Investigative Services
Shuster, Sandy	PI	Confidential Investigative Services
Wensfeld, Dennis	PI	Confidential Investigative Services
Willett, Glen	PI	Confidential Investigative Services
Cooper, Ernie	CPA	Vincenti Lloyd & Stutzman
Edora, Edward	Admin	Vincenti Lloyd & Stutzman
Escobar, Drew	CPA	Vincenti Lloyd & Stutzman
McGee, Heather	CPA	Vincenti Lloyd & Stutzman
Saddlemire, Linda	CPA	Vincenti Lloyd & Stutzman

EXHIBIT "C"

ROV AUDIT

MAN-HOURS AND MILEAGE ACCRUED

ENTITY	MAN-HOURS	MILEAGE
BBK	1,429.50	681.66
CIS	430.5	5272
VLS	289.15	***
TOTAL	2,149.15	5953.66

EXHIBIT "C"