

State of California



SECRETARY OF STATE CONDITIONAL APPROVAL OF USE OF CERTAIN *ELECTION SYSTEM AND SOFTWARE, INC.* OPTICAL SCAN VOTING SYSTEMS

I, MARK L. KYLE, Undersecretary of State of the State of California, do hereby certify that:

1. *Election Systems and Software, Inc.* of Omaha, Nebraska (“Vendor”), has requested approval for use in California elections of its Optech Eagle consisting of APS Version 1.52 and HPS Version 1.30 and Optech IV-C Version 1.07a as well as its Procedures for Optech Eagle Precinct Scanner and Optech IV-C Central Scanner, submitted on or about October 21, 2004.
2. The voting systems have been determined to be in compliance with California law by the State’s Voting System Technical Expert, within the conditions indicated below.
3. The request for approval of the voting systems as described in Paragraph 1, was considered at a duly noticed public hearing held October 22, 2004, at Sacramento, California.
4. The Voting Systems and Procedures Panel and the State’s Voting System Technical Expert have recommended that the request for approval be granted, with certain conditions.
5. Election Systems and Software, Inc.’s Optech Eagle consisting of APS Version 1.52 and HPS Version 1.30 and Optech IV-C Version 1.07a as well as its Procedures for Optech Eagle Precinct Scanner and Optech IV-C Central Scanner are hereby approved for use subject to the following terms and conditions:
 - a. No substitution or modification of the voting systems described in Paragraph 1 shall be made with respect to any component of the voting systems, including the Procedures submitted on or about October 21, 2004,

system, including the Procedures submitted on or about October 21, 2004, until the Secretary of State has been notified in writing and has determined that the proposed change or modification does not impair the accuracy and efficiency of the voting system sufficient to require a re-examination and approval;

- b. The voting system may only be used in Merced County;
- c. The voting system may only be used in the November 2, 2004 General Election;
- d. The voting system may only be used with a certified version of the Unity election management software;
- e. The Voting System can be used only if the requestor complies with the security measures that apply to it that are contained in the directive of the Secretary of State dated April 30, 2004, entitled *Decertification and Withdrawal of Approval of Certain DRE Voting Systems and Conditional Approval of the Use of Certain DRE Voting Systems*, as further clarified by the Secretary of State's memorandum dated May 14, 2004, and any other agreement between the vendor and the Secretary of State;
- f. The Voting System can be used only if the county complies with the security measures that apply to the county as contained in the directive of the Secretary of State dated April 30, 2004, entitled *Decertification and Withdrawal of Approval of Certain DRE Voting Systems and Conditional Approval of the Use of Certain DRE Voting Systems*, as further clarified by the Secretary of State's memorandum dated May 14, 2004, and any other agreement between the county and the Secretary of State;
- g. The Secretary of State reserves the right, with reasonable notice to Vendor and to the counties using the voting system, to modify the Procedures used with the voting system and to impose additional requirements with respect to the use of the system if the Secretary of State determines that such modifications or additions are necessary to enhance the accuracy, reliability or security of any of the voting system. Such modifications or additions shall be deemed to be incorporated herein as if set forth in full;

- h. Any county using any voting system described in Paragraph 1 shall, prior to such use, file with the California Secretary of State a copy of its Logic and Accuracy Board certification.



IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California, this 27th day of October, 2004.

A handwritten signature in blue ink, appearing to read 'Mark L. Kyle', is written over the printed name.

MARK L. KYLE
Undersecretary of State