DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA
1500 11th Street, 6th Floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

September 10, 2007

Ms. Rebecca Martinez
County Clerk-Recorder, Madera County
200 W. 4th Street
Madera, CA 93637

Dear Ms. Martinez:

Thank you for your letter asking for permission to use the Hart InterCivic (Hart) data translation program known as InFusion.

As you may be aware, Hart implemented at least four known utilities into voting systems around the state under previous administrations, despite the fact that those utilities had never received federal or state certification. Although this had been pointed out to Hart as early as December 2005, Hart continued to market these utilities to new customers last year.

After considering the situation in which Madera County finds itself, the fact that a number of other counties are using this same utility, and the low risk that InFusion poses in terms of introducing programming code errors into the larger voting system, I will grant your request to use this utility in your November 2007 and February 2008 elections, subject to the following conditions:

- That Madera County adopt formal audit procedures to verify correct import of data into BOSS and the subsequent election setup and definition within BOSS. These procedures are to be submitted to my office for review and approval no later than October 19, 2007. For guidance, I am attaching a copy of the audit procedures that Humboldt County has submitted for its use of InFusion.

- That Madera County provide a post-election report to my office by the 40th day following each election that: (1) describes how the utility performed in the election; (2) identifies any issues that were encountered in implementation of the utility and explains how these were resolved; (3) identifies any issues related to election definition that were encountered throughout the election and explains how these were resolved; (4) certifies that the County adhered to the approved audit procedures above; and (5) identifies any lessons learned or County recommendations for future use of the InFusion utility.

This conditional approval does not answer the larger question of whether the InFusion utility and Hart's other utilities are part of a voting system, and as such would require federal and state certification. I want to make it clear that I intend to look at that question

in a larger context, and I shared that intention with the representatives of Hart when I met with them earlier this year.

Thank you again for the letter. If you have any questions, please feel free to call me or Lowell Finley, my Deputy Secretary of State for Voting Systems Technology and Policy, at (916) 653-7244.

Sincerely,

Debra Bowen

Debra Bowen
Secretary of State

DB:elg:lf:rm

CAROLYN CRNICH
RECORDER,COUNTY CLERK & REGISTRAR
HUMBOLDT COUNTY
825 FIFTH STREET, FIFTH FLOOR
EUREKA, CALIFORNIA 95501
(707)445-7593

September 10, 2007

Honorable Secretary Bowen,

Please find attached the proposed Use Procedures for the HART InFusion tool as per your Letter of approval dated June 6, 2007, and addressed to our former Elections Manager Lindsey McWilliams.

In the near future you will be receiving from me further updates to our procedures to conform with the Withdrawal of Approval and Conditional Re-Approval of the Diebold AccuVote-OS and HART InterCivic System currently in use in Humboldt County.

Please note that the changes to the Use Procedures are highlighted in red, and the deletions are lined-through.

Thank you for your consideration.

Sincerely,

Carolyn Crnich
Humboldt County Clerk/Recorder

CC:bh

PROPOSED USE PROCEDURES FOR USE OF THE HART eSLATE IN CONJUNCTION WITH THE DIEBOLD GEMS/ACCUVOTE-OS SYSTEM

(WITH AMENDMENT TO INCLUDE HART INFUSION)

1. INTRODUCTION.

1.1 System description and components

1.1.1 Diebold AccuVote-OS System.

- Diebold AccuVote-OS, firmware version 1.96.4
- Diebold AccuVote-OS Central Count, firmware version 2.0.12
- Diebold GEMS Election Management System, Version 1.18.19

1.1.2 Hart System 6.2.1

- HART BOSS, version 4.3.13
- HART JBC version 4.3.1
- HART eSlate/DAU version 4.2.13
- HART VBO version 1.8.3
- HART Servo version 4.2.10
- HART eCM Manager version 1.1.7
- *HART InFusion*

1.2 Overview.

These procedures were developed to apply only to the jurisdiction using of the Diebold AccuVote-OS voting system with the components described above, together with one HART JBC/eSlate DRE per polling place to provide accessibility support to special needs voters in compliance with HAVA.

In general, the jurisdiction (and their vendor) is required to adhere to the governing Use Procedures approved by the Secretary of State for use with the respective systems. These procedures set forth the specific additional procedures required by the combination of these system components.

2. BALLOT DEFINITION.

For absentee and precinct voters whose ballots will be tabulated on the Diebold AccuVote-OS (AV-OS) and the AccuVote-OS Central Count (AV-OS CC), the paper ballots will be printed in accordance with the governing

Use Procedures approved by the Secretary of State for use with that system.

3. SYSTEM INSTALLATION AND CONFIGURATION.

The jurisdiction shall comply fully with the governing Use Procedures approved by the Secretary of State for the Diebold AV-OS, AV-OS CC and the Diebold GEMS Election Management System (GEMS) with respect acceptance testing, installation and configuration.

The jurisdiction will comply fully with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1 with respect to acceptance testing, installation and configuration.

4. ELECTION SET-UP AND DEFINITION.

4.1 Programming and configuration of election management system/software, including audit records to be generated and retained.

County will program the election in its respective election management system, including district, contest and candidate set-up, precinct consolidation and polling place assignment. System reports will be proofed for correct race information, ballot type configuration, precinct consolidation, and polling place assignment. All audit records and reports will be retained as legally required.

4.2 Programming and configuration of vote recording/tabulation devices including audit records to be generated and retained.

Election definition and data from the county's respective election management system will be exported according to the system specifications and imported into the GEMS system, and GEMS ballots will be created by county elections staff. All memory cards will be created by county elections staff according to the governing Use Procedures for the AccuVote system approved by the Secretary of State. Additionally, the jurisdiction will fully comply with the additional security procedures in the handling of memory cards specified by the Secretary of State in his Diebold Certification on February 17, 2006, section 4f.

The jurisdiction will export the above election definition information from GEMS into ~~a format usable by BOSS,~~ *an InFusion file, run through the InFusion program, and exported to BOSS where all data including district, contest and candidate set-up, precinct*

consolidation and polling place assignment will be verified. The ballot information from GEMS will then be set into a ballot format suitable for use with the HART eSlate/DAU 4.2.13 where the election definition and ballot layout will be completed and proofed in accordance with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1.

Once the election definition is proofed within BOSS, the jurisdiction will create MBBs and initialize the JBCs in accordance with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1.

All audit records will be generated and retained as specified by the governing Use Procedures for both systems approved by the Secretary of State.

4.3 System diagnostic testing procedures, including audit records to be generated and retained.

The jurisdiction will fully comply with the governing Use Procedures for each system approved by the Secretary of State.

4.4 System Proofing.

In system proofing, the jurisdiction will fully comply with the governing Use Procedures of the applicable Diebold system as approved by the Secretary of State. The jurisdiction will contractually require that HART fully comply with the requirements for system proofing as provided in the Use Procedure for the Hart 6.2.1 system, as provided by the Secretary of State.

Additionally, the jurisdiction will proof the Hart ballots against the GEMS ballots and the elections management system reports to endure the following:

- Correct assignment of contests to ballot types,
- Correct assignment of candidates to contests,
- Correct assignment of "Vote For" number to contests,
- Correct spelling of all materials including instructions,
- Candidate names,
- Occupational designations, district and contest names.

The jurisdiction will ensure that all contests and candidates are in proper order as required by the California Elections Code and the rotation assignment for the County.

4.5 Logic and accuracy testing of systems and components.

Logic and accuracy testing will be completed on all AV-OS units and AV-OS CC units as required in the governing use Procedures approved by the Secretary of State for the Diebold system.

Logic and accuracy testing will be completed as required in the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1.

4.6 Ballot Tally Programs.

The jurisdiction will fully comply with the governing Use Procedures for the AccuVote OS approved by the Secretary of State. Because the Hart JBC/eSlates will not be used to tally ballots, there is no requirement to submit the HART ballot tally program to the Secretary of State.

4.7 Election Observer Panel.

The jurisdiction will create and follow an Election Observer Panel plan that addresses the combination of systems and fully complies with the requirements specified in the governing Use Procedures approved by the Secretary of State for each system.

4.8 Hardware maintenance and preparation for use.

The jurisdiction will fully comply with the governing Use Procedures for both systems approved by the Secretary of State.

5 POLLING PLACE PROCEDURES

5.1 General requirements.

The jurisdiction shall fully comply with the governing Use Procedures for the Diebold System and the Hart System 6.2.1 as approved by the Secretary of State, wit respect to:

- Precinct supplies, delivery and inspection
- Polling place set-up
- Opening the polls
- General polling place procedures
- Provisional voters
- Closing the polls and vote reporting
- Securing audit logs and backup records
- Troubleshooting and problem resolution

5.2 Special Needs Voters

5.2.1 Polling place procedures

At the polling place, voters requesting the use of the accessible voting system will sign the official roster like all other voters. There will be no special designation on the roster that would identify voters who voted on the eSlate.

These voters will then be issued an access code for the eSlate and directed to the eSlate where he/she will receive instruction on using the device in accordance with the governing use procedures approved by the Secretary of State for the Hart System 6.2.1

5.2.2 Ballot Security/Secrecy

To ensure the secrecy of the ballot, no VBOs will be opened in the polling place under any circumstances. Should there be a jamb or other problem with a VBO in a polling place while the polls are open; the entire sealed VBO will be replaced in accordance with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1.

6. ABSENTEE / MAILED BALLOT PROCEDURES (CENTRAL TABULATION).

The jurisdiction shall fully comply with the governing Use Procedures approved by the Secretary of state for the Diebold System.

7. SEMI-FINAL OFFICIAL CANVASS AND POST-ELECTION PROCEDURES.

The jurisdiction shall fully comply with the governing Use Procedures approved by the Secretary of State for the Diebold System

Ballots cast on the Hart JBC/eSlate by special needs voters need not be tabulated during the semi-final official canvass.

8. OFFICIAL CANVASS AND POST-ELECTION PROCEDURES.

8.1 Canvassing JBC/eSlate voted ballots.

The ballots cast on the Hart JBC/eSlates during early voting or on Election Day will be duplicated onto the Diebold (GEMS) ballots for counting on the AccuVote central count machines. This process will take place during the official canvass. Elections Code Section 15208 and 15210 govern the segregation and duplication of the ballots.

The following equipment will be returned to the Election Official:

1. DAU Booth containing the eSlate and the sealed VBO units.
2. The assigned JBC containing the MBB in accordance with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1. Not less than two elections staff will download and print the cast vote records from each JBC or eSlate from each polling location. There will be no way that any cast vote record can be tied back to a voter.

The duplication board will consist of not less than two members. All ballot cards prepared as duplicates of the cast vote record, shall be clearly labeled "duplicate", and shall be given a serial number which shall also be recorded on the cast vote record.

In creating the duplicate ballot, one board member shall duplicate onto the Diebold duplicate ballot card(s) those voting positions marked on the cast vote record. Another member shall verify that the marks on the duplicate ballot exactly match those on the cast vote record.

With the eSlate ballots there should not be a question as to voter intent, as the ballots will be clearly marked. However, in the case of a question, voter intent must be determined by a supervisor. The guidelines set by the Secretary of State shall be followed and the decision of the supervisor shall be documented. This documentation shall be maintained with the voided ballot.

The duplicated ballots will be batched, counted on the AccuVote-OS central count system and added to the precinct vote totals.

The electronic cast vote records recorded on the JBC and eSlates will not be tabulated by the Hart Tally or Rally applications. The HART Servo application shall be used to backup the JBC and eSlate vote records for reporting.

All election materials, including logs, ballots, VBO audit trails and MBBs, will be stored in accordance with election law and governing system Use Procedures on file with the Secretary of State.

8.2 OTHER.

In all other respects the jurisdiction will fully comply with the governing official Use Procedures approved by the Secretary of State for the Diebold System.

9. MANUAL RECOUNT PROCEDURES.

The jurisdiction will fully comply with the governing Use Procedures approved by the Secretary of State for the Diebold AccuVote-OS and Diebold AccuVote-CC system. For any votes cast on the eSlate, the VBO paper audit will be used to perform a manual recount or the 1% manual tally in accordance with the governing use procedures approved by the Secretary of State for the HART System 6.2.1.

10. SECURITY.

For the Diebold components of the system, the jurisdiction will fully comply with the governing Use Procedures approved by the Secretary of State for that Diebold system.

For the Hart Components of the system, the jurisdiction will fully comply with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1.

11. BIENNIAL HARDWARE CERTIFICATION AND NOTIFICATION

For the Diebold components of the system, the jurisdiction will fully comply with the governing Use Procedures approved by the Secretary of State for the Diebold system.

For the Hart components of the system, the jurisdiction will fully comply with the governing Use Procedures approved by the Secretary of State for the Hart System 6.2.1.