

State of California



SECRETARY OF STATE CONDITIONAL APPROVAL OF USE OF CERTAIN *DIEBOLD ELECTION SYSTEMS, INC.* DIRECT RECORDING ELECTRONIC VOTING SYSTEM

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

1. *Diebold Election Systems, Inc.* of McKinney, Texas ("Vendor"), has requested approval for use in California elections of its VCProgrammer Version 4.1.11, to be used in conjunction with the AccuVote-TS (Direct Recording Electronic) voting system consisting of GEMS Version 1.18.19, AccuVote-TS Version 4.3.15d, Key Card Tool Version 1.0.1 and Spyrus Voter Card Encoder Version 1.3.2 as well as its Procedures for the AccuVote-TS Direct Recording Electronic voting system, submitted on or about September 8, 2004.
2. The voting system described above has been federally qualified as evidenced by the federal Independent Testing Authority reports and the assigned NASED Number N-1-06-12-12-004, dated September 24, 2004.
3. The voting system have been determined to be in compliance with California law by the State's Voting System Technical Expert, with the addition of certain security enhancements as indicated below.
4. The request for approval of the voting system as described in Paragraph 1, was considered at a duly noticed public hearing held September 14, 2004, at Sacramento, California.
5. 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.
6. Diebold Election Systems, Inc.'s VCProgrammer Version 4.1.11, to be used in conjunction with the AccuVote-TS (Direct Recording Electronic) voting system

consisting of GEMS Version 1.18.19, AccuVote-TS Version 4.3.15d, Key Card Tool Version 1.0.1 and Spyrus Voter Card Encoder Version 1.3.2 as well as its Procedures for the AccuVote-TS Direct Recording Electronic voting system, are hereby approved for use subject to the following terms and conditions:

- a. No substitution or modification of the voting system described in Paragraph 1 shall be made with respect to any component of the voting system, including the Procedures submitted on or about September 8, 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. Any jurisdiction using VCProgrammer Version 4.1.11 must submit a security plan to, and receive approval of that plan from, the Secretary of State for that election. The security plan shall include information on the physical and technical security of computers running VCProgrammer, how the jurisdiction will prevent tampering with the files associated with VCProgrammer and how the county will prevent the creation and use of unauthorized voter access cards using VCProgrammer. VCProgrammer Version 4.1.11 shall not be installed in a jurisdiction until this condition has been met;
- c. The Voting System described in Paragraph 1 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 system and Conditional Approval of the Use of Certain DRE Voting system*, 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;
- d. The Voting System described in Paragraph 1 can be used only in the Counties of Alameda, Plumas and Los Angeles for early voting or central office voting, and only if the county using the Voting System 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 system and Conditional Approval of the Use of Certain DRE Voting system*, 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;

- e. The Voting System described in Paragraph 1 can be used only if the county using the Voting System submits to the Secretary of State for approval by September 17, 2004, a Technical Security Plan and a Poll Worker Training Plan, that include addressing the “Additional Changes to Technical Security Plans and CA Procedures” recommended on Page 2 of the report of the State’s Voting System Technical Expert dated August 2, 2004, which is incorporated herein by reference. These plans are required pursuant to Paragraphs II.B.4.b.(4) and II.B.5.c.(1) of the directive of the Secretary of State dated April 30, 2004, entitled *Decertification and Withdrawal of Approval of Certain DRE Voting system and Conditional Approval of the Use of Certain DRE Voting system*, as further clarified by the Secretary of State’s memorandum dated May 14, 2004 and other agreements between the counties and the Secretary of State;
- f. The Voting System described in Paragraph 1 shall not be used after July 1, 2006, or such earlier date as provided for by statute, unless it is modified to include an accessible, voter-verified paper audit trail and is approved or certified for use by the Secretary of State with such a feature;
- g. The Secretary of State reserves the right, with reasonable notice to Vendor and to the counties using any of the voting system, to modify the Procedures used with any of the voting system and to impose additional requirements with respect to the use of any of the systems 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 Election Observer Panel plan;



IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California, this 4th day of October, 2004.

A handwritten signature in black ink, reading 'Mark L. Kyle'.

MARK L. KYLE
Undersecretary of State