MEETING

STATE OF CALIFORNIA

SECRETARY OF STATE

VOTING SYSTEMS AND PROCEDURES PANEL

SECRETARY OF STATE

1500 11TH STREET

AUDITORIUM

SACRAMENTO, CALIFORNIA

TUESDAY, OCTOBER 5, 2004

10:05 A.M.

APPEARANCES

PANEL MEMBERS

Mr. Marc Carrel, Acting-Chairperson

Mr. John Mott-Smith

Ms. Caren Daniels-Meade

Mr. Tony Miller

Mr. Lee Kercher

STAFF

Mr. Michael Wagaman

Mr. Stephen Stuart

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

PROCEEDINGS

ACTING-CHAIRPERSON CARREL: We will begin the meeting.

My name is Marc Carrel, I'm Vice-Chair and I will serve as Chair today in the absence of Mark Kyle.

Also not attending this meeting are David Jefferson and Deborah Jones, but we do have five members of eight, so we do have a quorum.

Mr. Wagaman, if you could start with the report on Item Number 1, please.

MR. WAGAMAN: Actually, Mr. Chair, it would be the update on previous items.

ACTING-CHAIRPERSON CARREL: Okay. I'm sorry. I understand that you have an update on the previous items, some of which were left open in terms of documents we were hoping to receive from the feds and others. So if you can give us an update on those items, that would be helpful.

MR. WAGAMAN: Okay. We're at the final tab in your binders.

At the last meeting the Chair requested that staff prepare an update on all the items that you guys had conditionally certified. In addition, we've had some changes on some of the applications. All those things were put in a report which is before you.

Item 1, which was ES&S Model 100, 550 and 650,

along with the Unity Election Management System. The Panel

recommended certification with a series of conditions, one

of which was federal qualification and the issuance of the

federal ITA reports. Those were actually received by this

office prior to the certification being issued. A

certification was in fact issued.

Another one of the conditions on that

certification was that the vendors submit revised procedures

with some additional feedback that came from the Panel

members. The vendor did comply with that condition, so

those conditions have been met.

Item 3A, the Diebold Election Systems AccuVote-OS.

Again, the Panel recommended certification with a series of

conditions, one of which again related to the federal

process. Those conditions were met prior to the actual

certification being issued by the Secretary. As such, there

are pending issues regarding the certification on that

system.

Item 3B, which is again the VCProgrammer. There

was a series of conditions applied by this Panel. One

related again the federal process. Again that has been

completed. Also one related to the submission of revised

procedures, that was also completed. Subsequent to the

writing of this report, certification was issued for

VCProgrammer. One of the conditions on that certification

was the approval of security plans. That has been done for one county, there are pending security plans for the remaining counties that want to use that system.

ACTING-CHAIRPERSON CARREL: So that means that those counties cannot use the system until those plans are approved?

MR. WAGAMAN: Correct.

Hart System. One condition on the certification was that additional testing be completed on the COTS commercial off-the-shelf scanners that are used by Orange County. Staff did go to Orange County and did successfully complete that testing, thus meeting that condition on certification. So there are no further compliance on that agenda item.

The Sequoia Voting System AVC Edge and WinEDS, again, was recommended for certification with a series of conditions. Related to federal qualification, which again was completed prior to the issuance of the actual certification by this office.

Item 7, the Avante Optical Vote-Tracker. There was a request from the Panel for staff to inquire with the vendor whether they would be willing to push back that item until after November, since it wasn't going to be used in the November election. The vendor was amenable to that. So at the first meeting of this Panel subsequent to the

November election, that item will be ready to finally come forward.

Item 9, the Datavote Ballot/Card Readers. There were two counties which had ballot card readers, which based on the inventory done by RNG, we could not verify the certification on. Staff traveled to those two counties, gathered additional information on those readers, and was actually able to verify the certification on those. So we have been able to verify the certification on all of those card readers currently used in the state. So there is no action before the Panel on that particular item.

Additional testing, Item 10. We had originally intended to bring forward applications relating to the Optech Eagle Model IV-C, the system for ES&S at this meeting. That has been actually scheduled for next week, so I would ask the Panel to roll those items forward to the October 22nd date where you would have those items to address, along with one other, the last pending application, which is relating to the AVC Edge and Verivote, which is their voter-verified paper audit trail system.

ACTING-CHAIRPERSON CARREL: My question is then the rest of the system software, the Optech Eagle, the Optech IV-C, those are systems that are going to be used in various counties in this election. You're saying testing is not occurring until next week, what is the impact if testing

is not successful?

MR. WAGAMAN: Well, both systems are used in various counties. The issues we're talking about only affect two to three counties, Merced, San Mateo, and potentially San Francisco, so it is a fairly limited issue and it would be limited to those jurisdictions. If testing failed, there are alternatives. They would either have to drop back to a different version number, or in the case of San Mateo and San Francisco which use the Eagle and the IV-C, they would have to drop to that previous version number. In the case of San Mateo, they would have to potentially either look at changing version numbers on the iVotronic, or they would have to look at using their paper-based system which is already certified.

ACTING-CHAIRPERSON CARREL: Are there any other questions on this update from the Members?

Seeing none, let's move to the items on the agenda, beginning with Item 1, which is DIMS Advanced Ballot Count Software which on the master agenda is Item Number 9.

For the public, the master agenda that was put on-line includes several items today that are being put over. So just to clarify, Item Number 7, Avante Optical Vote-Trakker, that's been rescheduled to the first hearing that we have after the November election, as Mr. Wagaman just said. The Datavote item has been cancelled, apparently

there's a concern that needed to be heard, but that concern

was alleviated and it's no longer a concern, so there's no

longer need to have a hearing on it.

DIMS is what we're going to hear right now. Then

Number 10, the ES&S has been tentatively rescheduled to the

next hearing which is on the 22nd. Sequoia Voting Systems

will be heard today and then other business.

So let's move to Item 9 or Item 1, the DIMS

Advanced Ballot Count.

MR. WAGAMAN: And this is tab 1 in your binders.

Also, once I complete the DIMS report, I will move on and

also give you the quick hit on the Teamwork report as well,

as the issues are very much in parallel for these two

systems, it's a similar report.

Both DIMS and Teamwork, are both ABC, Advanced

Ballot Count, which is from DIMS, and Teamwork, which is

from Sequoia, are older system election management software

programs that are used in conjunction with the Datavote

punch card voting systems here in the state.

The history on both systems is that they pre-date

both the state certification of software and the federal

qualification process. In the case of the state

certification, in the past the state only certified the

hardware, they did not certify the software, so if you look

at those, they are older certifications, they make reference

to a particular card reader, but they don't make reference to the software that's used in conjunction with it. That was just the state policy at that time.

As a result, the paper trail on these is a little bit ambiguous as far as their certification. Hence the reason staff made a request to the vendors to bring those forward so we could do an assessment, so that we could bring them forward to you to try and clean up that process.

In the case of both ABC and Teamwork, this is the last statewide election in which they will be used, both are to be phased out by the end of 2005. They're going to be replaced either by replacing the punch card readers themselves, which will happen in probably most jurisdictions. For any jurisdiction that chose to keep it, those functions are potentially being integrated into the other election management software from those vendors that you have seen before.

The Advanced Ballot Count is only used in two counties in California, the first being El Dorado. They currently use Version 4.0.2. They made a request of the vendor to upgrade to Version 4.0.3.1, which is the same version that's used currently in Yolo County. The vendor indicates that's what they are going to do, so that's why that's the only version coming forward for certification before the Panel.

The change between the two versions is very minor. There was an issue that came up during the recall election having to do with longer ballots with more than 50 candidates.

The Sequoia Voting System is used in eight counties currently. There are two different version numbers in use, one is 6.0E, which is used in Alpine, Calavaras, San Benito, and Sierra. The second version is 8.1, which is used in Del Norte, Glenn, Imperial, and Inyo. There are a couple differences between the two versions, they are fairly minor, they deal with added functionalities, a couple small anomaly fixes, but they are fairly small changes between the two. Even though there are fairly significant version number changes between the 6.0E and the 8.1, the changes are fairly minor.

As these are both older systems, the technical security on them is not as strong as the other systems that have come before the Panel in the past. That's just the fact that they are older systems. As such, one of the recommendations when we get to the staff recommendations will be that we do ask for security plans from the counties that are planning on using this system in November, the reason being to make sure that they have the proper physical security to compensate for some weaker technical security for these systems.

Which would actually lead us to the staff recommendations. First of all, there was no public comment on either of these items.

The first, as it relates to the ABC, the staff recommends the following: First, that the system only be certified for use in the counties of El Dorado and Yolo, these are the only two counties that use the system currently.

Second, that DIMS be responsible for the costs associated with upgrading El Dorado to the new version, the same version that's used in Yolo county.

Three, that the certification is only good through the end of 2005. That date was picked to tie in with the Voting Modernization Board deadlines. If the Panel chose an alternative, it would be language similar to that proposed previously by Mr. Miller relating to a one-time cert for November and then could be used with approval from this office in any future elections. That was proposed previously and would be an option with this system because it's only going to be used in local elections in 2005 and then be phased out.

Recommendation Four, it's only certified for use with the Datavote voting system. The system can support potentially other systems, but those are the only ways it's used in California, so that would be the only way it's

tested in California. So that will be the only way it will
be certified for use. That it only be used with certified
ballot card readers. Again, those ballot card readers in
these counties are certified, so that's not an issue, but
they could replace with some uncertified hardware to be used
with this software.

That the jurisdictions have to submit a security
plan. That security plan shall specifically include
information on physical security when the computer is
running, in this case Advanced Ballot Count, and again the
standard language in Item 7 about any changes to the
procedures to increase the security, accuracy, or
reliability of the system.

Both systems use the preexisting procedures that
have already been approved for the Datavote system. Those
procedures are not only used with Advanced Ballot Count and
Teamwork, but also others, election management software
packages that support the Datavote system as the Datavote
system was developed prior to the state viewing systems as
complete systems, rather than separate components.

Moving on to the recommendations as it relates to
Teamwork, a lot of these are going to be very similar.

First, that Version 6.0E shall only be certified
in Alpine, Calavaras, San Benito, and Sierra, counties that
are currently using them. Version 8.1 only certified in Del

Norte, Glenn, Imperial, and Inyo, again, the counties that
currently use the system.

Certified through the end of 2005. Obviously, the
Panel can make a change at their discretion. Again, only
certified with the Datavote system, as the DIMS system can
support other systems, but it wasn't tested that way.

Only used with certified ballot card readers,
which in those counties, those readers are certified.

The county using the program, again, submit a
security plan specific to the physical security around the
computer that runs the software package. And, again, the
boilerplate language relating to the changes to the
procedures for the accuracy, reliability, and security of
the system.

ACTING-CHAIRPERSON CARREL: Thank you. Seeing as
we have two items here with very similar recommendations,
why don't we move forward with discussion.

Any discussion or questions from the Members first
of all on DIMS?

PANEL MEMBER MILLER: Mr. Wagaman, do you know how
long the system has been used in Yolo County successfully?

MR. WAGAMAN: I believe the systems in all of
these counties date back at least to the mid '80s, or at
least a version of it, yes.

PANEL MEMBER MILLER: Okay. With respect to the

conditions, one of the conditions proposed for both is the submission of security plans?

MR. WAGAMAN: Uh-huh.

PANEL MEMBER MILLER: Should perhaps that condition be an approved security plan, rather than just a submission? Do we want to actually approve the security plans as we have for other submissions requiring security plans with respect to other voting systems? As I read it, it was just submission, and we should also approve.

MR. WAGAMAN: That would be correct. If you want to change it to submit and receive approval using similar language that was used in the VCProgrammer certification, that would be at Panel's discretion.

PANEL MEMBER MILLER: I would suggest that.

ACTING-CHAIRPERSON CARREL: Thank you.

Any further questions?

PANEL MEMBER KERCHER: Do we know are any of these workstations going to be connected to the network at any point, and it appears not for the functions of the election, but are they otherwise attached to local area or wide-area networks?

MR. WAGAMAN: In the jurisdictions in which we've spoken to, no. But again, that's part of the reason we are requesting their security plans in order to verify exactly how those counties are using it.

PANEL MEMBER KERCHER: And my sense would be that we would want to explicitly note that their security procedures should prohibit that, given the amount of security that's inherent in the system as described in the staff report.

MR. WAGAMAN: That's something on the staff level and their review of the plans that have been approved. That's for the Panel's discretion, unless that was a go, no-go that's how it would be handled.

ACTING-CHAIRPERSON CARREL: Is that something you want to add to the staff recommendations?

PANEL MEMBER KERCHER: I think it's important that we want to make sure that that occurs.

MR. WAGAMAN: So that those computers running those cannot be connected to --

PANEL MEMBER KERCHER: The network at any point after they have been set up and installed.

MR. WAGAMAN: I know we have representatives from the vendors here, I would just ask the Panel that we check with them on that.

ACTING-CHAIRPERSON CARREL: Okay.

Is there a representative from DIMS that can state to what Yolo and El Dorado County do with regard to network?

MR. ROSNER: Hi, I'm Bruce Rosner with DIMS.

Yes, both counties are isolated. There are two

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computers connected among themselves, but not making any

external connections.

ACTING-CHAIRPERSON CARREL: All right, thank you.

MR. WAGAMAN: Mr. Charles is here.

ACTING-CHAIRPERSON: Oh, Mr. Charles is here.

MR. CHARLES: Alphie Charles with Sequoia Voting

Systems.

I don't know the answer to your question, I

believe they are isolated from the network though.

ACTING-CHAIRPERSON CARREL: Thank you.

If we can then clarify that in one of the

recommendations. In Item Number 6 on the security plan

clarify that the security plan will include --

MR. WAGAMAN: That the system computer is not

connected in any way to an external network.

ACTING-CHAIRPERSON CARREL: Right.

Any other questions, Mr. Mott-Smith?

PANEL MEMBER MOTT-SMITH: No.

ACTING-CHAIRPERSON CARREL: I have a question

related to both which is are these the last two systems in

place that are grandfathered in and thus not gone through

the federal qualification process that are currently used in

California?

MR. WAGAMAN: No. DSM does have a similar

election management system that is used to support again

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these same older readers. That is a certified system, but

it is a grandfathered system, we were able to find the

certification for it. In addition two readers themselves

that are older and have not come through the federal

process.

ACTING-CHAIRPERSON CARREL: And are the DFM

systems also being phased out before the 2006 election?

MR. WAGAMAN: I honestly don't know the answer to

that question. I believe most counties are planning on

replacing those. For those counties that don't, currently,

as I said, that is a certified election management system so

it would require an additional action from this Panel.

ACTING-CHAIRPERSON CARREL: And I'm not intending

on making a motion on that.

Let's go back to the items at hand.

Mr. Miller's suggestion that security plans be

approved by this office and not just submitted by this

office. And so does that mean we want to require a date by

which we need the security plans that we intend to review

and approve or do you just want to give staff the discretion

to set a deadline?

PANEL MEMBER MILLER: I would defer to the staff

rather than setting it here.

MR. WAGAMAN: The vendors have been previously

notified that that may be a condition and the counties I've

talked with have been notified, so I can actually get those
fairly quickly.

          ACTING-CHAIRPERSON CARREL: Okay.

          Is there any public comment on Item Number 1, the
DIMS system?

          Seeing none, is there any public comment on the
Sequoia Teamwork system?

          Seeing none.

          Okay, let's take these items in order.

          Do I have a motion on DIMS?

          PANEL MEMBER DANIELS-MEADE: Mr. Chair, I move
that we adopt the staff recommendations with the modified
wording that says that they must have submitted an approved
security plan to the Secretary of State's office.

          PANEL MEMBER MILLER: And including Mr. Kercher's
additions.

          PANEL MEMBER DANIELS-MEADE: Right.

          ACTING-CHAIRPERSON CARREL: Okay. I have a
motion, do I have a second?

          PANEL MEMBER KERCHER: I'll second.

          ACTING-CHAIRPERSON CARREL: Mr. Kercher seconds.

          Do we have any discussion on the motion?

          No discussion on the motion.

          Okay, let's take a vote.

          All in favor of the motion?

(Ayes.)

ACTING-CHAIRPERSON CARREL: All opposed?

Seeing none, the motion passes.

The second item, the Sequoia Teamwork system.

Do I have a motion?

PANEL MEMBER DANIELS-MEADE: Sure, we'll do this again.

I move that we adopt staff recommendation with the two qualifications, one being an approved security plan and the other prohibiting networks into outside systems.

ACTING-CHAIRPERSON CARREL: Okay.

And do I have a second?

PANEL MEMBER KERCHER: Second.

ACTING-CHAIRPERSON CARREL: Second from Mr. Kercher.

Any discussion on the motion?

Seeing none.

All in favor?

(Ayes.)

ACTING-CHAIRPERSON CARREL: All opposed?

None.

The motion passes.

Thank you very much.

The final item is final business. Do I have any other items for discussion from the members?

Seeing none.

Any public comment for Item Number 3, other business? I don't have any cards in front of me. That means there is none.

I will take a motion to adjourn.

PANEL MEMBER DANIELS-MEADE: So moved.

ACTING-CHAIRPERSON CARREL: Move to adjourn.

Probably unanimous consent, we will adjourn.

Thank you very much.

(Thereupon the meeting of the Voting

Systems and Procedures Panel was

concluded at 10:26 a.m. on October 5,

2004.)

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CERTIFICATE OF SHORTHAND REPORTER

I, MICHAEL J. MAC IVER, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing Voting Systems Panel proceedings in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said Voting Systems Panel proceedings, or in any way interested in the outcome of said Voting Systems Panel proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of October 2004.

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