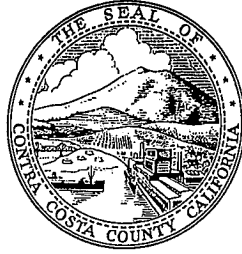


# CONTRA COSTA COUNTY

## COUNTY CLERK-RECORDER

ADMINISTRATION  
524 MAIN STREET  
P. O. BOX 271  
MARTINEZ, CALIFORNIA 94553-0027  
(925) 646-2955  
(925) 646-2836 FAX



APR 4 2007  
STEPHEN L. WEIR  
COUNTY CLERK-RECORDER

BARBARA CHAMBERS  
ASSISTANT COUNTY RECORDER

CANDY LOPEZ  
ASSISTANT COUNTY REGISTRAR

March 30, 2007

The Honorable Debra Bowen  
California Secretary of State  
1500 – 11<sup>th</sup> Street, Suite 600  
Sacramento, CA 95814

Dear Secretary Bowen:

### DRAFT CRITERIA FOR A TOP-TO-BOTTOM REVIEW OF ELECTRONIC-VOTING SYSTEMS

Thank you for the opportunity to comment on your draft “top-to-bottom” criteria for election-systems review. As you know, Contra Costa County has a totally paper-based system that is in need of some system modifications to our accessibility units, the AutoMARK, to make it more functional for the 2008 Election Cycle. Your office can assist us by gathering such known issues from Registrars and designing a course of action to secure appropriate corrective action. (See attached letter to Aldo Tesi, ES&S, dated February 16, 2007.)

As it now stands, Contra Costa County and the State of California have attained a state- and federally-compliant voting system. Anything that could jeopardize that status must be carefully balanced against creating unrealistic expectations through an overly-aggressive or incomplete test protocol.

If there is to be meaningful review of the voting systems across California, I believe that stringent testing guidelines must be published and vetted well in advance of any testing. Those testing protocols must be above reproach. Therefore, significant effort should go into creating the “ground rules” so that each system can be measured using a level playing field. (See my letter to you dated January 19, 2007.)

I'd like to pose the following questions about testing protocols.

How will the reviewers be selected? Who will define and what will be the definition of a “qualified reviewer?” Will your protocol include security controls such as requiring reviewers to sign non-disclosure agreements? Will you control for conflict of interest or preconceived notions towards potential outcomes?

The Honorable Debra Bowen  
California Secretary of State  
March 30, 2007  
Page 2

What are the specific testing steps (testing protocols)? Is the review going to be conducted based upon current Certification Testing Procedures for California? If so, please post or publish them for public inspection. If not, when will the new Certification Testing Procedures be released for public review and comment? What is the timeline for vendors/systems to meet the new Certification requirements (systems changes will require retesting at the federal as well as the state level)?

What will the review environment look like? What will the security look like? (Will reviewers be required to operate within the constraints of the current security procedures outlined in system procedures or will they be allowed to circumvent those security measures?) If security measures are to be circumvented to run "attacks," will that be compared to the ability to compromise the systems if security procedures are followed?

Where will the reviews take place? Will they take place in a federally-approved testing lab? Is public observation allowed? Will all documentation be available for public review? When will the review be conducted?

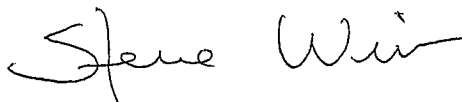
As requested in my letter to you dated January 19, 2007, can you outline the current standards (state and federal) to be used and/or any additional standards you propose to be used in the review process?

Will you establish a hierarchy of potential threat/security fixes? Will reviewers be tasked with the duty to identify simple system fixes, such as security procedures that could be addressed by your office and would not require federal review?

This is not meant to be a comprehensive discussion on testing protocols. However, I want to stress the need to define your processes well in advance of actual testing to keep the focus on actual issues and legitimate, as well as appropriate, responses that will inevitably pop up during any system review.

I think that it is time well spent to address these types of issues before the process is engaged so that once everyone understands the testing plan, focus can follow the execution of the test protocol and not revert to a constant challenge to procedures.

Sincerely,



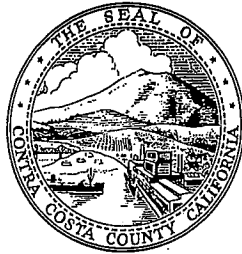
Stephen L. Weir  
County Clerk-Recorder

SLW:ceb  
Attachments

# CONTRA COSTA COUNTY

## COUNTY CLERK-RECORDER

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STEPHEN L. WEIR  
COUNTY CLERK-RECORDER

BARBARA CHAMBERS  
ASSISTANT COUNTY RECORDER

CANDY LOPEZ  
ASSISTANT COUNTY REGISTRAR

February 16, 2007

Mr. Aldo Tesi, CEO  
Election Systems & Software  
11208 John Galt Blvd.  
Omaha, NE 68137-2364

Dear Mr. Tesi:

Contra Costa County chose to change our voting system to ES&S, mainly when you secured exclusive marketing rights to the AutoMARK Voter Assisted Terminal.

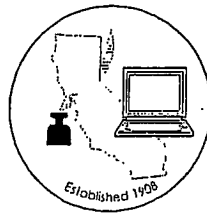
We signed a contract while the AutoMARK was pending federal qualification and state certification. Given final approval to the system in California in August 2005, we convinced the California ES&S representatives to allow us to deploy some 77 AutoMARKs for our November 2005 Special Statewide Election. We had little time to market the use of the AutoMARK and had few voters actually use the units.

For the June 2006 Primary Election, we deployed the AutoMARK Countywide. We noted some failure problems with the units, but we did not quantify those problems except through anecdotal reports. Nonetheless, we knew that we were having enough failures/problems throughout our County to merit our attention. Based upon our experience, and those of other users in California, ES&S proposed fixes to the problems. Those fixes were proposed to the Secretary of State, and the Secretary required a volume test of the AutoMARK.

On September 6<sup>th</sup> and 7<sup>th</sup>, 2006, I traveled to Orange County to witness that volume testing. For two days, I witnessed a constant series of interruptions in the units, as well as instances where the units jammed, destroyed the ballot, printed only one side and, worse yet, printed askew to the point where some ballots were marked outside of the target.

Based upon our observations, for the November 2006 Election, we decided that we needed to deploy two units per voting location. To accommodate that requirement, we reduced our 445 poll sites from the Primary Election to 340 polling sites for the General Election so we would have enough AutoMARKs to have two units per site. (This caused problems with the election and is not a solution I can live with, especially with the Presidential election cycle beginning in less than one year.)

STEVE WEIR  
PRESIDENT  
Contra Costa County  
524 Main Street  
Martinez, CA 94553  
(925) 646-2955  
eir@cr.cccounty.us



# CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

STEPHEN L. WEIR, PRESIDENT  
CONTRA COSTA COUNTY CLERK-RECORDER  
524 MAIN STREET, MARTINEZ, CA 94553  
(925) 646-2955; FAX (925) 646-2836  
E-MAIL: [sweir@cr.cccounty.us](mailto:sweir@cr.cccounty.us)

January 19, 2007

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MIKEL HAAS  
TREASURER  
San Diego County

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Santa Cruz County

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Solano County

Secretary of State Debra Bowen  
1500 – 11<sup>th</sup> Street, Suite 600  
Sacramento, CA 95814

Dear Secretary Bowen:

We would like to thank you and your staff for meeting with us on Wednesday, January 10, 2007. I personally appreciate your willingness to consult with California Registrars on issues of mutual concern.

Specifically, we appreciate your invitation to participate in defining a timeline for your review of California's voting systems.

We would like to state that all vendors should be treated equally. I would like to pose the following questions for your consideration:

Would you please define the review criteria (voluntary standards of 2002, 2005, or 2007) or something else?

What is your anticipated timeline (we understand that you have asked us to participate in this portion of your review)?

What is your goal for this process?

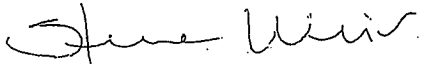
Will there be participation by vendors in the review process?

What other stakeholders will be involved?

Will the review process include California Registrars?

Would you please state the professional qualifications of the experts that you plan to include in the review process.

Sincerely,

  
Stephen L. Weir, CACEO President  
Contra Costa County Clerk-Recorder

SLW:ceb