DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA
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December 19, 2007

Neal Kelley
Orange County Registrar of Voters
1300 South Grand Ave., Bldg. C
Santa Ana, CA 92705

Dear Mr. Kelley

Thank you for the 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 know 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 Orange 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 February 2008 election, subject to the following conditions:

- That Orange 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 January 4, 2008.

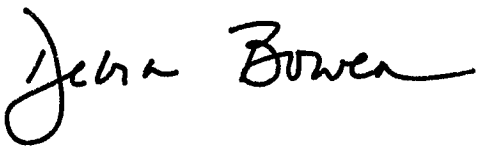
- That Orange County provide a post-election report to my office by the 40th day following the election that includes the following: (1) describes how the utility performed in the election; (2) identifies any issues that were encountered in implementation of the utility and explains how these were resolved; (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 request. 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

Secretary of State

DB:elg:lf:rm